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*A Study of Disaffection in Upper Canada in 1812-5.*

By COLONEL E. A. CRUIKSHANK.

(Read May 15, 1912).

Travellers from the United States who visited Upper Canada during the first decade of the nineteenth century generally agreed in reporting that they had observed among the inhabitants "a determined partiality to the United States and a decided and almost avowed hostility to the British Government." One of these, Christian Schultz, related that while he was in a tavern at Niagara in 1807, he heard a man say in the presence of ten or twelve others who gave no sign of disapproval that "if Congress will only send us a flag and a proclamation declaring that whoever is found in arms against the United States shall forfeit his lands, we will fight ourselves free without any expense to them."

War was then believed to be almost inevitable in consequence of the collision between the frigates *Leopard* and *Chesapeake*.

Indeed, Lieutenant Governor Gore wrote officially to Sir James Craig about the same time:—

"I think I may venture to state that the generality of the inhabitants from Kingston to the borders of the lower province may be depended upon, but I cannot venture to assert from the industry that has been used by certain characters now and lately in the province that the inhabitants about the seat of this government, Niagara and Long Point are equally to be relied on. I have also to observe that excepting the inhabitants of Glengarry and those persons who served in the American War and their descendants, which form a considerable body of men, the residue of the inhabitants of this colony consist chiefly of persons who have emigrated from the States of America, and of consequence retain those ideas of equality and insubordination much to the prejudice of this government so prevalent in that country."

Of these immigrants a majority had certainly been allured by the promise of free grants of fertile lands, but no small number had fled to escape punishment for their crimes or to evade the pursuit of their creditors. Among the latter were at least two politicians of some note, Barnabas Bidwell and Garnett.<sup>1</sup> It was also estimated that more

<sup>1</sup> "Barnabas Bidwell was made member of Congress, Attorney General and Treasurer of Berkshire and at the time of his exit was heir presumptive to Gerry's governorship and if he had not chosen to change relations, he would undoubtedly have received the judgeship Judge Story now enjoys."—*Salem Gazette*, March 3, 1814.

than seven hundred deserters from the army of the United States and nearly as many runaway slaves had found a secure refuge within the limits of that province.<sup>1</sup>

President Jefferson went so far as to inform General Turreau, the French ambassador at Washington, in the course of a confidential conversation, sometime in July, 1807, that "If the English do not give us the satisfaction we demand (*i.e.*, for the attack on the Chesapeake), we will take Canada, which wants to enter the Union; and when, together with Canada, we shall have the Floridas, we shall no longer have any difficulties with our neighbors; and it is the only way of preventing them."<sup>2</sup>

Animated by such sentiments it must have seemed to him a mere matter of ordinary prudence to take secret measures to ascertain the strength of the latent feeling in favor of annexation which he believed to exist in Canada, and even to foster it. How far he succeeded in this can scarcely be stated definitely.

Early in the spring of 1812, while the question of declaring war against Great Britain was still being warmly debated in Congress, a large, fine looking man, who gave his name as Nathaniel Cogswell, of Newburyport in Massachusetts, introduced himself to the British Consul at Philadelphia, and offered to disclose a plot for the separation of Canada from the British Empire in promoting which, he stated, that he had been employed as chief agent ever since 1806. While so engaged, he had visited the British provinces on four different occasions, had resided there for twelve months, and had been once arrested on suspicion. He had been instrumental in the employment of about one hundred sub-agents in the promotion of this scheme, and his motive for now revealing it, he stated, was to obtain revenge, because his application for the rank of Brigadier General in the army had been refused. If his expenses were paid to Quebec he would make known the full particulars of the conspiracy to the Governor General, who could easily test the truth of his statements. The consul communicated with Mr. Foster, the British Minister at Washington, who considered his story of such importance that he readily advanced four hundred dollars for travelling expenses, and wrote a letter of introduction in cypher to Sir George Prevost.<sup>3</sup>

On June 22, 1812, Cogswell addressed a letter to Prevost from Odelltown in which he said:—

"The subversion of the British in the two Canadas has been earnestly desired and waited for by the Govt. of the U.S. ever since Mr. Jefferson came into office. Not that there was any wish or desire

<sup>1</sup> Louisville Gazette, 1807.

<sup>2</sup> Turreau to Talleyrand, quoted by H. Adams, *Hist. of the United States*.

<sup>3</sup> Foster to Prevost, undated, Canadian Archives, Sundries, L.C. 1812.

that it might pass into the hands of France or that it should be immediately annexed to the U.S., but that it should become (or be declared) an independent Govt., assimilated in its form & offensively & defensively allied to that of the U.S. who wd have guaranteed its inviolability till such time as the union of the two countries might feasibly have taken place. It was contemplated so to regulate the ostensible conduct of the Govt. of the U.S. as that neither the Govt. of G.B. or France wd have publicly taken any exception at that & that the Canadas wd in due time & in this way have smoothly amalgamated with & become an integral part of the U.S. The independence of Canada was to have been effected without the seeming interference of the U.S. altho' they were to have been supplied by the Govt. of the U.S. with all the munitions of warfare and (when the favorable time arrived) with an influx of enterprising men under the colour of the lumber business which afforded an opportunity of introducing especially in Upper Canada of 3 or 4000 hardy men ready to engage in any desperate undertaking.

"This is the outline of the plan which originated with Mr. Jefferson and for the establishment of which he was heart & soul engaged. No money or means were to have been spared and the regular steps approximating towards its accomplishment had advanced infinitely beyond what the Govt. in Canada can have any idea of. In this business I was the Governmental agent as stated in the communication which I made to His Excy Augustus J. Foster. I was in this business what Govr. Matthews has been in that of East Florida. Mr. Jefferson was extremely desirous of expediting the business so as to effect the accomplishment, (or) at least of trying the experiment by putting the match to the train especially in the latter part of his administration & during the time of the embargo but his successor, Mr. Madison, who perhaps by nature is not calculated for bold undertakings and who has not like Mr. Jefferson been educated in the school of revolution & rebellion, permitted a relaxation of the undertaking by withholding the pecuniary supplies necessary for carrying on the service. The reason for withholding the supplies was (tho' I then doubted, but I now think it was the true one), that a war with Great Britain seemed inevitable and it was considered the Canadas wd in that event fall of course."

Of Cogswell's previous life nothing has been learned except that he delivered a Fourth of July oration at Newburyport in 1808, which was printed in pamphlet form, some copies being still extant.

Nearly at the same time we find the assistant secretary to the Governor General writing in the strictest confidence to his father:—

"Sir George, if he knows a fear on the subject of an American war or any other subject indeed, rather fears the insidious attempts of the

Govt. of that country by means of spies and secret agents introduced into this province in the guise of travellers or merchants than any open aggression of their armies. From New York to St. Johns, which is situated on the River Richelieu, there is continual communication by means of a steamboat and from St. Johns to Montreal a stage runs at all times and seasons so that persons of any kind or nation may enter Canada with perfect ease and indeed there are continually persons going from Montreal to New York so that there are at this moment in Canada men of the most dangerous designs who might do a great deal of mischief here if not well watched. But fortunately the Police Officers are men of ability both at Quebec and Montreal and are wonderfully vigilant in the performance of their duty."<sup>1</sup>

Four years before, soon after his arrival at Halifax as Lieutenant Governor of Nova Scotia, Prevost had despatched John Howe to Boston as a confidential agent with instructions "to ascertain what ideas are entertained as to the feasibility and mode of attacking Canada, New Brunswick, and Nova Scotia, and whether by sea or land, whether the inhabitants of those provinces, or any or what part of them are considered as having any partiality or attachment to the United States, whether it is supposed that there is any disposition to favor or assist the United States in case of War with Great Britain or to Separate from Great Britain and enter into the confederacy of the United States."

Howe had reported after careful enquiry among men of all parties both at Boston and Washington:—

"The Conquest of Canada, they contemplate as a matter perfectly easy; and whenever they speak of it they build much on the disposition of the Canadians as friendly to them. They reckon also, on a ready welcome from a number of Americans who have of late years become Settlers in Upper Canada. And this last circumstance at least, may well lead His Majesty's Government to consider whether it is politic to admit as settlers near the Frontiers, men of this description."<sup>1</sup>

Since that time the number of American settlers in Upper Canada had steadily increased, and writing in 1810, the traveller, John Melish had affirmed his belief "that if 5,000 men were sent into Upper Canada with a proclamation of independence the great mass of the population would join the American Government."

During 1810 and the following year a large tract of land on Talbot Street and elsewhere in the London District was thrown open for settlement. Six hundred lots were quickly taken up mainly by persons

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<sup>1</sup> A. W. Cochran to his father, June 23, 1812, Canadian Archives, M. 147.

<sup>1</sup> Can. Arch. M. 577 F. and 577 H.

arriving from the United States, who were merely required to take an oath of allegiance and perform certain light settlement duties within two years.

In March, 1811, an address was presented to Lieutenant Governor Gore from "the magistrates, clergy and principal inhabitants of the Eastern District" wherein they said, "Your petitioners were aware that the sudden influx of wealth into the colony for several years past, confined as it has principally been to the lumber business by withdrawing great numbers of the inhabitants from agricultural pursuits had spread dissipation and idleness among the common people to a most lamentable extent and they were prepared to expect that the habits of expense which the success of this branch at first introduced would not only continue after it had ceased to be profitable but might give rise to many irregularities. But the recent atrocious attack on the public peace and government of the province by the forcible rescue of a condemned felon in a neighboring district and the numerous crimes perpetrated in the country, chiefly, indeed, by aliens, have so far exceeded what they could have looked for as to raise no small degree of alarm and tending as they certainly do to lessen the security of the persons and property of His Majesty's dutiful and loyal subjects, they seem to recommend some speedy and effectual amendment in the police of the country."

They requested him to station small detachments of regular troops in the villages most exposed to the inroads of evil disposed persons from the other side of the St. Lawrence "for the purpose of giving certainty to the execution of the laws and encouragement to every good and loyal subject during the continuance of the present political difference between the British Empire and the United States."

"Your petitioners," they continued, "cannot conceal from Your Excellency that the sudden and indiscriminate influx of foreigners, sometimes openly, and at other times secretly hostile to the British Government, gives them great uneasiness and begins to render their situation much less comfortable than it might have otherwise been, and when they look at their children, they are filled with serious apprehensions lest they should imbibe principles very different from those which induced their parents to fight for their King and country and which still induce them to cling with delight to that happy Island, the birthplace of true liberty, and now her last hope in the general wreck of nations." For the larger number of the inhabitants, they affirmed, were still unquestionably loyal but this majority was rapidly decreasing and they strongly urged the "necessity of introducing some check to the admission of strangers from the neighboring States in proper time before their numbers become formidable and the evil incurable."

This memorial bore the signatures of John Stuart and eighteen other magistrates, the Reverend John Strachan and the Reverend John Bethune, Sheriffs Alexander Macdonell and Neil Maclean, Thomas Fraser and Abraham Marsh, members of the Legislative Assembly, and many other leading residents of the district.<sup>1</sup>

It cannot be deemed surprising that in view of the secret and public information in their possession, Clay, Calhoun, Grundy and other members of Congress felt fully justified in their assertions of the ease with which the conquest of the British provinces might be effected.

On the 22nd of January, 1812, Thomas Barclay, the British consul in the city of New York wrote to Prevost warning him that resolute efforts would be made "to seduce the inhabitants of Upper Canada generally and the French Canadians in Lower Canada from their allegiance" and "to introduce characters fitted to persuade and delude the ignorant." He advised that a watch should be particularly kept on the movements of a well known man named Rous living on the frontier as "he is a sensible, intriguing, cunning man, eminently qualified for such purposes and well acquainted with all the disaffected Canadians."<sup>2</sup>

A month later, (February 24), Major General Brock on whom the civil administration of Upper Canada had devolved in the absence of Gore, published a proclamation announcing that "divers persons had recently come into the province with a seditious intent and to endeavor to alienate the minds of His Majesty's subjects" and instructing the commissioners lately appointed to enforce the act of the Legislature for the better security of the province to be vigilant in the discharge of their duty.

On the following day he was obliged to report his bitter disappointment at the defeat of an important amendment to the militia act which had been proposed at his request.

"The many doubtful characters in the militia," he wrote, "made me anxious to introduce the oath of abjuration into the bill. There were twenty members present when this highly important measure was lost by the casting vote of the chairman. The great influence which the fear and number of settlers from the United States possess over the decisions of the Lower House is truly alarming and ought by every practical means to be diminished.

"To give encouragement to real subjects to settle in this Province can alone remove the evil. The consideration of the fees ought not to stand in the way of such an arrangement. . . . The bill for

<sup>1</sup> Petition in Can. Arch. Sundries, U.C. 1812.

<sup>2</sup> Correspondence of Thomas Barclay, p. 304.

the suspension of the Habeas Corpus, I regret to say, was likewise lost by a very trifling majority. A strong sentiment now prevails that war is not likely to occur with the United States, which I believe tended to influence the vote of the members. I mean of such who tho' honest are by their ignorance easily betrayed into error."<sup>1</sup>

Meanwhile Michael Smith, an itinerant Baptist preacher from Pennsylvania, who had been a resident of the London District since 1808, was busily engaged in collecting material for a description of the province for which he appears to have obtained the approval of Lieutenant Governor Gore. He had made arrangements for printing his book at Buffalo and much of the copy was ready when the war began and delayed publication but added material. Late in the autumn of 1812, Smith with other aliens who desired to leave the country was ordered from York to Kingston. On the 26th of December, he appeared before the Board of Examiners at the latter place and upon stating that he was a native of the township of Radnor in the county of Chester in Pennsylvania and although a resident of Upper Canada for more than three years, had never taken the oath of allegiance, received permission to return to the United States.<sup>2</sup>

In April 1813, his book was printed at Hartford, Conn. It was entitled "A Geographical View of the Province of Upper Canada and promiscuous remarks upon the government. In two parts with an appendix containing a complete description of the Niagara Falls and remarks relative to the situation of the inhabitants respecting the war." This little volume, of which a thousand copies were published, sold so readily that a second edition of three thousand copies was printed at New York a few months later.<sup>3</sup>

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<sup>1</sup> Brock to Prevost, February 25, 1812, Can. Arch. C 676, p. 92.

<sup>2</sup> Proceedings of the Board of Examiners, December 26, 1812, Can. Arch. Sundries, U.C. 1812.

