

Robberies and Plunder — The apprehension of robbers formed one of the earliest and most urgent activities of the commissioners for conspiracies of the Albany County board. Arrests were made by rangers and detachments of militia, and even men of the line were detailed by their commanders upon request of the board. Not infrequently persons were brought before the board under allegations of being concerned in certain robberies, or of being able to give material information against perpetrators. In a large number of cases no evidence was procurable, or innocence was proved, and the accused were discharged. In a lesser number of instances the evidence was conclusive, and prisoners even confessed their guilt. Likewise, persons who acted as fences for robbers were seized and confined. The Albany board took cognizance of robberies committed in Dutchess County, and requested the removal to Albany of a person under arrest at Bennington, Vermont, for a robbery committed in Dutchess County.¹ Those who had suffered from robberies in this county were granted permission to go to Albany, there to interrogate the thieves concerning the places where the stolen effects had been secreted. This investigation was done in the presence of one of the commissioners.²

The board directed search to be made for stolen property, even when the robbery had been committed a long time prior to the apprehension of the thief.³ When stolen money or other personal property fell into the hands of the board, it was placed in the custody of the treasurer of the board, or of some officer or citizen designated for that purpose, or was returned by an order to the rightful owner. From the minutes of July 27, 1778, we learn that there had been fre-

¹ April 21, 1778. See also April 27, 30, 1778.

² September 25, 30, 1778.

³ May 27, 1778.

quent complaints of robberies committed on the east side of Hudson River, which had "become intolerable". It was believed that the ringleaders might be apprehended, and the board requested Captain Jacob DeForest to collect a company of militia, not to exceed fifty men, "to go in Quest of the Perpetrators" and "apprehend and safely convey them" to the board. He was also authorized to search "in every suspected House for Papers & stolen Goods," whereof he was to make a true return to the board; and "to apprehend all Strangers" who had not "sufficient Authority to be at large in the Compass of the Rout" taken by him and his men. The Helderbergs and adjacent regions were regular nests of robbers and hatcheries of treasonable designs.¹ When a militia contingent seized or plundered the effects of certain people, "scarce leaving them wherewithal to cover themselves", the board wrote the commanding officer "to order the Goods taken" to be immediately returned to the owners.² The commissioners promised to intercede with Governor Clinton for the pardon of an accomplice in a robbery, who offered to turn State's evidence.³ In another case, that of a man who had been condemned to death for robbery, but whom the governor had pardoned, they would not permit his release, because they believed it desirable to obtain evidence from him against persons confined for robberies and other offences. Therefore, he was continued in confinement, but with a weekly allowance of two dollars.⁴ In another case, that of a prisoner who broke jail, but who later surrendered himself and imparted information about secret ex-

¹ June 7; July 2, 1779.

² October 31, 1778. For another case see December 14, 1778.

³ October 16, 1778.

⁴ August 18, 1778. He remained in confinement until released on a recognizance of fifty pounds, on November 5.

presses from New York to Brant and Butler, the board set him loose in order to capture the secret emissary from the British.¹ In its address to Governor Clinton, September 1, 1779, the senate said:

"We participate in your Excellency's Pleasure, on the Suppression of Robberies and other atrocious Offences, by the regular and assiduous Administration of Justice; in which we find additional Reasons for admiring that happy Constitution, under which we enjoy domestic Peace amidst the Horrors of War; notwithstanding the Patronage that Robbers and Assassins have so frequently received from degenerate Britons."²

The concordant opinion of the governor and senate in favor of a more judicial and constitutional procedure in dealing with robberies and other felonious acts, bore fruitage in a series of enactments, as we shall see.

On October 15, 1779, an act to prevent robberies was passed by the legislature, and stated the nature and disposition of robberies and of the seizure of stolen goods.³ When this act was revived, on July 1, 1780, it included a new section relative to stolen horses.⁴ The frequency of robberies, particularly in the east district of the Manor of Rensselaerwyck, gave birth to another act, which provided for the employment of rangers and made an appropriation of £1,500 for that service. Payment of the rangers was made by a supervisor, with the approbation of any two resident justices of the peace, and an accounting was rendered to the next meeting of the county supervisors.⁵ This act was re-

¹ April 21, 1779.

² *Senate Votes*. Fish-Kill: Samuel Loudon, 1779, p. 9.

³ *Laws of New York*. Poughkeepsie: John Holt, 1782, pp. 81-82.

⁴ *Ibid*, p. 144.

⁵ *Ibid*, pp. 125-126.

vived and amended on September 21, 1780.¹ By an act of November 21, 1781, accessories as well as principals were to suffer death without benefit of clergy.² Trial of felons was by jury before county courts of oyer and terminer.

