William Livingston, Philosopher of American Democracy

The Life and Social Philosophy of One of the Founding Fathers

Harold W. Thatcher
"About the Author" and "About This Book" © 2021 Sanford G. Thatcher

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"[D]oubtless Posterity has lost the Sentiments of many eminent Men, which might have been equally useful and important, with the Writings of those, who make the brightest Appearance in the Annals of Fame."

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Preface

Ideas have played a more important part in history than we sometimes realize. The late Charles A. Beard, in his address as retiring president of the American Historical Association in 1933, said of the inquiry into the forms and development of ideas as conditioning and determining influences: "not enough emphasis has been laid on this phase of history by American scholars." Since that time the history of ideas has assumed a new and greater significance. A new and fearful threat to democracy has appeared. Totalitarianism with its radically different set of values has arisen to challenge the democratic way of life, not only by force and threats of force, but in a much more dangerous way—by seeking to invalidate in the realm of ideas the basic tenets of the democratic faith. In such a conflict it will not suffice merely to repel force with force. Ideas frequently penetrate where arms fail. A hostile ideology cannot be vanquished on the field of battle; it must be routed in the realm of reason. We who still believe in the democratic way of life have therefore been compelled to re-examine the basic tenets of our faith in order that we may be better prepared to defend them against the impact of a hostile ideology. In the United States the starting point for such a re-examination
must be the ideas of the founding fathers, for it is on those ideas as a foundation that we have constructed our present democratic philosophy.

Best known among the founding fathers to the public of today are Washington, Hamilton, Jefferson, and a few other outstanding leaders in the formative days of the republic. It is the opinions and ideas of these few illustrious leaders that we see most frequently quoted. It is often, however, not the outstanding leaders in each generation who best represent the thinking of that generation but rather those leaders who, less well-known to posterity and not perhaps as original in their thinking, yet managed to voice more faithfully the ideas of the inarticulate masses of their own time. Such a leader was William Livingston. I. Woodbridge Riley, discussing in his *American Philosophv, the Early Schools* (p.24) the development of the spirit of nationality in America during the Revolutionary period, after citing the sources commonly used in tracing this development, states: "Yet herein one should pay less attention to these publicists than to obscurer speculators such as John Wise, Jonathan Mayhew and William Livingston, who . . . constituted a genuine background to the whole picture." A true understanding of the philosophy upon which our government is founded must be sought, therefore, in the writings not only of those of the founding fathers best known through the pages of history to posterity but also in the writings of those whose names and
fame the passage of time has blurred. Though the lives and thoughts of these men have become shrouded in the dim mists of the past, it is their lives and thoughts, nevertheless, which constitute "a genuine background to the whole picture."

It is in an effort to rescue one of these forgotten leaders from the oblivion to which fate and chance have consigned him and to aid in more clearly delineating the "genuine background" of our American democratic philosophy that the following biography is offered. Because of the importance at the present time of understanding the basic ideas which constitute the foundation of our modern American democracy and also because as a prolific essayist and pamphleteer William Livingston's contributions in the realm of thought were even more important than his very substantial contributions in the field of action, especial emphasis has been placed in this biography upon his writings and ideas, and in chapters XII and XIII an attempt has been made to reconstruct his social philosophy in a somewhat systematic form. It is the author's hope that this analysis of the ideas of one of the founding fathers will contribute in some measure at least to a better understanding of the foundations of our American democratic way of life.
About the Author

Harold Wesley Thatcher was born in Brooklyn, New York, on July 10, 1897, the son of George Washington Thatcher, Jr. (1858-1906), and Dorothy Gray Thatcher (1857-1951). His sister Grace (1882-1945) was much older. He also had two other siblings, Mabel and George, who died at ages 8 and 2, respectively. Harold died, ironically, on February 22, 1978, George Washington's birthday. And his wife of nearly fifty years, Genevieve, died in 1999 on what would have been his 104th birthday after hallucinating that she was joining him for a dance to celebrate that occasion.

Growing up in Brooklyn, he attended Erasmus Hall High School from 1909 to 1913. At age 13 he contracted polio for which there was no vaccine at the time, but managed to survive with only some lasting but not debilitating damage to one of his legs, which nevertheless did not prevent him from playing sports like baseball in his youth and golf and tennis later in life. His mother was a Christian Scientist who did not believe in the efficacy of medicine anyway. In another ironic twist, her great grandson, Peter Cubberley, valedictorian of his senior class at Allegheny College in 1949, went on to get his M.D. from Case Western Reserve University in 1961 and eventually became the medical director of the Free Clinic of Greater Cleveland and a pioneer in the treatment of HIV/AIDS.
Harold, known to his friends as "Hal," starting as a freshman at Columbia University in September 1914 and graduated with a B.A. in Economics in June 2019. During those years he played on the college's baseball team and served for three months at the end of 1918 as a private in the Student Army Training Corps of the U.S. Army. He also played piano professionally in the New York City area at such venues as the Plaza Hotel where his "stride" style of jazz made famous by James P. Johnson and Fats Waller drew an appreciative audience for what were then called "tea dances."

