

MINUTES of the
Commissioners for detecting
and defeating Conspiracies
IN THE STATE OF NEW YORK

ALBANY COUNTY SESSIONS, 1778-1781

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VOLUME I: 1778-1779



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INTRODUCTION.

CHAPTER I.

INQUISITORIAL BODIES OF NEW YORK DURING THE AMERICAN
REVOLUTION—ORIGIN OF THE COMMISSIONERS FOR DE-
TECTING AND DEFEATING CONSPIRACIES—THEIR LEGAL
STATUS—DEVELOPMENT OF THEIR AUTHORITY AND
POWERS—COMPLAINTS AGAINST THEIR JURISDICTION—
REPEALED AND VESTED IN COURTS.

It is not the design of this introduction to hold a brief for the defense of the laws of the State of New York and their operation against toryism, nor to analyze the virtues or vices of the loyalist contingent during the American Revolution. An attempt is made here to analyze the laws passed for the repression of disaffection in the State, particularly as related to the Commissioners for detecting and defeating conspiracies, whose Albany minutes form these volumes, and to digest some of the main features of the proceedings of these commissioners, as operated under the laws by which they were to be governed. The spectacular and dramatic conflict between whigs and tories; the philosophical speculation as to the probable economic and political gain or loss to the State by this conflict and its determination, and an impassionate estimate of loyalism as a principle, have been presented ably

by Van Tyne¹ and by Flick.² There is also a superabundance of biased or partizan literature, on both sides, and pens and printing presses are yet overworked in reproducing such opinions.

On February 5, 1778, during its first session (1777-1778), the legislature of New York passed its first bill for the creation of a body of "Commissioners for detecting and defeating Conspiracies" in the State and declaring their powers. The idea was not a new one, for in conserving the State, against the machinations of disaffected, disloyal or even decidedly inimical persons, progressive media had been determined and executed by local and county committees, by the Provincial Congresses and Convention and otherwise.

"There was a definite relationship among all the bodies growing out of the revolution. The Continental Congress stood at the head; then came the Provincial Congress or Convention, then the general committee on tories, then the county committees, and at the base, the district committees."³ These various bodies varied in size, authority, procedure and effectiveness. With the erection of constitutional government in the State, toryism was more clearly defined and handled in more summary fashion. "The inquisitorial methods and machinery developed previous to the Declaration of Independence were continued by the Constitutional Convention and by the new state government."⁴

¹ Van Tyne (Claude H.) *The Loyalists in the American Revolution*. New York and London, 1902.

² Flick. *Loyalism in New York during the American Revolution*. New York, 1901 (Columbia University Studies in History, Economics and Public Law, vol. xiv, no. 1). In this work the whole system of the inquisitorial bodies of New York is given in admirable detail.

³ *Ibid.*, p. 79.

⁴ *Ibid.*, p. 117.

The Provincial Congress had appointed a committee in May, 1776, to deal with "intestine enemies." As the trial of persons accused as tories consumed much time, a standing committee of five was appointed, on May 27, 1776, to hear all cases of those arrested by the Congress or by the committee of safety. But this committee was so deluged with arduous duties, that a new committee consisting of nine members was constituted and given enlarged powers. This last-mentioned general committee was appointed to execute the resolves of June 5, 1776, and lasted until dissolved by the Convention, which "itself took cognizance of all urgent cases." The invasion of New York by the British army at the south and the threatened invasion from the north, coupled with the difficulties imminent from a dangerous toryism, determined the Convention to constitute a new inquisitorial committee of seven members, on September 21, 1776, which was given a perfected organization, and to which the county committees became subordinate. This committee, after sitting almost daily, adjourned on the last day of the year, reported to the committee of safety within a week's time, and was dissolved in February, 1777, only to be succeeded by another committee of three. The powers and duties of the seven fell upon these three men, who acted under instructions from the Convention. They were, however, soon enlarged to five members, and, on August 28, 1777, were again augmented to a membership of nine men, being known as "Commissioners for detecting and defeating all Conspiracies" when vested anew by the newly-chosen legislature, on October 7, 1777, as an emergency provision. They moved from place to place and, aided by armed forces, sought out and arrested the enemies of the State. It was deemed particularly important at this time that

domestic foes should be suppressed or reclaimed, before coping with Burgoyne's invasion.¹