<sup>3</sup> In all Smith published six editions of his work which he diligently revised and expanded, and twenty thousand copies were printed. Their titles are as follows:—

1. "A Geographical View of the Province of Upper Canada and promiscuous remarks upon the government. In two parts with an appendix containing a complete description of Niagara Falls and remarks relative to the situation of the inhabitants respecting the war. Hartford, printed for the author by Hale and Hosmer. 1813." Pp. V. and 101. The preface is dated at Winchester, April 16, 1813.

2. A second edition under the same title with the addition of these words "and a concise history of its progress to the present day." New York, printed for the author by Pelsue and Gould, August, 1813. Pp. 119. A few paragraphs at the end of the first edition commenting favorably on the conduct of the Indians were omitted and some minor changes made in the text elsewhere.



His remarks on the state of public feeling in Upper Canada, if not unbiased, are usually sensible and moderate, and show an intimate knowledge of local conditions.

"One out of every twelve of the inhabitants of Upper Canada," he wrote, "are natives of England, Ireland and Scotland, and all the children of such born in Canada make the proportion a little more than two out of ten. There are about an equal number of those who took part with the King in the Revolution, who with their children born in Canada make about one-sixth of the inhabitants; the rest with their children are Americans. Or in other words, if all the people were divided into ten equal parts, eight parts would be natives of the United States with their children born in Canada and two parts of these eight would be what are now called loyalists (though born in the United States before the war), with their children born in Canada. The other six would be natives of the United States with their children born in Canada. Within the term of twelve years the inhabitants of the upper province have increased beyond conjecture as the means of obtaining land have been extremely easy."

3. Third edition bearing the same title as the second. Philadelphia, printed by J. Bioren for Thomas and Robert Desilver, October, 1813. The preface states that the book has been corrected and considerably enlarged. Four pages of new matter have been added at the end, apparently culled from contemporary newspapers.

4. Fourth edition. Trenton. Published and sold by Moore and Lake. William and David Robinson, printers, November, 1813. Pp. 118. A revision of the third edition, issued under the same title.

5. "A Geographical View of the British Possessions in North America, comprehending Nova Scotia, New Brunswick, New Britain, Lower and Upper Canada with all the country to the Frozen Sea on the north and the Pacific Ocean on the west. With an appendix containing a concise history of the war in Canada to the date of this volume. By M. Smith, author of 'The View of Upper Canada', Baltimore. Printed by P. Mauro for the author, 1814." Pp. 288.

6. "A complete history of the late American war with Great Britain and her allies from the commencement of hostilities in 1812 till the conclusion of peace with the Algerines in 1816 with geographical notes relative to the seat of war and scene of battle and Biographical Sketches of the principal actors. By M. Smith, author of 'The View of the British Possessions in North America and History of the War.' Sixth edition revised and corrected by the author. To which is added a narrative of the author's sufferings in Canada with his family and journey to Virginia and Kentucky. Lexington, Ky. Printed for the author by F. Bradford, January, 1816." Pp. 288. This contains a long account of his examination at Kingston, in which considerable resentment is expressed towards Honourable Richard Cartwright, a member of the Board, who is described as having addressed him rather rudely. The tone of this volume is characterized by greater bitterness than the former editions, which may perhaps be regarded as a concession to the popular sentiment in the region where the greatest sale was anticipated.

A majority of the residents of the Eastern and Johnstown districts were loyalists or emigrants from the highlands of Scotland, many of them having served in disbanded regiments. Recent settlers from the United States were most numerous in all the others except Niagara where there were many loyalists. A large number of the inhabitants of the Western district were of French descent, most of whom had come in from Michigan when the military post at Detroit had been surrendered to the Americans. Two-thirds of the members of the Legislative Assembly and a third of the magistrates had been born south of the boundary; but a good many of these were pronounced loyalists. As the juries were selected in rotation from the assessment rolls it frequently happened that a majority were recent settlers from the United States. Every person born in the former British colonies before the conclusion of the treaty of Versailles was indubitably a British subject by birth and consequently eligible for election or appointment to office.

In a letter to Lord Liverpool, dated March 23, 1812, referring to the recent session of the Legislature, Brock wrote:—

“My observations convinced me of the expediency of every militia-man taking an oath abjuring every foreign power. The many settlers from the United States who openly profess a determination of not acting against their countrymen, made some test highly necessary. The number of aliens emigrating from the United States, who have acquired property and consequently votes for the Assembly, alarmed at the novelty of an oath of abjuration, exerted their utmost efforts and ultimately succeeded (so extensive is the influence of these people that it even masters the Legislature), in preventing by the casting vote of the chairman, the adoption of this. A bill for the suspension of the Habeas Corpus was also defeated by their influence. Liable to the constant inroads of the most abandoned characters who seek impunity in this province from crimes of high enormity committed in the States and surrounded by a population, a great part of which profess strong American feelings and attachments, it will not, I hope, be deemed unreasonable at a time like the present, if I should be desirous to be clothed, in conjunction with His Majesty's Executive Council, with the means so well calculated to maintain public tranquillity.”

Smith roundly asserts that had the Habeas Corpus Act been suspended at that time, an insurrection would have ensued.

Still a large number of the young men liable for militia service readily volunteered for training in the flank companies authorized by the recent act in spite of determined efforts on the part of some of their disloyal neighbours to dissuade them. There were, however, some notable exceptions. Colonel Ralfe Clench, commanding the First Lincoln Regiment, when reporting that a large number of his men had

not offered their services, remarked, "I am happy to say that the major part of those persons are people from the United States lately with a few of our malcontent settlers in the towns of Niagara and Queenston and village of St. Davids where Captain Robertson's mostly reside."<sup>1</sup>

In his well known proclamation, dated the day after entering the Western District at Sandwich, General Hull made a direct appeal to the recent immigrants in the most significant terms.

"Raise not your hands against your brethren. Many of your forefathers fought for the freedom and *Independence* we now enjoy; being children therefore of the same family with us and heirs to the same heritage, the arrival of an army of friends must be hailed by you with a cordial welcome. You will be emancipated from tyranny and oppression and restored to the dignified position of freemen. Had I any doubt of eventual success, I might ask your assistance, but I come prepared for every contingency. I have a force which will look down all opposition, and that force is but the vanguard of a much greater. . . .

. . . . If you tender your services voluntarily they will be accepted readily."<sup>2</sup>

Two hundred copies of this proclamation were printed in English or French and distributed as rapidly and widely as possible with such effect that half of the militia assembled at Amherstburg promptly deserted. Sixty of these men reported at Hull's headquarters within twenty-four hours to claim the protection promised by him and some of them enlisted under his command. A scouting party which advanced up the Thames as far as Allen's Mills in the township of Delaware was immediately joined by Simon Zelotes Watson, Ebenezer Allen and Andrew Westbrook, who had quarrelled fiercely with Colonel Talbot over the location of lands. Watson was a land surveyor and speculator who had formerly held the office of justice of the peace in the Montreal District. Allen had served as a volunteer in the British Indian department during the Revolution but bore a very doubtful character. Westbrook was a blacksmith lately from the United States who had acquired a considerable quantity of land and desired more. These three men accompanied the invaders to Sandwich and possibly gave Hull an exaggerated account of the disaffection and apathy of the inhabitants. The title if not the rank of colonel was at once conferred on Watson who received authority to enlist a troop of mounted men. Allen and Westbrook were employed to distribute proclamations and undertook to exert themselves in dissuading the inhabitants from offering any

<sup>1</sup> Colonel Ralfe Clench to Major-General Shaw, Apr. 1, 1812. Can. Arch. Militia, U.C. 1812.

<sup>2</sup> Proclamation to the inhabitants of Upper Canada, July 13, 1812.

resistance. On their return to Delaware they actively circulated a petition desiring Hull to detach a force for their protection which was signed by many of their neighbours.

On the 20th of July a copy of Hull's proclamation was obtained by General Brock and he was informed at the same time that "it had been productive of considerable effect on the minds of the inhabitants."<sup>1</sup> Further intelligence of an alarming nature induced him to direct the march of a small force of regulars and militia to Delaware to overawe or arrest the malcontents.

"Numbers have already joined the invading army," he wrote, "commotions are excited and late occurrences have spread a general gloom. . . . The enemy's cavalry amounts to about 50. They are led by one Watson, a surveyor from Montreal, a desperate character. This fellow has been allowed to parade with about 20 men of the same description as far as Westminster vowing as they went along the most bitter vengeance against the first characters in the province. Nothing can show more strongly the state of apathy in that part of the country. I am perhaps liberal in attributing the conduct of the inhabitants to that cause."<sup>2</sup>

In a few days, however, a party of militia led by two enterprising young officers succeeded in arresting both Allen and Westbrook and learned that Watson had returned to Sandwich. The apprehension of these two men had a marked effect upon the disaffected.

Meanwhile the flank companies of the Norfolk militia had been ordered to assemble at Long Point and march to Oxford under the command of Colonel Talbot who had become unquestionably unpopular. Many of them absolutely refused to obey this command and with very few exceptions the remainder mutinied and returned home after marching a few miles, alleging as reasons for their conduct their great dislike for their commander and the reluctance they felt in leaving their families exposed to the depredations of the Indians of the Grand River, whose attitude at that time appeared extremely suspicious.

Still, there can be little doubt that there was a regularly organized effort to prevent the militia from obeying orders. Smith states that John Beemer, a justice of the peace, Timothy Collver, an ensign in the Norfolk militia, and a third man whose name is not recorded, rode about the country from house to house for three days advising them to refuse to march. Beemer was present at the muster and on being called upon by Colonel Talbot as a magistrate boldly told him that

<sup>1</sup> Brock to Prevost, July 20, 1812, Can. Arch. C 676, p. 203.

<sup>2</sup> Brock to Prevost, July 26, 1812, Can. Arch. C 676, p. 408.

"he conceived the measure of withdrawing the militia from Long Point was highly improper."<sup>1</sup>

On the other hand Joseph Willcocks, the acknowledged leader of the opposition in the Legislative Assembly tendered his services in the defence of the province and Brock at once requested him to exert his influence with the Six Nations on the Grand River to secure their co-operation against the invaders. Willcocks seems to have made a sincere effort to comply, but was soon prostrated by an attack of fever which rendered him unable to do anything for several weeks.<sup>2</sup>

In his speech to the Legislature delivered on July 28, Brock again strongly advocated the suspension of the Habeas Corpus Act, saying:—

"A few traitors have already joined the enemy, have been suffered to come into the country with impunity and have been harbored and concealed in the interior, yet the general spirit of loyalty which appears to pervade the inhabitants of this Province is such as to authorize a just expectation that their efforts to mislead and deceive will be unavailing. The disaffected, I am convinced, are few. To protect and defend the loyal inhabitants from their machinations is an object worthy of your most zealous deliberations."

Next day after learning that the Norfolk militia as a body had refused to march to Oxford he became deeply depressed and wrote:—

"The population, although I had no great confidence in the majority, is worse than I expected to find it and the magistrates, &c. &c., appear quite confounded and decline acting—the consequence is the most improper conduct is tolerated. The officers of militia exert no authority. Everything shows as if a certainty existed of a change taking place soon. But I still hope the arrival of reinforcements may yet avert such a dire calamity. Many in that case would become active in our cause who are now dormant.

"I have the honour herewith to transmit a copy of my speech to the two houses delivered yesterday. A more decent house has not been elected since the formation of the Province but I perceived at once that I shall get no good of them. They, like the magistrates and others in office, evidently mean to remain passive. The repeal of the Habeas Corpus will not pass and if I have recourse to the law martial, I am informed the whole armed force will disperse. Never was an officer placed in a more awkward predicament. The militia cannot possibly be governed by the present law—all admit that fact, yet the fear of giving offence will prevent anything effectual from being effected."<sup>3</sup>

<sup>1</sup> Talbot to Brock, July 27, 1812. Can. Arch. Militia Papers, U.C. 1812; Smith Geographical View, *passim*.

<sup>2</sup> Willcocks to Macdonell, September, 1812. Can. Arch. Militia papers, 1812.

<sup>3</sup> Brock to Prevost, July 28, 1812. Can. Arch. C 676, p. 217.

A day later he said in a letter to the Adjutant-General:—

"My situation is most critical, not from anything the enemy can do but from the disposition of the people—the population, believe me,—is essentially bad—a full belief possesses them all that the Province must inevitably succumb—this prepossession is fatal to every exertion. Legislators, magistrates, militia officers, all have imbibed the idea, and are so sluggish and indifferent in their respective offices that the artful and active scoundrel is allowed to parade the country without interruption and commit all imaginable mischief. They are so alarmed of offending that they rather encourage than repress disorders and other improper acts. I really believe it is with some cause that they dread the vengeance of the democratic party, they are such a set of unrelenting villains."<sup>1</sup>

Finally on the 3rd of August the Executive Council was convened and Brock informed the members that all his expectations of support from the Legislative Assembly had been disappointed as that body had consumed eight days in debating a single partisan measure, the repeal of the School Bill, and in passing an act for the disclosure of treasonable practices before a magistrate should have power to commit without bail, and requested their advice whether it would be expedient for him to prorogue the Legislature at once and proclaim martial law.

In his written summary of the situation he stated:—

"That the enemy had invaded and taken post in the Western District, was multiplying daily his preparations to invade in others; that the militia in a perfect state of insubordination had withdrawn from the ranks in active service, had refused to march when legally commanded to reinforce a detachment of the regular force for the relief of Amherstburg, had insulted their officers and some not immediately embodied had manifested in many instances a treasonable spirit of neutrality or disaffection.

"That the Indians on the Grand River, tampered with by disaffected whites, had withdrawn from their voluntary services and declared for a neutrality which in respect to them was equally inadmissible as with the King's other subjects.

"That in the Western and London Districts several persons had negotiated with the enemy's commander, hailing his arrival and pledging support."<sup>2</sup>

As he subsequently remarked in a letter to his brothers, he felt that "the state of the province admitted of nothing but desperate measures."

<sup>1</sup> Brock to Baynes, July 29, 1812. Can. Arch. C 676, p. 239.

<sup>2</sup> Proceedings of Council, August 3 and 4, 1812. Can. Arch. Q 118, p. 187.

The Council adjourned over night for deliberation and informed him next day that it was their unanimous opinion that it was expedient to prorogue the Legislature immediately and proclaim martial law.

In a letter to Colonel Baynes, Brock stated that the Legislature had declined to do anything that they were asked.

