Nicholas Bayard and seventeenth century colonial politics in New York

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NICHOLAS BAYARD AND SEVENTEENTH CENTURY
COLONIAL POLITICS IN NEW YORK

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CHAPTER I.

THE POLITICAL AND SOCIAL BACKGROUND.

In the colony of New York, the last quarter of the seventeenth century was a time of great political strife and dissension. Even at this early period New York presented a cosmopolitan aspect. Different sovereignties, different races, and different religious faiths contributed the elements of discord which became the basis for the factional struggles in the province.

The colony, originally a Dutch settlement was captured by the English in 1664 despite the vigorous protests of its redoubtable governor, Peter Stuyvesant. In 1673, a Dutch fleet retook the city, which again enjoyed Dutch rule for a brief period only to revert to the English, during the following year.

The French explorers were busy exploring the western wilderness and were pressing the French sovereignty into regions claimed by the English. Northern New York was to be the scene of the opposing interests. That region was the home and hunting grounds of the Five Nations or Iroquois, the friendship of whom was to be the deciding factor in the struggle. Dongan and his followers in the governorship of the colony were concerned with maintaining the Iroquois as allies; Frontenac and Denonville were as busily scheming to undermine the English influence and occupy New York. Hence the colonists in New York were in ever present danger of French and Indian invasions.¹ The ambitious schemes of Louis XIV—afterwards found to be true—included the subjugation of New York, the

¹—Documents relative to the Colonial History of the State of New York, Vol. IV, p. 422.
scattering of the Protestants and the division of their property among the French soldiers. The people of New York realized their danger; the word French-Catholic caused a sense of fear and uneasiness.

During the last quarter of this same century, the English nation dethroned a king who could not or would not rule in harmony with the spirit of the nation. The English people bore patiently with James II and his idea of divine right; they saw him openly favoring a religion which was distasteful to the mass of the people and they endured his reign because upon his death, the crown would go to his daughter Mary—a Protestant. But the hopes of the nation were blasted when his queen, Mary of Modena, gave birth to a prince. This event insured a Catholic dynasty. The "Glorious Revolution" of 1688 drove James and his heir from England. These exciting events were the occasion for a similar outburst in the colonies. The Stuart office-holders were driven from their places. Protestant fanaticism and the general distracted condition of the times paved the way for Leisler's rebellion in New York.

Concerning the population and races of New York, a minister who wrote about the year 1692 said, "The number of the inhabitants in this province are about three thousand families, whereof about half a naturally Dutch, a great part English and the rest French. The Dutch are rich and sparing; the English neither very rich not too good husbands; the French are poor and therefore forced to be penurious."

Since the colony was settled by the Dutch, naturally a great deal of the land was held by the second and third generations. The majority of the merchant class were of Dutch parentage. But in addition to the wealthy trading classes there was a great mass of Dutch artizans,—tailors, barbers, blacksmiths, sailors and others, who lived by following some trade. During the century, English settlers had drifted into the colony from New England and had brought with them their political restlessness. The French Huguenots, driven from France by the measures against them, also contributed to the cosmopolitan population of the province.

The colonists of Dutch extraction were of the Dutch Reformed faith and formed a large flourishing congregation. The Church of England was established by law in the colony during the latter part of the century. Trinity Church was founded toward the latter part of the century and was endowed with the wealth which today is a distinctive characteristic of the parish. As the French Huguenots were Protestant to the core, the religious color of the province was of a Calvinistic tinge and distinctly Anti-Catholic.

Several of the wealthy pioneer families by intermarriage had built up a colonial aristocracy during the course of the century. In the political struggles which followed the fall of the Stuarts, this wealthy aristocracy became the nucleus of what was known as the anti-Leislerian party. As some of the names will be constantly recurring in following the history of the period, it might be well to know something of them.

Olof van Cortland, who came to the province in 1637, was one of the most wealthy men of the city. He was a prosperous

1.—Valentine D. T., History of the City of New York, p. 118.
brewer, property owner and politician. The inter-relation of these New York families is splendidly shown by noting the marriages contracted by his children. He had seven children—Stephen, who married Gertrude Schuyler; Maria, who married Jeremias van Rensselaer; Catherine, who married Frederick Philipse; Cornelia, who married Brandt Schuyler; Jacob, who married Eva Philipse; Sophia, who married Andrew Teller and John, who died unmarried. It will be noticed that three celebrated old New York families are thus related to the van Cortlands.¹

Frederick Philipse was noted as being the most wealthy—some said the most stupid—man of this period. An immense fortune was centered in him, which came through his own industry in the Indian fur trade and by successive marriages with two very wealthy widows. One of his sons married Jacob van Cortland and a daughter married Phillip French—afterward a prominent politician.

The Schuylers, Livingstons and van Rensselaers held vast manorial estates on the upper Hudson. Their holding covered thousands of acres and were worked by tenants somewhat after the feudal scheme. Peter Schuyler won fame as a leader against the French and as a defender of the northern frontier. The three families were related as follows: Robert Livingston on coming to America settled in Albany, where in 1679, he married Alida, sister of Peter Schuyler and widow of Nicholas van Rensselaer. These three families were related to the van Cortlands by the marriage previously mentioned—Stephen van Cortland to Gertrude Schuyler.²

In 1671, there died in New York a wealthy merchant named Govert Loockermans. In addition to being a very wealthy man, he

¹—Valentine D. T., History of the City of New York, p. 115.
³—Valentine D. T., History of the City of New York, p. 77.
is interesting because of the marriages contracted by his children. One daughter married Balthazer Bayard, a brother of Nicholas Bayard, whose political fortunes we are to follow. Another daughter, upon the death of her first husband, married the celebrated Jacob Leisler—a marriage which was to have a very important bearing upon subsequent events. Leisler, although he was one of the wealthiest men of the province, was looked upon with disfavor by the aristocratic element of the community. Despite this affiliation—possibly because of it—a bitter hatred existed between him and his aristocratic relatives.

The Bayard family were another important element in the social fabric of the colony. When Director Stuyvesant came to New York in 1647, he brought with him his sister and her three little sons. She had married a Samuel Bayard, the grandson of Nicholas Bayard, a French Protestant clergyman who fled to Holland after the massacre of St. Bartholomew. Stuyvesant himself, married Judith Bayard so that the bond between the families was doubly strong. His three nephews—Nicholas, Balthazer and Peter—became wealthy citizens and with such a distinguished ancestry, their social position was of the highest in the city.

As we will follow the career of Nicholas Bayard, little more need be said here. However, he was well educated, being conversant with both the Dutch and English languages. He served in various subordinate official positions under the Dutch rule in New York. An active politician, he advanced until under Governor Dongan, he became a member of the Royal Council. As a brewer and merchant, he earned a fortune which entitled him to the eleventh

1.—Fiske John, Dutch and Quaker Colonies in America, Vol. I, p. 190
place among the city's wealthy men. Thus by family connections, personal wealth, education and political position, he attained to a commanding place in the province of New York.

One more link and the chain that joined the various families of colonial New York society is complete. The daughter of Stephen and Gertrude Schuyler van Cortland married Samuel Bayard, son of Nicholas Bayard. Thus the Bayards, the van Cortlands, the Stuyvesants, the Philipses, the Schuylers, the Livingstons, and the van Rensselaers with their family ramifications were bound together in an aristocracy of related wealth and position.

But it would not be fair to say that all of the wealthy and respectable old families were included in this group. There were other men in the colony who belonged to old pioneer families; who were quite respectable and who were—for the time—quite wealthy.

The son-in-law of Jacob Leisler, Abraham Gouverneur was a scion of an eminently respectable old family. He was also a merchant and politician. The De Peysters were among the earliest and most prominent colonists. Abraham De Peyster—of whom we shall hear later—was a very wealthy merchant and owned a vast estate. It is of passing interest, to note that one of the Leislerian aldermen of this period was a certain Nicholas Roosevelt—a politician who won his seat after a most "strenuous" campaign.

Another factor that played a very important part in the history of New York during this period was the enforcement of the customs regulations. Even at this early period the applications of the "Mercantile policy" caused great dissatisfaction. The

2. --Ibid., p. 234.
3. --Ibid., p. 232.
4. --Ibid., p. 249.
wealthy mercantile classes generally were in control of the political affairs of the colony. "Vested interest" and officialdom, business and politics ever went hand in hand. Naturally, a strict enforcement of the laws of trade could be—and was—made a source of grievance and complaint.

Hence, fears of Stuart counter plots, French invasions, racial distrust, social distinctions and to cap all, religious fanaticism and intolerance made the colony an excellent ground for strife and dissension.
CHAPTER II.

THE LIFE OF BAYARD PRIOR TO 1689.

Insomuch as Nicholas Bayard was in some way connected with the stirring events which kept the province in such a turmoil, one is able by following his life as he advanced from a humble clerkship to the Royal Council, to gain an insight into the varying political issues of the times.

Nicholas Bayard was born in Alphen, Holland, in the year 1644. As was related in the first chapter, he was descended from a Huguenot refugee, who had fled from France at the time of the massacre of St. Bartholomew. Although we may not be sure of the matter, there is great possibility that he was related to that famous knight, who lived "sans peur et sans reproche." Some of his Leislerian friends, possibly believed that the virtues of the gentle knight were sadly lacking in his descendant. In the month of May, 1647, the famous old warrior-statesman, Peter Stuyvesant, came to New York—New Amsterdam as it was then known—and with him came his sister and her three sons. With such a powerful patron to smooth their way, the three lads were given a good start in colonial life.

Nicholas, early evinced an office-holding propensity which did not forsake him throughout his career. The year 1664 found him employed as a clerk in the counting house and commissary of stores. The city of New Amsterdam was expecting an English attack. Governor Stuyvesant, despite the handicaps placed upon him by lack

of funds, stolid Dutch indifference and nonsupport, did his best to put the colony in a state of defence. Nicholas was sent to New England to purchase supplies for the garrison but failed to accomplish his end.

Before the attack upon the city took place, a letter from the English leaders was sent to Stuyvesant, which contained the demands concerning a surrender. The impetuous Dutch soldier, not only refused to allow the Burgomasters to see the missive, but when they insisted, he tore it to pieces. This high-handed act enraged the Dutch beyond measure. With a riot upon his hands, Stuyvesant called upon his nephew for aid. Bayard who had a knowledge of English pieced together and copied the missive, thus relieving his illustrious uncle from a very awkward position.

Following the surrender of the province to the English on the 29th of August, Bayard and Leisler headed the list of those who swore to be true subjects to the King of England. However as subsequent events proved, they had different conceptions as to what constituted a true subject.

May 23, 1666, Bayard was united in marriage to Judith Varlet—a young lady who had been imprisoned in Hartford on a charge of witchcraft. The young couple established their home in "Hoogh Straat" or High Street in New York City.

In the summer of 1672 Holland and England engaged in a struggle upon the seas, in which the Dutch fleets had no cause for

2. Ibid., p. 445.
shame. A Dutch fleet sailing toward the West Indies, upon learning of the weak defences of New York, decided upon retaking the city. August 9, the scenes of 1664 were reenacted and New York came under Dutch sovereignty for a period of fifteen months.

Young Bayard had established a fair reputation as an enterprising business man. Governor Colve, the Dutch ruler over the destinies of the province was in need of a "good and proper person" to serve as secretary and register of the province.

Upon inquiry, he decided upon Nicholas Bayard, who had gained a reputation as a clerk in the counting house and as vendue master of the city. Promotion again came to him for upon the 20th of September, he was commissioned, "Bookkeeper and Receiver-general" of the province. His duties were to collect the public revenue and income; also to keep the accounts of all officers, servants, colonists and merchants which related to public business. In return for these duties, Bayard was granted an income of 1000 guilders; in addition he was allowed six percent on disbursements of cash accounts: Many official documents, ranging from Thanksgiving proclamations to letters ordering military preparations were issued through his office. In addition to his other duties, the young official found time to devote to military affairs. December 22, 1673, he was commissioned as a lieutenant in a newly organized company.