In the original legislative act creative of the commissioners whose Albany proceedings constitute these volumes, the reasons given are "the present invasion of this State;" "the disaffection of sundry of the Inhabitants of the same," and to guard and secure effectually the peace of the State "against the wicked Machinations and Designs of the Foreign and Domestic Foes thereof."² The governor, lieutenant governor or president of the senate, whichever at the time administered the government of the State, was authorized and empowered, from time to time, to appoint by a commission "by and with the Advice and Consent of the Council of Appointment, so many Persons, not exceeding ten, as he shall think proper, to be Commissioners."³ Any three of the commissioners constituted a quorum for carrying out the provisions of the act. Their function was defined as having power "to send for Persons and Papers, and administer Oaths; and to apprehend and confine, or cause to be apprehended and confined, in such Manner, and under such Restrictions and Limitations, as to them shall appear necessary, for the public Safety, all Persons, whose going at large, shall, in the Judgment of the said Commissioners, or any three of them, appear dangerous to the Safety of this State. To take Bonds and Recognizances, from Time to Time, to the People of this State, for the good Behaviour, safe Custody, or Appearance of such of the said Persons, and of all others, now confined for the like Cause, as they may

¹ Summarised and adapted from Flick, pp. 66, 67, 119, 120, 123, 127, 128, with revisions. The designations "board", "commissioners" and "committee" were used interchangeably as early as 1777.

² Appendix I: Laws, Feb. 5, 1778.

³ *Ibid.*

think proper, in such Sums, and upon such Conditions, as unto them shall appear expedient; and the said Bonds and Recognizances, if forfeited, to prosecute or to cancel and release, upon such Terms and Conditions; and to discharge from Confinement, any of the said Persons absolutely, and without any Terms or Conditions, as they may think proper. And also, from Time to Time, to make such Provision, for the safe Custody, and comfortable Subsistence of all Persons, who may from Time to Time be so confined as aforesaid, in such Manner as they may think proper.

"Provided always, That by Reason or Colour of any Thing herein contained, the said Commissioners, or any of them, shall not be empowered to inflict any corporal Punishment, upon any or either of the said Persons confined as aforesaid." It was moreover provided "That no Judge or Magistrate, shall bail any of the Persons, who may be confined by Authority of the said Commissioners; and that no Court shall deliver any of the Gaols, within this State, of any Person or Persons, so confined as aforesaid, unless such Persons, shall have been indicted, and tried for the Offence or Offences, for which he or she, shall have been respectively committed." Before entering upon his duties, each commissioner was obliged to take the prescribed oath of office to "faithfully execute and perform, for the Benefit and Advantage of the People of the State of New-York, all and singular the Powers and Authorities, by Force and Virtue of the said Act" given to him. They were authorized to draw upon the public treasury for sums of money, from time to time, not to exceed in the whole the sum of five thousand pounds, and were ordered to render a just and true account of their expenditures, and to keep regular minutes of all their proceedings,

to be submitted, if required, "to the Consideration of the Senate or Assembly, or to such Person or Persons, as shall be, for that Purpose appointed." For each day that he would be actually engaged with the business of his trust, each commissioner was to receive the sum of twenty shillings. The act was made operative until November 1, 1778, "and no longer."¹

Now, although the act became operative on February 5, 1778, the proceedings of senate and assembly reveal that the subject had been under careful consideration for some time before, and had been interrupted by reverses of the war. On September 23, 1777, Egbert Benson, assemblyman from Dutchess County, asked and was given leave to introduce in the assembly a bill for appointing "Commissioners for Conspiracies, &c. and declaring their Powers," which was presented the following morning, read and ordered to a second reading. It was read a second time on September 25, and committed to a committee of the whole house, whence it was reported by Ezra L'Homme-dieu, of Suffolk County, on the 26th, with several amendments and two added clauses; was passed up, read a third time and ordered engrossed. The engrossed bill was "read a third Time," so called, and passed in the assembly on September 27, from whence it was now conveyed to the senate for concurrence. On the last-mentioned day the senate received the bill. It was read and ordered to a second reading, which took place on the 29th, and was then committed to the committee of the whole of the senate. On October 3 Senator Jonathan Lawrence reported that the bill had made some progress in the committee of the

¹ Appendix I: Laws, Feb. 5, 1778.