A joint resolution of the legislature in October, 1779, ordered the governor to issue a proclamation forbidding the plundering of any place held by the British, or of any inhabitant of the State, or of any of the United States within the power of the enemy, declaring such acts contrary to the law of nations and the rights of war. Offenders were to be apprehended and handed over to the commissioners for conspiracies. The governor was also requested to ask the executives of New Jersey and Connecticut to issue similar proclamations.³ That there was a dire need for such legislative action is evident from the barbarous offences that must have become notorious. For example, a number of persons, under pretense of revenge against an alleged tory, committed depredations against his wife, by pulling down her house and destroying her furniture and clothes.⁴

Toryism and Disaffection — In the first chapter of this introduction the earlier attitude of the laws against disaffection is revealed. By an act of March 30, 1781, provision was made "more effectually to punish Adherence to the King of Great-Britain". Those who were found "adhering to the Enemies of this State" were declared to be guilty of high treason. Anyone who maliciously by preaching, teaching, speaking, writing or printing maintained that the King of Great Britain had or of right ought to have authority or

¹ *Laws of New York*. Poughkeepsie: John Holt, 1782, p. 149.

² *Ibid*, p. 215.

³ *Assembly Votes*. Fish-Kill: Samuel Loudon, 1779, p. 47; *Senate Votes*, *Ibid*, pp. 16, 30.

⁴ July 19, 1779.

dominion in and over the State, or who seduced or persuaded or attempted to persuade or seduce any inhabitant to renounce his or her allegiance to the State, and who himself or herself maliciously or advisedly declared or affirmed allegiance to the King or Crown of Great Britain, was guilty of a felony without benefit of clergy. But the court had latitude, instead of giving judgment of death, to direct that the convict should serve three years on board of any ship of war of the State, or of the United States, or of an ally of the United States. Desertion from such service invited the death penalty.¹ There were indeed examples of hotheaded disaffection that inspired such legislation. On July 10, 1780, a witness accused one of these persons of saying in his presence, "that the French Fleet was come to carry off the Damned Rebel Officer Washington, who was afraid he would be hanged, and the Rebel Congress; that the Whigs were all a set of scoundrels and Rascals, and that he was persuaded the British Troops would in a fortnight's time march through the City of Albany." This obstreperous tory, George Rodgers by name, was apprehended and put in close confinement.²

The troublous characters in and around Newtown, in the summer of 1780, led the Albany board to erect a sub-board at Stillwater, in order to employ rigorous measures against them. This sub-board met there on July 19 and 20, during which time persons were summoned, examined and bound by recognizances and bail in various sums.³

The Albany board, when desirous of learning who had gone over to the British interest, ordered the militia officers to make a return "of the Names of the Persons within their

¹ *Laws of New York*. Poughkeepsie: John Holt, 1782, p. 189.

² July 10, 11, 22, 1780.

³ July 22, 1780. See also August 19; September 7, 1779, for a similar sub-board at Saratoga.

respective Beats" who had "lately gone over and joined the Enemy."¹ Tories who had been judged in Vermont were, in the opinion of General Stark, not under the jurisdiction of the commissioners for conspiracies of New York, even when these prisoners were brought into the State; whereupon the Albany board wrote to the governor and informed him that Stark had told them it was none of their business to interfere with tories from another State.² A few days later,³ they wrote again to Clinton about seven more persons "sent down by the pretended State of Vermont to be forwarded to the Enemies Lines by General Stark," and stated that from the "first Reception" they met with from Stark, they thought it "needless to remonstrate with him any farther about the Matter." Subsequently,⁴ when Stark asked them to commit a prisoner sent from Bennington, they complied and issued a mittimus to the jailer to receive the prisoner into his custody.

Persons who were to be removed to the British lines were each to be served with a notice by the secretary of the board,⁵ and were required to pay the costs of transportation for themselves and families, and to provide provisions for all sufficient as a supply for fourteen days. They were allowed to take with them all of their clothing and household furniture. Their names were sent to the governor, to enable him to order the detention of any of them for exchanges.⁶ When several of these people requested a temporary suspension, to afford them an opportunity to ask the permis-

¹ September 21, 1778.

² July 15, 1778.

³ July 24, 1778.

⁴ August 7, 1778.

⁵ July 20, 1778.

