CHAPTER II.

Operation of the Function of the Commissioners as Revealed by the Proceedings of the Albany County Board.

General Statement of Organization — Counterfeiters — Deserters — Murders — Passes — Prisoners — Protection — Rangers — Relations With Other Boards and With Local Committees — Robberies and Plunder — Toryism and Disaffection — Treason.

The men, who from time to time had been empowered to exercise the judicial function as commissioners for conspiracies in the several boards of this inquisitorial body, were persons fitted by former service for the new tasks. Several of them had already gained experience as members of committees or other bodies organized earlier in the war for the suppression of disaffection. Among their number were judges of various courts, and those who were, or had been, recorders, court clerks, coroners, surrogates and county, city or town clerks. It was not unusual to find the same individual engaged in several of the civil offices coterminously, whilst holding as well a commission in the militia, or representing a constituency in the legislature. For example, Egbert Benson was a member of the assembly and attorney, solicitor and advocate-general of the State.

In the preceding chapter the legal status of the commissioners for conspiracies has been traced. Their selection was distributive among the seven counties of the State under patriot control, and they sat generally as boards in the counties of which they were residents; but the authority of each commissioner extended over the entire State, and he might sit with any board whenever he happened to be present in any county. Moreover, there was considerable intercourse between the boards, and especially was this true of those of contiguous counties. Each quorum or board was required by law to keep exact minutes of its proceedings. So far as is now known, no regular minutes are extant, save only those of the Albany County board, and they extend to August 30, 1781, end abruptly and, manifestly, are incomplete. The meetings of this board were held mainly in the city of Albany; yet, on occasion, the central board or some of its members as sub-boards, met in the Helderbergs, at Stillwater, at Saratoga and elsewhere in the county. The activities of the whole body in the seven counties are reflected in pay-bills and other vouchers, State auditor's accounts, State treasurer's books and other records, now in the office of the State comptroller or among the archives of the New York State Library.1 It has been deemed pertinent to give in this chapter a partial analysis of the ramifications of the procedure revealed by the Albany minutes. The results are presented as types, derived from a carefully indexed analysis of the minutes for the year 1778, and are supplemented by very material variations of later date.

On April 24, 1778, Leonard Gansevoort, Jr., was appointed clerk or secretary to the Albany County commissioners, and took his oath of office, promising to "keep secret all such Matters as should be given him in Charge," until discharged therefrom by the board. John M. Beeckman, one of the commissioners, acted for a time as treasurer of the board,

¹ For financial materials see Appendix II.

until August 6, 1778, when Gansevoort was charged also with that trust.¹ In the beginning, the salary of Gansevoort was ten shillings for every day's entry in the minutes. On August 3, 1778, his pay was raised to twenty shillings per day, "it being the same Pay allowed by the Commissioners at Poughkeepsie." Evidently, this extra allowance had also some relation to his enlarged duties, committed to him three days later. Expenditures by the secretary-treasurer were authorized or approved by the commissioners in session, and to them he was obliged to report. When the commissioners entrusted funds to any of their own members or to military officers, they were likewise required to make an accounting.² Jacob Kidney was doorkeeper to the board.³ He also served warrants upon recalcitrant citizens, apparently in the capacity of a constable.⁴

Counterfeiters — By an act of March 8, 1778, it was made a felony without benefit of clergy to counterfeit any true bill of credit issued by or thereafter to be issued by the authority of Congress, or by the authority of any provincial congress or any convention of the State of New York, before or since the Declaration of Independence, or by authority of the legislature of any other of the States since July 4, 1776, or to alter by raising the amount of any true bill of credit, or to attempt to pass such paper, or bring into the State any such paper, knowing the same to be counterfeit or altered.⁵ The same substance was contained in the similar act of March 27, 1781.⁶ By the act of November 20, 1781, counterfeiting French

¹ See May 23; June 18; July 29; August 6, 1778; June 28, 1780.

² August 14; September 15; December 1, 1778.

⁸ February 15; June 30, 1779; June 28, 1780.

January 29; July 10, 11; August 15, 1780.

⁵ Laws of New York. Poughkeepsie: John Holt, 1782, p. 60.