whole, but that leave to sit again was desired. On that afternoon the senate, having again resolved itself into a committee of the whole, requested permission for further consideration of the bill. On the next day the bill was reported with several amendments, was read and ordered to be engrossed. Senator John Morin Scott, on October 6, was ordered to carry the amended bill to the assembly for its concurrence. That was as far as it got for some time, because the news of the reduction by the British of Fort Montgomery and its dependencies in the Highlands reached both branches of the legislature at noon of October 7, which induced many of the senators and assemblymen, who held military commissions, to leave Kingston forthwith for service, whilst others went away to conserve the safety of their own households. But the legislature, on that day, revived all of the county and district committees and the former commissioners for conspiracies, both as to powers and persons. Governor Clinton, on December 15, 1777, issued a proclamation for reconvening the legislature on January 5, 1778; but quorums of both houses did not materialize before the 15th. On January 28, the assembly again took up the engrossed amended bill, referred back to it by the senate in the preceding year (October 6, 1777), and concurred on the next morning. The amendments had so defaced the bill that the assembly, on January 31, ordered a newly engrossed copy, and on February 2, in its new form, it was transmitted to the senate, where it passed the next morning. The bill was returned to the assembly, where it had originated. Having now been passed in both houses, it was ordered, on the 4th, to be transmitted to the council of revision, which gave its approval on February 5, 1778, the date of actual enactment, yet a record of this cer-

tification was made in the senate only on the 10th of the month.¹

Senator Abraham Yates, on March 20, 1778, asked formal leave to introduce a bill amendatory of the act of February 5. In the committee of the whole his bill was altered in title and amended in body; it was passed by the senate on April 2, and forwarded by the hand of Senator Levi Pawling to the assembly for concurrence. The house by unanimous consent at once referred it to the committee of the whole, where it was considered favorably and without alteration. The bill passed the assembly on the 3d, not however without debate and opposition, five votes being on record against it. It was returned to the senate immediately and ordered by that body to be carried by Pawling to the council of revision, where it received approval at once.² By this act of April 3, 1778, the legislature authorized enlarging the number of commissioners "not exceeding twenty," or thirty altogether. As many quorums of three as were necessary, at any time or place, were deemed legal for the execution of the powers and authorities delegated to them.³

Because it had been found that there were divers disaffected and dangerous persons and families, resident at or near the several posts and passes within the State, of

¹ *Votes and Proceedings of the Senate of the State of New-York*, First session. Fish-Kill: Samuel Loudon, 1777, pp. 18, 23, 24, 25, 26, 44, 53-54; *Votes and Proceedings of the Assembly of the State of New-York*, First session. Kingston: John Holt, 1777, pp. 17, 18, 19-20, 28, 38, 40, 41, 44, 45. The title-pages of the votes were printed with the first signatures and before a volume was completed; hence they actually bear dates earlier than the contents of their respective volumes. This accounts for what might seem to be an incongruous citation

² *Senate Votes*, cited *supra*, pp. 90, 91, 106, 108; *Assembly Votes*, cited *supra*, pp. 104, 105, 106, 107.

³ Appendix I: Laws, April 3, 1778.

whom there was "great Reason to believe" that they communicated material information to the enemy, the legislature, on April 1, 1778, passed an act¹ empowering the governor or "person administering the Government" of the State for the time being, to exercise his judgment "for the public Safety, to cause all such dangerous disaffected Persons and Families, as now are, or hereafter shall happen to be resident at or near any Post, Pass or Encampment, within this State, to be removed to such other Place or Places within the same, as he shall deem expedient." He was obliged to "certify the Names of such Persons so removed, and a Description of the Houses and Farms, from which they shall be removed respectively, to the Commissioners of Sequestration of the County, to which such Persons shall be removed." These persons were to be put in possession of sequestered farms or houses in the new county, upon a moderate rental, and with due regard of the value of their own farms or houses which they had left behind them; but they were in no wise to gain a residence in the new district, nor become a charge for maintenance therein.

The application of lenient measures for the suppression of disaffection was ineffectual. It was found that many persons had "affected to maintain a Neutrality," which there was "Reason to suspect was in many Instances, dictated by a Poverty of Spirit, and an undue Attachment to Property." Divers of them "advocated the American Cause till it became serious," then broke their paroles and dissipated the forbearance of their countrymen, having "ungratefully and insidiously from Time to Time, by artful Misrepresentations, and a subtle Dissemination of Doctrines, Fears and Apprehensions false in themselves, and

¹ Appendix I. Laws, April 1, 1778.

injurious to the American Cause, seduced certain weak minded Persons from the Duties they owed their Country." Hence the legislature, by the act of June 30, 1778,¹ judged that the welfare of the State "loudly" demanded that some decisive measures should be taken against them, and that the State should no longer grant shelter to persons who "not only refuse to assist in rearing," but daily endeavored to undermine and subvert the patriot government. By this act passiveness was no longer to be respected. An out and out patriotism was to be made manifest. All persons "of neutral and equivocal Characters" were to be summoned before quorums of the commissioners for detecting and defeating conspiracies, whenever they believed any of them to have "influence sufficient to do Mischief," and were to take the new oath of allegiance or, if Quakers, to affirm. By this oath or affirmation they declared, "without any mental Reservation or Equivocation whatever," that the State of New York was of right a free and independent State, and that no authority or power could of right be exercised in and over the State, save such as was granted by or derived from its people. Every subscriber swore to do his duty as became a "good Subject of the said Free and Independent State of New York," to the best of his knowledge and ability. Persons summoned or brought before the commissioners and who refused to take the oath or to affirm, were to be forthwith removed "to any Place within the Enemy's Lines," and their names were to be certified by the commissioners to the secretary of the State, who was required to record and file the certificates. Neutrals who absconded or absented themselves to avoid the oath, were to be summoned before the commissioners by publication,