"Everybody considers the fate of the country as settled and is afraid to appear in the least conspicuous to retard it. A petition has already been carried to General Hull signed by many inhabitants about Westminster inviting him to advance with a promise to join him. The ungrateful and infamous conduct of the Indians on the Grand River is still more mortifying."<sup>1</sup>

A hasty examination of a number of contemporary newspapers furnishes evidence that a considerable number of persons were either being deported or were voluntarily leaving the province by stealth. For instance a letter from Buffalo, dated July 14, records the arrival of four citizens of the United States who had made their escape from Long Point in a skiff. The *Buffalo Gazette* of July 21 reports that three others had been arrested but released and sent across the river, and a week later the same paper relates that another had been deported in the same way. On August 11, the arrival of eleven fugitives is recorded. A correspondent of the *New York Statesman*, writing from Lewiston, N.Y., on August 17, sarcastically remarks:—

"Canadians arrive daily. The Niagara river which in peaceable times can only be crossed in safety in boats, flats, &c., can now be passed in apparent safety on logs, rails, slabs, and even by many without any buoy whatever. Lakes Ontario and Erie, formerly considered extremely dangerous to cross with open boats, no longer present any obstacle to those who are so fortunate as to get possession of a boat—the perils of the sea are absorbed by the fear of being taken by their friends."

Three young men, who had lately arrived at that place from York, having crossed Lake Ontario in a row boat, stated that "a Mr. Wilmot, (Watson?) Surveyor General of Upper Canada, who lived near York for many years, has collected a respectable number of men, (about 60 in number), attached to the American cause and proceeded on his march through the wilderness to join General Hull. Wilmot, they say, is much exasperated against the Government of Canada and his followers not unlike their leader. Other reports of this nature there are in circulation, the truth of which cannot be ascertained."<sup>2</sup>

One of Brock's first measures on arriving at Port Dover on August 8 was to direct the arrest of Beemer and other persons suspected of

<sup>1</sup> Brock to Baynes, July 29, 1812.

<sup>2</sup> *New York Statesman*, August 25, 1812.

instigating the militia to disobey orders. Smith, however, explicitly states that many of the recent immigrants warmly resented General Hull's invitation to assist him in freeing them from British tyranny "for if they had been under any, they could at any time have crossed into the United States" and adds that when a militia officer came to warn them for service, they promised to obey but instead of doing so they concealed themselves in the woods to await the course of events.

When Detroit was surrendered several residents of the Western and London Districts who had taken service with the enemy were made prisoners, but Simon Z. Watson evaded capture and on August 20, 1813, was appointed topographical engineer on the General Staff of Military District No. 8, with rank of major in the United States Army. Among the prisoners were Chester Rogers, Isaac Willett, Elijah Willett, Samuel Hartwell, Stephen Hartwell and others, several of whom were duly paroled. Allan McDougall, Antoine Meloche, Antoine Lafitte and Isaac Willett were indicted for treason at the court of Oyer and Terminer held at Sandwich on September 11 and 12, 1812.

Nor were the evidences of disaffection at this time entirely confined to the western portion of the province. On August 10, Colonel Lethbridge wrote from Kingston:—

"There are, I am sorry to say, some exceptions to universal loyalty in the County of Leeds and I wish to be honored with your instructions in respect of men who have lived as peaceable inhabitants but who being called on, refuse to take the oath of allegiance. To send them across the river is perhaps accomplishing the very object they have at heart."<sup>1</sup>

For several months Brock's unexpected and surprising triumph at Detroit inspired the loyal militia with the utmost confidence and silenced the discontented.

A letter from a spy or secret agent addressed to Major General Van Rensselaer at Lewiston, N.Y., apparently written somewhere in the District of Niagara makes this quite clear.

"When General Hull's proclamation appeared it had its effect, there being a security for private property contained in it. Most of the inhabitants would willingly have submitted, but when it was found that private property was seized without (compensation), the public sentiment entirely changed. The success of General Brock established the change of sentiment. He has since made the most of it, has become personally highly popular and in short has taken every measure that a judicious officer could take in his circumstances for the securing of

<sup>1</sup> Lethbridge to Brock, August 10, 1812. *Can. Arch. C 688 A*, p. 173.



this province. A determination now prevails among the people to defend their country."<sup>1</sup>

At the court of Oyer and Terminer held at Niagara on August 26, and 27, 1812, the Grand Jury presented true bills for sedition against Joseph Bastedo and Abraham Lazalere. Bastedo pleaded guilty but Lazalere was tried and acquitted.

At the court held at Charlotteville in the County of Norfolk and District of London true bills for sedition were found against John Beemer and Joseph Willcocks. The presentment against the latter is a singular document and indicates that in his case at least the jurors were easily satisfied of his guilt.

"Friday, 4th September, 1812.

"The Jurors of our Lord the King upon their oath present that Joseph Willcocks, late of Niagara, Esqr., on or about the last of May or the first of June, 1811, at the Township of Walsingham in the District of London, in conversation with Mr. Backhouse in the house of the said Backhouse in Walsingham aforesaid, declared that he had obtained a power of attorney from the Six Nations of Indians on the Grand River as their public agent to transact all their business on account of their bad usage from their superintendent, Colonel Claus, and that said Indians had promised to stand by him or with him, that the Government of the Province had ill used him but that now he had the power of declaring to him that the country would shortly be taken possession of by the Americans; that a Mr. Dickson had offered him 200£ to be quiet and become a Government man but that he had refused it and said that he would not take less than five hundred pounds; that he now had Government in his power; that he would run his risk to make his fortune another way; that the Province would soon be overrun; that there was not one man in ten would defend it except the few old Tories and that the Indians would soon put them aside or cut them off; that in the latter part of January, 1812, he, the said Joseph Willcocks, at Walsingham, entered into conversation with the said Backhouse relative to the revolutionizing the Province, observed that he was then going to the House of Assembly; that it was the last time the Assembly would sit in the Province under the British Government; that on or before the fourth of July the Province would be in possession of the Americans; that he would be raised to an elevated station or placed high in power under the American Government. He then asked the said Backhouse to join him; he asked him for money which the said Backhouse refused and he, Willcocks, said the Americans had men

<sup>1</sup> Anonymous letter to Major-General Van Rensselaer, September —, 1812. Tompkins Papers, VIII, p. 177.

enough but wanted money and further said that there were many leading men in the country would furnish money and further said that if the said Backhouse did not join him, he, Backhouse, would be a ruined man.

JONATHAN WILLIAMS,  
*Foreman.*<sup>1</sup>

Two well known men of the name of Backhouse were then residents of the County of Norfolk, one of them, John Backhouse, being a justice of the peace and a captain in the first regiment of militia and the other, Thomas Backhouse, being an ensign in the same corps.

On October 29, Major-General Sheaffe having become administrator of the civil affairs of the province in consequence of Brock's death, informed the Executive Council that there were a number of persons in the province, some of whom were actually under arrest, who had refused to take the oath of allegiance as required by the 45th clause of the Act passed on the 5th of August, 1812, pleading in justification that they were citizens of and owed allegiance to the United States, who had desired permission to return to their own country. The advice of the council was required whether it was advisable to deport these persons as alien enemies. It was recommended that ten of them who were natives of the United States should be permitted to leave the province, but that two British subjects who had emigrated from Ireland less than two years before and had actually been residents of Upper Canada for more than twelve months should be prosecuted under the 14th clause of the Act.

Brigade Major Evans in a private letter stated that nearly three hundred prisoners charged with sedition and treasonable practices were confined in the jail and a blockhouse at Niagara when that place was bombarded on October 13, and those buildings were set on fire and destroyed by the enemy's shot.<sup>2</sup>

Early in November, boards were appointed to assemble at Niagara, York and Kingston for the purpose of examining all persons reporting themselves as subjects of the United States and as such claiming exemption from military service and thereby becoming liable to be sent out of the province. When satisfied of the truth of their statements these boards were empowered to issue passports to enable them to cross the frontier at such places and in such manner as seemed most expedient. If it became apparent that very serious injury might accrue to "such persons being settled and having families in the country who have not received lands from the Crown or taken the oath of allegiance," they

<sup>1</sup> Original in Osgoode Hall, Toronto.

<sup>2</sup> Evans to ———, October 15, 1812.

were directed to report the facts with their opinion as to "the terms of a modified allegiance or security for good conduct on which they may be permitted to reside."<sup>1</sup>

A proclamation was published at the same time announcing that "every citizen of the United States who did not report himself to one of these boards before the first day of January, 1813, should be considered as an alien enemy and become liable to be treated as a prisoner of war or a spy as circumstances might dictate."<sup>2</sup>

As already stated one of those who appeared before the board sitting at Kingston was Michael Smith, the Anabaptist preacher and author of the *Geographical View of Upper Canada*. He relates in his book that "twelve days after the battle of Queenston, Colonel Graham on Yonge Street ordered his battalion to assemble that a number might be drafted to go to Fort George. Forty of them did not come but went out to Whitchurch township which was nearly a wilderness and joined thirty more fugitives that were already there. Some men who were home for a few days volunteered to go and bring them in but since they were not permitted to take arms, they failed and the number of fugitives increased by the first of December to 300. When on my way to Kingston to obtain a passport I saw about fifty of these people near Smith's Creek in the Newcastle District on the main road with fife and drum beating for recruits and huzzaing for Madison. Some of these men remained in the woods all winter and Indians went out in the spring of 1813 and drove them into their caves where they were taken. None of the militia in the Newcastle District bore arms except twelve at Presqu' Isle harbour. They were universally in favor of the United States."

About the end of December a number of aliens were sent under escort from York to Niagara to be put across the frontier but it was finally decided that it would be imprudent to allow them to enter the United States at that time and General Sheaffe directed their passports to be suspended and granted them permission to reside without molestation at their former homes, when these were situated at a safe distance from the frontier, until further notice. Many aliens appeared before the board at Niagara of whom a considerable number were permitted to cross the river.<sup>3</sup>

Several officers of the Essex militia who had absented themselves from duty without leave during the invasion of the province were superseded and reduced to the ranks.<sup>4</sup>

<sup>1</sup> Circular letter appointing boards, November 9, 1812; Instructions to boards. *Can. Arch. C 688 B*, pp. 154-6.

<sup>2</sup> Proclamation, November 9, 1812.

<sup>3</sup> Sheaffe to Powell, January 9, 1813.

<sup>4</sup> General order, January, 1813.

Fugitives continued to make their way to Buffalo and other American posts on the frontier during the winter generally crossing Lake Erie on the ice. They agreed in reporting that the province was ravaged by disease and that "the most rigid iron despotism reigns. No person can speak his sentiments with freedom in relation to the Government."<sup>1</sup>

Yet in February Hamilton Merritt took occasion to remark that Joseph Willcocks "had changed about and become a zealous loyalist. He has behaved very well on all occasions and so have all his party altho' they are trusted with no office whatever."<sup>2</sup>

Early in March, James Anderson one of the few militiamen who had enlisted with the enemy in July, 1812, and had since evaded arrest, was taken in company with six others some distance back of Detroit, presumably on their way to join the American army, having made their way through the woods from the headwaters of the stream known as the river Huron of Lake St. Clair where they had been hiding.<sup>3</sup>

A resident of Detroit who had been deported about this time for having refused to take the oath of allegiance reported on his arrival at Buffalo that the militia of the township of Oxford had positively refused to march to the defence of the frontier, preferring to pay their fines rather than bear arms against the United States.<sup>4</sup>

The temporary occupation of the provincial seat of government by the enemy at the end of April was accompanied by some remarkable demonstrations of disaffection. Several persons confined in the jail for seditious conduct or disobedience to orders were at once liberated and the invaders "were joined by a number of vagabonds who gave them every information" and seized the opportunity to plunder the public stores and private dwellings.<sup>5</sup>

After the enemy's departure the situation became so alarming that a special meeting of the magistrates was convened which was attended by the judges and by the Reverend John Strachan. It was unanimously resolved that energetic measures "should be instantly adopted to preserve order and prevent anarchy, to support and encourage the loyal and to inspire the wavering." They affirmed their opinion that "it is equally now as before this invasion high treason to aid, assist, counsel or comfort the enemy" and called upon all persons "desirous to testify

<sup>1</sup> Buffalo Gazette, January 23, 1813.

<sup>2</sup> Merritt to Catherine Prendergast, February, 1813.

<sup>3</sup> Colonel J. Baby to Major-General Shaw, March 22, 1813. Can. Arch. Militia papers, U.C. 1813.

<sup>4</sup> New York Statesman, March 29, 1813.

<sup>5</sup> Memo by A. Maclean, May 4, 1812; Can. Arch. C 688 B, pp. 190-1; statement by Major Allan in Jarvis MSS.

their abhorrence of anarchy which must prevail if principles adverse to the above declaration gain ground to associate in support of and afford their aid to the civil authorities and their officers." The High Sheriff was instructed to promulgate and enforce this declaration.<sup>1</sup>

A lad who accompanied the British troops in their retreat from York to Kingston relates that they met several residents of the country on their way to welcome the invaders "who made no scruple to express themselves well satisfied with our *success* and their new masters. . . . The majority of this part of the country evinced great disloyalty as we proceeded being much gratified with the success of the Americans and considering they had nothing to fear from us did not hesitate to avow it. In many instances they concealed their horses, waggons, &c. in the woods to avoid accommodating us with them and told us they had none."<sup>2</sup>

While the Americans were in possession of the town it was observed that Samuel Jackson with his two sons and a butcher named Sudden were particularly active in riding about the surrounding country and urging everybody liable to the performance of duty in the militia "to come in and be put on their paroles, which caused great numbers to obey voluntarily and through fear."<sup>3</sup>

A few days later a company of the 1st York regiment was called into service and stationed on Yonge Street under the command of Captain Selby which had the effect of "keeping those bad, rebellious handitti very quiet."<sup>4</sup>

Evidences of apathy and positive disaffection became so numerous and alarming that eighteen of the most wealthy and influential residents of the Niagara District united in signing an address to General Vincent wherein they affirmed their opinion that "at present recourse only to the civil laws of this country would be unavailing and paralyse the best exertions of His Majesty's loyal subjects, endanger our existence as a people and government, the safety of which ought to be supreme law. When we observe a supineness or want of alacrity in some of our militiamen, traitors joining the enemy and some fostered amongst ourselves, reason and argument become nugatory. A regard to the interests of our Sovereign and the deliverance of these Provinces from the domination of the enemy would well warrant the immediate adoption of military law with a due regard to the habits and feelings of His Majesty's loyal sub-

<sup>1</sup> Statement of Major Allan and Proceedings of the meeting in Jarvis MSS.

<sup>2</sup> P. Finan, *Recollections of Canada during the late American War*, pp. 299-300.

<sup>3</sup> Memo. by T. G. Ridout in *Edgar's Ten Years of Upper Canada in Peace and War*, pp. 185-6.