His first jobs for several years after graduation were positions as a clerk in banks and other businesses in the city, but in June 1923 he managed to fill in one month as a teacher of English and history at a private boys' school and then in October started a full-time job as an English teacher at The Hill School in Pottstown, Pennsylvania, where he stayed until June 1925. In October he decided to return to Columbia and earned his M.A. in History in June 1926. His next teaching position, in history as well as English, came at The Asheville School for Boys in Asheville, North Carolina, from September 1926 to June 1927.

For the next three years, from November 1927 through June 1930, he worked as a college traveler for Henry Holt & Company visiting colleges to persuade professors to adopt the company's textbooks. He gave up this job after marrying Genevieve Harnett in her hometown, St. Louis, on June 24, 1929, having met her in Rome during a trip to Europe in the summer of 1927.
Genevieve, seven years younger, was a 1923 graduate of Mary Institute, a private feeder school for Washington University from which she graduated in 1927. A member of the women’s soccer team, she served in a number of positions in various clubs and was secretary of the Chapel Choir whose president was Clark Clifford, later to become a major power broker in national politics and eventually Secretary of Defense under President Lyndon Johnson. Many years later, after her son visited Mr. Clifford’s law office on a trip for Princeton undergraduates organized by Professor Fred Greenstein, he wrote a letter dated July 23, 1983, in which he said: “Please give my affectionate regards to your mother Genevieve Harnett Thatcher. I remember her well and I always thought that she was a very attractive younger woman. I am glad to hear that she is still hale and hearty.”

Genevieve’s mother, also named Genevieve, was for many years the personal secretary to Bishop Ivan Lee Holt of the United Methodist Church in St. Louis. The bishop was a leader in world religious affairs serving for a time as the president of the World Methodist Council. Her father was James Dudley Harnett (1875-1951). His life revolved around the sport of golf. He is widely credited by historians of the game with being instrumental in the launching of The Ryder Cup, with some claiming his role to be so significant that it might well have been called The Harnett Cup. He also played a major role in the growth of the Professional Golf Association of America and the spread of the sport through the country. The PGA is in the process of moving its headquarters from Florida to Frisco, Texas, where the younger son of Harold and Genevieve now resides.
Harold returned to teaching in private secondary school at Rutgers University Preparatory School in New Brunswick, New Jersey, in September 1930. He taught history there until June 1933. He then decided to pursue a Ph.D. in history and attended the University of Chicago where he was awarded the prestigious Henry Hilton Wolf Fellowship for the 1934-1935 academic year. Working under the direction of Professor Marcus Wilson Jernegan, he studied from September 1933 until he earned his doctorate in June 1935 with a 317-page dissertation titled "The Social Philosophy of William Livingston" of which the present biography is an expanded and revised version. Harold learned much about Constitutional history during his time in the Ph.D. program, influenced greatly by the scholarship of one of the department's most famous teachers, Andrew McLaughlin, whose magnum opus, *A Constitutional History of the United States* (1935), won the Pulitzer Prize for History in 1936. Harold taught Constitutional history throughout his subsequent career.

Now Dr. Thatcher, he began his career as a college professor in September 1935 as an Assistant Professor of History at the University of Maryland in College Park. He taught both American history and historical methods to undergraduates and graduate students. His rise to the rank of full professor took only two years. Among fellow junior professor just getting their own careers started were Richard Hofstadter, who joined the department in 1942 after getting his Ph.D. from Columbia and later became one of our country's leading intellectual historians, and Gordan Prange, whose career in the department spanned the years from 1937 to his death in 1980. Prange, who served as General Douglas MacArthur's chief historian
during the occupation of Japan following World War II, acquired a rich trove of Japanese documents that later were donated to the university's library where they remain as a special collection under his name today. From these documents Prange was able to write outstanding books about the war in the Pacific including *At Dawn We Slept: The Untold Story of Pearl Harbor*, which was published posthumously in 1981 after two of his former students were commissioned by his widow Anne to reduce a manuscript of some 3,500 pages to the nearly 900 printed pages of the book, which became a best seller for its publisher, McGraw-Hill. Earlier, in 1963, Prange had written two articles for *The Reader’s Digest* titled “Tora! Tora! Tora!” that became the basis for the screenplay of the popular movie of that name in 1970. The Prange and Thatcher families became close friends, and after their husbands died, the two widows traveled to many parts of the world together no doubt aided by the profits from the book and movie.