¹ Appendix I: Laws, June 30, 1778.

to appear at a designated place within twenty-one days from the date of the said publication in the newspapers. Their default was adjudged equal to a refusal of the oath or affirmation. Those who were removed or who defaulted were declared as banished from the State; if discovered in any part thereof, they were, upon conviction, to be adjudged guilty of misprision of treason. All lands held in the State by persons attainted, "on the twenty-sixth Day of June Instant [1778], in Fee Simple or Fee Tail, or which may hereafter be acquired by, or devised, granted, or descend" to any of them, were forever thereafter to "be charged with double Taxes, in whosoever Hands the said Lands may hereafter be." The immediate execution of this last mandate was prevented by subsequent tax acts, which provided that only a single tax should be collected on lands of persons removed within the enemy's lines, until such time as the legislature should make another provision for the collection of the said extra taxes.¹ While the act of June 30, 1778, indicated removal forthwith within the British lines, it provided a reservation, lodged in the governor or "Person administering the Government" for the time being, who was to be notified by the commissioners prior to the removal of persons, and who could detain and confine those whom he adjudged proper for exchanges. All magistrates, sheriffs and constables were ordered to assist the commissioners in expediting the execution of the act.

As the first term of the commissioners was to expire on the first of November, an act² was passed, October 29, 1778, continuing them "until twenty Days after the next

¹ *Laws of New York*. Poughkeepsie: John Holt, 1782, pp. 96, 114.

² Appendix I: Laws, Oct. 29, 1778. See also *Assembly Votes*. Poughkeepsie: John Holt, 1779, pp. 21, 24, 26, 27, 28, 30; *Senate Votes*. Fish-Kill: Samuel Loudon, 1777, pp. 141, 143, 147.

Meeting of the Legislature, and a Quorum of both Houses shall be convened," and an appropriation, not to exceed the sum of three thousand pounds, was authorized. It was at this time (November 2, 1778) that a regular night watch was ordered by statute¹ for the counties of Ulster, Tryon, Charlotte, Dutchess and Albany, because the provisions of the militia law had proved to be inefficient. Every able-bodied male inhabitant, between the ages of sixteen and sixty years, slaves and Indians excepted, was ordered to do watch duty when called upon by the captain of a company, beat or district, wherein he resided. Each watch was to be composed of eight men. Certain persons were exempted from duty, among them commissioners for conspiracies, save in the city of Albany and the town of Schenectady, where clergymen alone were excepted. Later, on October 13, 1779, the act was amended,² extending its operation to Westchester and Orange counties.

The senate, on February 12, 1779, passed the following order,³ viz:

"Whereas the Commissioners for detecting and defeating Conspiracies, are by Law required to keep regular Minutes of all their Proceedings, in Order that the same may be submitted to the Consideration of the Senate or Assembly; and although no Complaints have been made to this Senate of any Misconduct in the said Commissioners, or any of them, nor has this Senate any Reason to believe there are any Grounds for such Complaint, yet as the Execution of their Office is of the utmost Importance to the Weal of this State at this critical Juncture.

¹ *Laws of New York*. Poughkeepsie: John Holt, 1782, pp. 46-47.

² *Ibid*, p. 80.

³ *Senate Votes*. Fish-Kill: Samuel Loudon, 1777, p. 173.

"Ordered, therefore, That the said Commissioners lay their Proceedings before this Senate, with all convenient Speed, to the End, that the Legislature may make further Provision, if necessary, with respect to dangerous and disaffected Persons within this State."