<sup>4</sup> Col. Wm. Graham to Major-General Shaw, June 3, 1813, *Militia Papers*. Can. Arch. M.D. 32.

jects but aware that in your situation it might not be thought expedient to promulgate the same but placing implicit confidence in your discretion and ability, we would humbly presume to advise that you take upon yourself to adopt such measures as in your judgment would tend best to the defence of the country and in the exercise of such measures should individuals find a more rigid system adopted than in calmer & better times might be complained of, yet the necessity of such must now be apparent to all & the agent meet deservedly with His Sovereign's approbation and indemnity from a discerning public.

"Should eventually contingencies occur which might expose you individually to animadversion from such measures, we pledge ourselves upon all occasions hereafter to come forward and defend the necessity thereof and we hesitate not to say we will jointly and individually be responsible for any pecuniary deterioration your private resources may sustain thereby."<sup>1</sup>

Vincent like his predecessors in the command shrunk from the serious responsibility of governing the district by martial law, although ten days later he stated that he could neither report favourably of the number nor willing co-operation of the militia and that "desertion beyond all conception continued to mark their indifference"; but added that he believed if adequate reinforcements of regular troops were received many of those who were wavering would rally for the defence of province.<sup>2</sup>

Writing about the same time from Dover Mills in the county of Norfolk, Colonel Talbot reported that the greater part of the militia of the London District had turned out promptly; but asserted that "there is a part of the County of Oxford that with a very few exceptions are composed of a more violent and systematic *band* that those who compose the American army." He recommended that all aliens should be sent out of the province as they were "indefatigable in spreading discord among the inhabitants."<sup>3</sup>

A week after he took possession of Niagara General Dearborn reported that numbers of the inhabitants of the surrounding country had come voluntarily into his camp to give their paroles. "A large majority are friendly to the United States," he asserted, "and fixed in their hatred to the Government of Great Britain."<sup>4</sup>

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<sup>1</sup> Address to General Vincent signed by W. Dickson, Jas. Crooks, John Symington, R. Nichol, Thos. Dickson, A. McDonell, J. Powell, Jos. Edwards, A. Cameron, Robt. Campbell, Amos Chapman, S. Street, T. Cummings, T. Clark, D. Secord, George Turney and Robt. Grant.

<sup>2</sup> Vincent to Prevost, May 19, 1813. Can. Arch. C 678, p. 301.

<sup>3</sup> Talbot to Vincent, May 18, 1813.

<sup>4</sup> Dearborn to the Secretary of War, June 3, 1813.

A contemporary Buffalo newspaper stated that many residents of Canada opposite that place had come into the American garrison established at Fort Erie to be paroled and seemed "well suited by the recent charge."<sup>1</sup> A list containing the names of more than five hundred persons thus placed under parole was actually forwarded to Washington.

A letter from the American camp at Fort George, dated June 9 and printed in the *Richmond Enquirer* states:—

"There is a number of Yankees here from the Grand River— They come to obtain paroles and say that if our army leaves them, they dare not return to their homes for fear of the Indians. Norton and other Scotch chiefs have lists of suspected Yankees whom they will plunder and murder without remorse. What distresses our friends have suffered for refusing to take the oath and perform militia duty is incredible. Some died in jail and others have been robbed of their property by being fined eighty dollars at every draft. I pity them and I am (as our officers are), astonished that General Dearborn has confirmed the old magistrates in their appointments who used to oppress and pillory our American adherents."<sup>2</sup>

Another letter written from the same place under date of June 22, apparently by an officer in the United States army, relates that:

"Many of the inhabitants of this country when we were up towards the head of the lake showed us every favor and attention. But on our retreating the scene was truly distressing. To see them of every age and sex weeping and bewailing their fate, nothing more than an anticipation of their distress; they believed the tales we told them too soon. Many of them have been thrown on board the British fleet whilst others had their property given up to pillage and desolation. I feel it the more sensibly as the inhabitants on this side have been infinitely more kind than those on the other."<sup>3</sup>

These statements are to some extent corroborated by the reports of British and Canadian officers. Among the latter, Lieut. Colonel Pierre de Boucherville, Provincial aide-de-camp to the Governor General, who had been despatched to Upper Canada on a special mission, wrote that "the disaffection of the settler was shocking and deserved an exemplary chastisement."<sup>4</sup>

Eventually several persons were prosecuted for seditious conduct at this time.

Elijah Bentley of the township of Markham, an Anabaptist preacher, was indicted on the charge that on the 2nd day of May, 1813,

<sup>1</sup> Buffalo Gazette, June 8, 1813.

<sup>2</sup> Richmond (Va.) Enquirer, June 23, 1813.

<sup>3</sup> United States Gazette of Philadelphia, July 8, 1813.

<sup>4</sup> De Boucherville to Prevost, June 13, 1813. Can. Arch. C 679, p. 88.

while the armed forces of the enemy were in actual possession of the town of York, he had said in the presence of a large congregation of His Majesty's liege subjects, assembled to "hear him preach and hold forth on religious matters, 'I thank God there has never been such freedom for poor people in York as there has been since General Dearborn set his foot in it.' "He was tried, convicted and sentenced to be imprisoned for six months and to give bonds to keep the peace for five years.<sup>1</sup>

Andrew Patterson of the township of Whitchurch, yeoman, was presented by the Grand Jury of the Home District on the charge that on the 21st of June, 1813, in the presence of several of His Majesty's subjects in the said township, he pulled off his hat and cried "Huzza to the United States for their great success in taking Fort George."<sup>2</sup>

Late in June, Justice William Dummer Powell stated that the march of troops on their way to Niagara "through the country has occasioned an obvious change in the manners and language of the people" and that the establishment of a garrison of regular soldiers at York would "have an excellent effect in confirming the loyal and overawing the disaffected, especially if a party of dragoons could occasionally make excursions through the country" but affirmed his opinion that in the event of a serious reverse "little reliance is to be had in the power of the well disposed to repress and keep down the turbulence of the disaffected who are very numerous."<sup>3</sup>

Two days later, Lieut. Colonel Pearson, writing from Prescott, announced the arrest of a notorious American counterfeiter, named Tobiather Boyce, living near Brockville, on suspicion of being implicated in a plot to circulate counterfeit army bills." He bears the most infamous character for every kind of villainy of any man in this country and is the acknowledged leader of a gang who infest this country and preserve a constant intercourse with the Americans. From what I can learn the present business of counterfeiting our paper is supposed by some people on the *opposite* shore to be the connivance of the *American Government*, it has been hinted to be the case but not *directly reported* as a fact. . . .

. . . . I am sorry to say that my attention is too much occupied with men of this description who are inhabitants of this part of my district."<sup>4</sup>

It is worthy of remark that the information which led to the apprehension of this man had been supplied by Judge Ford of Ogdensburg.

<sup>1</sup> Indictment of Elijah Bentley in Osgoode Hall, Toronto.

<sup>2</sup> Indictment of Andrew Patterson in Osgoode Hall, Toronto.

<sup>3</sup> Powell to Prevost, June 28, 1813. Can. Arch. C 676, p. 148.

<sup>4</sup> Pearson to Baynes, June 30, 1813. Can. Arch. Sundries, U.C. 1813.



The acting Attorney General, John Beverley Robinson, reported to a committee of the Executive Council that many of the disaffected inhabitants of the Niagara District had actually joined the enemy, leaving, in some instances, large crops of grain nearly ready for harvest and it was consequently recommended that commissioners should be appointed to make arrangements for reaping and saving this grain for the public benefit with power to appraise it and answer any claims rising out of this measure.<sup>1</sup>

Commissioners were accordingly appointed by a District General Order and proceeded to take charge of the property thus sequestered.

General Vincent sought and obtained authority to seize provisions and forage for the supply of his division from persons refusing to sell and a General Order was published practically establishing martial law in that respect. Replying to an inquiry from General de Rottenburg as the proper mode of proceeding against prisoners charged with seditious conduct, the Governor General frankly advised him to declare the province under the operation of martial law and thereby suspend the jurisdiction of the ordinary courts of law if he deemed it necessary.<sup>2</sup>

The second occupation of York by the enemy although of very brief duration was attended by another convincing demonstration of disaffection. "There was several of the inhabitants constantly with them" Major Allan wrote, "who are known to be as great enemies as are in the country, to wit, a Mr. John Young, merchant, Mr. Stebbins, a tavern keeper, Mr. Gilbert, blacksmith, Mr. Peters, a lawyer, who receives *half pay & a pension besides*, a notorious man, and a great many in the country well known. In short Commodore Chauncey owned to the Revd. Dr. Strachan that he never heard of any place that contained half the number of persons publicly known and avowedly to be enemies to the government & country to be allowed to remain at rest in these parts and for our peril. I can positively assert that if immediate steps (more ready than by civil process) is not taken to apprehend & send away those people from the country the consequence will be serious.

"I take the liberty of enclosing Dr. Strachan's two notes I rec'd.

"This is a very confused letter & perhaps troubling you improperly but had I proceeded on my journey at this time I could have given a great deal more information. I most fervently pray as does several good & faithful subjects that some establishment may be kept at York and that something may be done about taking up those characters,

<sup>1</sup> Chief Justice Scott to de Rottenburg, July 18, 1813. Can. Arch. Sundries, U.C. 1813.

<sup>2</sup> Prevost to de Rottenburg, July 28, 1813. Can. Arch. C. 1221 pp. 143-4.

otherwise neither our life or property is safe when so many surround us as long as we are liable to be visited by the enemy's vessels and boats." <sup>1</sup>

Shortly afterwards an information was laid by Allan McNab against William B. Peters, barrister at law, charging him with frequently expressing "his conviction that the enemy would conquer the country and according to the deponent's observation, he seemed pleased at the idea of it." <sup>2</sup>

Allan's letter was considered of such importance by the Governor General that he directed it to be submitted to a committee of the Executive Council and the civil secretary informed the clerk that "the present circumstances of the country render it highly expedient that some mode of proceeding against persons detected in or suspected of traitorously corresponding with or affording information to the enemy tending to injure His Majesty's service, besides the ordinary law" should be devised to meet the emergency. <sup>3</sup>

While reconnoitering about this time along the shore of the Bay of Quinte, Major Drummond fell in with an old resident of that part of the province, named Connors, who mistaking him and his party for Americans, gave him voluntarily every information in his power that an enemy could have desired. He was promptly arrested and General de Rottenburg was instructed to issue a special commission to try the case "as a prompt trial and example would have the best effects of suppressing the disaffection so manifest among many inhabitants of the province." <sup>4</sup>

Major Allan appeared before the committee of the Executive Council to whom his letter had been referred for investigation but he was unable to instance any specific acts of treasonable conduct on the part of any of the persons named by him. The committee, however, took this opportunity of making a special report in which they remarked:—

"Since the first organization in 1792 the adventitious increase of population has, with very few exceptions, proceeded from the United States, whose subjects, enticed by the facility of obtaining grants of land, have settled amongst us without any predilection for His Majesty's Government. This District, it is but reasonable to suppose, from the period of its establishment, contains a very large proportion of such characters. To guard against the probable consequence of such a population in the event of hostilities with the United States, the

<sup>1</sup> Major William Allan to Baynes, August 3, 1813. Can. Arch. Sundries, U.C. 1813.

<sup>2</sup> Information of Allan McNab. Can. Arch. Sundries, U.C. 1813.

<sup>3</sup> MacMahon to Small, August 11, 1813. Can. Arch. Sundries, U.C. 1813.

<sup>4</sup> Brenton to de Rottenburg, August 9, 1813. Can. Arch. C 1221, pp. 144-5.

Executive Government has made frequent but fruitless efforts to obtain from the Legislature suitable provision for the security of the Province. An occasional suspension of the Habeas Corpus could only be obtained with such clauses as would defeat the intention of Government. A power to exercise martial law concurrent with the law of the land in cases of invasion and other emergency was also solicited but refused. So circumstanced it is not surprising that the enemy should receive intelligence fatal to the interests of the service. During the several visits of his fleet to this seat of Government, it is obvious to general apprehension that it has received aid, comfort and assistance from many and the general sentiment points out amongst others to the persons named in Mr. Allan's letter, but it must not be concealed that the police is too weak to act with effect in securing and detaining all the persons, even if any probability existed that prosecution would issue in conviction. Such has been the complexion of civil juries in this District that such a result is quite hopeless. The enemy has profited by the large supply of stores and provisions found unprotected in this post to bribe the good will and complacency of many who were not before addicted to their cause. Exertion was made by the magistrate after the first invasion to repress this evil by taking from its possessors the insidious gift of the enemy but abandoned and exposed a second time to the threatened vengeance of an exasperated banditti, the gaoler refused to take charge a second time of such as the vigilance and exertion of the magistrate had apprehended.

"Your Committee has judged it expedient to offer to Your Honor this view of the subject as a justification of the advice in which they unanimously concur.

"It is recommended to Your Honor that until a suitable force can be afforded for the protection of this place from the enemy, a detachment of infantry and cavalry should be stationed here under a prudent officer, whose duty it should be to cause to be arrested such persons as may be pointed out to him in writing by some confidential person in the Commission of the peace as justly suspected of any treasonable practice in respect of the enemy or dangerous design against the persons of His Majesty's subjects or the peace of the Government. "That such persons when apprehended should as soon as may be with the concurrence of the Commander of the Forces, be transferred to Lower Canada and there detained during hostilities or until His Honor; the President of the Province should recommend his release."<sup>1</sup>

At the same moment, the Reverend Dr. Strachan wrote that "the present crisis demands measures to be taken with the disaffected much

<sup>1</sup> Report of Committee, August 14, 1813. Can. Arch. C 688, pp. 88-9.

stronger than can be warranted by the common operations of the law and they will excite the gratitude of all the loyal."<sup>1</sup>

A handbill published by authority from the office of the *Kingston Gazette* under date of August 9, 1813, after describing the descent of the American squadron upon York, remarked:—

"We are sorry to be obliged to observe that there is too much reason to believe that the enemy was furnished with exact information respecting the movements of our troops and the state of York and the position at Burlington Heights from traitors amongst ourselves; from men too who are holding public situations in the country, and whose names we trust when correctly known, will lead to their conviction and punishment, and hold them up to the just detestation of every loyal subject of His Majesty."

Major-General de Rottenburg stated his opinion that martial law would be the most "efficacious preventative" and added that if he could obtain sufficient evidence against Mr. Peters, an ensign on half pay, he would try him by a general court martial.<sup>2</sup>

In consequence of the representations contained in the report of the Committee of the Executive Council a small detachment of regular troops was stationed at York and the construction of blockhouses for the protection of the place was commenced. The officer commanding this force was directed to consult the acting attorney general before making any arrests of suspected persons but that acute lawyer felt constrained to inform him that he could afford no official assistance "as the measures contemplated were not of a nature to admit of legal interference," but he would gladly furnish any information in his possession and put him in the way to obtain more.