The following photo shows Harold Thatcher circa 1940.
From August 1942 until June 1945, Harold served in the Office of the Quartermaster Corps, GAS Division, in the War (now Defense) Department, as a historian assigned “to prepare (including all research and writing) monographs on various phases of QMC activities during World War II.” From June 1945 to August 1947 he served as Chief of the Historical Section, in charge of directing the work of five historians and two clerks, “to plan and supervise the preparation of [the] history of Quartermaster activities in World War II in the continental United States and overseas; to coordinate all historical work within the Quartermaster Corps; to maintain liaison with the Historical Division, WDSS; to act as general editor of all historical work prepared in the Q.M.C. under the War Department Historical Program.” To this multivolume series he contributed three monographs he researched and wrote himself: Planning for Industrial Mobilization, 1920-1940 (x + 304 pp., No. 4, August 1943), The Development of Special Rations for the Army (viii + 132 pp., No. 6, September 1944), and The Packaging and Packing of Subsistence for the Army(xii + 142 pp., No. 10, April 1945). Upon the conclusion of his service, Harold received a letter dated August 21, 1947, from the Quartermaster General, Major General T. B. Larkin, which reads in part: “During your employment in the Administrative Division, you displayed skill and judgment in preparing a history of the activities of the Quartermaster Corps during World War II. Your direction of the Historical Section made it possible to prepare a history, the value of which will be inestimable to future officers of the Quartermaster Corps who may be confronted with problems and situations similar to those encountered in World War II.”
The last and longest part of his career Harold spent as Chair of The History Department at Wilkes College (now University) in Wilkes-Barre, Pennsylvania. He started that job in September 1947 and remained until his retirement in June 1965, the month that his youngest son Sanford graduated from Princeton. An older brother George graduated from Yale in 1962. Their mother taught geography and history to fifth and sixth grade students at Wyoming Seminary Day School in the family's hometown of Forty Fort, Pennsylvania, from 1956 to 1966 during the years her sons were in college. Both sons were graduates of that school as well as the high school, Wyoming Seminary, located in Kingston, Pennsylvania, across the Susquehanna River from Wilkes-Barre.

During his time at Wilkes College, Harold taught American history with a special interest in colonial and Constitutional history and also foreign affairs. An early critic of the U.S. involvement in Vietnam, he wrote articles for such popular publications as Worldview and The Nation, penned many letters to The New York Times, and was active in groups like the World Federalists, Fellowship of Reconciliation, the National Committee for a Sane Nuclear Policy (SANE), and the Wyoming Valley United Nations Association, which he co-founded. In frequent demand as a speaker, he was a respected proponent for liberal causes in a generally conservative part of the country. He and Genevieve were very active members of the United Methodist Church, and Harold also attended annual meetings of the American Historical Association. He wrote a book about the origins of the Cold War, reflecting what later would become known as the New Left point
of view, but his efforts to get it published during the McCarthy era proved to be unsuccessful, as he had expected they would. Genevieve was active in some of these groups also as well as the Association of American University Women.

One longtime friend, Jule Ayers, writing shortly after Harold’s death in 1978, paid this tribute to him: “Wilkes College and our community have been blessed by the life and service of the late Dr. Harold Thatcher. He was a historical scholar and a symbol of how the Wyoming Valley has benefited by some of its distinguished college professors. Not only was he head of the history department at Wilkes during his career. He was also a man of liberal and independent outlook. He was as enthusiastic for disarmament, peace, the United Nations and a sane nuclear policy. He made his mark, and left his mark, for good! He was quoted often in the New York Times, and his readers knew that he had facts to substantiate his positions. There was a dignity and sweetness about his spirit too. He kept active long after retirement. . . . He was a citizen of the world, and liberated from parochial vision. Above all, he was a fine father and husband. He has endowed the college, and many of us, in some enduring ways.”

During the summers Harold and Genevieve served on the staff of Camp Susquehannock for Boys near Brackney, Pennsylvania, which had been founded in 1905 by a graduate of Princeton University, Carleton Shafer, whose sons Edwin and George, also Princeton graduates, took over running the camp after their father died in 1959. First joining the staff as a counselor in 1924, Harold became a tutor for the campers who needed academic improvement and
also was the leader of the camp orchestra. The only song he ever wrote was titled the "Camp Susquehannock March," which later was adapted and orchestrated by the head of the Music Department at Wilkes College with new lyrics to become a standard part of the college band's repertoire often played at football games. Genevieve, known to her friends as "Gingie," helped out the counseling staff for the youngest campers and performed a variety of other duties as well.

In 1976 Harold was awarded the status of Professor Emeritus by Wilkes College. The program for the ceremony reads in part: "A frequent contributor to the professional journals and an active participant in public causes, he soon came to be affectionately regarded as an institution within an institution. A meticulous scholar known for his incisive and pungent judgments, he won the respect of colleagues and students for his devotion to standards of excellence, humane idealism, and earnest concern to make use of his talents for the improvement of his school, community, and country."

Among Harold's legacies to his children and grandchildren (whom he did not live long enough to see) was a baseball board game, which he tried unsuccessfully to get published by Parker Brothers, the company that made the Monopoly game famous. A lifelong Brooklyn Dodgers fan, he had a passion for teaching others about the intricacies of the game. Genevieve also was inventive, coming up with the idea for the small cereal boxes that were convenient for traveling. She wrote to the Kellogg Company about this idea and received a response thanking her for the suggestion. Later this company pioneered the introduction of this innovation in packaging without ever
giving credit to her. She did not, alas, consider patenting the idea before offering it to the company.

Of all his writings, it would appear that this biography of William Livingston meant the most to its author. The rest of this book is reproduced from the original manuscript complete with page numbering changes he made in his own hand.