The act of June 30, 1778, in so far as it bade immediate removal within the British lines, worked harshly in some cases. By the act of February 17, 1779,¹ the legislature sought to hold open the door of recantation from toryism to the last moment, averring it as a "sound Policy and common Charity" to permit every person, who had refused or might thereafter refuse to take the oath or affirmation, and who would voluntarily offer to take it "before the Commencement of his or her Removal," to be fully and wholly absolved from the penalties of the law; except persons detained or confined as exchanges. This act also recited the continuation of the commissioners in the terms of the act of October 29, 1778. When the bill was under discussion in the Senate, on February 12, it contained a paragraph in amendments submitted by the assembly, which directed the treasurer of the State to advance to the commissioners, or any three of them, such further sum or sums as they should from time to time require, not exceeding three thousand pounds. From this, Senators Richard Morris and Ebenezer Russell dissented, averring that as former allowances had not been accounted for, it was presumptive evidence that the whole amount had not as yet been spent; that there had been no requisition for more

¹ Appendix I: Laws, Feb. 17, 1779. A similar bill was rejected by the assembly in the preceding November, notwithstanding that the commissioners for conspiracies had found such a provision desirable. See also *Assembly Votes*. Poughkeepsie: John Holt, 1779, pp. 14, 17, 21, 24-5, 34, 37, 51, 53, 59, 63, 74; *Senate Votes*. Fish-Kill: Samuel Loudon, 1777, pp. 164, 165, 166, 168, 171, 172, 175-6, 178.

money from the commissioners to the senate — hence the granting of large sums of money to any office or officer unasked, would be unprecedented and might, at some future day, be dangerous to the revenues of the State. They believed that a sufficient appropriation could be made at another time, when suggested by exigencies, and that the bill would be a proper subject for immediate legislation with the omission of the extra grant.¹ It is apparent that the arguments did not appeal to the senate, as the act retained the grant of three thousand pounds.

The committee for inquiring what laws were expired or near expiring apprised the senate, on September 2, 1779, that the expiration of the commissioners for conspiracies was close at hand, and recommended their continuance. Accordingly a bill was introduced at once; was amended in title and body, engrossed, and passed the senate on the 8th. On the following day in the assembly, whither it was referred for concurrence, a motion was made to reject it, but failed of passage. Yet again, in the committee of the whole house, Egbert Benson sought to have the last recital and clause expunged, and this was also defeated, only five other assemblymen standing with him. However, an amendment made in assembly was accepted by the senate. When the bill reached the council of revision, they objected, "because it appears from the Preamble, that the Laws, by the said Bill intended to be continued, are already expired by their own Limitation; and the enacting Clause containing no Words of Revival or Re-enaction, the whole Law becomes nugatory, as that cannot be continued which does not exist." Whereupon, a bill to meet this criticism was introduced and became law

¹ *Senate Votes*. Fish-Kill: Samuel Loudon, 1777, pp. 172, 175-6.

on October 1, 1779.¹ This law revived the commissioners and continued them until twenty days after the first day of the next meeting of a quorum of senate and assembly, and appropriated a sum not to exceed four thousand pounds. As they had performed "divers Acts, Matters and Things" *ad interim*, the legislature in this act validated them. Former acts made no provision for the removal of a commissioner or filling of vacancies, which authority was now vested in the council of appointment. The appropriation bill, enacted October 25, 1779, granted to the commissioners, or any three of them, an additional sum of money, not to exceed in all three thousand pounds, "to defray the Expence of the Business committed to them."²

An attempt made in assembly, on February 18, 1780, to introduce a bill for reviving the commissioners, the act of October 1, 1779, having expired, was defeated.³ Among certain resolutions passed in assembly, on March 10, 1780, was one recommending the creation of a joint committee of three assemblymen and two senators, to examine and adjust particular public accounts during the recess of the legislature, including the accounts of the commissioners for conspiracies. The intention was to have this committee render a report to the next meeting of the legislature. When it reached the senate, only one member, Sir James Jay, voted in the affirmative.⁴

¹ Appendix I: Laws, Oct. 1, 1779. See also *Assembly Votes*. Fish-Kill: Samuel Loudon, 1779, pp. 20, 22, 29, 33, 36, 37, 41, 47; *Senate Votes*. Fish-Kill: Samuel Loudon, 1779, pp. 11, 12, 13, 14, 21, 22, 23, 24, 25, 29, 30.

² *Laws of New York*. Poughkeepsie: John Holt, 1782, p. 99. See also *Assembly Votes*. Fish-Kill: Samuel Loudon, 1779, pp. 79-80.

³ *Assembly Votes*. Fish-Kill: Samuel Loudon, 1779, p. 117.

⁴ *Assembly Votes*. *Idem*, p. 149; *Senate Votes*. *Idem*, pp. 101-102; *Assembly Papers — Miscellaneous*, vol. 2, p. 196.