In order to raise money for the defenses, Governor Colve ordered a valuation to be drawn up, which should set forth the

2.--Ibid., p. 613.
"best and most affluent inhabitants of the city." This valuation was to be used as a basis for arranging a hundred penny loan.\textsuperscript{1} This list of New York City magnates of 1674 comprised sixty-three names. All except about a dozen names of the entire list are unmistakably Dutch. The wealthiest man in Gotham at this time was Frederick Philips--rated at 80,000 Fl. The "least affluent"burgher was Adolph Pieterse, whose rating was 1,100 Fl. The seventh name upon this financial roll of honor was that of Jacob Leisler, a person concerning whom we are told, "he was a broken and ruined merchant." Nicholas Bayard possessed 10,000 Fl. and held the eleventh place on the list. To secure more money for the fortifications, Bayard was authorized to negotiate loans, giving in security the cannon of the fort; the value of the ordinance was to be determined by him.

July 4, 1674, Bayart, acting as secretary of the province, issued a proclamation that vessels which had been captured by the Dutch should be returned. Peace between England and Holland having been declared on March 6, 1674, Governor Colve was ordered by the States General to restore the New Netherlands to Edmund Andros or any other person designated by Great Britian.\textsuperscript{2} Governor Andros began his administration of the affairs of New York on the 10th of November, 1674 and soon found his task to be no light one.

Nicholas Bayard, hitherto an industrious young business man and small office holder, now appears as a leading factor in colonial politics. Theburghers were ordered by the new governor to take the oath of allegiance to their new rulers. This step, the New Yorkers refused to take until Andros on his part should

\textsuperscript{1}--Documents relative to the Colonial History of the State of New York, Vol. I, p. 699.\textsuperscript{2}--Ibid., p. 730
confirm a declaration given them at the former capitulation of 1664. The articles which were of especial concern to the Dutch, related to their right to enjoy the liberty of conscience; also to their freedom from service against the Dutch nation in times of war. A petition was drawn up and presented to Andros by the burghers, in which they outlined their complaints and asked time to move themselves from the province, in case it was rejected. The name of Bayard was among those at the head of the signers. Andros arbitrarily denounced the signers as "disturbers of the King's peace;" placed them under confinement and ordered them to stand trial for their misdoings. Bayard was tried, found guilty and all of his lands and goods judged to be forfeited to the King. Although a warrant was given to a constable to carry out the process, there is no historical evidence which would indicate that Bayard suffered the loss of his property.

However the Dutch had their inning when Andros was recalled in 1680, to allay the clamor of the provincials.

During the administration of Governor Dongan, who succeeded Andros, Bayard continued to advance in position and influence. As a city alderman, he petitioned for the restoration of the old city government—a system which would give more power to the mayor and alderman in the enacting of laws. In Dongan's report of the state of the province—written February 22, 1687—the Governor stated he had filled a vacancy in the Royal Council by appointing

3. Ibid., p. 340.
5. Ibid., p. 337.
N. Bayard who was at that time acting mayor of New York. While acting in this dual capacity, he was able to be of much assistance to the city in gaining valuable grants of land for public use. The last decree of the Council—in which Bayard participated under Dongan—was an act which "forbade shoemakers the mystery of tanning hides."

April 16, 1688, Andros received instructions to assume the governorship over New England, New York and New Jersey. The three provinces were combined and placed under one system of government—a scheme which was most distasteful to New York. That province—although it disliked such "an abhorred connection"—derived some comfort because of the increased power of three of her citizens-councillors. In his instructions, Andros was ordered to include Bayard, Philipse and van Cortland in his council. Although New England could vote upon the affairs of New York, the New York Councillors could likewise vote upon the questions that concerned New England. Andros made use of this plan. When he failed to get an act passed at Boston, which was not to the liking of the New Englanders, he simply placed it before the New York members of the Council, who were only too glad to favor anything that New England opposed.

3. Ibid., p. 515.
CHAPTER III.

BAYARD'S RELATION WITH LEISLER DURING THE REVOLUTION OF 1689.

When James II fled England and found refuge at the friendly court of Louis, the political relations between their respective realms were altered. Louis could now carry out his schemes of colonial expansion without becoming involved in a war with a friendly sovereign. Further, in moving against William of Orange and rebellious England, he would be furthering the cause of James.

In the spring of 1689, plans were made to march a French army upon New York by the way of Lake Champlain and the Hudson. At the same time a naval force was to cooperate with the army by striking a blow from the sea. Rumors of the French plans reached the colony and caused great fear and apprehension. But the blow did not fall. New York was delivered by the friendly Five Nations who swept upon the St. Lawrence settlements, leaving behind a trail

2.--Documents relative to the Colonial History of the State of New York, Vol. IX, p. 422.

Louis XIV and his advisers perfected a very thorough plan for the invasion of New York. The line of march was carefully examined; the troops to execute the move were selected; the naval forces were ordered to cooperate and their operations as well as those of the land forces were outlined in detail. The King evidently was sure of success for minute directions are given as to the disposition of the captured colonists and their property. The movement was to be attended with the greatest secrecy and Louis takes pains to lay emphasis upon this feature of the scheme. The plan is preserved in the Register of the Archives of the Marine, Paris, and is entitled "A Memoir to serve as Instruction for Count de Frontenac respecting the Expedition against New York, 7 June, 1689."
of blood and ruin. Unfortunately, news of the timely work of their Indian allies did not reach the colony in time to allay the delicate situation there.

Meantime, what had been occurring in the colonies? When news of the course of events in England reached Boston, the people of that city immediately threw off the Stuart government. The provincials showed their appreciation of Andros and his administrative efforts by placing him and his officers in prison. His official character was blackened by various affidavits, which purported to show that he had conspired to aid in the French attack upon New York.1

Governor Andros was represented in New York by Lieutenant Governor Nicholson and the three Royal Councilmen, Philipse, van Courtland and Bayard. Nicholson was hardly fitted to face the impending situation. He appears to have been a hasty, quick-tempered man with very little power of decision. Philipse was famous for his wealth only. Van Courtland was an able man and took a prominent part in the affairs of the time. Of the four men, Bayard was the one best qualified to take an active part in the leadership of the rising events. He also was rather hasty and impulsive, a good fighter and hard fighter.

On March 1, 1689, news reached New York that the Prince had landed in England.2 Nicholson showed lack of proper caution by saying, "the very prentice boys of London will drive out the usurper." However, he determined to keep the news secret, as van Courtland said, "to prevent tumult." April 26, came news of what had

2.--Ibid., p. 591.
taken place in Boston.

A spirit of restlessness and panic grew stronger daily. Added to the vague rumors of the French invasion, the news was circulated that suspicious, strange vessels were in the lower harbor. The official view of the situation is given in a letter from the Council to the Board of Trade as follows: "The militia of the eastern towns of Long Island are moving on New York, pretending a fear of a French invasion, to make themselves masters of the city. Certain restless and ill affected spirits among us are trying to stir up rebellion and sedition among us. Also certain merchants are beginning to dispute the paying of customs, seeing which all revenue now collected is turned toward building fortifications."

The crisis was precipitated when Nicholson became involved in a quarrel with a Lieutenant of militia—a certain Henry Cuyler. Cuyler had posted a sentry without orders from Nicholson. While remonstrating with the officer, Nicholson lost his temper and said, "I would rather see the city on fire than commanded by you." The Lieutenant Governor thereupon forced Cuyler to resign his commission. This action, augmented by the reports that Nicholson was a secret papist, gave rise to a mob—composed mainly of soldiers, and the lower classes. The fort was seized while the Council and all of the military officers—except Leisler—were at a meeting consulting about the uproar. The Council, writing to the Earl of Shrewsbury on June 10, referred to the matter as follows: "We cannot learn that hardly one person of sense and estate within the

2. Ibid., p. 591.
3. Ibid., p. 585.
city and adjacent parts, do countenance any of these ill and rash proceedings, except some who are drawn by fear."

At this juncture Jacob Leisler took the active leadership of the situation into his hands and from this time, he completely dominated the course of the rebellion. Leisler was a German, who came to the province in 1660 as a military officer. By a fortunate marriage with a wealthy widow and by his own industry as a brewer and merchant, he had accumulated a goodly fortune. From his letters and dealings with other men, it would seem that he was a man of little education and refinement—rather coarse and stubborn to the last degree. But withal, he was an ardent Christian; he hated a Roman Catholic with all the ardor of a seventeenth century protestant and was absolutely fixed in his convictions—religious or otherwise. His was a strong vigorous character, impatient of opposition and of the sort which are likely to dominate in times of public stress. When one reads his dying speech to the crowd gathered about the scaffold, one cannot help feeling sympathy for the strong soul, who was sent to his death because of mistakes committed through over zeal.

The day following the outbreak of the mob, Bayard was asked to take charge. He was Colonel of the train bands of the city, in addition to belonging to the Royal Council. Had he done so, the course of the revolution might have been otherwise as Leisler was a captain under him. But Bayard very cautiously refused to do so, on the ground that he would be sanctioning an unlawful proceedings.^ It can hardly be said that Bayard and the men who opposed the actions of Leisler were unfavorable to the revolution in Eng-

land. Leisler was fond of calling them Papists, Jacobins and King James' men. In a letter to the home government, Bayard stated that the Royal Council had wished to proclaim their new king but were prevented because of the disorder. He closed the letter by wishing the new monarch "a happy reign to the subduing of heresy and popery." ¹

Bayard simply did as the wealthy, aristocratic, office-holding classes always do in times of political disorder. With nothing to gain by a reckless plunge into social disorder, with a great deal to lose, his course was to wait for the situation to clear of itself. In the meantime, until the political skies were clear, his idea was to wait for definite instructions from England.

Nicholson, meanwhile, had taken ship to England—ostensibly to report the conditions that prevailed in New York, possibly to put himself out of harm's way.²

The three Royal Councillors, then sent to the eastern colonies for a copy of the proclamation. On hearing of the approach of the messengers who bore the paper, two agents of the Council were sent to meet them. Failing to meet the agents, the bearers of the proclamation delivered the paper to Leisler, who proceeded to proclaim the King. Although Bayard and the "Aristocrats" would not take part in the ceremony officially, they gathered at the home of Bayard where they drank to the health of King William "with great joy."³

2.—Ibid., p. 585.
Later the old office holders and their party—which for the sake of a name, we shall designate as Aristocrats—decided to test the strength of Leisler's government. Van Courtland, as Mayor of the city called the Council together. They deposed the customs collector because he was of the Catholic faith. Van Courtland had received a proclamation from the new monarch, which confirmed in authority those officials who had been in office up to December 1. This strengthened the backbone of the Aristocrats and was the inspiration for an attempt to resume control of affairs. Bayard and three other men were appointed to take charge of the customs and they proceeded to carry out their duties. Leisler promptly undertook to checkmate this move of his foes. With a band of armed men, he burst into the custom house and put the new officials to flight. In the melee, Bayard was slightly wounded but escaped to the home of a friend, where he passed the night. Leisler placed his own collector in the position and frightened the other party so badly, that their coup failed. Bayard fearing for his life, fled to Albany where he was safe temporarily, as the upper Hudson settlements had not accepted the rule of Leisler.