Following is a brief account of its publishing history, preceded by a photo of Harold taken in 1970 when a painting of him was dedicated at Wilkes College.

Sanford G. Thatcher
February 8, 2021
About This Book

The first question that any scholar of the American Revolution will want to ask about this book is how it is different from the biography that the University of Pennsylvania Press published in 2018 titled William Livingston’s American Revolution (viii + 270 pp.) written by James J. Gigantino II, Associate Professor of History at the University of Arkansas.

This author describes in footnote 3 on page 207 what he believes to be the other existing biographical works: "The last biography published was Theodore Sedgwick, A Memoir of the Life of William Livingston . . . (New York: J & J Harper, 1833). Sedgwick was married to Susan Anne Ridley Sedgwick, Livingston’s granddaughter who lived with Livingston briefly after her mother, Catherine, moved home after her husband died. Livingston has also been the subject of two other works. In 1993, Garland published a largely unrevised 1954 dissertation by Milton Klein, The American Whig, which focuses almost exclusively on Livingston before 1773. I rely heavily on Klein’s work in my first chapter. In addition, Cynthia Kerner, Traders and Gentlefolk: The Livingstons of New York, 1675-1790 (Ithaca, NY: Cornell University Press, 1992), surveys multiple generations of Livingstons. In addition, several unpublished dissertations and theses also examine Livingston and his family, which I utilize throughout as well."

In footnote 5 on page 10, Professor Gigantino cites "The Social Philosophy of William Livingston" by Harold Thatcher as a Ph.D. dissertation completed in 1938. This is a clue that he never saw the entire dissertation,
which is 316 pages long and was submitted in June 1935, but rather just
to pages 240-304, which were issued as a "private edition" distributed in 1938
by the University of Chicago Libraries to a handful of other libraries at
major universities around the country. This excerpt is clearly marked on
the cover as being "part of a dissertation" submitted to the Department of
History in 1935. How Professor Gigasntino could mistake this for an entire
dissertation is a mystery given the page numbering and this notification on
the cover.

At any rate, before the professor's book came out in 2018, this current
book by Harold Thatcher, based on the 1935 dissertation but revised and
expanded to 456 pages, was the only full-scale scholarly biography in
existence. Professor Gigantino was, not surprisingly, totally unaware that
this complete biography existed, although there is some possibility that
his copyeditor, Gretchen Oberfranc, might have been aware of it since she
is a friend of Sanford Thatcher, is married to his Princeton classmate
Charles Creesy, and was for several years managing editor at Princeton
University Press reporting to Sanford Thatcher, who was editor-in-chief
there.

Still, it is clear that Gigantino's and Thatcher's biographies are
completely different in orientation and complementary rather than competitive
or duplicative. As the foregoing Preface emphasizes, this is primarily an
intellectual biography, a study in the history of ideas, not so much focused
on Livingston's practical political activities, which are what Gigantino's
book wants to illuminate and interpret. Indeed, on page 9 of his Introduction,
Gigantino goes so far as to admit that "this study is not a traditional
biography of a political leader" because he is using Livingston's life and experiences primarily to shed light on four main themes that he wants to explore in his book: "the choice to go to war" (p. 4); "governmental operations and relationships with soldiers and civilians in the midst of significant armed conflict" (p. 5); "historical understanding of who, exactly, was a loyalist and what effect loyalists had on revolutionary government" (p. 6); and "the limits of state government in revolutionary America" (p. 7). In a word, his biography is interested in Livingston as political leader whereas this biography is interested in Livingston as thinker. There is clearly room in this world for two such differently oriented biographies. Indeed, a full appreciation of Livingston's rich life should require reading both.

Why, then, did this biography never find a publisher while its author was still alive? The simple answer is bad timing. When the young professor was starting out his career in the late 1930s, the country was still engulfed in the Great Depression and the market for books was, like practically all markets at the time, severely impacted. Not surprisingly, then, commercial publishers shied away, citing concerns about potential sales. An editor at the Macmillan Company writing on December 16, 1936, said that "even though we realize it is an unusual piece of work . . . in these difficult times we are obliged to decline many interesting manuscripts which might otherwise have appealed to us greatly." Similarly, an editor at the Bobbs-Merrill Company wrote on April 16, 1938, to say: "In spite of the careful research you have done and the timeliness of the subject, we feel that in view of the present business conditions, it would be impossible to
secure a profitable distribution." Harvard University Press simply pointed to already having too many manuscripts of this kind to consider. The most obvious university press to publish a biography of Livingston, Rutgers, also cited financial difficulties. In a letter dated January 18, 1939, the editor explained that the consensus of "those who read the manuscript was that while it was in need of some slight editorial revision, your work is excellent and certainly merits publication. However, as you yourself will no doubt agree, there would be very little sale for this book and the publication would have to be underwritten from one source or another." Subsequent efforts to obtain a subsidy, for example, from the American Council of Learned Societies, did not bear fruit. Efforts to find an appropriate series also failed. For instance, Professor Thomas Wertenbaker of Princeton University sent a letter dated July 1, 1939, saying that while he read the manuscript "with interest and profit," he could not consider it for inclusion in the series he edited, "Princeton History of New Jersey," because its first five chapters focus on Livingston's time in New York.