⁶ Ibid, p. 188.

crowns or silver French crowns was likewise constituted a felony without benefit of clergy.1 The offence was extended, by an act of April 11, 1782, to cover counterfeiting, raising or passing with knowledge notes of the Bank of North America.3 In such cases the commissioners for conspiracies issued a warrant to the constable of the particular district for apprehending and committing the culprit, and the warrant also commanded the keeper of the jail to receive him into his custody.3 When guards were placed over such prisoners, the commissioners paid them.4 The discovery of counterfeit money upon the person of the accused prisoner led to an examination, which was reduced to writing, and was followed by close confinement.5 If the prisoner had also good money in his possession, it was used toward reimbursing those whom he had defrauded with counterfeits. This good money was deposited with the treasurer of the board. The commissioners advertised in the newspapers, even those of other States, calling upon persons, who had been imposed upon, to bring the counterfeit money to them, in order to receive in lieu thereof good money.7 If they came from a distance, as was often the case, the board allowed them an additional amount to reimburse them for their expenses in coming before the commissioners as witnesses.8 They summoned a man for "endeavoring by every Means in his Power to depreciate the Credit of the Paper Currency emitted by the Congress of the United States," and put him under a bond of £5,000,

Laws of New York. Poughkeepsie: John Holt, 1782, p. 210.

¹ Ibid, pp. 236-237.

³ May 13, 1778.

⁴ June 4, 1778.

^{*} November 13, 1778.

^{*} November 14, 1778.

November 21, 1778; February 22, 1779.

⁸ November 19, 1778.

"neither by himself or his Agents to raise an Exhorbitant Price on the Sale of any Goods, Wares or Merchandizes or Purchase or sell any at an exhorbitant Price or unjust Profit,"

Deserters — Persons who had been taken as prisoners by Brant's party and effected an escape, appeared before the commissioners, from time to time, to exonerate themselves from the suspicion of toryism. Others, who had started on their way to join Brant, reported, returned to their abodes and were placed under a recognizance and bail for their appearance at the next supreme court of judicature to be held at the city hall of Albany, whilst some were closely confined. Not a few of those whom the board released, and who returned to their homes, were afterwards implicated in robberies or proved to be otherwise troublesome. The board even granted a gratuity to a deserter from Brant and Butler for important information imparted by him and for his offer to go out again as a spy, to discover the future movements of the enemy.2 Deserters, who had joined Burgoyne, requested reinstatement in their country's favor and took the oath of fidelity, or were put under a recognizance for their future good behavior and monthly appearance before one or more of the commissioners. Similarly, Hessians and other deserters from Burgoyne's army, or other British attachments, upon taking the oath, were given a pass to go at large in Albany County; were put under a recognizance or, when considered dangerous to the State, were confined. Intercession on behalf of these persons was sometimes made by some of the principal people of a locality, who requested that a domicile

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¹ January 4, 12, 13, 1779.

² For examples see October 31; November 4, 21; December 4, 1778; May 27, 1779.

amongst them be granted. Some of the Hessians to whom favor had been shown, were later discovered as perpetrators of robberies, and were recommitted. The board would not liberate one of Burgoyne's German allies, because he was a prisoner of war and "under the direction of the Military power." Deserters from the American army were turned over to the military authorities.

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Murders — It does not appear that the commissioners had extra-judicial authority over persons suspected of murder. They were concerned with their arrest, and ordered the release upon recognizance of such a person who had been indicted, tried and acquitted.²

Passes - The commissioners issued passes to enable persons to enter an American camp or place under patriot control, whether in or outside of the State. They also made operative passes to Canada that had originated with military officers, but which, meanwhile, had lapsed. Upon receiving a request for a pass from a wife, for herself and family, to go into the British lines of New York City, the board gave her a certificate, which stated that the commissioners did not object to the granting of her request for removal. In another case, a pass was refused because the granting of it lay properly with General Stark; yet the board recommended to Stark that the person be given permission "to go to Cherry Valley to fetch from thence his Family and Effects." But the board refused an appeal from a tory's wife, on the ground that no permit or indulgence could be given " to any part of a Family whereof the Husband or Master" had "so far deviated from humane principles as to associate with Barbarians & as-

¹ For examples see April 14, 15, 16, 18, 29; June 1, 9, 10, 15, 25, 29; July 16; August 12, 13, 15, 21; September 4, 14; November 17, 21, 1778; January 25; February 2, 12; June 2, 3, 5, 9, 30; July 2, 9, 10, 1779; July 5; August 26, 1780.