Numerous letters, written by men of both parties show the bitter animosity that prevailed. Leisler writing to the English government, said: "a fire broke out in the church tower, which gave much uneasiness as six thousand pounds of powder was stored

2.---Ibid., p. 594.
3.---Ibid., p. 596.
there." He believed that the fire was started by a papist. He states that he is very jealous of the designs of Bayard, "who under the appearance of the Protestant religion, remains affected to the Papist."湾 Bayard to offset this dangerous accusation, adopted a rather original scheme. On June 11, the Synod of New York published the following statement: "We, the clergy of the Synod of New York, testify that Nicholas Bayard and Stephen van Cortland were born of Protestant parents, baptized and educated by them in the reformed church and school and do bind themselves by the sacrament to preserve and protect the true faith, which they zealously make use of against the enemies of truth. They have filled the positions of deacons and elders and are pious, candid, honest men, majestic in the propagation of truth." 2

Albany, on receiving the news of the events in England had proclaimed the new Sovereigns and vested the government in local officials, pending further notice. The northern part of the valley was living in dread of the expected French invasion. With visions of the murdering hordes from the north before them, the people of Albany were not given to listening to the commands of Leisler. Appeals for aid, which were sent to Leisler brought no results; he would aid them only upon their accepting his government. Letters were sent to Massachusetts telling of the lamentable conditions.

Albany was in no condition to withstand the advance of the

2.--Ibid., p. 588.
French; Leisler was planning to seize Albany and remove the very men upon whom the loyalty of the Five Nations depended; in the face of the common danger Leisler's actions was perilous to the colony. The Governor of Connecticut was asked to send "two hundred brisk young men" to assist against the French, also to use his influence against Leisler's movement upon Albany.

Remembering that Colonel Peter Schuyler was in command of the Albany forces; that Livingston was a power in the city, and that their persecuted friend Bayard was exerting his influence, it is not to be wondered that Leisler was unpopular.

Leisler finally sent an armed force under the command of Milbourne--his son-in-law--to take Albany. On arriving at Albany, Milbourne found the town in a state of defence. He was allowed to enter the town but could not gain entrance to the fort, which was under the command of Colonel Schuyler. He spent some days trying to arouse friends for the party of Leisler; finally as he could accomplish nothing, he returned to New York. That he did not attempt an armed attack was possibly due to the presence of a great band of Mohawks, who were camping outside of the walls. They sent a message to Milbourne--by a squaw, that unless he departed from Albany, they would attack him.

Bayard spent the summer and fall at Albany in safety. Finally with the approach of winter, he determined to return to New York. He states--in a letter at this time--"that very pressing

3.--Documents relative to the Colonial History of the State of New York, Vol. III, p. 646.
matters" compelled his presence in the city. The nature of these "pressing matters" may be judged from subsequent events.

When news of the uprising in the colonies reached England, steps were taken to temporarily arrange for the government. A letter from the King was prepared, to be sent to Nicholson. This letter was addressed to "Captain Nicholson their Majesty's Lieutenant Governor and in his absence to such as for the time being administer the laws and preserve the peace." ¹ The letter authorized that Nicholson—or the person who was exercising power in the absence of that official—to take up the government of the province. This letter plainly shows that the new Monarchs were quite willing to place confidence in the established government in New York—as it was before Leisler took it under his hand. Nicholson arrived in England before the proclamation was dispatched. It seems rather strange that this fact did not cause the wording of the message to be changed. Possibly the King and his advisers had no thought but what the regularly constituted Councilmen would receive the proclamation and make use of it.

Bayard and his friends evidently knew that the important paper was soon to arrive; "the pressing matter" was the necessity of arming himself with this authority from the King. Arriving in New York November 29, Bayard awaited the coming of the proclamation. December 9, 1689, ² John Riggs arrived in New York, bearing with him the precious packets which meant so much to both parties. The three Royal Councillors and the messenger met in Colonel Bayard's

home at night—Bayard's presence in the city was unknown to Leisler. The letters were examined and discussed by those present. Prompt action should have been their course, but they failed to grasp the opportunity. Before the three dethroned councillors could make use of their advantage, the wary Leisler heard of their action. Lack of promptness and decision was not one of Leisler's failings; he seized the messenger and forced him to hand over the packets.

Van Cortland and Philipse went before Leisler and claimed the packets, urging that their positions of Royal Councillors entitled them to the letters. "That grand robber" thereupon ordered the two pretenders to power out of the fort and applied "opprobrious words" to hasten their exit.

Armed with this unexpected authority, Leisler now styled himself Lieutenant Governor and Commander in chief of the province.

Bayard described the situation by saying, "the rebels are as proud as Lucifer and pretend to some glimpse of authority." Enraged over the failure of their plans, a party of Bayard's henchmen assaulted Leisler on the streets but that doughty warrior-statesman not only repulsed his enemies, but he threw some of them into prison.

Governor Leisler now determined to use his vested power in the extermination of his foremost enemy, Bayard. On the 17th of January, Leisler issued a warrant for the arrest of the leader of "Aristocrats." "Whereas Colonel Nicholas Bayard, of this country

has committed high misdemeanors against his Majesty's authority in
this province as appears by his hand and seal, by writing execrable
lies and pernicious falsehoods, the body of said Bayard is to be
apprehended and all officers, military and civil are to aid and
assist." 1 Bayard— in the meantime— had secreted his much desired
body. Searching parties sought for him but failed in their purpose.

Bayard while in enforced seclusion, "which he preferred to
any that the arch rebel and his hellish crew might improvise "—
busied himself with scheming revenge upon his enemies. Writing
to Nicholson— then in England— Bayard asked that the position of
Collector of Customs be purchased for him, in order that he might
revenge himself for the many affronts heaped upon him by the rebels.
Evidently civil service rules were not in operation in the year
1690, for Bayard was willing to pay £150 for the place and £50
extra if need be.

While still in hiding, Bayard heard that his son was at
the point of death, after a severe sickness of three months' dura-
tion. Anxious to visit his home, Bayard sent a letter to the
justices of the peace of the city, in which he asked for the pro-
tec tion of the laws and offered security for any complaint alleged
against him. 3 They replied that although they knew of no law which
he had broken, still they could not afford him any protection.
Making use of his former authority as commander of the city militia
Bayard sent orders to the captains of the train-bands, in which

2.—Documents relative to the Colonial History of the State of
3.—Ibid., p. 647.
he commanded them to carry out the will of the justices of the peace. The captains, however, turned over the warrants to Leisler. This action of Bayard was deemed by Leisler as another proof of the guilt of his enemy. The alarm was sounded throughout the city. Searching parties redoubled their efforts to catch the much sought after Bayard.

At last, on the 20th of January, 1690, Leisler's efforts were crowned with success. Bayard and Nichols--another rich prize--had the illfortune to fall into the hands of the searchers. The two prisoners were dragged into the fort and securely confined. The wealthy friends of Bayard offered an immense security--£20,000--as bail. But Leisler refused to take any chances with his aristocratic relatives. As soon as possible a Court of Oyer and Terminer was called for the purpose of trying the prisoners. On the 24th of January, Bayard addressed a pitiful supplication to his captor. In the power of his enemies and in danger of his life, he acknowledged his errors. He only went to Albany to shun disturbances; he concealed himself in New York hoping for peace; he hoped all of his former acts might be treated as passion. Sick with a great fever, securely ironed and destitute of any assistance, he would miserably perish unless Leisler would consider his plight. Leisler must have been moved to compassion by the abject plea of his fallen enemy. The triumphant leader of the people contented himself with keeping Bayard in strict confinement. Occasionally, Leisler gave his prize jailbird a little fresh air by having him carried about

2. Ibid., p. 63.
the walls of the fort, ironed to a chair—thus exhibiting to the people the price of opposing his government.

But Bayard was not the only one of the old regime to feel the weight of Leisler's wrath. Many other gentlemen of position and estate were imprisoned for causes, which to us may seem rather humorous but which serve to explain the bitter hatred between the de facto government and the deposed party. One of Bayard's companions in misery was thrown into prison because, on receiving the alms at church service, he accepted them first from one of the old deacons instead of from a member of Leisler's Council. Enraged at this affront upon his official dignity, the Councilman—a former baker in prerevolutionary times—had the unfortunate churchman placed in prison.

One of Bayard's fellow prisoners paints this doleful picture of the imprisoned Aristocrats: "We are in a chaos of trouble and affliction, deprived of liberty and estate; my wife affronted and beaten; children sick—one dead--; estate decaying; honor stained; credit blasted and I am grieved to heart without any remedy from the present government of the province."

During this period of gloom for the anti-Leislerian party, the leading men who were still at large were besieging the Home Government with petitions for relief. Thirty-seven leading New York men of property—including the ministers of the French, Dutch and English churches—sent a petition to the King which complained of the oppression and rule by the sword of an insolent alien and

1.—Documents relative to the Colonial History of the State of New York, Vol. Ill, p. 721.
2.—Ibid., p. 715.
3.—Ibid., p. 716.
his rabble, who formerly were scarce fit for the meanest places." Friends were appealed to in the New England colonies; in England Nicholson was putting forth his best efforts to bring about a change in New York affairs.

The belated plans of the government were at last completed. January 4, 1690, instructions were given to Henry Slaughter, which vested him with the powers of Governor and Captain General. He was instructed to repair to the province and take charge of affairs and a very interesting fact-, he was to draw up his council as follows: Philipse, Bayard, and other prominent anti-Leislerians. Another provision in the instructions is worthy of comment. It is as follows: "In your choice of members of the Council, principal officers, judges, justices and sheriffs, you are to take care that they be men of estate and ability and not necessitous people or those much in debt; also they should be affected to Our Government. It is plainly evident that the power of Leisler was to be of short duration. The fact that the New Council was to be composed of men, some of whom were in New York prison and that the future colonial officials were to be selected from the wealthy class, would indicate that--as between the two factions--the Crown and Privy Council were inclined to consider the government of Leisler as irregular.

With a final admonition from the Lords of Council, to make an impartial investigation of provincial affairs, the new Governor set sail for New York in October 1690.

CHAPTER IV.

THE ANTI-LEISLERIAN RESTORATION.

During the voyage, the frigate Arch-Angel, with Governor Sloughter aboard, became separated from the other three vessels of the fleet. These ships were transporting troops under the command of Major Richard Ingoldsby which were to be used in quelling the turbulent province. Arriving at New York January 29th, 1691, Major Ingoldsby requested of Leisler, that the stores and soldiers be admitted to the fort. Leisler refused to consider this request. Ingoldsby then quartered his soldiers in the city hall and settled down to wait for the advent of the missing Governor.

Leisler spread the report that the troops were those of King James—under forged commissions. The members of the old Council—such as were free—labored to prepare the populace for the coming of the new Governor. In answer to a demand for the release of Bayard and Nicolls, Leisler angrily refused.

As the weeks passed away and Governor Sloughter failed to appear, relations became very strained. On March 17th, the crisis came. Leisler, arbitrarily sent a letter to Major Ingoldsby, warning him that if the troops and their allies—train bands from New Jersey—were not disbanded, he would destroy them. Two hours were allowed for a reply. Ingoldsby—so he tells us—answered in as peacable a tone as possible. After a few minutes the Leislerian forces in the fort opened fire upon the royal troops as they stood

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1. For the relations between Leisler and Ingoldsby I have used a letter from Chidley Brooks to Sir Robert Southwell in Documents relative to the Colonial History of the State of New York, Vol. III, p. 757 to 759. Chidley Brooks was a member of the new Council who accompanied Ingoldsby.
upon parade. The cannon of the fort opened a bombardment upon the town hall in which the troops were quartered. The royal troops and their allies being too few in number to storm the fort, were content to hold their position until the Governor arrived. Leisler had committed a fatal mistake for he had engaged in armed conflict with troops under a royal commission.

Such were the conditions which greeted Governor Slaughter when he arrived in the harbor on the following day. The leading members of the anti-Leislerians visited Slaughter on board the Arch-Angel and gave their version of what had occurred. The wind having died away, Slaughter and his company went to the city in a small boat. Upon his arrival at the city hall he published the Royal patents, took his oath, gave the oath to the Council and undertook the work in hand.