On March 13, 1780, an act¹ was passed, relative to British deserters. The laws affecting the authority of the commissioners, as already stated, had expired meanwhile. Deserters from the British lines who had come within any county and were confined there in a common jail, could be released by any two justices of the peace of the said county, by entering into a recognizance, either with or without surety, as the particular two justices might determine. It was provided, however, that such persons should appear "at the next Court of Oyer and Terminer and General Goal Delivery" to be held in that county, and remain, meanwhile, within the bounds limited to them by the justices. In certain cases the justices could enlarge a person upon promise of good behavior during the war. This jurisdiction did not apply to persons who were in custody by virtue of a warrant from a judge of the supreme court, nor to those whose release from jail would be dangerous to the State. Nor was the privilege of release to be construed as excusing any person, so enlarged, from the performance of duty in the militia of the State, and absence from the limited confines, when upon such militia duty, was not deemed a breach of a person's recognizance. Deserters from the British army, who surrendered voluntarily to a justice of the peace, were to be dealt with in all respects as provided for persons in actual custody. If they were guilty of an offence committed after leaving the British lines, the law could be invoked against them. This act also revived certain powers of the commissioners for detecting and defeating conspiracies, relative to persons formerly confined by their order, or bound by them by recognizances. Any three of the former board were empowered to release, in the usual manner, those whom they

¹ Appendix I: Laws, March 13, 1780.

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² *Ibid*, Jun

1779, pp. 11
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had confined, or discharge the said recognizances; but appearance of the respective persons before the courts of oyer and terminer and general jail delivery was imposed as an imperative obligation. This act¹ remained in force "until thirty Days after the rising of the Legislature, at their next Meeting."

A few weeks before the termination of its third session, the legislature again revived the former laws relating to the commissioners, by the act of June 14, 1780.² The reasons supplied in the act demanding their revival were apprehension "that Emissaries from the Enemy are lurking in different Parts of the State, and that the disaffected Inhabitants are conspiring against the public Peace and Safety." The commissioners were now to "continue and be in full Force during the Continuance of the present War with Great Britain;" were to receive each for a day's actual service the sum of fourteen shillings "of the Money to be issued, agreeable to the Resolutions of Congress, of the eighteenth Day of March last" [1780]; and the State treasurer was authorized to advance money to them for their expenses, not to exceed in the whole the sum of two thousand pounds.

On the day preceding the adjournment of its third session, namely on July 1, 1780, the legislature passed an act pertaining to the removal of the families of persons who had joined the British.³ Their habitations served to harbor secret emissaries or conceal members of their families who had come surreptitiously from the British lines "to gain Intelligence and commit Robberies, Thefts and Murders" upon

¹ Appendix I: Laws, March 13, 1780.

² *Ibid*, June 14, 1780. See also *Senate Votes*. Fish-Kill: Samuel Loudon, 1779, pp. 111, 112, 114, 119. The *Assembly Votes* of the third sitting of the third session (May 23-July 2, 1780) were not printed.

³ Appendix I: Laws, July 1, 1780.

the inhabitants of the State. The deportation involved wives and, "at their Discretion," all or any of their children not above the age of twelve years. Their departure was conditioned to be within twenty days after notice. This notification was to be given by the justices of peace resident in each ward, town, manor, precinct and district or, in the absence of or for want of a justice, by the supervisor, and in lieu of both by the commissioners for conspiracies. But any three commissioners could issue permits and put an estoppel upon removal. As soon as a justice of the peace or a supervisor notified persons to depart, certification of their names and characters was to be given to some one board of the commissioners. The next year, by the act of March 22, 1781,¹ the commissioners, and each of them, or such person or persons as were authorized by the governor, had power to order the wives of tories to depart the State, in like manner entrusted to justices of the peace and supervisors by the act of July 1, 1780. This new function gave them authority "to take and sell all the Goods and Chattels in the Possession of the Wives of Persons who have voluntarily gone over to and joined, or shall hereafter go over to and join the Enemy, and to apply the Monies arising therefrom, to defraying the Expence of removing such Wives, and such of their respective Children as are not above twelve Years of Age, within the Lines of the Enemy." An accounting of such sales and expenditures was required to be lodged with the auditor-general of the State.