Frustrated at every turn in these initial attempts to find a publisher, Harold continued to do some work on the manuscript, with the present version representing its state circa 1940, but he made efforts to get it published less frequently. One such effort involved the publishing program at the Institute of Early American History and Culture at the College of William and Mary. Its director, Lester J. Cappon wrote on May 31, 1950, that "large-scale revision of your study would be necessary to meet the requirements of our publications program." (Cappon later was the chief editor for The Atlas of Early American History published for the
Institute by Princeton University Press in 1976, "a magnificently designed and produced volume" that the New York Times called "in every way extraordinary.")

Although this letter conveyed a number of valuable suggestions, it would appear that no further work was done on the manuscript before it was submitted late in 1961 to the University of Oklahoma Press whose director, Savoie Lottinville, presented virtually the same message early in 1961 based on an expert's review that press had commissioned, though it was much more perfunctory than the comments provided by Lester Cappon. Harold responded by saying that while he was open to doing more work on the manuscript, he would need the assurance of a contract or else a subvention from another source to be able to devote more time to working on it until his planned retirement in 1965.

Timing thus became a problem again, but in a different way, because now the impediment was the age of the manuscript, making the need for revision more evident with each passing year.

Harold decided to give it one last try in the early 1970s leading up to the country's Bicentennial, figuring that there would be renewed interest in publishing a biography about an important and often overlooked founding father. He was dismayed to learn, however, that the New Jersey Historical Commission seemed to have been completely unaware of the existence of his biography despite the circulation that the University of Chicago Libraries had done with the excerpt from his dissertation, which made its existence known to patrons of major academic libraries around the country (as its later discovery and use by Professor Gigantoni proved). Instead,
Harold was told that the Commission had made an arrangement to publicize a new biography being prepared by Milton Klein under contract with the McGraw-Hill Publishing Company. That news greatly upset Harold because he then became aware that Columbia had granted a doctorate degree to Klein for his 1954 dissertation on Livingston's career in New York State. This discovery led to a flurry of correspondence between Harold and the dean of graduate studies at Columbia about protocols for the acceptance of topics for doctoral research. Remembering rules from the era when he got his Ph.D., Harold was under the impression that students were not to be allowed to do research on subjects already covered in existing dissertations, at least for a certain period of time thereafter, so as to ensure that the research and writing would be truly "original" in the requisite sense. It was his understanding that graduate departments in the major research universities shared information about proposed dissertation topics so that the problem of duplication would be avoided. Harold was not claiming that any graduate student should be somehow considered to have a monopoly on any topic such that no one else could write about it, only that dissertations should not be duplicative in this manner. Rebuffed in this argument by the dean of his own alma mater, Harold then wrote to the dean at the University of Chicago, Karl Morrison at the time, who confirmed that the standards and rules had changed since the 1930s as the Columbia dean had stated in a more curtly manner.

A last-ditch effort to try getting Rutgers University Press interested again went nowhere as its then director, soon to be retiring, William Sloane,
oddly predicted that the Bicentennial would not increase interest in and sales of books on such topics as Livingston’s life but actually decrease it. He wrote: “There is almost no reason to believe that the up-coming bicentennial celebration will have anything but an adverse effect on the market for books about the Revolutionary figures and events.”

As if that assessment were not discouraging enough, the news about the vast quantity of new papers by or relating to Livingston being unearthed in the project headed by Professor Carl Prince of New York University that were to be published in a five-volume collection of the Papers of William Livingston forthcoming from Rutgers University Press (which appeared over the period 1978-1988) must have come as a final blow to Harold’s ambition to see this book finally make its way into print. Professor Prince responded to Harold’s letter to him in a reply dated November 11, 1975, as follows: “... I have used to great advantage your long essays on Livingston’s political theory in the NJHS proceedings. I have had no success in acquiring a copy of your dissertation, and would appreciate any help you could give me in locating a copy. We would gladly reimburse you for photocopying any copy in your possession. If you plan to make any revisions or additions to your work, I am afraid you will have to take into account the relatively large number of newly unearthed Livingston Papers we have acquired. Many of these have come to us in groups of ten or less [sic] from remote archives or private sources here and abroad and almost certainly would have been unavailable to anyone working on Livingston at the time you did. We have some 4500 Livingston Papers in our collection with as many as 500 more yet to be accessioned. For anyone working on
Livingston this information must be unnerving. I know that we were not expected to find that many extant Livingston items. On the other hand, it will considerably alter what we know about Livingston’s role in the Revolutionary era.” As a partial rejoinder, it might be argued that an intellectual biography of the sort that Harold had written, based primarily on publicly available writings by Livingston in magazines, newspapers, and other publications would likely be less affected by discovery of new papers relating to political activities and private family matters. At any rate, a final effort to interest The Shoe String Press at the end of 1975 went nowhere, and Harold made no further effort to seek publication before his death in February 1978. If there were any consolation prize for him, it lay in his finding out that the biography under contract with McGraw-Hill was never submitted by Professor Klein and the contract was cancelled.