² June 13, 17, 1778.

sisting in Imbruing his hands in the Blood of Women and Children and peaceable Inhabitants." Military prisoners who wished to make a direct appeal to Governor Clinton for their exchange, were granted passes as far as Poughkeepsie. A sloop was allowed to go down to New York City, on proviso that the owner procured a sufficient bail for its immediate return. An applicant for a pass to Charlotte County was told to apply to the board there. Passes were granted to other States, for example to New Jersey and Pennsylvania. The board refused a pass to Bennington, Vermont, unless the applicant could furnish a favorable recommendation from a known whig. In another case, favorable consideration was contingent upon an acceptable certificate from an officer of the militia. On July 28, 1779, the board ordered that in future no passes would be granted, unless by vote of three commissioners, and only then upon a proper recommendation. Similar procedure was requested by the board of the justices of peace in Albany. A person apprehended for forging a pass was closely confined by the board.1

Prisoners — The arrest of persons suspected or known to be guilty of disaffection varied in procedure. Generally the commissioners ordered their arrest by rangers or other military authorities, by individual citizens, and by publication in the newspapers. A warrant for arrest was issued in most cases after charges preferred by some whig. It was of course the duty of every true citizen of the State to reveal the identity of disloyalty in any form. When persons refused to reveal information which was requested of them, they were themselves sent to prison.² Under these circum-

¹ For examples of the different cases see under June 10, 22, 24; August 12, 13, 15, 17, 21, 31; September 7, 14, 18, 29; October 1, 6, 10, 13, 15, 1778; January 4, 5, 8; February 15; April 9; June 8, 18, 19; July 28, 1779.

stances it was not unusual that suspicious persons construed Dame Rumor to the damnation off their neighbors, and that revengeful spirits were afforded an outlet. But the commissioners for conspiracies discharged many unfortuate individuals in whom they found no fault of disloyalty. Charges were also preferred against persons on the initiative of those who had arrested them, and without previous order from the Some suspects surrendered themselves. commissioners. When ordered by publication to appear at a designated time, default was punishable in like manner as provided by law for persons of equivocal and suspected characters.1 The operation of discharges of prisoners varied greatly. Accused persons were fully exonerated, or allowed to go at large on their honor, or were kept within certain bounds, or were put under recognizance and bail for their future good behaviour, or required to appear before the board or a commissioner daily or monthly or when called upon, or to present themselves at the meetings of designated courts. Some were enlarged on condition of their joining the continental army. Bail varied all the way from £40 to £5,000.2 The obligation of appearance at stated times of those under recognizances was not always heeded; hence, on August 11, 1779, the Albany commissioners ordered advertisements to be posted throughout the county, commanding all persons under such a release to appear before them on the last day of that month, or suffer prosecution. During the summer of 1780, many persons were required to enter into new recognizances, at an enlarged amount, on account of the depreciated state of the continental money. In August of that year, the commissioners ordered the appearance of bailed prisoners, accompanied by their

¹ For examples see August 13, 25; September 24; October 2, 6, 13, 1778.

January 13, 1779.

sureties, and in case of failure, they were to be proceeded against for the amount of the surety. The board was not always certain of the sufficiency of those who offered to go bail, and in such cases accepted the recommendation of a local committee. After June 30, 1778, the oath was made the supreme test.1 By an act of April 1, 1778, affirmation by raising of hands, a concession to Quakers, was permissible.2 But the Quakers piteously objected to the wording of the oath and petitioned the legislature for relief.3

When the commissioners began their work in Albany, on April 13, 1778, they received a return of the prisoners who were confined in the city jail, and ordered letters to be written to the several district committees from whence these persons had been sent, and requested an account of the crimes for which they had been committed. The board found that local committees, for example in Saratoga district and Charlotte County, were exercising functions which belonged properly to commissioners for conspiracies, and stopped them. But when two military officers reported the names of certain persons who had joined Burgonyne's army, yet were believed likely to return to their allegiance to the State, the commissioners authorized these officers to examine them and make out recognizances at Ballston.4 Moreover, the board objected to the over-zealous action of certain whigs who, not authorized by law, attempted to order disaffected persons " to move off ", and who threatened them in case they procrastinated. The board adjudged that such

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¹ Appendix I: Laws, June 30, 1778.