At the same time he took care to inform General de Rottenburg that "by a participation with other members of the community in a measure which self-preservation demands, I am not giving any official direction to a step which considered in the abstract is illegal and nothing but the extreme necessity of the case could warrant. If called upon on the contrary, I am obliged to acknowledge its illegality and to say as I do now that measures of the nature contemplated must rest entirely upon the responsibility of Your Honor's military command. I can neither officially advise nor share in anything repugnant to the strictest letter of the law.

"Still, however, in a private communication which I wish this to be considered, I have no objections (if Your Honor will allow me the liberty), to give my opinion merely as a member of society as to what under present circumstances is expedient. The country must not be

<sup>1</sup> Strachan to de Rottenburg, August 14, 1813. Can. Arch. C 688, C p. 102.

<sup>2</sup> De Rottenburg to Brenton, August 11, 1813. Can. Arch. C 679, pp. 416-7.

lost by a too scrupulous attention to forms, and when the civil administration of justice is found inadequate to our protection in times perilous and unusual as the present, recourse must be had to measures more efficacious and the necessity must and will justify their adoption. These measures Your Honor seems resolved to take and in another part of the Province where certainly the reasons are not more urgent, they have been acted upon and the public have felt the beneficial result. I would suggest that Your Honor should by private letters of instruction, something in the form of that which I presume to enclose, beg several of the most respectable gentlemen of the place to report to you what characters they deem suspicious and transmit as regular and full information as they can obtain of any act committed by those persons in opposition to the Government and our common cause.

"These reports Your Honor will see are to be merely private for your information and enable you to deliver to Major Stuart the necessary orders respecting the characters concerned. It will be satisfactory to yourself to be sure that you are acting upon the opinion of unprejudiced persons, and will show that you are governed by the purest intentions in the necessary execution of an irregular power. Of the persons liberated from our gaol, some are gone off in their fleet. I shall see that the sheriff does his duty in apprehending the rest and recommitting them for trial and whenever acts admitting of legal proof have been committed, the offenders, I think, if circumstances make it possible, had better be regularly charged and detained until the assizes."<sup>1</sup>

No record of the names or number of persons thus arrested and removed to Lower Canada has been found, but it is known that one of them was Abraham Markle, a resident of the township of Ancaster and a member of the Assembly who was suspected of giving information to the enemy respecting the defenceless situation of the depot at Burlington Heights in the latter part of July.

In a letter from Downing Street under date of August 11, the Secretary of State for the Colonies directed the Governor General to instruct the officer acting as Lieutenant Governor of Upper Canada to take the most effectual measure to induce the Legislature to pass an act for the banishment of all persons who had aided the enemy and confiscating their property to form a fund in the first instance to be applied to the indemnification of all persons who had suffered loss by the war within the limits of the province. It was recommended that all persons who had voluntarily withdrawn from the province into the United

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<sup>1</sup> John B. Robinson to de Rottenburg, August 20, 1813. Can. Arch. Sundries U.C. 1813.

States since the declaration of war and who failed to return after receiving a reasonable notice to reclaim their property, should be included in the act.<sup>1</sup>

In a proclamation dated September 4, after stating his belief that in several instances, paroles from the enemy had been sought and obtained by inhabitants of the province as a means of evading the performance of militia duty and anticipating that others might be animated by similar or worse motives to withhold their services when required for the construction of public works for the defence of the country, Sir George Prevost announced his intention of sending "all such useless and disaffected characters out of the country to the enemy to whom they consider themselves as belonging as prisoners of war, there to remain as such until regularly exchanged."<sup>2</sup>

Nine days later Major General Procter actually proclaimed martial law in the Western District "to take effect as far as supplying the wants of his troops of the sending away or apprehending all traitorous or disaffected persons" might render it expedient.<sup>3</sup>

When the result of the disastrous action at Moraviantown on October 5 became known to de Rottenburg he retired in much haste from the vicinity of Niagara to the position at Burlington Heights, at the same time calling in the detachment of regular troops stationed at Port Dover to maintain communications with Amherstburg. The American force that had been blockaded by him at Fort George sallied forth and made a three days' march through the surrounding country during which according to their own account they were welcomed by many of the inhabitants as "deliverers and friends."<sup>4</sup>

Some disaffected persons living near Long Point lost no time in proceeding to Buffalo where they were speedily joined by a number of refugees and volunteers from Chapin's irregular corps and were supplied with arms and ammunition. Thirty of these men under the command of William Sutherland then started on a raid into Canada, as they stated, with the object of seizing public property and taking militia officers, but, really, as their conduct proved, with the purpose of plundering the loyal inhabitants and taking revenge for private grudges. They succeeded in making some prisoners, who were sent off under guard, and robbed several houses. Lieut. Colonel Henry Bostwick, an energetic young officer, who was in command of the Oxford militia, assembled a body of forty-five volunteers, among whom were no less than thirteen officers, and surprised the marauders in the house of John Dunham,

<sup>1</sup> Earl Bathurst to Prevost, August 11, 1813. No. 39, Can. Arch. Q 122, p. 50.

<sup>2</sup> Proclamation printed in Kingston Gazette, September 7, 1813.

<sup>3</sup> Proclamation in Jarvis MSS.

<sup>4</sup> Letter in the Ontario Messenger, October 19, 1813.

near the mouth of Nanticoke Creek on Lake Erie, which was their principal rendezvous. Three of them were killed and eighteen captured with a loss to the militia of one man killed and one officer wounded.<sup>1</sup> Dunham and three others were subsequently executed.

In the autumn of 1813 a man named Reuben Ainsworth was arrested near Cornwall and committed to the gaol of the Eastern District in that town on a charge of uttering with intent to defraud, a counterfeit Army Bill for twenty-five dollars. As his conviction was considered a matter of much public importance the Governor General authorized a special commission for his speedy trial; but the near approach of General Wilkinson's army having rendered his further custody at Cornwall extremely precarious, the magistrates directed that he should be removed to Montreal and while on the journey the prisoner effected his escape by leaping out of a window although guarded by two men.<sup>2</sup>

About the same time it was ascertained that counterfeit Army Bills of the denominations of one, four and twenty-five dollars were being publicly offered for sale at Ogdensburg, and it was also reported that disaffected persons from Upper Canada, "of whom there were a considerable number in the Johnstown District," frequently went across the river to obtain them for circulation within the province.<sup>3</sup>

Late in December Captain Oliver Barker who commanded a detachment of the Frontier Light Infantry stationed at Stanstead, received information that two men from Boston had taken lodgings in a small village near the frontier in the township of Derby in the State of Vermont, having in their possession a trunk filled with counterfeit one dollar Army Bills and that they expected to receive a supply of counterfeit twenty-five dollar for circulation in Canada. After persistent efforts extending over a period of three weeks, Barker succeeded in arresting Dr. Benjamin Dolbear, the principal of this gang, and committed him to gaol in Montreal, although two determined attempts were made to rescue him by his confederates numbering about forty armed men.<sup>4</sup>

Learning from the officer in command of the important post at Prescott that the neighbouring farmers were extremely reluctant to part with provisions and forage of which they possessed an abundance, for the supply of the garrison, Major General de Rottenburg finally issued a proclamation declaring martial law in the Eastern and Johnstown Districts as far as procuring articles of necessary subsistence for

<sup>1</sup> Bostwick to Glegg, November 14, 1813. Can. Arch. C 681, pp. 142-4.

<sup>2</sup> De Rottenburg to Brenton, November 16, 1813.

<sup>3</sup> De Rottenburg to Brenton, November 16, 1813.

<sup>4</sup> Barker to Brenton, December 31, 1813; Memorial of Oliver Barker, March 18, 1816. Can. Arch.

the troops was concerned. This regulation continued in operation until rescinded by his successor, Lieut. General Drummond, on January 25, 1814, when it had become evident that much discontent had been excited and he was led to believe that the necessity for its enforcement would cease as soon as the winter roads became established to enable the farmers to market their surplus produce.<sup>1</sup>

De Rottenburg's administration became the subject of discussion in the Legislative Assembly and a resolution moved by Lieut. Colonel Livius P. Sherwood, the member for the County of Leeds, was adopted affirming "that the proclamation issued by Major General de Rottenburg as the officer commanding His Majesty's forces in the province, dated at District Head Quarters, the 22nd day of November last at Kingston declaring martial law to be in force throughout the Johnstown and Eastern Districts as far as related to the procuring of provisions and forage, was and is arbitrary and unconstitutional and contrary to and subversive of the established laws of the land."

Meanwhile Drummond had become satisfied that, although there was an abundance of hay in the country about Kingston, the owners were withholding it from sale to obtain an exorbitant price, and that he must again resort to martial law to obtain a necessary supply. On his return from York after the prorogation of the Legislature about the end of March, he learned with dismay that only sixteen barrels of flour were in store for the subsistence of a garrison requiring a daily issue of five thousand rations, and he no longer hesitated to issue a proclamation to obtain the needful supplies to save his troops from starvation, giving, however, explicit instructions to the agents of the commissariat employed in collecting them, "to observe the greatest moderation and use their best endeavours to conciliate the people," and directing the magistrates of each district, "in full assembly, to fix a fair price to be paid for every article furnished."<sup>2</sup>

Early in February Lieut. Colonel Pearson, who was in command at Prescott, ascertained that trading licenses with the United States were being used to introduce agents of the enemy into "a strongly disaffected part of the province, the Counties of Leeds and Grenville and township of Bastard, "through whom" constant intelligence is afforded the *enemy* of all our movements and military dispositions." and immediate steps were taken by him to cancel these licenses and suppress this intercourse. A few days later two men, having in their possession one of these licenses, were arrested in an attempt to cross

<sup>1</sup> Drummond to Bathurst, April 5, 1814. Can. Arch. G. 474.

<sup>2</sup> *Ibid.*



the river on the ice with sleighs containing the household goods of a man who had deserted to the enemy nearly a year earlier.<sup>1</sup>

The situation with respect to internal disaffection had become so very acute and serious that in his speech on opening the session of the Legislature (17th February, 1814), Sir Gordon Drummond used the following language:—

“It has been more a subject of regret than surprise to have found two members of the legislative body in the ranks of the enemy. This disgrace could not have been had their malignant influence in the last session failed to reject the call of the Executive Government for a suitable modification of the Habeas Corpus Act. I rely upon the good sense of the two houses so to strengthen the hands of Government as to obviate all apprehensions of a recurrence of a similar reproach.

“A due regard to the interests of the loyal subjects requires that means should be adopted to punish such traitors as adhere to the enemy by the confiscation of their estates. It may often happen, as in the instance of the two representatives of the people, that they may withdraw from the process necessary for legal conviction. To obviate this an Act of Attainder by the legislature may subvene to the usual process of outlawry.

“In submitting such a measure it is my duty to apprise you of the gracious desire of His Royal Highness, the Prince Regent, that all such forfeitures shall be applied to the relief of the sufferers by the war in this province.”<sup>2</sup>

Of the two members of the Legislative Assembly referred to as having deserted to the enemy, one was Joseph Willocks, representing the first riding of the County of Lincoln, and the other was Abraham Markle, the member for the west riding of York and the townships of Ancaster and Saltfleet. Benajah Mallory, who had represented Norfolk, Oxford and Middlesex from 1804 to 1808, and Oxford and Middlesex from 1808 until 1812, and owned a considerable tract of land in the township of Burford, had also joined the enemy, and was rewarded by a commission as major in the corps of Canadian Volunteers commanded by Willocks, in which Markle became a captain.

Resolutions for the expulsion of Willocks and Markle were passed without debate or opposition.

The Legislature no longer hesitated to take prompt and energetic measures. Acts were passed to enable the government to arrest and detain for a limited time all persons suspected of a treasonable adherence to the enemy and for the more impartial and effectual trial and punish-

<sup>1</sup> Pearson to St. Col. Foster Feb. 7, 1814, Can. Arch. Sundries U.C. 1814.

<sup>2</sup> Drummond, Speech on opening the third session of the Sixth Provincial Parliament at York on February 15, 1814.

ment of high treason, misprision of high treason and treasonable practices. By a third Act all persons who had become seized of lands in the province, by inheritance or otherwise, and had voluntarily withdrawn to the United States since the first day of July, 1812, or who might thereafter withdraw without license, were declared aliens and incapable of holding lands, and the confiscation of their estates was authorized upon due inquiry.

Evidences of continued disaffection were not wanting and an American flag which had been hoisted by the "rebellious party" near Newmarket on Yonge Street was promptly torn down and destroyed by five young militiamen whose names have been recorded.

Colonel Baynes, the Adjutant General, in advocating a grant of land to the officers and men of the Glengarry Light Infantry, in June, 1814, took occasion to describe the existing situation in most vigorous terms and possibly with some exaggeration.

"In the Upper Province," he wrote, "the population is very scanty, and with the exception of the Eastern District, are chiefly of American extraction, these settlers have been suffered to introduce themselves in such numbers that in most parts with the exception above alluded to, they form the majority and in many almost the sole population. A military force composed of these materials could be but little depended upon, and this has been very generally exemplified in some of the most populous parts of the settlements, where two thirds of the inhabitants have absconded, abandoning valuable farms, and in repeated instances have seduced and assisted the soldiers to accompany them—even members of the Provincial Legislature have deserted to the enemy, and his chief source of information is drawn from the disaffected settlers that remain. This impolitic system has been suffered to grow to such an extent, that, had it not been checked by the war, a few years would have rendered Upper Canada a complete American colony; indeed, that had been so nearly accomplished on the important line of communication between Kingston & Cornwall that had it not been for the counterpoise afforded by the Loyal Scots Settlers of that place, Stormont & Glengarry, it would have been impracticable to have preserved the communication with the Upper Province, & this intercourse once interrupted, it would have been impossible for the Upper Province to have long sustained itself, as it is well ascertained that the several predatory incursions of the enemy between Kingston & Brockville were perpetrated with the connivance and aid of settlers in that neighbourhood.

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<sup>1</sup> Major S. S. Wilmot to Lieut.-Col. Coffin, March 21, 1814. Can. Arch. Militia Papers, 1814.