Modern technology now makes possible publication of still worthy contributions to the historical literature like this at minimal cost, and it would seem a fitting end to this story that this book finally becomes available not just in a few academic libraries where musty volumes published long ago in print gather dust but to everyone in the world who has an Internet connection and can now learn at their leisure and at no cost except their time about this fascinating figure who contributed so much to the development of early America and to the political theory of democracy that still energizes and guides us today.

Sanford G. Thatcher
February 8, 2021
CHAPTER I
FAMILY AND FOUNDER

Having been providentially preserved from a watery grave when shipwrecked on a voyage to Europe in the year 1695, Robert Livingston, the founder of the Livingston family in America, changed the motto on the family coat-of-arms from Si Je Puis (if I can) to Spero Meliora (I hope for better things).¹ He had, indeed, already found better things in America than he had left behind when he had departed from Scotland for the New World in 1673, and, in spite of such untoward occurrences as the shipwreck just referred to, good fortune on the whole continued to accompany him to the end of a long life. Before recounting, however, how this gentleman laid the sturdy foundations of the fortune of a family whose name became illustrious in the history of America, let us glance briefly somewhat farther back into the history of this family.

The Livingston family can be traced far back in English history. According to Theodore Sedgwick, Jr., the great-grandson of William Livingston and the author of the only previously published life of his illustrious progenitor, the family is said to have been of Hungarian origin and to have migrated to Scotland about the time of the Norman Conquest. A later descendant of the

¹E. B. Livingston, The Livingstons of Livingston Manor (New York, 1910), p. 81. The succeeding account the Livingston family down to the time of the birth of the subject of this biography is drawn chiefly from various portions of this work, from another work by the same author, The Livingstons of Callender and Their Principal Cadets (Edinburgh, 1920), chap. xxii, and from Theodore Sedgwick, Jr., A Memoir of the Life of William Livingston (New York: J. & J. Harper, 1833), pp. 18-45. This last work will be cited hereafter simply as Memoir.
American branch of the Livingston family, Edwin Brockholst Livingston, whose research on this subject has been more thorough and is therefore more reliable, brands this as a fable which is "certainly untrue" and asserts that the line was undoubtedly of Saxon lineage. The family name itself, according to this latter authority, was of territorial origin, derived from the lands of Levings-tun or Levings-toun in West Lothian, Scotland.

We need not enter here into the details of the very early history of the Livingston family. Suffice it to say that through a fortunate marital alliance coupled with royal favor the family became possessed in the fifteenth century of a barony, the head of the family being known as Lord Livingston of Callendar. The American branch of the family is descended from the second son of the fourth Lord Livingston. This worthy gentleman seems to have been of martial bent, for he was killed in battle in 1547. His descendants, however, were apparently of more pacific disposition, for we find the eldest son in each of the next three generations devoting himself to the ministry. Alexander, the son of the doughty warrior referred to above, became rector of Monyabrooch and was succeeded in this office in turn by his eldest son William.

Here we must pause a moment to examine somewhat more closely the lives of the Reverend William and of his son John because of the remarkable similarity of some of their characteristics to those of their descendant, the subject of this study. The Reverend William Livingston was on more than one occasion disciplined by James I for his non-conformity, that is to say, for his opposition to the introduction of episcopacy into the Church of Scotland. Under Charles I he continued his vigorous opposition to this policy but seems to have escaped further punishment. He died at the outbreak of the Scottish revolt against the clerical policies of this latter
monarch, too early to view the temporary triumph of the principles which he had so stoutly defended at considerable risk to himself. The determined opposition to episcopacy this far back in the family history is of interest to us, however, in view of the important part which this same struggle played in the life of our own William Livingston and the similarly determined opposition which he offered to the introduction of episcopacy into America.

John, the son of the Reverend William Livingston who died so inopportuneiy at the outbreak of the Civil Wars in England, and the great-grandfather of the subject of our biography, followed in his father's footsteps but became an even more noted clergyman than his father. He struggled even more valiantly and obstinately, too, against the abhorrent doctrine of episcopacy and suffered as a result more severe punishment than had been inflicted upon his father. At the very outset of his career his ordination was delayed several years because of his "aversion to all Episcopal ceremonies." This also prevented his procuring a parish in Scotland. He eventually was offered and accepted a parish in Ireland. Even there, however, he was by no means safe from persecution and was on several occasions suspended or removed from his post for varying periods on account of his "non-conformity." This persistent harrying drove him to make two attempts between 1630 and 1640 to emigrate to America, where he intended to become one of the colony founded at that time in Connecticut by John Winthrop the younger, whose acquaintance Livingston had already made during one of the former's visits to the British Isles. Inclement weather and other untoward incidents, however, prevented the successful conclusion of both of these attempts although on the second trial the ship carrying the Reverend John and a group of his associates in the venture reached the Newfoundland Banks before being driven back

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2 Livingston, Livingstones of Livingston Manor, p. 21.
and almost destroyed by a terrific hurricane. The devout clergymen accepted these hostile manifestations on the part of Nature as a clear indication of the will of God and determined to make no further attempts to accomplish that upon which it was evident the Lord did not look with favor.