Laws of New York. Poughkeepsie: John Holt, 1782, p. 25.

^{*} Assembly Papers - Miscellaneous, vol. 1, pp. 49-62. See also for Shakers, who refused to bear arms, July 7, 11, 17, 24, 26; August 26; December 4, 1780.

⁴ April 15, 1778.

disaffected persons must be brought before the commissioners, accompanied by the charges against them.1 When in doubt as to the propriety of permitting particular persons to take the oath of allegiance, the commissioners resolved to take the opinion of the judges of the supreme court.2 The board could issue a mittimus to a sheriff for committing a prisoner; and also abrogated and voided a mittimus so as to enable judges to issue habeas corpuses.3 Judges and magistrates were prevented by law from bailing any person committed by a mittimus issued by the commissioners. Paroles were issued, and at times provided with restrictions upon opinion of the governor. Paroles were also disallowed.4 Petitions were received from prisoners, heard and disposed of,5 and were sometimes referred by the legislature.9 The board took cognizance of defamation of military officers or its own members, by binding the guilty party, or exacting a satisfactory concession.7 When General Stark discharged a negro, a prisoner of war, and said he had done it by consent of the commissioners, they disowned it and immediately informed the sheriff that the negro was in no wise under their directions, hence they could not give their "assent or dissent to his discharge." In May, 1778, Stephen Bell, the Albany jailer, reported that the jail was overcrowded, whereupon the board ordered the removal of a number of prisoners to the fort. Prisoners were sent to Albany from Dutchess and other

¹ July 30; August 8, 1778.

³ August 1, 1778.

^{*} June 14, 24; September 10, 11, 1778. See also July 13, 1780.

^{*}September 28; October 30, 1778; January 12; February 22, 1779.

October 1, 31, 1778.

^{*} Votes and Proceedings of the Assembly. First session. Kingston: John Holt, 1777, p. 15.

⁷ June 24, 1778; May 27, 1779.

^{*}September 14, 1778.

counties.1 A tory from Hartford, Conn., who held a major's commission in the British service, was sent from Northampton jail by the council of Massachusetts to be confined by the Albany board,2 and was released on December 1, 1778, on a bond of £1,000, because the board believed he had undergone "Imprisonment sufficiently long". An ensign from Sir John Johnson's corps apprehended at Danby, in Charlotte County, was brought before the Albany board, and was examined and committed.3 In a letter to Massachusetts, about a person concealed somewhere near Worcester, the board requested that the man be "instantly apprehended if possible" and sent to Albany.4 A prisoner confined by a court martial was brought before the board, examined, discharged and given a pass to go to Hartford, Conn.5 A number of persons were captured by the Oneida Indians and were sent to the board. They were examined and discharged forthwith, with or without bail, in virtually every case.6 Women as well as men were sent to prison. On April 20, 1778, the board protested to the commanding officer against the undue liberty granted to prisoners in the garrison. Six months later Governor Clinton wrote the board that he had learned that patriot prisoners were being treated with less rigor than formerly by the British, and requested that certain tory prisoners in Albany "be released from their present Confinement and placed in another as easy and mild as the board could possibly make it to them."8 In June, 1778, the

¹ April 23, 30, 1778; September 10, 1779.

^{*} July 10, 1778.

^{*} September 4, 1780.

September 4, 1778.

⁶ September 14, 1778.

October 23, 27, 31; November 2; December 10, 1778.

⁷ August 10, 11, 1778.

⁸ October 27, 1778.

board ordered the arrest of a person employed as a secret express in conveying letters from New York City to tories, and that the papers or their contents be revealed immediately.¹ By the act of June 30, 1780, all persons who came from the British lines and were found lurking secretly in any part of the State, were to be tried by courts martial as spies.²

Overcrowded jails were not conducive to health, and many prisoners became ill. Usually the jailer recommended their removal to the hospital, which was followed by an order from the board to the director of the hospital. They included wounded, "exceedingly ill" persons, and smallpox cases. Sickness was a good plea for liberation and such requests were not infrequent, and were sometimes granted. In a particular case, the request was refused, but a weekly allowance was given for the subsistence of the person during his illness, because he was one "whose Evidence may be of the utmost Consequence to the State". Dangerous persons were also allowed to be removed to the hospital. In such a case General Stark was requested by the board "to order a Centry to be placed at the Door of the Room". Other precautions were taken against escape, by requiring the director of the hospital to report, from time to time, the condition of the health of certain confined prisoners. When he reported their recovery, they were at once ordered to be remanded to the jail. On September 4, 1778, the board ordered Dr. Joseph Young, the director of the Albany Hospital, "to receive into the Hospital such State Prisoners" as the board might send him "and provide them with such Things as he shall think necessary for their Nourishment and Recovery of their Health, and keep an accurate Account of the whole,

¹ June 18, 20, 23, 1778.