Leisler was ordered to give up the fort, to release Bayard and Nicolls and to surrender himself. Leisler replied by asking Slaughter for a sight of his "direct orders." Finally Leisler sent Milbourne and another agent to the Governor with a suggestion of a compromise.

Governor Slaughter became impatient and ordered the garrison to lay down their arms and leave the fort, promising that in case they did so, he would grant a general pardon to all except Leisler and his council. The garrison were only too glad to escape so lightly; the gates were opened and the soldiers, grounding their arms, marched out. The royal troops marched into the fort and put the former dictator and his leaders in irons. Tradi-

tion says that the shackles which Bayard had worn for more than a year were placed upon his fallen enemy. At last the day of restitution was at hand; the Aristocrats had come to their own.

March 20th, the new Royal Council met, on which occasion Bayard and Nicolls were sworn and took their places. After his months of humiliation and suffering, Bayard was now restored to his former status in the community. We may well imagine the source of pleasure it must have been to Bayard, when the fallen leader was brought before the Council and-after a preliminary examination-committed to jail. ¹

On the 24th of March, Governor Slaughter with the advice of his council, appointed a special Court of Oyer and Terminer, "wherein ten gentlemen of approved integrity and loyalty and personally unconcerned in the late troubles are commissioned to act as judges for the trial of the prisoners." ² In the light of the foregoing statement of the Governor, it is worth while to notice the membership of the commission, which was as follows: Colonel Dudley, Sir Robert Robinson, Colonel William Smith, William Pinhorn, John Lawrence, Jasper Nick, Major Richard Ingoldsby, Colonel John Young and Captain Issac Arnold. ³ Colonel Joseph Dudley was a former Chief-justice of Massachusetts under Andros; he had suffered from the overthrow of the Royal Government. Sir Robert Robinson was a former governor of Bermuda. These last two named gentlemen

3. For the positions of the members of the Commission, I have used Brodhead's History of the State of New York, Vol. II, p. 639.  
were to act as directors of the commission. Colonel Smith was the official recorder, Pinhorn and Lawrence were Council members, and Captain Hicks was master of the Arch-Angel. Major Ingoldsby we already know. Colonel Young and Captain Arnold were from Long Island. A glance at the list would indicate that Leisler could hardly escape conviction. Dudley had no love for revolutionists, Ingoldsby had been engaged in open warfare with Leisler, and Pinhorn and Smith were active anti-Leislerians.

Bayard and van Cortland were directed to prepare the evidence --a task for which the two were certainly well adapted. We may naturally expect that Bayard, who had been forced to flee the city, who had languished in prison, who had made humiliating supplications to Leisler, would leave no stone unturned in his task. Van Cortland, also--as we know--had good cause for grievance against the prisoner.

The trial took place about two weeks later. The principal charges against the prisoners were the disruption of the Royal Council, and levying war against the Crown. Of the ten indicted prisoners, six pleaded guilty and were so found; two were acquitted. As for Leisler and Milbourne, they refused to plead until the question of the intercepted commission had been settled. Leisler claimed that in view of the commission, he was justified in his actions. This question was referred to the Royal Council, which body--quite naturally--decided that the intercepted commission gave no authority to Leisler. This decision left no room for

doubt as to the issue. Leisler and Milbourne still refusing to plead, they were declared guilty as mutes and sentenced to death.

Governor Slaughter, at this point seems to have been willing to thrust the responsibility of the execution upon the Crown. He wished to pursue an impartial course. In his letter to Lord Nottingham he said:

"The Court of Oyer and Terminer have proceeded to the trial and condemnation of Captain Leisler and others of his accomplices. I have thought it best to reprieve them—unless an insurrection necessitates their execution—until his Majesty's pleasure be known. The loyal and best part of the country is very earnest for their execution and if some do not suffer, the people here will be greatly hardened in offering at the government at any time. If his Majesty shall be pleased to grant his pardon to all—except Leisler and Milbourne—it will be a favor and care shall be taken, although some of them are scarce worth anything."

It is plain that Slaughter did not care to press the persecuted Leislerians. Rather, he meant to be as lenient as possible, thereby hoping to heal the breach between the two factions. If he had but persevered in this course, the bitter political strife that swayed New York for another decade might have been assuaged. Unfortunately such was not the case. Leisler's enemies would be content with nothing but the death of the fallen political cheifain. Fearful that the Crown might spare their hated enemy, they brought all the pressure possible upon the wavering Governor. The Assembly and Royal Council "did represent to him the great damage it would be to the King's service and to the discouragement of future..."

loyalty, if the law was not executed upon the two principal actors. If the public pressure of such nature was brought to bear upon the Governor, we may assume that in private, he was urged to sign the death warrant with even greater and more forceful vehemence. It is said that the ladies of the colonial aristocracy joined in the cry for blood. Again, we are told that the Governor was wined and dined by Bayard and his friends, until in his cups, he signed the warrant. Whatever may have been the methods employed, the continued demands for the life of Leisler finally wore down the better judgment of the Governor and he signed the warrant.

On the 17th of May, 1691, the sentence was executed—"rescinding all of the sentence saving the hanging and separating of their heads from the bodies." Standing on the scaffold, facing a multitude of sorrowing friends and exulting enemies, with a gloomy drizzling rain falling, the tragic death of Leisler was is keeping with his life. Addressing the gathered crowd, he asked forgiveness for any injuries he had committed. He forgave the "greatest and most inveterate of his enemies"—"Father forgive them for they know not what they do." Foreseeing the coming struggle, he asked his friends and relations to forget their injuries, in order that discord might not arise to trouble posterity. And thus perished the rugged, impulsive Leisler, but the discord which he wished buried with his ashes did not pass away.

2.—Ibid., p. 789.
CHAPTER V.

ARISTOCRATS AND LEISLERIANS.

The two embittered parties instead of making peace, continued their struggles. Each new governor, as he came to the province was confronted with a serious problem at the onset. It was the purpose of each faction to gain the friendship and cooperation of the executive, as a means to the furthering of the interests of the party—generally the overpowering and humiliation of the opposite faction.

July 23, 1691, Governor Slaughter died very suddenly. The anti-Leislerian Council hurriedly declared Major Ingoldsby to be the Commander in Chief, pending the pleasure of the Crown. Bayard was now completely restored to his former high position in the city. His great enemy was dead, his party was in control of affairs and the death of Slaughter placed in power an executive who was dependent upon Bayard and his friends for support. Now that he held the whip hand, Colonel Bayard proceeded to enrich his coffers and at the same time, gain sweet revenge upon his foes. On September 7, he entered claims against the various prominent Leislerians, for "several damages sustained by him in the times of the late rebellion and disorder." For false imprisonment for fourteen months he asked £5,000. For assaults, wrongs, spoils and injuries committed in his house, and upon his estate, he asked £200 from each person against whom the damages were preferred. 1

Taking advantage of the smiling political skies, Bayard and his friends had a measure passed by the Assembly, a law which

was intended to prevent any recurrence of Leislerian uprisings. A bill--afterwards confirmed in England--is worthy of attention, as it was afterwards made use of in a way that dumfounded its originators. The first and second provisions of the act state that William and Mary are the rightful rulers of England, also that no power shall be exerted in New York except that which is directly derived from the Crown. The third provision is most important.

"Be it further enacted by the authority aforesaid, that whatsoever person or persons shall by any manner of way or upon any pretense whatsoever, endeavor by force of arms or otherwise to disturb the peace, good will and quiet of this their Majestys' Government as it is now established, shall be deemed and esteemed as rebels and traitors to their Majestys and insured the pains, penalties and forfeitures as the Laws of England hath for such offences made and provided." 1

There were good reasons--from the anti-Leislerian point of view--for the passage of such a law. The execution of Leister instead of quieting the province, made a popular martyr of the former leader. The Leislerian party now became stronger and more active than ever. Ingoldsby complained to the English Government that "great mutterings were heard among those who were followers of Leisler and disaffected to their Majestys' Government." Jacob Leisler, son of the former leader sent a petition to England which is charged with the old familiar complaints: "Ingoldsby has joined himself to the Papists and other disaffected persons and rules in a most arbitrary manner, exercising great violence against your

Hajestys' most loyal subjects." The Royal Council, however, gave the Leislerians but small comfort. Having examined the petition, they were of the opinion that Leisler and Milbourne were condemned and suffered according to the Law. But they gave some consolation by restoring the estates of the two men to their families.

The colony was in a desperate way, as the result of the continued factional strife. The French were active in the north. The Jesuit priests were undermining the friendship of the Five Nations. The finances were in such a deplorable state that the unfortunate Ingoldsby complained that he had received no salary since leaving England. The members of the Council—Bayard included—were lending their personal fortunes to the colony at ten percent interest. The people of the province were discouraged and weary of bearing the brunt of the French struggle, which the other colonies selfishly allowed to fall upon New York. Conditions were so bad; the outlook was so gloomy, that many of the colonists were leaving New York for Pennsylvania and Connecticut.

March 18th, 1692, Benjamin Fletcher was commissioned Governor of New York, to succeed Slaughter. His instructions were to include the names of the following men in the Council: Bayard, Cortland, Philipse, Dudley, Nicolls and Brooks. It may be readily seen that the Royal Favor was still with Bayard's party, as it had been from the beginning of the struggle.

2. --Ibid., p. 800.
3. --Ibid., p. 846.
4. --Ibid., p. 846.
6. --Ibid., p. 818.
Acting according to his instructions, Governor Fletcher discharged the complaints against the Leislerians who were still attainted. Six of their number would not acknowledge the release and to justify themselves before the public, they became candidates for the Assembly. This movement led Fletcher to ask the Privy Council either to grant a complete pardon or execute the disturbers. In response to this suggestion the Crown granted a complete pardon to the prisoners and ordered their estates restored to them.¹

Soon charges against Fletcher began to arrive in England. He was accused of influencing legislation, of showing resentment against the Leislerians and of careless handling of the public funds.² Young Jacob Leisler and others of the Leislerian party went to England to conduct the fight against their enemies. Backed by strong New England interests, the Leislerians had succeeded in having Parliament reverse the attainder against the executed Leisler.³ The younger Leisler, also set forth that in spite of the reversal of the attainder, Fletcher still kept the family from their estates. Other complaints against Fletcher were: that he had engaged in unlawful dealing with pirates and had granted to his political friends, vast tracts of territory.⁴

Fletcher was succeeded by the Earl of Bellemont as Governor of New York. Arriving in New York, April 2, 1698, he soon found

¹--Documents relative to the Colonial History of the State of New York, Vol. IV, p. 83.
²--Ibid., p. 178.
³--The attainder was reversed and Leisler's property returned by Act of Parliament in 1695.
⁴--The last two charges are so interesting that we shall devote a special chapter to them.
that his was to be a trying administration. Bellemont was an able executive. He put forth his best efforts to govern without partiality, but that very fact rendered him obnoxious to the political party in power. He found the Trade Laws were evaded and that the city was "nothing but a nest of pirates." His council did not give him aid but quite on the contrary, they met at "Fletcher's quarters whence came false reports and rumors."

Because of his attempts at strict enforcement of the Laws of Trade, the Royal Council—who were visibly affected by the enforcement—became more defiant. Matters soon came to a crisis. The ill feeling between the Governor and the Council finally became so strong that Bellemont felt constrained to relieve several members. Bayard, Pinhorn and Brooks were the three members of the Council who were suspended. Writing to the Lords of Trade concerning the suspension, Bellemont gave as his reasons the following: "In Council, they were perverse to my plans and out of the Council they made the government uneasy for me." He also states that they were discharged for being implicated in the piracy scandals.