"The high value and estimation in which the Loyal settler is deservedly held has been placed in the most conspicuous point of view by the contrast it has formed with the American Interloper, industriously undermining the fidelity of his neighbors by disseminating Democracy, affording intelligence to the enemy and frequently concluding his career by going over to him, while those who have been most distinguished by their loyalty & courage are very generally the descendants of the military settlers who sought an asylum in Upper Canada after the American Rebellion, for there is little emigration from Great Britain to these colonies. These loyal settlers view with jealousy and alarm the rapid influx in the Province of those men of democratic principles, who subverted the happy constitution under which they lived in America and drove them to abandon their paternal dwellings and seek a refuge in the Forests of Canada, again threatening to disturb that peaceful competency which they have with the sweat of their brow wrung from the wilderness.

"The increasing influence of the American settlers in this Province, if suffered to prevail, must in its inevitable consequences alienate it from the Mother Country & betray it with its resources to the encroaching power of the United States, nor has the Government at Washington endeavored to conceal that upon the aid of the strong American Factor already fostered in the bosom of the Colony, she looked principally for an easy & certain subjugation of the Province. . . . .

"The Independent Settler who can choose his location will never consent to become a Borderer on critical positions, subjecting him to the risk & inconvenience inseparable to a state of hostility. These objections have not the same weight in the decision of the American. A hollow pretence of Allegiance affords him certain protection on the one side, while his origin and known Secret principles screen him from all risks of insult or molestation on the other. This fact has been verified in the most glaring and unequivocal manner in the several predatory incursions of the Enemy, where the Inhabitants distinguished for their zeal and loyalty have been wantonly insulted, plundered and carried away prisoners, while the habitations of the disaffected were passed by unmolested, & in some instances the unworthy proprietors have been rewarded with the Plunder which the Enemy could not carry away."<sup>1</sup>

Indictments for treason or treasonable practices were prepared by the acting attorney general against some fifty persons, most of whom, however, including the most notorious offenders, had already sought refuge in the enemy's lines, and consequently were beyond reach of

<sup>1</sup> Baynes to Prevost, Montreal, 18th June, 1814. Can. Arch. C 621, p. 10.

punishment, except by the confiscation of their estates. Three of those held in custody, according to the ordinary rules of procedure, were subject to trial in the Niagara District, and the remainder in the District of London. On mature deliberation it was decided to issue a special commission for the trial of the whole at Burlington, which was understood to be a place within the limits of the former district. Mr. Robinson at first dissented on grounds of expediency: "Executions of traitors by military power," he remarked, "would have comparatively little influence. The people would consider them arbitrary acts of punishment but would not acknowledge them as the natural effects of justice. Now to give the condemnation of traitors by the law of the land and by a jury the full effect, the common course of justice should, as much as possible, be observed. If these offenders are tried out of their proper district by virtue of this statute, it will be said, and perhaps with some appearance of reason, that the law was passed with a view to try them out of the ordinary course, and in so far in its intention, *ex post facto*. The reason of the law requiring trials to be had only in the district where the offence was committed is just and obvious, and whether the jury's local knowledge of the characters of the accused and the witnesses be to the advantage of the prisoners or against him, it is in favor of public justice they should have it.

"But it appears to me and this I take the liberty of urging as a very powerful reason for wishing these trials to be had if possible in their proper districts, that the local acquaintance of the jurors if taken from the District of London, will be much in favor of the success of the prosecutions. Here (York) as in the District of Niagara, and indeed in most other districts, more especially in those inhabited by emigrants from the United States, the jurors, I fear, are very indifferent to the interests of Government; indeed, if they are not wholly indifferent, their bias is the other way. The inhabitants of the District of London, however, know perfectly well the designs and intentions of the rebellious party. They felt that their persons and property were in danger from their violence, so much so that they voluntarily resorted to arms, to subdue them, and it is fair to suppose that men who risked their lives in the apprehension of these traitors will be well satisfied to have them punished as they deserve. Add to this that our witnesses, not a few, live in this District and may not easily be obtained out of it, besides that being in the District gives the prosecutor the opportunity of making continual inquiry and discovering testimony that might not otherwise be had."<sup>1</sup>

<sup>1</sup> John Beverley Robinson to Captain Loring, York, April 4, 1814. Can. Arch. Sundries, U.C. 1814; J. B. Robinson to Loring, May 12, 1814, *ibid*.

Drummond, on the contrary, held with good reason that the District of London was insecure, and so liable to be disturbed by incursions of the enemy that courts could not sit with reasonable safety, nor juries be summoned, and the judges themselves very strongly favored holding the court at Burlington. Oddly enough it was then discovered that although the "little lake" had received the name of Burlington Bay, and from it the military position on the adjacent heights was commonly called Burlington, yet there was neither town nor township of that name in the province and the place of sitting was altered to the township of Ancaster.

No court house being there, or indeed anywhere in the Niagara District, and the available accommodation for judges, jurors and witnesses extremely inadequate, considerable delay ensued which the attorney general found no reason to regret, as he declared "the Home District gives us the worst jurors of any in the Province."

"The delay hitherto," he added, "I cannot consider as having been unavoidable, neither at the same time do I conceive that, to whatever cause it is imputable, it has been on the whole injurious to the Province. Not being deterred by the prospect of immediate punishment, many people have spoken and acted without reserve, and by exposing themselves to present conviction, have afforded the Crown sufficient evidence to prevent the possibility of their becoming dangerous in future."<sup>2</sup>

The court was opened on May 23 and sat until June 21 when it was adjourned until August 10. It was composed of three judges of the King's Bench who took turns in presiding, three being always present. Seventeen prisoners were brought to trial, but indictments were laid against more than seventy former residents of the London, Niagara and Western Districts, most of whom had fled the country. Cornelius Hovey, who was so ill that his recovery seemed doubtful, pleaded guilty. Fourteen others were convicted by the jury. All of these men were sentenced to be hanged on July 20, but seven of the least guilty were recommended for mercy by Chief Justice Scott and reprieved by Sir Gordon Drummond until the pleasure of the Prince Regent could be ascertained. Four others were tried at a subsequent session of whom two were convicted.

The burden of these prosecutions rested almost entirely upon John Beverley Robinson, the acting attorney-general, a young man not quite twenty-three years of age, who conducted them with admirable ability and good judgment. No report of the proceedings is known to exist; but Mr. Robinson stated in a memorandum prepared a good many years after:—

<sup>2</sup> Robinson to Loring, May 12, 1814. Can. Arch. Sundries, U.C. 1814.

"When I had made all the necessary preparations and was ready to proceed with the trials, Sir Gordon Drummond became so strongly impressed with the representations made to him by military officers and others that it would be impossible to obtain a conviction from juries of the country, and was so perplexed with the difficulties which he imagined must attend the proceeding with these trials while the enemy occupied part of the same district, that he wrote to me expressing the conviction that it would be unwise to persevere and that the commission must be abandoned for the present.

"I remonstrated stating the injurious effect this would have upon public feeling, and venturing to assure him that it was impossible the prosecutions could all fail. He allowed the trials to proceed and, out of twenty-one persons tried for high treason, seventeen were convicted upon the clearest evidence.

"In these trials there were no Crown officers to assist me. I had no one to share the responsibility with me of public prosecutor, and the enemy were all the time in possession of a part of the district in which the court sat. The whole expense to the Government was about £450."<sup>1</sup>

Soon after the court adjourned the Niagara District was invaded by the enemy in force, and the officer commanding at Burlington was instructed to take extraordinary precautions to prevent the escape or rescue of the prisoners under sentence.<sup>2</sup>

Five days before the battle of Lundy's Lane was fought, while a victorious American army lay encamped at Queenston Heights, awaiting the appearance of their squadron on Lake Ontario to resume its advance, eight of the condemned men, Aaron Stevens, Benjamin Simmonds, Noah Hopkins, Dayton Lindsay, George Peacock, Isaiah Brink, Adam Crysler and John Dunham, were executed at Burlington Heights. The sheriff of the Home District was then instructed to send the others to Lower Canada to await the final decision of the Prince Regent. The deputy sheriff having them in charge remained overnight (July 31-August 1), at Smith's Creek in the Newcastle District, placing the prisoners in a small hut under a guard of militia. The night was rainy and very dark and the guard had no lantern or light of any kind. When daylight returned it was found that four of the prisoners had disappeared. Three were soon recaptured but the fourth, whose name was Stephen Hartwell, seems to have made good his escape.<sup>3</sup>

<sup>1</sup> Life of Sir John Beverley Robinson by Major-General C. W. Robinson, pp. 55-6.

<sup>2</sup> Lieut.-Col. Harvey to Colonel Scott, July 5, 1814.

<sup>3</sup> Chief Justice Scott to Lieut.-Gen. Drummond, August 25 and September 14, 1814. Can. Arch. Sundries, U.C. 1814.

By the end of August, 1813, Joseph Willcocks had succeeded in enlisting about 120 refugees in the corps known as the Canadian Volunteers, which during the next two months formed part of the American garrison of Fort George and was engaged in several affairs between the outposts.

On leaving that post in November, General W. H. Harrison advised his successor, Brigadier-General McClure of the New York militia, "to make use of the zeal and activity which Colonel Willcocks certainly possesses to counteract the machinations of the enemy and ensure the confidence of our friends among the inhabitants."<sup>3</sup>

About the same time his command was considerably augmented by the arrival of a party from the Grand River under Mallory who was appointed second in command, with the rank of major. Some days later Willcocks led a reconnaissance of mounted men within sight of the British piquet line at Stoney Creek. A week after he again advanced as far as Grimsby, but was discovered and pursued so vigorously that his force was obliged to disperse to effect its escape. In the course of these raids he arrested several militia officers and other loyalists at their homes and carried them away as prisoners of war. On December 10 a scouting party belonging to his corps was routed at the Ten Mile Creek, losing one man killed and four captured. Of the latter it was reported that one was tortured and killed by the Indians.

It is not unlikely that exasperation over this check caused Willcocks and his followers to take a remarkably active hand in setting fire to the town of Niagara that night. Lieut.-Colonel Chapin of the New York militia, who from a warm friend had become a bitter enemy, afterwards stated in a printed address to the public that:—"In the destruction of this town he (General McClure) was aided by the most active exertions of Joseph Wilcox, who had for a number of years resided in this pleasant village and had been patronised far beyond his merits; and at that time when it became his duty, as a man of justice and as a subject of His Majesty whom he had sworn to protect and defend, he like a cowardly sycophant deserted the cause of his country and actually led a banditti through the town, setting fire to his neighbors' dwellings and cursing every American—applying the epithet of tory to every one who disapproved of that act of barbarity."<sup>4</sup>

Two of Willcocks' men were killed and several captured on the evacuation of Fort George and as his corps had become reduced by casualties to about sixty of all ranks, it was ordered to retire to Buffalo to recruit. "He (Willcocks) was among the last to leave the place,"

<sup>3</sup> Harrison to McClure, November 15, 1813.

<sup>4</sup> Chapin, Address to the public, June 13, 1814.

McClure wrote to the Secretary of War, "and from his vigilance and attention to our cause, I think he deserves your notice."<sup>1</sup>

Three days later he supplied Willcocks with a letter to the Secretary in which he said:—

"It is impossible for me to describe the melancholy situation in which our friends in Canada are placed. They are arrested by the British soldiery, and no sooner arrested than inhumanly butchered. Many instances of this kind have lately occurred which evinces the necessity of establishing some measure or other for their immediate relief. Lieut.-Colonel Willcox will probably hand you this letter, and as he is acquainted with its subject and indeed my arrangements generally, I beg you will make inquiries of him as you may deem expedient. Permit me to introduce to you Lieut.-Colonel Willcox. He has been very serviceable and, I believe, is firmly attached to our cause in which he has embarked and is worthy of notice."<sup>2</sup>

Willcocks naturally lost no time in journeying to Washington to improve the opportunity of ingratiating himself with the American government.

Forty men of his corps under Mallory were shortly after ordered to Lewiston and Schlosser to protect the frontier at those points. They were attacked on December 21 by a superior British force commanded by General Riall and lost eight killed and several taken prisoners. Ninety-seven of all ranks were subsequently assembled for the defence of Buffalo, whence they were driven out on December 30, and retired to Williamsville. Lieut. Joshua B. Totman, the adjutant of the corps and a refugee from Upper Canada but a native of Massachusetts, was killed in a skirmish near Buffalo on January 1, 1814.

During the following spring a considerable number of recruits were enrolled and a reorganization effected. Abraham Markle was commissioned as captain of a company and sent to Erie accompanied by Oliver Grace, another refugee, to conduct an expedition against Port Dover where he had the satisfaction of witnessing the destruction by fire of the mills and dwellings of several militia officers and other active loyalists. Robert Nichol who had moved that Markle should be expelled from the legislature suffered a loss of property on this occasion valued at £5000.

In his official report of this raid, Captain Sinclair of the United States navy remarked:—

"I am sorry to learn that several private houses were also destroyed, which was contrary to my wish and to the idea I have of our

<sup>1</sup> McClure to the Secretary of War, December 12, 1813.

<sup>2</sup> McClure to the Secretary of War and to Governor Tompkins of New York, December 15, 1813.



true policy to these people that I used every argument against it before his departure, and was under the impression that he, (Lt. Col. Campbell), accorded with me most fully. He has explained to me that he was urged to do this by people favorable to our cause on that side who pointed out those persons as old revolutionary Tories who had been very active, not only in oppressing our friends in Canada, but in aiding all in their powers the burning and plundering Buffalo. However much such characters may deserve our vengeance, I do not think it correct that our judgments should be passed upon them from merely being designated by a partisan officer or citizen who may be and no doubt are biased by individual motives. . . .

. . . . A Capt. Marcle, one of the Canadians of Willcox's party, was over on this expedition. He has sent several of his friends into their military posts to gain all the information in their powers, which will be sent over to us on Sunday next by a person we shall take off from there."<sup>1</sup>

The important character of the information thus obtained was reported by him in a subsequent letter.