Laws of New York. Poughkeepsie: John Holt, 1782, p. 143.

which we will pay either in Money at the Current Price of the Articles expended, or return the like Quantity and Quality to the issuing Commissary of the Northern Department, as may best suit the Director of the Hospital for the Time being." A very sick woman was allowed to be removed to a house in the city, and a husband and his "very" sick wife were released on a recognizance, not to go out of the city's limits, and to "appear once a Day" before the board. A prisoner on parole in Schodack district was allowed to return to his home in Kinderhook for a few days because his wife was "exceedingly ill", yet he was not to exceed the limits of his farm while there. Another prisoner whose wife was "in a very distressed condition" and "shortly to be brought to bed", was released on recognizance and bail."

Protection — In the case of a person who desired to go to the German Flats, but who was apprehensive of being maltreated by inhabitants of Tryon County, protection was given him for his security. When appealed to for protection by the wife and family of a tory confined in jail, the board enjoined "all officers both Civil and Milatary [sii] & all other Persons whatsoever" from molesting them.

Rangers — Captain John Ryley and fifteen men were employed, on May 11, 1778, by the Albany commissioners for conspiracies "for the Purpose of ranging about the Woods

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¹ For examples see May 6, 11, 13, 21, 22; August 3, 14, 19, 22, 29, 31; September 3, 4, 7, 10, 18, 19, 22, 24; October 8, 19; November 3, 1778; June 19, 1779; August 2, 24, 31; September 23; October 7, 1780.

² October 7, 1778.

^{*} September 14, 1778.

^{&#}x27;Ryley had served at the head of a similar contingent of rangers for the Committee of the City and County of Albany, from August, 1777, until January 10, 1778. He sought at various times to collect the amount of his pay-roll, and as late as January 13, 1789, he petitioned the legislature in the matter. He signed his name "John Reilay."—Revolutionary Manuscripts, vol. 40, p. 22, State Comptroller's office.

and doing such Services as should be requested of them", until the last day of October following. They were to receive six shillings per day and one ration of provisions, and promised "to obey the Orders of said Commissioners or any three of them and the Orders of such Officers as they may think proper to set over us." Before entrance upon the service, each member was required to take the oath of allegiance. On May 18, Ryley and his men appeared before the board to receive their instructions, and were sent to Kinderhook, there to await orders from one of the commissioners, before proceeding to Coxsackie to execute them. From time to time Ryley was instructed to apprehend persons, particularly those suspected of or known to have taken part in robberies, and to search for stolen property. He also brought in Hessian deserters and others on his own account. On June 13, the board notified the commissioners at Poughkeepsie that it had been "under Necessity to raise a Party of 15 Rangers", to whom was paid six shillings per day and rations, and asked how much allowance the Poughkeepsie board made "to such Parties of the Militia as bring in Prisoners". On the same day application was made for a party of continental troops as an additional guard, to be under the direction of Captain Ryley, and for a bateau for the guard. Two hundred dollars were ordered to be paid to Ryley on account, on June 18. The board applied to the assemblymen from Albany County, on June 20, "to endeavour to procure an Act for the Purpose of raising another Company of Rangers", to be under their command. On June 22, Captain Ryley presented a pay-roll to date of £283 19s., which was allowed, minus the amount paid before on account. When Ryley was sent to ferret out tories in the Helderbergs and at Oniskethau, he was told that he might apply to the militia officers for reinforcements, in case his own contingent was insufficient. The board, having received a letter from the commissioners at Poughkeepsie, on July 18, ordered that Ryley's rangers be discharged, and that he be served with a copy of the resolution. On the 20th Ryley was ordered to appear immediately before them, and he, presenting himself, received his discharge with his company. On August 12, Ryley was granted fifty pounds for his men, to be deducted from his pay-roll. Mathew Aerson, ferryman, was granted £8 17s 4d., for services in ferrying Ryley's company across the Hudson River at various times. The full pay-roll was presented by Ryley on September 18, and amounted, "from the Time of their Inlistment being the 11th May 1778 till 20th Day of July now last past," to £460 18s. 4d., part of which, as already shown, was paid before on account. He was also paid a gratuity for apprehending a person who committed a robbery.1