Glancing at the three names, it is to be noted that Bayard was the arch-enemy of the Leislerians, while Pinhorn and Brooks had served upon the Commission that found Leisler guilty. These facts might lead one to believe that Bellemont's action was taken because of an alliance with the Leislerians. Still, when one makes a study of the piracy cases and the land grants of Fletcher, one is left with the impression that Bellemont tried to administer his office without fear or favor. His enforcement of the Trade

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regulations immediately nettled the anti-Leislerian merchants. Their continued antagonism left him no choice in the matter. Not by choice, did he favor the Leislerians but because he was driven to it by the resentment of the other faction. Bellemont gives this information concerning his relations with Bayard: "Although he knew that Bayard was his inveterate enemy, yet he was so far from suspending him that he sent Colonel Cortland, Bayard's relation by marriage, to bring him to terms and knowing that he was a most violent enemy of Leisler, he might fear the Leislerians in the Council might do him harm, he assured him no harm would come to him."1

October 24, 1698, Bayard left for England, where he intended to wage a campaign for the recall of Bellemont and appear as a witness at the trial of his friend, former Governor Fletcher. Bellemont warned the Lords of Trade of Bayard's purpose: "the reason for his going to England is to act as agent for the factional merchants and purchase my recall." At the spring elections of 1699, there were great struggles at the polls and "in some places fighting and broken heads." Nicolls, the deposed Council member "rode about the country day and night and the Jacobites used every means in their power to carry the election and discredit Bellemont. But Bellemont meanwhile had displaced Colonel Fletcher's "stale sheriffs and had replaced them with men well affected to the King." The son of Bayard took an active part in the campaign as a writer of election pamphlets. The election, however was overwhelmingly in favor of the Leislerian party. When the Assembly met, sixteen of the entire twenty one members were Leislerians and "such as would be true to the

The Assembly immediately passed measures in keeping with the Leislerian power. The first bill to be passed was one for "the indemnifying of all such persons as were excepted out of the general pardon, made by the Acts of General Assembly in this province in the year of our Lord 1691." Also, "the judgements and attainders against those excepted by the former Statute are reversed because of the part they played in the Happy Revolution." Another bill passed by this Assembly is entitled, "A Bill for preventing vexatious suits and settling and quieting the minds of his Majesty's peaceable subjects within this province."\(^1\) The nature of the bill was this: Be it enacted that all personal actions, suits and persecutions arising from the revolution shall be discharged. This law was evidently framed for the express benefit of the litigious Bayard, who—it will be remembered—had taken legal action to avenge himself upon his enemies.

Defeated at the polls, the party of "affluence and position" continued the fight by other means. Petitions and accusations were showered upon the English Government. Bellemont was accused of suspending from the Council Bayard and others' men of considerable parts, estates and fortunes.\(^2\)

Not only did Bellemont offend the anti-Leislerians by discharging Bayard from the Council, but he gave them even greater ground for complaint. The friends of Leisler were allowed to exhume the bodies of the two popular martyrs, after nine years of peaceful rest and bury them in state in the Dutch church.\(^2\)

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imagine with what feelings the anti-Leislerians were possessed, when they witnessed a procession of six hundred armed men and fifteen hundred cheering followers escort the remains of their hated foes to their new resting place. The report of Bellemont on the burial is interesting:

"I suffered them to take up the bodies of Captain Leisler and Milbourne and give them Christian burial. And if it were in my power, I would restore them to life again, for I have undertaken to prove that the execution of those men was as violent, arbitrary and cruel a proceedings as was ever done upon any man in any age under an English Government. Fletcher had declared the same dislike of the proceedings, not withstanding his doubleness in publishing a book to applaud the justice of it and screen his sycophant councillors, Bayard, Nicolls, Brooks and the rest of the bloodhounds. I do not wonder that the murderers of those men should be disturbed at the taking up of their bones; it puts them in mind ('tis likely) of their rising hereafter in judgement against them."

Thirty three of the prominent merchants of the city sent a petition to William III, which portrayed the woeful state of the colony. "Since the arrival of Lord Bellemont, justice is impeded, trade decayed, labor and industry discouraged and no benefits to the King accrue." And in closing, they asked for a return to the former safety and prosperity—which of course may be interpreted as meaning a return to the good old times of anti-Leislerian rule.

To heighten the strife Colonel van Courtland died, whereupon a struggle arose concerning his official accounts. The family of

1.—Calendar of State Papers, Colonel Series, America and the West Indies, p. 218.
van Courtland refused to yield the papers and accounts; it was only by seizure that the Council was able to obtain them. As the van Courtlands and Bayards were related, there might have been grounds to the charge of Bellemont, that the whole affair was done at the instigation of Bayard and the deposed members of the Council. 

In the midst of all of this strife, Governor Bellemont died on March 5th, 1701. Immediately there was great activity on the part of both parties; the Leislerians hastened to secure themselves and the party of Bayard did likewise. At the demise of Bellemont, the Royal Council was composed as follows: Of the Leislerian party there were four members, DePeyster, Stoats, Waters and Weaver; of the anti-Leislerians, there were as representatives in the Council, Smith, Livingston and Schuyler. The three anti-Leislerians lived so far from the city and the majority party was so overwhelmingly strong, that the former did not take any active part in the proceedings of the Council.

When Bellemont died, Lieutenant Governor Nanfan was at the Barbados, where he was attending to certain private interests. 

The four Leislerians in the Council immediately took upon themselves the administration of colonial affairs. The other party now saw a slight chance of regaining temporary control, and claimed that Smith was the senior member of the Council and therefore entitled to a certain executive power. There was good constitutional ground for this move by the anti-Leislerians. Such a contingency was provided for in the commissions issued to the governors of the

1.---Documents relative to the Colonial History of the State of New York, Vol. IV, p. 624.
2.---Ibid., p. 350
province. In the Commission granted to the Earl of Bellomont, we find this clause which provides for the administration of the government in case of the death or absence of both the governor and lieutenant governor. "And if on such death or absence there be no person appointed by us to be our Lieutenant Governor or Commander in Chief, our will and pleasure is, that the then present Council of our said province do take upon them the administration of the government and execute this commission and the several powers herein contained relative to our said province and that the first Councillor who shall be at the time of your death or absence residing within the same; do preside in our said Council with such power and preeminences as any former president hath used and enjoyed within our said province or any other plantations in America, until our pleasure be further known or your return as aforesaid." They set up the claim, that, in the absence of Manfan, Smith became the executive and could call or dismiss the Council. But the Leislerians would not allow their power to lapse by this claim; the disappointed friends of Bayard complained to the English Government.

Bayard, meanwhile, had returned to the colony and assumed active control of the struggling aristocratic party. It seems that the dominant party had taken advantage of the times, to consider measures distinctly favorable to their side. All of those persons who had served Leisler were ordered to present their losses and damages, which would be paid. Bayard, writing to a friend—a member of the Board of Trade—complained bitterly against the

1.—Documents relative to the Colonial History of the State of New York, Vol. IV, p. 266.
2.—Ibid., p. 350.
3.—Ibid., p. 348.
action of the Assembly. He took occasion to suggest a list of names, that he considered fit for places in the new Council--names that were of course, of his party.

Leaving the colony anxiously awaiting the advent of a new governor, let us turn aside for a while to study the questions of Trade Laws, pirates and land grants, all of which immediately concerned Nicholas Bayard.
CHAPTER VI.

TRADE LAW EVASIONS, PIRATES AND
QUESTIONSABLE LAND GRANTS.

It will be remembered, that former Governor Bellemont incurred the enmity of the anti-Loislerian merchants because of his strict enforcement of the Laws of Trade. That illegal trade was engaged in by the wealthy mercantile classes of New York during this period cannot be doubted. It was the first fruits of the narrow, restrictive, colonial system and flourished in proportion to the enforcement of the Acts of Trade and Navigation. Thus at this early period, we find the discontent and disregard of England's Trade Laws, which was to continue throughout the following century, until the Colonies settled the ever vexing problem, by revolting from the Mother Country.

Early in his administration, Bellemont made this significant report to the Lords of Trade: "Although trade has grown to four times what it was, the customs have fallen off by half. I receive small assistance from the Council, because they are mostly merchants and several of them—concerned in the breach of the Laws—resent the seizures which I have made."¹ This statement certainly seems to indicate that smuggling was being practiced or that there was corruption in the administration of the customs. Even in our day and age, certain business interests and officials in this same customs house, have engaged in practices, which remind us of those complained about by Bellemont.

Governor Bellemont also furnishes statements, which give us an idea of the smuggling engaged in by the merchants: "The merchants run in great quantities of goods at Long Island harbors, computed to be one third of what is fairly imported at New York." Bellemont commissioned a customs official at Oyster Bay and as a special inducement, he offered the man £ 30 a year plus one third of all his seizures; in a month the official resigned for fear of losing his life. Evidently the berth of customs collector was one of great danger. Determined to put down smuggling Bellemont offered one of his army officers £500 a year and two horses if he would accept the position of riding surveyor of Long Island. "He though accounted a brisk man and ready to starve for want of his pay and subsistence, told me plainly that he thought it too hazardous an undertaking for him." In the year 1693, a large Dutch vessel came to the port of New York, ostensibly to obtain victuals for her crew. The ship remained so long in the harbor and took on board such a vast supply of provisions, that the price of butter, pork and flour became exorbitant. The people of the city set up a clamor for Fletcher to have the vessel sent away. During the stay of the vessel, Bayard, Fletcher and Brooks were entertained and feasted upon the ship.

Lord Bellemont's charges against Bayard, indicate that Bayard and the other colonial officials were not only cognizant of

1.—The Calendar of State Papers, Colonial Series, America and the West Indies, p. 211.
2.—Ibid., p. 211.
3.—Documents relative to the Colonial History of the State of New York, Vol. IV, p. 419.
these actions but took an active interest in them. Bellemont stated that Bayard went to England for no other purpose than to purchase his (Bellemont's) recall. But it was in the piracy cases that Bayard played a conspicuous part.

Bellemont's reasons for suspending Bayard from the Council were these: "He advised and consented to a pirate bringing his ship into the port of New York and connived at Colonel Fletcher's public acceptance of that ship as a present, as well as of large sums of money for the protection of these and other pirates."¹

This last quarter of the seventeenth century was the time when the Madagascar pirates sailed the tropical seas, capturing rich vessels, forcing their victims to walk the plank and engaging in other unholy practices. Captains Kidd, Tew and Clover—names about which untold romantic tales have been written—were familiar figures in New York. It was the custom of these free booters to haunt the Indian Ocean, where they would waylay the richly laden ships from the Orient. After seizing and loading their vessel with the spoil, they would either exchange with some vessel from the colonies or sail deliberately to New York and dispose of their plunder. The French war being in progress, they would produce letters-of-Marque and swear that the cargo was taken from some ill-fated Frenchman. As there were no witnesses to gainsay their statements and as their stolen plunder was in great demand, the pirate was treated with the greatest consideration.

¹—The Calendar of State Papers, Colonial Series, America and the West Indies, p. 72.
Governor Fletcher and his two Councilmen, Bayard and Nicolls, engaged in rather doubtful relations with the buccaneers. We are told that "certain merchants and factors traded with the pirates of Madagascar and gave them protection, particularly Colonel Bayard and Mr. Nicolls. This trade was to the prejudice of all fair traders not in the combination and to the trade of England and the Crown."\(^1\) Bellemont writing to the Lords of Trade said, "the pirates which had given great disturbance in the East Indies and the Red Sea, fitted out in New York, were commanded by Tec, Glover and Hare and held commissions from Fletcher." Fletcher not only gave them their commissions, but on their return, would receive them and entertain them. Bayard was in the habit of acting as the go-between in the transactions.\(^2\)

It was the constant complaints of this nature that had led to Fletcher's recall and the placing of Bellemont in charge of the Colony. January 20th 1699, Fletcher was tried before the Council of Trade and Plantations upon the charge of protecting the pirates. Bayard was present at the trial as a witness for his friend and gave testimony which would indicate that there was substantial ground for Bellemont's charges.