It was hardly necessary, indeed, for this indomitable "non-conformist" to seek refuge again in America at this period of his life, for the early success of the Covenanters, of whom he was one, in the Civil Wars which broke out within a few years after his second attempt resulted in his being rewarded with an appointment to the parish of Stranraer in the western part of Scotland. He was subsequently transferred by the General Assembly to Ancrum in Roxburghshire, a more desirable post. After the breach between the Scotch Covenanters and the English Independents he played a leading part in the negotiations which brought Charles II back to Scotland and ultimately to the throne of Great Britain, although he seems to have placed less faith than his colleagues in the promises of that royal personage to subscribe and adhere faithfully to the Covenant. In the schism which ultimately took place in the Church of Scotland over the question of whether or not to support Charles, the Reverend John found himself with the minority opposing such support. In view of the fact that his descendant William, with whom we are to be chiefly concerned, was later identified as a member of a triumvirate which worked together for a period of years in the factional struggles which marked the political history of colonial New York, many of which, too, revolved about questions of politico-religious policy, it is interesting to note that the Reverend John and his associates were referred to at this time by a minister of the opposing faction as "our Triumviri,

\[3\] Infra, chap. iv, passim.
Masters Levistone [Livingston], Gillespie, and Menzies. 

After the Restoration and the reestablishment of episcopacy in Scotland, John, with the obstinate adherence to his convictions and pertinacity which were also characteristic of his descendant, William, continued to oppose the Stuart policy in this respect, even going so far as to refuse to take the oath of allegiance because he felt it would commit him to the acceptance of a doctrine which he could not approve, a truly admirable exhibition of moral courage, a virtue which again was possessed in marked degree by his great-grandson. As punishment for his contumacy he was sentenced in December, 1662, to banishment. He removed to Rotterdam in Holland, where he continued to reside during the last ten years of his life, dying and being buried there in 1672.

With him during most of his exile in Holland were his wife and two of their younger children, one of whom almost certainly was his youngest son, named Robert. It is to this son that we must now turn, for it was he who established the Livingston family in America. Eighteen years of age at the time of his father's death, he returned to Scotland for a short while but seems to have had no thought of following his father's footsteps in the ministry, for during the following year he embarked for America to seek his fortune in the New World, which was beckoning ever more alluringly to those whom the wheel of Fortune had in one way or another placed at a disadvantage in the Old World.

He landed at Charlestown, but within a short time after his arrival proceeded to New York City and then to Albany, having sought this colony probably because of the advantage which his knowledge of the Dutch language, acquired during his boyhood residence in Holland,

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4Livingston, Livingstons of Livingston Manor, p. 45.
would be to him there. Shortly after his arrival at Albany he became secretary to the Commissaries, who at that time superintended the affairs of that town and adjacent districts, and he also acted, although for the time being and for many years thereafter without salary, as secretary to the board which handled Indian affairs. When Albany became a city in 1686, Robert Livingston was appointed town clerk as well as collector and receiver of customs.

The traditional shrewdness of the Scot is abundantly illustrated in the career of this founder of the Livingston family in America. Although devoting himself assiduously to the public service, as is evident from the above, and thus establishing himself as a public figure of importance, he had not in the meantime allowed his private interests to suffer. His first important step toward advancing these was his marriage in 1679 to Alida Schuyler, the widow of Dominie Nicholas Van Rensselaer and the daughter of Philip P. Schuyler. Thus he became allied with two of the oldest and most important Dutch families in the province.

Even before this, with a keen appreciation of the value of large landholdings in a semi-feudal society such as was that of New York in the seventeenth century, he had commenced buying land on a small scale. It was not until the year after his marriage, however, that he started operations in this field on a large scale by applying to Governor Andros for permission to purchase from the Indians one of the few parcels of land fronting on the Hudson River which still remained unappropriated and upon which he had already cast a longing eye for some time. The permission was granted and in 1683 the thrifty Robert purchased from the Indians with the usual payment, chiefly in kind and consisting of various commodities and trinkets, two thousand acres of land adjoining Rensselaerwyck, the largest of the proprietary estates in the province. For these two thousand acres, in accordance
with the system of landholding of that day, he was obliged to pay an annual quit rent of twenty shillings. A patent was granted by Governor Dongan in 1684 confirming this grant. The following year Livingston secured in the same manner six hundred additional acres from the Indians. In the same year a confirmatory patent was granted for this second purchase, setting the annual quit rent for the additional six hundred acres at eight shillings. In 1686 this canny Scot applied for and received from Governor Dongan a patent erecting his estate created by these two purchases from the Indians into a manor with the usual feudal privileges attaching to the proprietor which were enjoyed by the proprietors of the other and older manors in the province. Thus within a dozen years after the arrival of Robert Livingston in the colony of New York the foundations of the family estate and fortune were securely laid.