"I think it proper to inform you that Genl. Scott sent with a letter of introduction to me about two weeks since, a Captain Markle, who it appears is a Canadian of respectable standing, and one who has taken a decided and active part in our cause during the present war. He brought with him a confidential and enterprising man selected by the Genl. as a spy. Through this man, who I have landed several times in the enemy's country, Capt. Marcle has been enabled to correspond with his friends who are favorable to our cause, and has gained considerable information as to the numbers, situation and movements of the enemy in the upper province. One of his friends visited York in order to ascertain what had gone westward and their news in that quarter. It is now certain that a large body of men, more than a thousand, 500 of whom were mechanics and sailors, with a number of pieces of cannon have been sent westward by the way of Lake Simcoe during the last winter and since that time quantities of stores have gone the same route but so closely eased up that no citizen could say of what kind they were; indeed no undertaking of theirs during the war has been kept so profound a secret as this; so say his friends, and they are clearly of opinion that the object is the building a strong naval force. They go on to say to him 'from frequent hints we have from officers in the different garrisons, there is no doubt but they are constructing a force above with which they calculate to gain the superiority of all the upper waters, and, from what our *wives* have gained from

<sup>1</sup> Sinclair to the Secretary of the Navy, May 19, 1814. Markle had kept a tavern in the township of Ancoster and had, no doubt, many friends.

the *wives of officers* high in rank, we are confirmed in the belief that they calculate on the superiority on this lake before the month of August.' *Marle* appears to be a man who can be relied on and places implicit confidence in those friends who gave the information."<sup>1</sup>

The battalion of Canadian Volunteers formed part of the invading force under General Brown which entered Upper Canada at Fort Erie on July 3, 1814. It was not engaged in the action at Chippawa, but both Willcocks and Mallory were particularly active in reconnoitering and foraging during the two weeks following, and are mentioned several times in the official correspondence on both sides. In his report of the operations of his brigade in the battle of Lundy's Lane, General Porter stated that "Lieut. Colonel Willcox of the Canadian Volunteers, (a corps which though small is surpassed by none in enterprise and bravery,) was most actively and usefully engaged during the whole action and had his horse killed."<sup>2</sup>

Two men of that corps were killed, two others wounded and eight reported missing on that occasion.

After the American army had retired into an entrenched camp at Fort Erie, the command of the brigade of volunteers devolved temporarily on Willcocks during Porter's absence for three weeks on recruiting service. He soon incurred the pronounced ill will of the regiment from the State of New York, which became so marked, that being directed to reinforce the piquet line with that corps on the afternoon of September 4, he declined to take command although he accompanied it into action. While thus engaged he received a mortal wound in the breast from a rifle bullet. The official report stated that "he behaved worthy of a hero and a patriot. Calm and unruffled he rushed on in defence of our country's rights until he fell entwined with the laurels of glory."<sup>3</sup>

Yet when a toast to his memory was proposed at a dinner of the Tammany Society in New York some three years later it was greeted with hisses.<sup>4</sup>

Markle, who had been promoted to the rank of major, succeeded Willcocks in command of the corps and was mentioned in despatches for gallant conduct in the sortie on September 17. Captain William Bigger, another refugee, who acted as orderly officer to General Porter, was dangerously wounded on that occasion.<sup>5</sup>

<sup>1</sup> Capt. A. Sinclair to the Secretary of the Navy, Erie, May 27, 1814.

<sup>2</sup> Porter to General Brown, July 28, 1814.

<sup>3</sup> Major Matteson to General Ripley, September 5, 1814.

<sup>4</sup> *Niagara Gleaner*, April 29, 1818. Letter reprinted from the *New York Exile* of April 3, 1818.

<sup>5</sup> Porter to Brown, September 23, 1814.

Markle is named as the leader of a foraging party which was surprised in the vicinity of Point Abino on October 1 and sustained some loss.<sup>1</sup> After the conclusion of peace he boasted to a former acquaintance that the government of the United States had rewarded his services by a grant of 3000 acres of land and had promised compensation for all his losses.<sup>2</sup>

About the middle of October a band of refugees, supposed to be about thirty in number, who had for some time been committing depredations on the loyal inhabitants in the counties of Lincoln and Norfolk, surrounded the house of Captain William Francis of the Norfolk militia by night, called him to a window and shot him dead. The other occupants were then forced to leave the house when it was set on fire and consumed with the body. This was a cold-blooded murder of an old and unarmed man. A reward of £200 was promptly offered by General Drummond for the apprehension of the murderers, and the Governor General announced his intention of making a vigorous remonstrance to the Government of the United States, which he had considered had made itself responsible by encouraging these incursions. John Dixon, the ringleader of this party, was mortally wounded in an encounter with some militiamen near the Sugar Loaf and died shortly after arriving in Buffalo.

The refugees from the Western and London districts who had fled to the American garrisons at Amherstburg and Detroit were less numerous but scarcely less active in their hostility, although not organized as a separate military force, being chiefly employed as scouts and guides for raiding expeditions. The most enterprising of these partisans were Andrew Westbrook, Daniel Norton, Samuel Doyle and James Pelton. The first named of these, a man of great strength and stature and animated by an insatiable desire for revenge, was the most formidable and merciless. The policy of destroying the dwellings and property of the loyal residents, and disorganizing the militia by carrying off the local officers, was relentlessly carried out by him. On the last night of January, 1814, a party under his guidance, captured a guard composed of Captain Daniel Springer and twelve men of the Middlesex militia, posted at Westbrook's own house in the township of Delaware. The house and other buildings containing several hundred bushels of grain were set on fire with his own hand and consumed. Lt. Colonel Francis Baby, Captains Brigham, Dolsen and Springer were carried off by the raiders on horseback, bound hand and foot to prevent their escape.

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<sup>1</sup> Drummond to Prevost, October 2, 1814.

<sup>2</sup> Affidavit of T. G. Simons.

On February 24, he led a party across from the Thames by a little known path to the new settlement at Point aux Pins where several houses were burned and a number of the inhabitants compelled by threats to take an oath of neutrality. About the middle of April he made a descent on the village of Oxford and carried off Major Sykes Touseley. On May 20 he appeared at Port Talbot after midnight at the head of thirty riflemen. Captain Patterson and Wilson were taken prisoners at their homes, but the man in charge of Colonel Talbot's mill escaped and gave the alarm. By daybreak Lieut. Colonel Burwell had assembled a considerable force of militiamen, but it was then ascertained that the raiders had stolen off under cover of darkness without doing much damage evidently fearing that their retreat might be cut off. This settlement was again overrun in the middle of July by a body of some 300 men of whom eighty were mounted. Many houses were plundered and much of the growing crops destroyed. On August 16 a party headed by Westbrook succeeded in taking Burwell in his own house, while Talbot narrowly escaped by jumping out of a window. The horses, cattle and other valuable property of the latter, who was a particular object of their animosity, were killed or carried off. Two weeks later Westbrook ascended the Thames as far as Oxford, paroled many of the inhabitants and carried off three captains and a sergeant of the militia. On September 1 this party was ambuscaded and dispersed with the loss of their leader and several others by a party of militia hastily assembled under the command of Lieut. Daniel Rapalje of the Middlesex regiment. The remainder made their escape by a path through woods under the guidance of Westbrook, who had marched with the rearguard, but they were compelled to abandon the horses and cattle they had taken. Four days later this indefatigable marauder revenged this reverse by another raid on Port Talbot, where he burned the mills and a number of houses and ravaged the settlement along the Talbot Road for fifteen miles.

The situation of many of the inhabitants of the Western District had then become so miserable and hopeless that a considerable number of the leading men united in a petition to Brigadier General McArthur who had lately taken over the command of the American troops at Detroit and Amherstburg, particularly directing his attention to a proclamation issued in September, 1813, by General Harrison and Commodore Perry, promising protection to their lives and property which they complained had been persistently violated and alleging that most flagrant wrongs had been committed in the impressment of horses and carriages.

"We lament also to inform you, Sir," they added, "that the most arbitrary, degrading and ignominious punishments have been inflicted

with impunity on several of the inhabitants of this District without the form of trial or the least color of justice. We regret much that so distressing a policy should be resorted to as that of burning the houses of some of the persons who had left or were supposed to have left the District; in many cases it is the innocent alone who are the real sufferers. We beg leave to represent to you, Sir, that in many cases the property, real and personal, not only of persons whose duty or inclination led them to leave this part of the country on the arrival of the army, but also of some persons who had, on their private affairs, left the District long before that period, has been taken possession of as *public* property, by which means the same may be lost to the owners, their friends, or creditors. Lastly we beg to call your attention to a case of peculiar hardship & distress to many individuals resident on the river Thames. Owing to the great destruction of grain and fodder on that river last fall by the American army, many of the inhabitants drove off their cattle to a place called the Round O where they were taken in the course of last winter by the expedition under the command of Captain Holmes as *public cattle*. Among these cattle were the milch cows and working oxen of many poor families & widows, and their endeavors to obtain redress have hitherto been unsuccessful & they themselves treated with contumely."<sup>1</sup>

More than a year after the ratification of the treaty of peace, in consequence of a complaint to Sir George Murray, then administering the civil government of Upper Canada that certain persons who had withdrawn to the United States during the war without a license were returning, he deemed it expedient to issue a proclamation calling on the judges and commissioners appointed to carry out the provisions of the Sedition Act of 1805, to be vigilant in the discharge of their duties.<sup>2</sup>

An official list of such persons possessing lands in the province contains three hundred and thirty-six names and it is probable that the number of landless men of whom no record has been kept, was considerably greater.

An act was passed by the Congress of the United States indemnifying for their losses all refugees from Canada who had performed military service in its behalf during the contest and authorizing free grants of public land in the territories to be made to them in proportion to their rank. Westbrook's exploits in particular had given him a certain celebrity and a traveller relates that in 1817 he found him residing on lands granted to him near Fort Gratiot in Michigan.<sup>3</sup>

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<sup>1</sup> Petition dated October 12, 1814. Signed by James Baby, James Woods, John McGregor and ten others. Can. Arch. Sundries U.C. 1814.

<sup>2</sup> Proclamation, May 16, 1816.

<sup>3</sup> T. L. McKenney, Tour to the Lakes.

## ILLUSTRATIVE DOCUMENTS.

## I.

Alphabetical List of persons having landed property in Upper Canada who did voluntarily withdraw from the Province without license during the late war.

Annis, William.	Breakenridge, John.
Alley, Moses.	Clark, Nathaniel.
Allen, Alexander.	Crane, Abel.
Albernathy, James.	Cole, Charles.
Albernathy, Thomas.	Culver, Roswell.
Aldrich, John.	Coffin, Michael.
Adams, John.	Crosby, Eliakim.
Byard, Henry.	Culver, Timothy.
Brown, Matthias.	Cotton, James.
Barber, John.	Chrysler, Adam.
Bennet, John.	Cain, George.
Burtch, Mark.	Cole, James.
Burnham, Francis.	Closson, John.
Brown, Gardner.	Carpenter, Beriah.
Beebee, Aaron.	Conly, Solomon.
Beamis, Ira.	Chamberlain, Elias.
Bigger, William.	Cronkright, Joseph.
Burnham, Martin.	Cleveland, Frederick.
Bacon, John.	Cornwall, Peter.
Bulkeley, Ellis.	Clark, Wm.
Beaumont, Henry.	Cole, Sylvanus.
Bacon, Asa (Thorold.)	Conolly, Jacob.
Bennet, Alman Ira.	Carscallen, Archibald.
Bentley, Ira.	Coon, Isaac.
Baldwin, Aaron.	Cartwright, Anthony.
Bates, Ezra.	Couchman, Philip.
Barras, Amos.	Degroat, Cornelius.
Bates, Joseph.	Dunham, John.
Bush, Joseph.	Dean, Josiah.
Burriss, Ezra.	Dean, Silas.
Byrnes, John.	Doyle, Samuel.
Bonstate, Charles.	Dewey, John.
Butterfield, Franklin.	Dixon, John.

- Dunham, George.  
Dunham, Seth.  
Decow, Eber.  
Dalton, . . . . .  
Daily, John.  
Dowdle, Thomas.  
Dagget, Eleazer.  
Delong, Jacob.  
Delong, Benjamin.  
Dagget, Josiah.  
Dunham, Israel.  
Dana, Francis.  
Davis, Richard.  
Elliott, Henry.  
Ellison, Jabez.  
Elsworth, Israel.  
Fraser, Samuel.  
Fenton, Erastus.  
Fanatur, John.  
Fuller, James.  
Fairchild, Ebenezer.  
Fight, Martin.  
Frisby, Martin.  
Fowler, Thomas.  
Force, John.  
Farnham, Edward.  
Fry, . . . . .  
Flint, Daniel.  
Ferro, Wm.  
Grant, James.  
Graham, Alexr.  
Green, Elisha.  
Gibbs, John.  
Grace, Oliver.  
Gibbs, Barnabas.  
Gleason, Seth.  
Galpin, Nathan.  
Green, Benjamin.  
Gerals, Asahel.  
Herrick, David.  
Hopkins, Royal.  
Huggins, Robert.  
Haskell, Jeduthan.  
Hartwell, Ira.  
Hogaboom, James.  
Highley, Elijah.  
Hill, Moses.  
Highley, Jesse.  
Harvey, John.  
Harris, John G.  
Harrison, Thomas.  
Henderson, James.  
Howell, Phineas.  
Hopkins, Noah.  
Hooker & Johnson.  
(Merchants.)  
Herrick, Daniel, sr.  
Hunter, Ithamer.  
Herrick, John.  
Haskin, Nicholas.  
Haskin, Lemuel, jr.  
Halcomb, Harta E.  
Haskin, Samuel.  
Hoit, Wm.  
Hoit, Peter.  
Hoit, Ephraim.  
Hoyt, James.  
Hall, J.  
Howell, David.  
Huff, Shadrach.  
Higley, Philo.  
Hiddell, Christopher.  
Ives, Atwater.  
Jackson, Samuel.  
James, Wm.  
Jones, Timothy.  
Judd, Alexr.  
Jacquette, Isaac.  
Johnston, Wm.  
James, James.  
Johnston, Nathaniel.  
Kellogg, Ebenezer.  
Ketchum, Elijah.  
Kendrick, John.  
Kelly, Ebenezer.  
Knapp, Joseph.