The accusations against Fletcher were as follows: In the year 1693 the ship Jacob returned from the East Indies to New York. Some unknown person from the ship treated with Fletcher and agreed to pay £700 if the vessel would be allowed to come into port under protection, which was done. Fletcher was accused of granting protection to other notorious pirates, for which they paid, through

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agents, £25 for each man. He was also accused of giving commissions to Tew, Clover and Hare as privy treers against the King's enemies in return for certain presents.  

Depositions of Dr. Staats and Lewis were furnished, which stated that the two had treated with Colonel Bayard for the protection of the pirates Lewis and Rynderson. The depositions further disclosed some very interesting information as to the part Bayard played in the transaction: "Bayard first demanded one hundred pieces of eight. Finally upon the payment of seventy five pieces of gold for Colonel Fletcher and twelve for himself, he gave them the protection." It must be remembered that Dr. Staats and Alderman Lewis were radical Leislerians who hated Bayard with true Leislerian depth of feeling. It seems rather strange that they should have made such statements, for they too were implicated in the transaction. But in view of the reply of Bayard, there must have been some truth in their depositions.

In his testimony, Bayard stated that Fletcher did not use force in persuading the Council to grant the commissions, thus candidly admitting that the pirates had received official authority. In answer to the charge that he had acted as the agent for Fletcher in the transaction, Bayard said that he wrote to the Governor, who was then in Pennsylvania, and was instructed to make no bargain, although presents would be received. In explanation

2.--Ibid., p. 387.
3.--The Calendar of State Papers, Colonial Series, America and the West Indies, p. 22.
4.--Ibid., p. 22.
of the fact that no security was asked from the persons who received the protection, Bayard stated that Fletcher had instructed him to do so, but as the persons who applied to him were his old friends and neighbors, he did not do so. Fletcher admitted that protection was granted and defended himself as we might expect. How was he to know that the captains, after securing the commissions, were going to misuse them and how could he be sure that they did or did not? Regarding his intimacy with the pirate, Tew, Fletcher offered a truly remarkable explanation: He enjoyed the fellowship of Tew because his conversation was so pleasant and the information he gave was so valuable. More remarkable still, he desired to reclaim Tew from "the ill habit of swearing."  

With all due respect for Fletcher's pious regard for the morals of the pirates, it would seem that Bayard and the former Governor did enrich their coffers with tribute from the pirates; possibly the word present would be more pleasing to their ears. With the two seventeenth century officials, it was the same question of official ethics, that had tempted and still tempts men in public office. The Council had a legal right to grant commissions to fight against the King's enemies. They could not follow the ship in its course and witness the various activities of the captains. If, on returning, the captains of the vessel swore that his spoil came from a looted French ship, as true gentlemen, Fletcher and Bayard could only accept his word,—in absence of proof to the contrary,—and courteously accept a slight token of the freebooter's esteem.

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1. The Calendar of State Papers, Colonial Series, America and the West Indies, p. 22.
2. Ibid., p. 97.
A third complaint against Fletcher was lodged by Governor Bellemont. Fletcher had rewarded his political friends by presenting them with vast tracts of land in the northern part of the province. To his good friend Colonel Bayard, he gave a large tract in Albany County. This generous gift covered an area of thirty miles in length and was of unknown breadth.\(^1\) Such a large grant of land to one person was not for the best interests of the Colony as free holders were discouraged. Again, the grant to Bayard involved the safety of the Colony, for the land encroached upon the territory of the Five Nations. As that Indian Nation was the great bulwark against the French, the granting away of territory so near to them, was unwise to say the least. Governor Bellemont, early in his administration brought about a change in the matter. On May 12, 1699, he brought in a bill to his Council, which revoked the grants to Bayard and others. The Council divided on the vote—three to three.\(^2\) Bellemont cast his vote in favor of the measure and Bayard lost his princely domains, for which he was paying an annual rental of one otter skin.

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CHAPTER VII.

A TRIAL FOR TREASON.

On hearing of the demise of Governor Bellemont, Lieutenant Governor Nanfan hastened to New York and assumed charge of affairs. He was admonished by the Lords of Trade not to take part in the strife and to use great moderation in discharging his duties. About the middle of August, 1701, Mr. Atwood, the new Chief-justice arrived in New York. He was authorized by the Home Government to set up a Supreme Court and a Court of Chancery. Atwood was a thorough lawyer and jurist, one used to the strict procedure of the English Courts. He aspired to bring about a new era in the administration of justice in the bickering colony. The former Governor had entertained similar ideas, with the result that he found himself at odds with the colonial aristocracy. Atwood soon found that the berth was not to be one of ease.

The new Chief-justice and Mr. Weaver, the Solicitor-general, immediately antagonized the anti-Leislerians by strictly enforcing the Trade Laws. After several cases had been tried in court and several vessels confiscated, we find that Atwood became an active Leislerian.

While Governor Nanfan and Chief-justice Atwood were absent in New Jersey, an election for aldermen occurred. The election was— as usual— fought out with great bitterness. Bayard and his party contested in vain the election of three Leislerian aldermen; the hated Leislerians went into office. Now it happened that the Mayor of the city was of Bayard's party and he, after a party consultation, swore in the three aldermen of his party. With two

sets of aldermen struggling for their seats and the city in an up-roar over the issue, Judge Atwood returned and proceeded to decide the question in his court. His decision was in favor of the Leislerian party. The Aristocratic party, naturally were stirred to anger and resentment.

News having reached the city that Lord Cornbury was to be appointed to succeed Bellemont, Bayard and his friends determined to petition the King and Parliament for relief. Accordingly on the 50th of December, three letters were written, one to King William III, one to Parliament and the third to Lord Cornbury. As these three petitions placed Bayard on trial for his life, it may be interesting to know the contents of the "most dangerous" petition.

Petitions of the Protestants of New York to
King William III, December 30, 1701.

"On matters of religion and liberty, the petitioners are in the greatest safety under King William's reign as the result of his deliverance of them and they wish to assure him that the differences and divisions were not founded upon the interests of his Majesty, but upon the private corrupt designs of certain pretenders to his Majesty's service who have laid hold of an opportunity to enrich themselves by the spoils of their neighbors. The petitioners, conscious of their affection for his Majesty were surprised to find themselves turned out of office, which were filled by persons unqualified for the posts and to add to their misfortunes, find themselves branded as characters of disaffection and infamy.

These measures were aided by great partiality in appointment, corruption and injustice in office, schemes to divest the good subjects of their property and divide it among themselves, thus making his Majesty's Government cheap and vile in the eyes of the people."  

The petition was signed by Bayard, Nicolls and some seven hundred persons--"principal merchants, free holders and persons of position."

The two addresses to William and Parliament were given to Captain Darbin--master of a vessel bound for England--who agreed to deliver them.

When the party in power heard of the sending of the petitions, they were greatly incensed and took summary action. Governor Hanfan informed the Lords of Trade, that he had discovered "a conspiracy to raise sedition and mutiny by the factious party, the head of which is Colonel Bayard, of foreign birth, never easy under the English Government and others that are angry because they cannot break the trade laws with impunity."  

Writing on the conspiracy, he said, "Colonel Bayard is the chief promoter and it is of such nature that if some example be not made, his Majesty's Government will be cheap and vile in the eyes of the people (as they present it.)"

Hanfan also made the alarming discovery that the soldiers were in a mutinous state and were concerned in the plot. He therefore laid the matter before the Council and asked the Attorney-general to look into the case. Bayard, his son Samuel and Alderman Hutchins were called before the Council and after examination were

1.--Documents relative to the Colonial History of the State of New York, Vol. IV, p. 933.
2.--Ibid., p. 942.
3.--Ibid., p. 942.
held for misdemeanor. Bayard's boastful attitude and the demands of his party for the release of the prisoner Hutchins, moved the Leislerians to wrath. Demands were made that Bayard produce the copies of the criminal letters. Bayard and his party leaders refused to do this and disdainfully awaited the next move of the Leislerians. After waiting several days, Bayard was held for contempt of Council, concealing the King's evidence and treason.

Accordingly, on the 19th of February, 1702, a Court of Oyer and Terminer was assembled to try Bayard and Hutchins for high treason. Chief-justice Atwood presided as the judge. The Attorney-general, Mr. Brougham refused to prosecute the case as he did not believe there was ground for action. Brougham evidently was not in sympathy with the Leislerians, for we are told that at this important crisis, he spent his time drinking with the conspirators instead of tending to the duties of his office. This "failure of the Attorney-general" did not disconcert the enemies of Bayard; Weaver, the Solicitor-general took upon himself the prosecution of the case and the trial went on. The prisoner was defended by Nicolls and Emot, both of whom were able lawyers. The records also show that the son of the Chief justice aided in defending the prisoners, although he was not given written credit for so doing by the anti-Leislerians.

With a Leislerian judge on the bench and a Leislerian prosecutor, with two anti-Leislerian attorneys defending the prisoner and the whole city aroq with excitement over the issue, thus began this unique trial.

The defence first objected to the drawing of the indictment upon three points: 1) Members of the Grand Jury had said, "if Bayard's neck was made of gold he should be hanged." 2) Four of the Grand Jury had been discharged for objecting to Weaver's sitting with them. 3) Only eight of nineteen men had voted for the indictment. Judge Atwood decided that the indictment should stand.

To understand the depth of Bayard's villainy—as the Leislerians saw it—it might be interesting to note the contents of the indictment:

"The prisoner falsely, maliciously, advisedly, clandestinely, rebeliously and traitorously used divers indirect practices and endeavors to procure mutiny and desertion among the soldiers in the fort and drew members of them to sign false and scandalous libels against his Majesty's gov't. Among other things, that his Majesty's subjects were and had been for some years past oppressed by persons entrusted with the gov't, which was rendered cheap and vile in the eyes of the people. By which and other scandal, the prisoner has incited his Majesty's subjects in the province to disown the present authority and to cast off their obedience to his Majesty's Government." 2

It will be remembered that Bayard and his friends had passed the law—previously mentioned—which gave the Leislerians their ground for trying him for high treason. The feelings of satisfaction that must have possessed the hearts of the jubilant Leislerians may be well imagined.

On being arraigned, Bayard pleaded "not guilty" and asked for two clerks to take the minutes of the trial, which request was denied by the Court. The prisoner petitioned the Court, saying that the proceedings were irregular and unjust: 1) The indictment had not been agreed upon by twelve members of the Grand Jury. 2) The Grand Jury should be composed of Englishmen possessed at least of character, knowledge, integrity, justice, conscience, and estate, whereas there was not an Englishman on the Jury; all were Dutch and several so ignorant that they could not read, write nor understand the English language. 3) The Petit Jury was composed of Dutchmen of the same type.

The prosecutor then addressed the Jury, declaiming against the Aristocratic Party. He charged the prisoner with being the head of a faction, who had endeavored to introduce popery and slavery: "Disturbers of our Israel." He also took occasion to "avow himself of the Loislerian party, by which he would stand or fall." This seems a rather bald statement to make at a trial, with a man's life at stake but if it is true it only serves to illustrate the bitterness and intensity of the political strife of the period.

Weaver then called upon witnesses, who testified that they had signed three addresses, although it was not shown that Bayard urged the signing—on the contrary in some cases, he advised

1. For the account of the trial, I have relied upon the splendid account given by Mr. Chandler in his Criminal Trials. Bayard's account of the trial written from notes taken at the time and Atwood's Case also furnish interesting material.

2. Mr. Chandler is the authority for this striking statement attributed to the prosecuting attorney, Mr. Weaver. While I have not been able to find the statement in my material, I have found references to it which would indicate such a statement was made.
against it. Other evidence was produced which set forth that references had been made to "the hottest and most ignorant of the people being placed in positions of trust," also "that Lieutenant Governor and Chief-justice had carried on designs which made the Government appear cheap and vile." Other witnesses testified as to the character of the signers, some of whom were soldiers.