During the second meeting of the fourth session a number of representations, which ventilated grievances, were received by both houses of the legislature from different districts and precincts of the State. Among them was one

¹ Appendix I: Laws, March 22, 1781.

signed by a committee of twenty-three persons chosen by the inhabitants of several of the precincts of Dutchess county. It recited fourteen specific grievances as causing embarrassments to the State, the second of which was directed against the commissioners for conspiracies and their powers. Upon its reception by the senate, on February 9, 1781, that body sent it to the committee of the whole. Similarly a committee from several districts of Albany County signalized the legislature by a representation of seventeen grievances, dated February 16, which was smothered on the 17th by reference to the committee of the whole house. The fifth grievance stated that "the Star Chamber Court of commissioners for detecting & defeating conspiracies ought to be abolished & that three men or more should be appointed in each District by the civil Magistrates and field officers of said District which men so appointed ought to be authorized & required by Law to examine all persons of suspicious appearance & characters and detect, and prevent all conspiracies and combinations against the good people of this, and the United States by apprehending and bringing before the civil magistrates all enemies to and Disturbers of the commonwealth with the witness against them."¹ The nature and multiplicity of these grievances precluded separate consideration, whereupon both houses agreed to the appointment of a joint committee "to prepare and report the Draft of an Address from the Legislature to their Constituents, on the subject of the several Matters, suggested as Grievances in the Representations to the Legislature."² This address

¹ These original representations are in *Assembly Papers — Miscellaneous*, vol. 2, pp. 18, 38.

² *Senate Votes* (fourth session), pp. 43, 46, 50, 64, 69; *Assembly Journal*, 1781 (Albany, 1820), pp. 29, 31, 52, 54. The address of the legislature was printed in pamphlet form by Samuel Loudon at Fishkill, for official circulation among the people.

was presented and read in the senate on March 13, 1781, and is a masterful document. It answered the complaint against the commissioners for conspiracies in the following manner, viz.:

"The extraordinary Powers given to Commissioners for defeating Conspiracies, may undoubtedly be justified by our peculiar Situation, and by the Practice of all Nations under similar Circumstances. On this Occasion, we are again impelled to call on your Candour, and to ask (beset as we are by avowed Enemies, and infested with concealed Traitors, who with Facility maintain criminal Intercourse, scatter the Seeds of Disaffection, and take Advantage of the Credulity of the Honest, but uninformed) whether it is not absolutely necessary, to be attentive to their Motions, to compare Intelligence received from different Quarters, to counteract the various Machinations they are incessantly practising to subjugate us to British Tyranny, that the Legislature should delegate such powers as these Commissioners are invested with. From a Persuasion that you conceived their Proceedings may, in some Instances, have been improper, we do you the Justice to believe, that hence your Complaints have originated; and we flatter ourselves, that on a more serious Consideration, you, as Friends to your Country, will be impressed with the Necessity of such Powers, and that they will be obnoxious to none but the Disaffected. The Proceedings of these Commissioners will, however, be submitted to the Inspection of a Committee of both Houses, in Order to discover whether they have abused their Authority."¹ Quite in contradistinction to some of the complaints was a petition received in the assembly, on March 5, 1781, from the field officers and

¹ *Senate Votes* (fourth session), pp. 72-76.

other officers of the militia, and sundry other inhabitants of the east district of the manor of Rensselaerwyck, against a number of inimical persons who had convened there, advising the inhabitants to lay down their arms and give submission to the government of the King of Great Britain. These petitioners requested that the commissioners for conspiracies be given legal authority "to send such disaffected persons to serve on board of the fleet of his most Christian Majesty, or of the United States."¹

On February 20, 1782, a memorial to the legislature was drawn up by Fonda, Beeckman and Stringer, commissioners for conspiracies in Albany County, praying that provision be made for defraying contingent charges and for compensating them for their services. It was presented in both senate and assembly and referred to special committees.²

Copies of a petition were circulated among the inhabitants of Westchester County early in 1782, directed against the commissioners for conspiracies. It recited that, while the extraordinary powers with which they were invested might have been justified and permissible at an early period of the war, when a constitutional form of government did not exist, they were now but "a dead Cost to the Public and entirely unnecessary." The petitioners believed that through the vigilance of that county's whig population and the zeal of its civil and military officers, toryism would be repressed more effectively. They conceived the existence of commissioners for conspiracies to be contrary to the intent of the constitution of the State, which "declares the civil and military Authority sufficient to govern the People, where each Subject may have a fair and impartial Trial by Jury; That grand Bulwark is here taken away by that

¹ *Assembly Journal*, 1781 (Albany, 1820), p. 50.

² *Senate Votes* (fifth session), p. 39; *Assembly Votes* (fifth session), p. 52.