⁶ August 1, 3, 22, 26; September 3; October 29, 1778. See also the act of March 20, 1781, in relation to exchanges.—*Laws of New York*. Poughkeepsie, 1782, pp. 179-180.

sion of Governor Clinton to petition the legislature for an exemption from the penalties, the board informed them that their request could not be granted.¹ Two women who asked permission to join their husbands in New York City and Canada, respectively, were recommended favorably to General Stark for a pass, because the board thought it would be better for the State to grant the request than to keep the women as a charge upon the community.² A man ordered to be removed, but at the time under a recognizance as a witness in a trial for a capital offence, was respited until the court should discharge him, the board averring its unwillingness to deprive the person on trial for his life "of the Benefit of so favorable a Witness." But the murderer escaped subsequently, and the witness was put on parole.³ When the commissioners were in doubt as to their authority for permitting the return of persons previously deported, or for sending away certain people, they wrote to Governor Clinton for an opinion.⁴

It has been shown that Governor Clinton might order the detention of tories as exchanges. In such cases they were held subject to his order, or were taken down to Poughkeepsie, from thence to be sent under a flag to New York or elsewhere, as he might determine.⁵ When a tory civilian asked for the exchange of himself and family, the board answered that it had no authority to arrange exchanges, and referred him to the governor. On the other hand, a captured lieutenant was granted a pass to Poughkeepsie, to solicit from the governor his own exchange with a patriot

¹ July 29, 1778.

² October 1, 1778.

³ September 7, 1778; January 13, 21, 1779.

⁴ November 2, 1778.

⁵ September 3, 22; November 20, 1778.

officer of equal rank.¹ On occasion, Governor Clinton requested the Albany board, in conjunction with General Schuyler and General Clinton, to arrange for the exchange of inhabitants of Cherry Valley, who were in captivity in Canada.²

During the course of the war, and particularly after 1778, petitions were presented to the legislature by the inhabitants of various sections on behalf of persons who had been sent within the British lines. In these memorials the petitioners begged that these particular deported persons be allowed to return to their original domiciles. They were usually rejected by both houses or, what was the same thing, ordered to lie on the table.³

Treason — In an act of March 30, 1778, the operation of the English law, so far as it related to the manner of putting offenders to death, was characterized as "marked by Circumstances of Savage Cruelty, unnecessary for the Purposes of public Justice, and manifestly repugnant to that Spirit of Humanity, which should ever distinguish, a free, a civilized, and Christian People." Instead thereof, the judgment was to be hanging by the neck until death. The legislature also abolished the barbarous punishment inflicted upon persons arraigned for felony, who refused to put themselves on ordinary trial, but who obstinately stood mute — the form known as *peine forte et dure*, commonly pressing to death by great weights put upon the prostrate body. Refusal to plead was to be adjudged a denial of the facts alleged, and such persons were to be tried in regular form, as though they had

¹ October 7, 10, 1778.

² December 28, 1778; January 2, 1779.

³ Examples of these petitions are in *Assembly Papers — Miscellaneous*, vol. 1, pp. 161, 169. Their disposition by the legislature can be traced in the printed *Votes* of both senate and assembly.

duly pleaded their cause.¹ Thomas Cummings, convicted of treason, was pardoned by a special act of October 8, 1779.²

The relations of the commissioners for conspiracies to phases of felony and treason have been shown under former topical headings. The Albany board summoned persons to give testimony which might convict others of high treason,³ and even required enlarged persons to make known all treasonable acts and deeds that might come to their knowledge at any time.⁴ The temper of one loyalist, who refused to take the oath, is revealed by his open declarations. He said that if he took the oath, "he would perjure himself and that none but Rogues and Fools would or could take it." He was declared guilty of "a high Contempt and Insult upon the Authority of this State in General and this Board in particular," and was sent to jail to await the pleasure of the commissioners.⁵ The board sought to ferret out spies from the British lines, as well as secret emissaries at home, and ordered the examination of witnesses against them.⁶ An item of more than passing interest came up before the board, on October 5, 1780. Philip Van Rensselaer had received a letter from Colonel Richard Varick, who had been aide-de-camp to Benedict Arnold at the time of the treason of the latter. As this letter was reported to contain "Expressions which would tend to discover some of the persons concerned with Arnold in his Villanous Plot," the board requested

¹ *Laws of New York*. Poughkeepsie: John Holt, 1782, pp. 21-22. For the powers of judges of the supreme court and courts of oyer and terminer in certain cases of felony, see *ibid*, p. 115.

² *Ibid*, p. 77.

³ October 13, 1778.

⁴ June 24, 1778.

⁵ July 23, 1778.

⁶ September 22, 1779; July 29, 1780. See also this chapter under "Prisoners."

Van Rensselaer to come before it at his earliest convenience, and exhibit at that time the contents of that letter. It is regrettable that the subject-matter is not revealed.

A perspective view has been presented in these chapters of the magnitude of the work with which commissioners for detecting and defeating conspiracies were entrusted by the legislature of New York. It is a soul-harrowing picture in the annals of the American Revolution.

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VICTOR HUGO PALTSITS.