The prosecutor then recounted his evidence, saying that he had proved by his witnesses, that the false and scandalous libels had disturbed the peace and Government and were therefore high treason. The words "who we understand by certain advices we have received from England, to be nominated by his Majesty to succeed the late Earl of Bellemont" constituted a casting off of the present authority and his Majesty's Government—according to Weaver. In essence, the whole trial hung upon Weaver's last point. Did the sending of petitions to the Crown constitute a breach of the famous anti-Leislerian Statute?

Nicolls then began his arguments for the defence and presented them in a clear, lucid way as follows:

1) The only crime charged against the prisoner was that of signing the address. If signing the petitions was a crime it had not been proved as no papers had been brought into Court; no comparisons of handwriting had been made, which would prove the point.

2) If it had been proved that Bayard had signed the petitions, was it not the right of the subject to petition the King when aggrieved? Nicolls further pleaded that since the Bishop's Trial, no one thought it a crime to petition the King. He then quoted a long list of legal authorities, statutes and decisions to prove his point. He further stated that, "It is the birth right
of every subject to petition the King, hence to procure men to do what is their legal right is no crime; the prosecution, by frustrat

ing the Act of Recognition of William and Mary took dangerous

ground." [1]

3) The address to the new Governor,--instead of being a casting off of authority--was in reality a direct acknowledgment of the same.

Witnesses for the defence--among others, the minister of Trinity Church--then testified to the good character of the prisoner,--after which, the Chief justice summed up the case. He defined treason and stated that the facts which had been proved constituted high treason; the jury therefore could do no otherwise than find the prisoner guilty.

The case then went into the hands of the jury, who retired and spent the night wrestling over the guilt of Bayard. When morning dawned, no verdict had been agreed upon. Unable to agree, the jury asked the Judge for further instructions. Atwood informed them, that if the only doubt was as to whether or not the facts alleged were treason, they might find the prisoner guilty. Naturally, this move on the part of the Judge called forth a vigorous protest from the defence, who claimed that the "Court was giving the jury a handle to find the prisoner guilty." This objection was overruled and in a short time the jury returned with the verdict "guilty."

Before sentence was passed, Bayard sent a letter to De Peyster, who served upon the jury. De Peyster was an old neighbor but a radical Leislerian. The letter begins in in a similar tone

to that written by the departed Meissler but before any sentences had been written, we find a spirit of revenge and reproach outcropping. The letter, which in a few words paints the troubled political conditions in New York, reads as follows:

"I die with a clear and good conscience and as free from that horrid crime as an unborn child.-----------. I am sensible that there is no more than death for me and that in all probability, considering my age— it might have been soon, although this tribulation had not fallen upon me. I hope in God's mercy for pardon of my manifold sins and transgressions, through the merits of my Savior Jesus Christ and that when I shall be no more, he will continue his grace to my dear wife and posterity and lastly that my blood which is struck at, may be the last to be spilled on account of our dismal and unhappy divisions, although I fear that out of my ashes such further calamities may arise to this poor bleeding province as posterity will have cause long to regret; for this is not to be expected that all of the plots and intrigues used in this matter will have their end in me. It had been more pardonable to have stabbed me in my sleep or with Joab's hand, than under pretence of friendship, to do it with Ahab's under a color and cloak of justice."¹

Payard then made a last appeal, in which he set forth that the proceedings were irregular; that he was indicted by less than twelve men; that the petit jury was against him because of the divisions in the province; that there was no proof of his inciting others to sign the petitions and finally, that there was no treason in the petitions.²

²—Ibid., p. 292.
Judge Atwood then pronounced sentence upon the unfortunate prisoner; the sentence of high treason, which to our day seems too atrocious and harrowing for the most vile of crimes. Bayard was doomed to the following terrible punishment:

"That you be carried to the place from whence you came, drawn upon a hurdle to the place of execution, that you be hanged by the neck and being alive be cut to the earth, that your bowels be removed from your body and you being alive, they be burned before your face, that your head be cut off and your body be divided into four quarters and that your head and quarters be placed where our Lord the King shall assign and the Lord have mercy upon your soul."¹

With this appalling fate before him, Bayard asked leave to speak a final word but was refused. He then exclaimed, "God's will be done!" and was removed to prison. Judge Atwood tells us that he earnestly tried to bring Bayard to a deep sense of his guilt after the sentence was pronounced but was not successful.² Bayard's cup of woe certainly was full; the Leislerians not only doomed him to death but were bent upon keeping his alleged sins before his eyes. His fellow conspirator, Hutchins was tried, convicted and sentenced to the same unhappy fate. He endeavored to escape by a reprieve, on the ground that "he had been ensnared by Bayard."

These gloomy proceedings may be brightened somewhat, by one of the narratives of the time, which relates to the measures adopted by Atwood to stop the wagging tongues of the anti-Leislerian ladies. It seemed as though the harsh measures against Bayard quieted the

men of the province but certain ladies publicly threatened that Atwood himself would suffer in Bayard's place. The Chief Justice upon hearing of the feminine *lese majeste," made mention of a proper place for that heat in the tongue, whereat they took care to triumph over the ducking stool as did the men over the gallows."

Bayard's narrative of the events which led up to his trial agree with the accounts as they were developed at the trial. His version of the affair is as follows: "At the end of last summer, I had news that Lord Cornbury was to be appointed as Governor to succeed the Earl of Bellamont. His Majesty's subjects, who had born hardships without hope of relief, after the best counsel, thought it lawful as subjects to petition the King and Parliament for relief. An address was drawn up for his Majesty, one for Parliament and a message of congratulation to Lord Cornbury, to be given to him upon his arrival. This was signed by most of the principal merchants and free holders, among whom were two members of the Council and several justices of the peace. The two addresses were given to Captain Darkins, master of a ship bound for England. When the Lieutenant governor and Council heard of the matter, they were disturbed and offended at it. Whereupon myself and Alderman John Hutchins were committed for high treason and a special commission was issued for our trial. I asked for an impartial English jury but was put upon a grand jury of aliens, ignorant in the English language and the rest implacable enemies on account of the unhappy divisions. The charges drawn up against me were as follows:

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1) I was present at the coffee house at the signing of the said addresses.

2) I had some papers—said addresses—at the house of Alderman Hutchins.

3) With Rip van Dam, P. French and others I had prepared an address containing these words: "And another address to my Lord Cornbury, whom we understand—by certain advises we have received from England—is to be nominated by his Majesty to succeed the late Earl of Bellemont as our Governor."

For this, I had the sentence of death pronounced against me."  

As the new Governor was expected to arrive soon, the Aristocrats put forth their best efforts to delay the execution until his arrival. Friends of Bayard cut down the gallows—although they could hardly have hoped to stay the execution by such means. As a last desperate resort, the anti-Leislerians planned to break into the prison and rescue the prisoner but the plot was discovered by their wary enemies. Appeals were sent to neighboring governors in hopes that they might influence the Leislerians to stay the final act in the tragedy. These appeals were of slight worth—in fact they only made the position of Bayard more dangerous—for one of the governors in replying to the request, used very untactful language. He delivered himself of the opinion that, "it looks as

1. —Documents relative to the Colonial History of the State of New York, Vol. IV, pp. 952, 953. This letter is one written by Bayard to the Lords of Trade April 24, 1702, and gives a very fair and concise statement of the case.

though not waiting for Cornbury indicated haste to do a job.\textsuperscript{1} Such a phrase was hardly soothing to Leislerian feelings.

Bayard, realizing the seriousness of his position and despairing of the arrival of Lord Cornbury, now made several appeals for a reprieve, all of which were promptly denied. The Leislerians—knowing their man—did agree to grant a reprieve upon condition that Bayard would voluntarily acknowledge himself guilty of the crime charged against him. Bayard's pride would not allow him to do this; he refused to humble himself. The day of execution drew near and the party in power offered the prisoner his last chance. A petition was offered as a last recourse, in which Bayard was to own himself sorrowful for the offence he had committed. With no other possible escape at hand, the crest fallen leader of the Aristocrats signed the paper.\textsuperscript{2} In a letter to the Lords of Trade—written at a later date—he took pains to say, "Being distracted in my senses, I signed."\textsuperscript{3} The Leislerians then granted the reprieve and published his signed statement as an acknowledgment of his guilt of high treason.

The leniency of the Leislerians toward their arch-enemy is rather hard to understand. Colonel Bayard, throughout this period of factional strife had borne most harshly upon his enemies. He had fought them at every turn; he had relentlessly aided in sending Leisler to his grave. When the party of wealth and station came into power, the Leislerians were made to smart by Bayard's famous

\begin{itemize}
\item[2.] Documents relative to the Colonial History of the State of New York, Vol. IV, p. 953.
\item[3.] Ibid., p. 953.
\end{itemize}
damage suits. He had shown no mercy to his opponents when they were down. With Bayard in their power, with a legal trial to screen them, why did not the Leislerians revenge themselves upon their hated enemy? One is forced to believe that it was not the intention of nanfan, Atwood and their party to inflict the final penalty. They wished to humiliate the proud aristocrat, to frighten him with the terrors of death, to force him to crawl at their feet—a groveling supplicant for mercy. They knew full well that his execution would shortly be followed by the sudden death of several prominent Leislerians upon the advent of Cornbury and the ultimate triumph of the aristocracy. As the terrors of death are in the anticipation, they treated Bayard to a generous draught of what Leisler had suffered. At the same time, they did not endanger themselves to the extent which would have undoubtedly followed an execution.

A contemporary narrative offers a most interesting and naive explanation, as to the reason for the respiteing of Bayard's sentence:—"In nanfan's time he was arrested and condemned for high treason; he was from time to time respited, owing it is said, to certain sums of money that were from time to time paid by his family to the lieutenant governor, but the children grew tired of disbursing so much and expostulated with their father that he should let himself be hanged at once, for if he would continue to pay for his life, they would soon be all ruined."1

1.—Publications of the New York Historical Society, Fund Series, Vol. I, p. 426. This interesting note is not to be taken seriously, except as an illustration of the ill manner in which some poorly informed writer of Bayard's time tried to explain the escape of the prisoner. Bayard had but one son, whose affection for his father was not such as the narrative would picture for us.
CHAPTER VIII.

BAYARD AND THE ARISTOCRACY TRIUMPH.

Bayard, living in the shadow of the gallows, hoping and praying for the advent of the new governor, was soon relieved from his perilous position. Early in May 1702, the Lords of Trade, moved to action by the letters and petitions of both parties decided that the matter was of such a serious nature that it demanded the consideration of the Monarch and Privy Council.

May 3, 1702, Lord Cornbury arrived in the province and after going through the usual formalities, he hastened to the aid of the down trodden anti-Leislerians. On landing, he accepted the attentions of that party and curtly declined an invitation to a reception given by the old Council. He immediately dispatched a letter to the Lords of Trade, saying that he found Colonel Bayard under sentence of death and many of the most eminent merchants fled into the Jerseys for safety.

Governor Cornbury soon showed that he would leave no stone unturned in restoring the harassed anti-Leislerians to power. First, he ordered that all of the proceedings in the case be laid before him "because of the complaints of hardships and irregular proceedings." He found that "the treasons consist in igning an address to their Majesty, Parliament and myself, also that the English and Dutch merchants and generality of people are desirous of quiet but troublesome spirits will set the rest in ferment if they can." Naturally the petitions did not have the sound of treason—to the ears of Cornbury.

1.—Documents relative to the Colonial History of the State of New York, Vol. IV, p. 954.
2.—Ibid., p. 958.
Matters now moved rapidly; the Leislerian forces were put to confusion and in some cases to flight. Lord Cornbury quickly decided that the proceedings were not only irregular but he opined that Chief Justice Atwood had been guilty of corrupt practices.