Board of Commissioners or otherwise may be deem'd a Tribunal with absolute and despotic Power." Seven copies of this petition,¹ signed by about 215 persons, were received in the assembly on March 19, 1782, and, after being read, the joint petition was referred to a special committee, which reported the next day as its opinion, that the act of June 14, 1780, relative to the commissioners, should be repealed. This committee stated that it had prepared the draft of a bill for that purpose and requested leave to present it to the house. The title of the bill was "An Act to authorise any two Justices of the Peace, to enlarge Persons who shall desert from the Enemy, and to repeal the Law appointing Commissioners for detecting and defeating Conspiracies." It was ordered to a second reading. Meanwhile, on March 21, the assembly received a petition² from Ebenezer Purdy, Nathan Rockwell and Israel Honeywell, three of the commissioners in Westchester County, dated the 4th, which was referred to another committee. These commissioners alluded to "some persons" who were "Clamorous as to their powers." They did not "wish to Insinuate a desire of Continuing in the Exercise of the office of Commissioners, it being a very disagreeable task and Subject to Aspersions." They sought means for resigning and for justifying their conduct before the legislature. On the 22d the aforesaid bill was read a second time and sent to a committee of the whole house. Assemblyman John Williams, of Charlotte County, on April 2, reported that some progress had been made on the bill, but that the committee of the whole house wished leave to sit again, which was granted. Evidently this was as far as it proceeded, and it was not enacted into law.³

¹ *Assembly Papers — Miscellaneous*, vol. 2, pp. 294-311.

² *Idem*, vol. 2, p. 312.

³ *Assembly Votes* (fifth session), pp. 67, 69, 71, 72, 86.

A joint committee of the legislature was appointed, on January 28, 1783, to inquire into the receipt and expenditure of public money, etc., which reported to the assembly on the 31st. Several resolutions grew out of this report, among them one requesting the commissioners for conspiracies to lay before the legislature at its next meeting "a State of the Prisoners under the Care of their Boards respectively; a general State of their present Business as Commissioners; the Amount of their unsettled Claims, Expences and Receipts; and a List of such Recognizances entered into before them, as have been forfeited."¹

On February 7, 1783, Assemblyman Jacob Ford, of Albany County, introduced a bill for the repeal of the laws relating to the commissioners for conspiracies, which was read a second time on the 8th and referred to the committee of the whole house, which on the 20th reported progress and desired leave to sit again. It was reported out on March 13 with an altered title and amendments, and ordered engrossed; was read a third time on the 15th, when debates arose, and was passed by a vote of nineteen as against sixteen, or a majority of only three votes; was sent at once to the senate for concurrence; reported back on March 25, with amendments made in senate, which were agreed to by the assembly; whereupon the bill was sent again to the senate for final passage the next day. The council of revision gave its approval on March 27, 1783.² Thus, on the day before this sixth legislative session terminated, the powers of the commissioners were repealed³ and vested in magistrates and courts. Recognizances taken by them, and not forfeited, were to be de-

¹ *Assembly Votes* (sixth session, second meeting), pp. 99, 101, 102.

² *Assembly Votes* (sixth session, sixth meeting), pp. 107, 109, 124, 154, 155, 159, 173, 176, 178; *Senate Votes* (sixth session), pp. 142 (two), 156, 160, 163.

³ Appendix I: Laws, March 27, 1783.

livered to the clerks of the courts of general sessions in the respective counties where they had originated, to be estreated or discharged in like manner as if entered into before such courts. Forfeited recognizances were to be given to the clerk of the supreme court to be prosecuted. The accounts of the commissioners were to be exhibited to the auditor of the State before the first Monday of August, 1783, to be reported by him to the next legislature. On or before May 1, 1783, the commissioners were required to make a return to a justice of peace in the respective counties in which they resided, of the names of the persons committed by them and the causes of such commitment, and no person committed could be discharged before the last-mentioned date. If anyone came meanwhile within the State from the British lines, a justice of the peace could cause his arrest and demand security for his appearance at the next court of general sessions to be held in the county where the offender was apprehended, or incarcerate him in a common jail until security was procured or until the next meeting of the general sessions. By the latter court the offender was subject to be committed again to jail until the meeting of the next court of oyer and terminer and general jail delivery in the county, there to plead his cause.

Numerous petitions were sent to this last session of the legislature during the war, requesting that certain persons, who had adhered to the British cause, and who in consequence had been removed by order of the commissioners for conspiracies and in accordance with the law, might be permitted to return. In every case, so far as ascertained, the legislature rejected the prayer of the petitioners by a unanimous vote.¹

¹ For example, a number of petitions were signed by a considerable number of inhabitants of the districts of Claverack, Kinderhook, Hillsdale and Kings, and presented in senate on March 13, 1783.—*Senate Votes* (sixth session), p. 140.

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The execution of the duties imposed by extraordinary laws upon the commissioners for detecting and defeating conspiracies, involved most uncongenial tasks. How they operated from time to time, as revealed in the proceedings of the Albany County board, the most important and active part of this official body of the State, is the subject-matter of the next chapter.