Kilbourn, David.	Norton, Daniel.
Koon, Isaac.	Orr, Wm. M.
Kemball, Eben.	Odell, Jacob.
Lockwood, James.	Odell, Zachariah.
Long, Jacob.	Orrin, Gershon.
Lee, James.	Onstine, Frederick.
Lister, John.	Onstine, Frederick, jr.
Long, Elias.	Onstine, George.
Lewis, Michael.	Onstine, Daniel.
Lane, Thomas.	Onstine, Michael.
Long, Abraham.	Osborne, Erie E.
Lockwood, Ichabod.	Ogden, John.
Lilley, Orren.	Overholser, Jacob.
Larrigar, Adam.	Onstine, Henry.
Landon, Wm.	Onstine, Joseph.
Lockwood, John.	Powel, Henry.
Lindsay, Datis.	Pratt, Nathan.
Munson, Warren,	Pelton, James.
Munson, Wm.	Proctor, Oliver.
Marles, James Clark.	Peacock, George, sr.
Marles, James.	Peacock, George, jr.
Mallory, Benajah.	Ransom, Ebenezer.
Martin, Richard.	Roberts, Francis.
Moore, George.	Reynolds, George.
McCarthy, Wm.	Richards, Charles.
McGarchin, John.	Richards, Guy.
McCullen, Francis.	Russell, Joshua.
Merritt, Wm.	Russell, Israel.
McNeal, Luther.	Ray, John.
Markle, Abraham.	Russell, Abel.
Munger, Samuel.	Rose, Samuel.
Matthews, John.	Randolph, Noel.
Mitchell, Jehiel.	Rennels, George.
Mires, James.	Soales, John.
Mott, Jonathan.	Smith, Joseph.
Murray, Jonas.	Stephens, Bela.
Monk, Matthias.	Sealey, Justus.
Mender, Reuben.	Seley, Jonas.
Morgan, Patrick.	Stevens, Adam.
McGrath, Philip.	Stanton, Eldridge.
Mills, James.	Stevens, David.
Nightingale, Timothy.	Smades, Joshua.
Nickerson, Nathaniel.	Sexton, Zephaniah.



Smith, John.	Talman, Abiel.
Stanaman, Jacob.	Throop, Eli.
Shell, Daniel.	Van Arnam, Joseph.
St. Clier, Henry.	Vandervoort, John.
Streeter, Rufus.	Vanderwater, James.
Seldon, Jonathan.	Vanderwater, Stephen.
Smith, Ammi.	Wildair, Joseph.
Stanaman, Abraham.	Wartz, Abraham.
Schofoldt, John.	Willson, Samuel.
Summers, Isaac.	Wadley, Philip.
Townsend, Abraham.	Willson, James.
Stuart, William.	Wilmerson, Thomas.
Sage, Wm.	Watson, Simon Z.
Schenick, . . . .	Westbrook, Adam.
Skinner, John.	Wheeler, Ezra.
Shaw, Gilbert.	Wolfe, George.
Stevens, Joseph.	White, William.
Smith, Henry.	Westbrook, Andrew.
Scovil, Stephen.	Westbrook, James.
Stark, William.	Wagstaff, John.
Stark, Philip.	Wallace, William.
Stevens, Oliver.	Willcocks, Joseph.
Scovil, George.	Willson, Wm.
Smith, Morris.	Winters, Christian.
Smith, Samuel.	Winter, Jacob.
Sherwood, Zalmon.	Weller, Gad.
Sheraman, Philip.	Wilder, Joshua.
Smith, Stephen.	Woods, James.
Smith, Abner.	Willson, Thomas.
Smith, Enoch.	White, Isaac.
Shell, Benjamin.	Warren, David.
Thrall, Benijah.	Wickham, John.
Terwilliger, Cleophas	White, James.
Turtillot, Abraham	Woodruff, Lanson.
Tyler, Gerrard B	Weller, Orden.
Thomson, Samuel	Whitaker, Barney.
Tomkins, Samuel	Wheeler, Ephraim.
Townsend, Abraham	Weller, Joseph.
Thomson, Robert	West, Ira.
Tredwell, Nathaniel	Warren, Artemas.
Terry, Ebenezer.	Yates, Benjamin.
Turner, Otis.	Young, Thomas.

II.

LIST OF COMMISSIONERS APPOINTED TO INQUIRE INTO FORFEITED  
ESTATES UNDER THE ACT OF 1814.

Eastern District.....	Joseph Anderson, Neil McLean.
Johnstown District.....	Joel Stone, Charles Innes.
Midland District.....	Thomas Markland, John Cummings.
Newcastle District.....	D. McG. Rogers, Elias Jones.
Home District.....	Duncan Cameron, Stephen Howard.
Gore District.....	James Crooks, Abr. Nelles.
London District.....	James Mitchell, George C. Salmon.
Western District.....	Angus McIntosh, Wm. Duff.

III.

LIST OF INDIVIDUAL COMMISSIONS ISSUED UNDER THE ALIEN  
ACT.

HOME DISTRICT.

1. Matthias Brown.	16. Jonas Seely.
2. John Mills.	17. Jacob Winters.
3. Nathaniel Clark.	18. Justus Seely.
4. Michael Coffin.	19. John Barner.
5. Jacob Delong.	20. Cleophas Terwilliger.
6. Benjamin Delong.	21. Wm. McCarty.
7. Joshua Wilder.	22. Jas. Cole.
8. John Bennett.	23. Adam Stevens.
9. Samuel Fraser.	24. Jas. Lockwood.
10. Henry Powell.	25. John Ray.
11. Josh. Stevens.	26. Benjamin Thrall.
12. Abrm. Townsend.	27. Henry Smith.
13. Jacob Wood.	28. Belah Stevens.
14. William Annis.	29. Abrm. Wartz.
15. Charles Cole.	30. Royal Hopkins.

NEWCASTLE DISTRICT.

1. Cornelius Degroat.	4. Elijah Ketchum.
2. William Beebee.	5. Gardner Brown.
3. Thomas Harrison.	6. E. Stanton.

## LONDON DISTRICT.

- |                       |                        |
|-----------------------|------------------------|
| 1. William Stewart.   | 12. John Kendrick.     |
| 2. Barnabas Gibbs.    | 13. Josiah Dean.       |
| 3. John Gibbs.        | 14. William Savage.    |
| 4. Frederick Onstine. | 15. John Vandervoort.  |
| 5. Benajah Mallory.   | 16. Eber Decow.        |
| 6. Andrew Westbrook.  | 17. Silas Dean.        |
| 7. George Wolfe.      | 18. Daniel Onstine.    |
| 8. Martin Burnham.    | 19. Eliakin Crosby.    |
| 9. Michael Onstine.   | 20. James James.       |
| 10. Timothy Collver.  | 21. Frederick Onstine. |
| 11. George Reynolds.  |                        |

## IV.

## NAMES OF DISAFFECTED PERSONS IN THE LONDON AND WESTERN DISTRICTS DURING THE WAR WITH THE UNITED STATES.

ANDERSON, JAMES.—Deserted from us. Was afterwards taken under arms in the service of the enemy.

BURRETT, ISRAEL.—Went to the States in 1813 or 1814.

BELAIRE, NICHOLAS.—His home was a rendezvous for the disaffected.

BURDICK, ISAAC.—Gone more than two months to the States.

CROW, THOMAS.—Taken up for giving information to the enemy, broke gaol & remained concealed for some time. Now goes openly about.

COMMIFORD, THOMAS.—Showed Westbrook where the cannon were thrown into the river & helped to raise them.

DALSON, PETER.—Under arms with the enemy & fought several times against us in their militia.

DALSON, MATTHEW.—In the enemy's regular army.

DALSON, GILBERT.—Went to the States, absent all the war.

DANSSEY, JOHN.—Married Miss Dalson & went off during the war.

DROUILLARD, DENIS.—Corresponded with the enemy. Had one of Capt. McGregor's men taken prisoner.

DESMOND, WILLIAM.—Left Capt. McGregor's company at the River Delaware, took protection & kept up correspondence with the enemy.

FIELDS, GEORGE.—In arms with the enemy.

FORSYTH, JAMES.—Had been a captain in the American militia.

FLEMING, JAMES.—His house a rendezvous for the disaffected.

GILES, GEORGE.—Taken prisoner with General Hull.

- GRAHAM, JAMES, senior.—Has sent his two sons off to the United States. (He is supposed to have been recommended by Colonel Talbot for land.)
- HOLMES, JOHN.—Came to Delaware to entice the militia to go to their homes, that the Americans would use them well.
- HOLMES, DUNCAN.—Bears a bad character as to loyalty.
- HUBBLE & SON.—His son deserted to the enemy & Hubble's house was a rendezvous for the disaffected.
- KNAPP, BENJAMIN.—Bears a very bad name.
- LOMIS, BENJ. G.—Gone to the States more than 2 months.
- MARTIN, JOHN.—Sold his place since the war but went off during the war.
- MCDONELL, ALEXANDER.—Went off during the war. Since the peace came back and sold his land.
- MISENER, JOHN.—A disaffected person. Endeavored to have Crawford, a wounded man, made prisoner by the enemy.
- OSBURN, SAMUEL.—Refused to bear arms, though neither a Quaker, Menonist or Tunker.
- REYNOLDS, EDWARD.—Went to the enemy in 1814.
- RICHARDSON, EDWARD.—Frequently accompanied Westbrook in his plundering excursions.
- ROGERS, CHESTER.—Was taken with Hull's army at Detroit & now resides on the Thames.
- SHERMAN, LINE.—Major Muir, 41st Regt. saw him under arms with the enemy after General Procter's defeat.
- SCOTT, ELIAZER.—Gone to the States more than 2 months.
- TAYLOR, DANIEL.—Was with Westbrook plundering at Port Talbot, often in arms and a guide to General Harrison.
- TRUDALL FAMILY.—Disaffected.
- SAGE, WILLARD.—Gone more than 2 months to the States, returned in autumn & cut hay.
- REYNOLDS, widow of Reynolds of Dorchester, her family.
- |             |   |   |
|-------------|---|---|
| Information | } | Henry took Badgeley & Cartwright in a waggon to the |
| of          |   | mouth of the Thames during the war.                 |
| F. Burdick. | } | George went off during the war.                     |
|             |   | All the Reynolds bad except William.                |
- WILLETT, THOMAS.—Went off since the war.
- |                  |   |                                    |
|------------------|---|------------------------------------|
| WILLETT, ISAAC.  | } | Taken prisoners with General Hull. |
| WILLETT, ELIJAH. |   |                                    |
- WILCOX, HEZEKIAH.—Isaac Wilcox can give much information respecting this man's bad conduct. On Procter's retreat he sold some of the Government cattle.

WARD, GEORGE.—Gave the officers commanding the enemy information just before the battle of the Long Woods.

## MEMORANDUM.

Captain Curtis of the Oxford militia has been forced to give certificates of loyalty to disaffected persons in order to their getting lands. The foregoing list copied 7th, November, 1816 from one presented for information by the Hon'ble John McGill, Receiver General.

WEIR, JOHN, of the County of Haldimand. Accused of traitorous conduct during the late war on the oath of Elizabeth Warden, made before Warner Nelles, esqr., a magistrate for the District of Niagara.

For papers see State File W. Read 16th May, 1821.

## V.

Names of persons that joined the enemy from the limits of the 2nd Regiment of Norfolk from June, 1812 to June, 1814.

No.	NAMES.	PROPERTY.	REMARKS.
1.	Timothy Culver.	200 acres land.	Ensign in the Regt.
2.	Elisha Green.	None.	
3.	John Schofield.	None.	Killed Nov. 1813, at the taking of the plundering party.
4.	John Dixon.	None.	Returned with the Americans at the taking of Dover.
5.	Geo. Dunham.	None.	
6.	Seth Dunham.	None.	
7.	John Dunham.	50 acres of land.	
8.	Elias Long.	None.	
9.	Abm. Totolot.	None.	
10.	Datis Lindsay.	3 horses, 6 head of cattle.	
11.	John Vandervorst.	200 acres of land.	

12. George Peacock, Senr.	None.	
13. George Peacock, Junr.	None.	
14. Ebenezer Fairchild.	None.	
15. John Gibbs.	100 acres of land.	
16. Wm. White.	None.	
17. Michael Lewis.	None.	
18. Ezra Wheeler.	None.	
19. Fredk. Onstone, senr.	1300 acres of land.	
20. Fredk. Onstone, junr.	200 acres of land.	
21. Daniel Onstone.	Ditto.	
22. George Onstone.	Ditto.	
23. Michael Onstone.	None.	
24. Henry Onstone.	None.	
25. John Onstone.	None.	
26. Joseph Onstone.	None.	
27. Henry Byard.	None.	
28. Oliver Grace.	None.	Returned with the Americans at the burning of Dover.
29. Martin Fight.	None.	
30. Isaac Simmers.	None.	
31. Eliakin Crosby.	600 acres of land.	
32. William Biggars.	210 acres of land.	
33. Martin Burnam.	50 ditto.	
34. Guy Richards.	None.	
35. John Harvey.	None.	
36. Gerrard P. Tyler.	None.	
37. James Cotton.	None.	
38. Joseph Howell.	None.	
39. Eris Osborn.	None.	
40. John Kendrick.	200 acres of land.	
41. Wm. Stewart.	Ditto.	
42. George Wolfe.	Ditto.	
43. Adam Crysler.	None.	
44. Joshua Russell.	None.	
45. Israel Russell.	None.	

46. Henry Persall.	None.
47. Martins Truby.	None.
48. John G. Harris.	None.

(Sgd) GEORGE C. SALMON,  
Major Com'g.

## VI.

FROM LIEUT. COLONEL ROBERT NICHOL TO D'ARCY BOULTON.

Woodhouse, Oct. 10, 1816.

DEAR SIR:—

Having decided most of the causes under the different commissions transmitted to this District, I have employed a special messenger to take them to York as the expense by post would have been very considerable and I did not think it would be proper to wait for casual opportunities. The expense of this, however, will not be great, say twenty-four dollars. I must, however, request you to inform me how that as well as the contingent expenses of the Commission are to be paid. The property confiscated in this District amounts to a very considerable sum and except in one or two cases, I believe there can be no deduction from the full amount. I experienced a good deal of prevarication from some of the witnesses and I think it probable there will be one or two indictments for perjury but of this more hereafter. There appears to have been several persons omitted. Hornor informed he had transmitted you a list of several and I enclose you the names of some others. In the hope of checking fraud and at the same time ignorant of the extent to which the law would operate, I received evidence to prove that consideration money had been paid in cases where the existence of a conveyance would not be clearly ascertained. I also received testimony respecting the property of *femmes couvertes* to deprive if possible the husband of any resource from such estates. I hope I was right in both instances.

The only two cases to be now decided are Westbrook and George Reynolds and those have been transmitted to Colonel Talbot, being in his neighbourhood. I examined Hornor on oath respecting Westbrook's property and transmitted his deposition to Colonel Talbot which with the aid of Burwell will enable him to ascertain all that property. Westbrook has about four hundred acres of very valuable

land. Samuel Thompson has a good deal of good land in this district and some others who lived in the Niagara District. I think that the property confiscated under the Commissions sent up here may amount, including Westbrook's and Reynold's, to at least £8000 which will, I suppose, yield a clear £7000 to the Crown.

I did not receive the Commissions till August last and the time occupied in marshalling the evidence and my own necessary occupations prevented the Commissions being executed sooner.

P. S.—I shall deliver the minutes of evidence myself as I wish to copy over my notes for my own satisfaction.