To the unspeakable joy of Bayard and his party, Chief Justice Atwood was suspended from office and the entire Leislerian membership of the Council were relegated to private life—all in one day. Weaver was placed under bonds of £4000 to insure his staying in the province. He feared the trend of affairs, however and decided his safety was worth more than the bond. He and Atwood thought to escape the avenging wrath of Bayard, upon whom they had borne so harshly. Accordingly they fled down the Jersey coast and escaped, although their flight was hurried by pursuing forces.

The sheriff appointed by Cornbury, obedient to orders, had released Bayard and Hutchins from prison. Despite the sentiment of forgiveness and his dying wish, that the unhappy and dismal divisions end with him—contained in his last letter—Bayard immediately busied himself with sweet revenge upon his fallen foes. Such sentiments were in keeping with the dying; he was now an active participant in mundane affairs and governed himself accordingly. Again his thrifty, litigious nature led him to seek a legal revenge. He brought a suit for damages in the Superior Court against his special enemies. Walters and De Peyster were sued for damages amounting to £10,000. He was more lenient with the other members of the jury and was content to sue for the modest sum of £5,000.

1.—Documents relative to the Colonial History of the State of New York, Vol. IV, p. 959.
2.—Ibid., p. 1003.
But Bayard was balked in his revenge, for persons under the attainder of treason did not have the right to sue in the courts.

On June 18, 1702, Queen Anne was proclaimed before "the troops, Council, Mayor, Aldermen and the gentlemen and merchants of the city, who were all willing to sacrifice all for her Majesty." The gentlemen and merchants, "the party of affluence and position" had recovered their power but a few more steps were necessary before their complete triumph.

The Lords of Trade ordered that Broughton, the deposed Attorney-general, be restored to his position. They dealt another blow at the Leislerians by refusing to confirm the acts passed by the New York Assembly, which gave reparation to all who had suffered while aiding Leisler. Lord Cornbury hoped to further disconcert the fallen Leislerians. In a letter to the Lords of Trade, he wrote as follows: "The thing that buoyed up the faction is the Act of Parliament of 1695, reversing the attainder against Jacob Leisler and others. The best way to quell the trouble would be for Parliament to pass an act, explaining the nature of the Act of 1695; that it was an act of favor to the son, who was innocent rather than a justification of the open rebellion of the father."

These measures were calculated to bring joy to the anti-Leislerian camp; their happiness was complete when the last confirmatory step was taken by the English Government. Lord Cornbury

3.—Ibid., p. 1017, Governor Cornbury to the Lords of Trade, December 12, 1702.
had sent home the reports of the trial and situation, as he found them. July 2, 1702, the following "Orders in Council were issued: "The Council having perused the letter from New York and listened to the petitions on behalf of Nicholas Bayard are of the opinion that the proceedings against the Colonel are very extraordinary and that it is reasonable to give leave to the petitioner to be heard before your Majesty concerning the treason objected against him. Queen Anne approved this report and ordered that Bayard be given an appeal to her, allowed to give bail to enable him to appear before the Council and all proceedings and minutes of evidence shall be forwarded to this board."¹

After a consideration of the evidence, the Queen and Council determined that Bayard and Hutchins had been tried and convicted illegally. January 21, 1703, the following Order in Council were issued: "Her Majesty heard counsel on behalf of Bayard and Hutchins, tried and convicted of treason because of an act of the New York Assembly. Atwood and Weaver were heard on their behalf. Because of the undue and illegal prosecutions, it was ordered by her Majesty that Governor Cornbury direct the Attorney-General in New York to reverse the sentence and proceedings and do whatever is requisite for restoring the said Bayard and Hutchins in their honor and property as if no prosecution or trial had been."²

In July, Lord Cornbury notified the Lords of Trade that the provincial Assembly had passed the act which reversed the judgment against Bayard and Hutchins. Lord Cornbury had advised Bayard and

²—Ibid., p. 1023.
his counsel to ask for a writ of error. But this writ could only be obtained from the Supreme Court, which did not meet until late in the fall. Bayard being well along in years, was fearful lest death might find him still under the attainder. To ease his mind and to close the final chapter in the struggle, the Assembly passed the act. The measure was distinctly anti-Leislerian in tone; nevertheless there is expressed a desire, that the bickerings and quarreling arising from the case be laid aside.

The title of the act was, "An Act declaring the illegality of the proceedings against Colonel Nicholas Bayard and Alderman John Hutchins for pretended high treason and reversing and making null and void the said judgments and proceedings thereon." The judgments and sentences against Bayard and Hutchins were annulled and the two were restored to the same rights and conditions, as if no trial or sentence had been pronounced. The following clause is very interesting: "To the intent that the memory of these matters may be put into perpetual oblivion and that such evil practices and proceedings may not hereafter be brought into example to the prejudice of any person or persons, be it further enacted that all judgments and sentences, records, proceedings and all matters relating thereunto be obliterated, cancelled and utterly destroyed."¹

Nicholas Bayard made his will on May 9, 1707; he left his property to his wife Judith and his son Samuel. He apparently died during that same year and thus closed the rather stormy career of this seventeenth century colonial politician. His life was one

of constant political activity, which began with his minor official
days, continued throughout the various vicissitudes of the colony
and terminated in old age with the final triumph of his party. As
he was a man of education, wealth and social position, he naturally
had an advantage in his political struggles, which was not possessed
by his enemy Leisler. Like Leisler's, his was a strong, vigorous
character. He was a hard, consistent fighter and an implacable
foe. But at the same time, his was a more cautious temperament,
which at critical times saved him from making the headstrong mis-
takes which led to his rival's undoing.

Now that the quiet of the grave had assuaged the animosi-
ties of the two party leaders, the factional strife gradually ceased
and the two parties found common ground in opposing the mal-admin-
istration of Lord Cornbury. The evidence fully warrants the
statement that throughout the whole Leislerian struggle, the favor
and support of the English Crown was with the wealthy, aristocratic
party as against the popular party of Leisler. The time was hard-
ly ripe for any continued political domination of the affairs by
the popular classes. It was still the political theory of the
times, that the better class of people, i.e., those of wealth,
social position and educated refinement should exercise control
over the affairs of state. New York Colony was to become the
State of New York; the thirteen Colonies were to become the United
States of America and two presidents were to serve out their admin-
istration before the triumphant hosts of democracy were to sweep
into their own. In the bitter struggle between the two colonial
political parties may be seen the germ of the later struggle between
the Federalists and the Democrats.

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THE BIBLIOGRAPHY.

SOURCES.


This publication is also designated as Bulletin 58 of the New York State Library. It covers the executive minutes of the New York Council from the years 1668-1783.

(2) Calendar of historical manuscripts in the office of the Secretary; edited by E. B. O'Callaghan. Albany, New York. 1865-6, 2 Vol.

This calendar was modeled after the English Calendar of Colonial Papers. The entries are very brief—just enough to indicate the nature of the paper. The documents in the first part relate to the Dutch period and those in the second part, to the English period, closing with 1776.

(3) Description of the province and city of New York in 1695. Miller, John.

This interesting little narrative is reprinted in the Library of American Literature. New York, 1889.

The Author was a chaplain of two military companies stationed in New York from 1693 to 1695. While there he collected data concerning the province and its inhabitants from which we can gain an idea of the colonial population.
A collection of miscellaneous documents, correspondence and other material relating to the colonial history of New York, published by the state after being collected and arranged by one of its leading archivists. The Leisler papers, in volume II are very complete.


The New York Historical Society, in 1839, induced the Legislature of New York to send an agent to European Archives for the purpose of obtaining material bearing upon the history of New York. Mr. John Brodhead was the person appointed and after four years of careful search in Holland, France and England, he returned with a great store of source material. The material was gathered into eleven volumes, including the index and was arranged by both Mr. Brodhead and Dr. E. B. O'Callaghan. Volumes IV and V are especially valuable for the period covered by the thesis.


As the title would indicate, this work is a collection of papers which relate to the church history of the
province. The attitude of the ministers toward
Leisler and Bayard are found therein.

(7) Journal of the Legislative Council of the Colony of New

Was not available for the thesis.

(8) Master of the Rolls. Calendar of State Papers, Colonial
Series, 1574-1660, preserved in the State paper department
of Public Record office; edited by W. Noel Sainsbury. Lon-
don, 1860.

Master of the Rolls. Calendar of State Papers, Colonial
Series; America and West Indies, 1661-80; edited by W. Noel

These volumes are issued by the British government and
form part of a large series of collections and compi-
lations of the papers kept in the Public Record office.
The volume covering the year from 1661 to 1680 gave
information concerning the examination of Governor
Fletcher before the Lords of Trade and Plantations.

(9) Publications of the New York Historical Society. The
published collections of the society are in three series,
the first containing five volumes, the second, four volumes
and the third or Fund Series, containing twenty-six volumes.
The first series given out in the earlier years of
the society is rather scant. A most valuable feature
of the first series is the edition of Smith's History
of New York. The matter contained in the second
series related chiefly to the Dutch and early English
period of New York History. The material in the
Fund series, with the exception of the first three
volumes, relates to the Revolutionary war. The three
exceptions contain a continuation of Chalmers Political
Annals; Golden's Letters on Smith's History of
New York; a great deal of matter bearing upon Leisler's
rebellion and the Clarendon paper concerning New York
and New England affairs soon after 1660. These three
first volumes were of great value in studying the
relations of Bayard and Leisler.

(10) The Colonial Laws of New York from 1664-1776. Albany,
New York. 1894. 5 Vol.

The contrasting legislation of the Leislerians and
anti-Leislerians in their struggle is found in this
republication of the colonial laws.

GENERAL HISTORICS.

(1) Bancroft, George. History of the United States (to 1782);
authors last revision. New York. 1883-5. 6 Vol.

(2) Channing, Edward. History of the United States. New
York. 1908.

But two volumes of the work have been published.
Volume II devotes some pages to the Leislerian strug-
gles with the former officials.

(3) Doyle, John Andrew. English Colonies in America. New
York, 1887. 5 Vol.

Volume IV is devoted to the history of the Middle
Colonies and is specially good for the detailed his-
tory of Colonial New York.

A good secondary account of the factional struggle in Colonial New York, also gives information as to the social conditions of the period treated.


This book does not treat the history of Colonial New York, except in a very general way.


Contains a splendid treatment of New York Colony.

HISTORIES OF NEW YORK.


The history is written by the scholar who devoted so much time to research work and writing on Colonial New York. The book is worth reading because of the opportunities and experiences of the author, in the field covered by his work.


This book contains genealogy and family memoirs. The author is a member of one of the celebrated New York colonial families which was concerned in the events treated in the thesis. The book was not available for the paper.


This work with Smith's Virginia and Hutchinson's Massachusetts, is said to rank as one of the worthiest examples of historical literature produced in later colonial times. To make a complete bibliography, it is included, although it was not available for work.


Although I have listed this book under the secondary heading, it contains much source material, such as biographical sketches of the principal public men of Colonial New York. The political disputes are followed by the author, who apparently leaned toward the Leislerians in his sympathy. For tracing the genealogical connections of the wealthy old colonial families, this book is very valuable.

SPECIAL WRITINGS.


(2) Chalmers, George. Political annals of the present united colonies from their settlement to the peace of 1763. London, 1780.
This work contains a detailed account of the trial of Bayard.


This work contains sketches of principal public men in New York during the colonial era.  A volume is issued every year and covers the field for that year.  Almost anything of worth that has taken place in municipal affairs is entered.

BIOGRAPHICAL WORKS.

Volume I contains a short sketch of the life of Bayard.

Volume I gives a short sketch of the life of Bayard.

Volume I contains a slight account of Bayard.