The Albany board continued to employ rangers or militia detachments — a practice not uncommon among the boards throughout the State, as is witnessed by pay-bills or vouchers yet in existence. On May 18, 1779, the Albany commissioners ordered the payment of an account of £25, presented by Captain Stephen Hayt, for bringing from Claverack to Albany the company of Captain Smith's rangers, together with a number of robbers and tories. On the 27th of the same month, the board made out instructions for a volunteer company of rangers, raised by the inhabitants of the Manor of Rensselaerwyck, residing on the east side of the Hudson, to be commanded by Captain Jacob De Forest, and to be under the direction of the board. On June 9, General Ten

¹ May 11, 18, 27; June 3, 12, 13, 18, 19, 20, 22, 29; July 1, 14, 18, 20; August 12; September 15, 18; October 3, 1778.

Broeck was requested to furnish ammunition to this contingent, which operated for the safeguarding of its own home territory. The frequency of robberies in the Helderbergs and contiguous regions induced the board, on July 2, 1779, to consider the raising of another company of rangers, to be under the command of Lieutenant Thomas Ismay. Orders for this body were issued on August 2 and 8, and at other times. On September 14, 1779, the board discharged De Forest's rangers, because their services were no longer needed; and on February 9, 1780, certified the pay-roll of Ismay's rangers, amounting to £91 19s. 6d., "being the full Amount of the Pay and Subsistance Roll of the Party of Militia" under his command. The disturbances occasioned by disaffected inhabitants of Albany County, and the crying demand for enforcing the laws against them, determined the board, on June 30, 1780, to authorize Lieutenant Philip Staats, of Colonel Killian Van Rensselaer's regiment, to engage "about ten men", who were to provide themselves "with a good Horse & proper Arms and Accoutrements", and who were to be allowed the same pay as given to the cavalry of the army of the United States, together with an allowance for horse-hire and subsistence. Samuel Stringer, one of the members of the board, was requested, on August 11, 1780, to propose to John Tillman that he raise a company of rangers, to be under his command and under the direction of the commissioners.1

Relations with other Boards and with Local Committees— The Albany board was appealed to for funds by the Charlotte County board at New Perth, and agreed to forward the amount requested from one thousand pounds to be drawn

As under dates cited in the text.

from the State treasurer. It also recommended to the latter board to exercise "the Utmost Frugality," otherwise the allowance made by the State would be insufficient and deficiencies might be made good only "attended with the greatest Difficulties."1 It also advised that board as to its conduct toward certain families who had returned to their habitations under a tie of neutrality to the British king. These families were too numerous to be removed or dealt with in a rigorous manner, hence the Albany commissioners counseled humane treatment of women and children "who otherwise might be culpable for the Crimes of their Parents & Husbands," and that they be summoned before the members of the Charlotte County board, to be by them examined, instructed as to their obligations to the State, and other duties necessary to their reinstatement "in the Benefits and Priveledges that every faithful Subject will enjoy under a free Constitution."2 The Albany board received into custody prisoners sent by other boards and by local committees, and likewise sent persons to be committed in other places. A correspondence was kept up with the Poughkeepsie board in particular, and with those of Charlotte County, Tryon County and other places in general. Letters sent or received are noted in the minutes as having passed between the board and many local committees, all the way from Bennington, Vermont, to Fredericksburgh, Dutchess County. Much of this intercourse related to prisoners and arrests.3 The State funds for the use of the Albany board were often forwarded through the commissioners at Poughkeepsie.

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¹ May 15, 1778.

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⁸ For examples see April 21; May 1, 2, 19, 20; August 14; September 11, 30; October 1; November 23; December 9, 1778; April 20; May 4; June 2, 19; July 14; September 22, 1779; July 21, 1780; January 29, 1781.