Livingston Manor proved ultimately to be one of the largest proprietary estates in the province of New York, where exceptionally large estates of this nature were by no means uncommon. In the face of the existing evidence, however, the methods by which the founder accomplished this expansion to such huge proportions of an estate which had originally been comparatively small do not seem entirely ethical, judged by the standards of a later day, though such practices were, to be sure, quite common among the land-holding and land-grabbing gentry of Robert Livingston's day. Though the original manor, as previously stated, consisted of only 2,600 acres, yet when in 1713, because of the uncertainty of the boundaries of the manor as defined in the original patent establishing it, Robert Livingston applied for a new patent, a survey made in the following year shows the manor to have consisted at that time of 160,240 acres, in spite of the fact that there is no record of any sizable purchase of land in the meantime. This immediately suggests the question: How did an estate so comparatively small in the beginning grow so miraculously to such huge proportions in such a brief span of time? Let us examine the facts.
The second patent, granted in 1715 as a consequence of the above request, purports merely to recapitulate and redefine the two original grants. It is significant, however, that in the process of summarizing the facts as stated by the original patent of 1686, a new clause slips in which had not appeared in the original. The patent of 1715, recapitulating the reasons originally presented by Robert Livingston in the role of petitioner why his estate should be erected into a manor, reads as follows: "AND WHEREAS upon further application made by the said Robert Livingston to Colonel Thomas Dongan, then Lieutenant Governour of the Province of New York, setting forth and making it appear that he had been at vast charge and expences in purchasing the said tracts of land [the two mentioned above], and other lands adjoining to the aforesaid two severall tracts or parcells of land, comprehended by generall boundarys, ... mentioned and expressed in one third patent thereof [the original "manor" patent of 1686]. ..."  

The italics are mine and it is this clause which is so significant, for the patent of 1686 had made no mention of "other lands adjoining to the aforesaid two severall tracts," but had purported merely to give the boundaries of the two tracts of two thousand and six hundred acres respectively.  

The suspicion immediately arises that the boundaries as recited in the patent of 1686, which purported to be the boundaries of the two comparatively small tracts purchased from the Indians, were not the same as the boundaries stipulated in the Indian deeds but actually included a much larger area than the two thousand, six hundred acres which the Indians had actually sold. The boundaries as recited in the

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5 "Papers Relating to the Manor of Livingston," The Documentary History of the State of New-York, ed. E. B. O'Callaghan (Albany, 1849-51), III, 693. This work will be cited hereafter as Doc. Hist. of N. Y.

6 Ibid., pp. 622-27.
two deeds of sale and in the patent of 1686 cannot be checked at this late date, for they consisted chiefly of typical Indian landmarks such as notched trees and piles of rocks, which must have long since disappeared or been covered over. Then, too, although the documents themselves or verified copies of them are still available, the patent of 1686 recited the boundaries of the estate as a whole, comprising the two separate purchases, which were said to be adjoining, whereas the boundaries stipulated in the Indian deeds are those of each purchase separately. Therefore, although the landmarks mentioned in the deeds are frequently not those mentioned in the patent of 1686, it is difficult to prove in this manner that the boundaries mentioned in the patent of 1686 did not comprise roughly only the land actually deeded by the Indians on two separate occasions. Other evidence may be cited, however, which tends to confirm the suspicion that the boundaries mentioned in the patent of 1686 actually included far more territory than the sum of the two purchases from the Indians which they pretended to include. One of the most convincing of these pieces of evidence is the fact that an account of the quit rents paid by Livingston Manor during the eighteenth century down to the year 1765 shows the total annual quit rent to be no more than the twenty-eight shillings levied upon the two purchases of two thousand and six hundred acres respectively. Another, though negative bit of evidence, already indicated above, is the apparent lack of any record of additional large purchases adjoining the two original tracts. It seems inconceivable that an estate of only two thousand, six hundred acres could have been increased in a brief period of years to one consisting of over one hundred and sixty thousand acres without some record of the transaction appearing in the "Papers Relating to the Manor of Livingston."

7The Indian deeds for the two tracts can be found ibid., pp. 612-15, 617-19.
8Ibid., p. 833.
which have been preserved from colonial times. In addition, Governor Dongan was a good friend of Robert Livingston, and it is quite within the bounds of possibility that because of this friendship he failed either through benevolent negligence or conscious omission to have a survey made and the boundaries of the patent of 1686 checked with those of the Indian deeds. This assumption is supported by the absence of any map of the manor prior to 1714.

In 1795, after the death of the third lord of the manor and when the estate had been broken up because of the abolition after the American Revolution of the law of primogeniture, most of it, however, still remaining in the hands of various members of the Livingston family, a petition was presented to the legislature of the State of New York by various tenants on the property comprising the original manor who felt that the terms upon which they held their land were oppressive, praying that an investigation be made into the validity of the Livingston title to this vast property with a view to having it returned to its rightful owners, "the People of this State." This petition asserted that the original application for the erection of the estate into a manor had been made "under false and fraudulent pretences" and that the statements in regard to the boundaries and the contiguity of the two original purchases had likewise been "falsely and fraudulently" made.9 "And Your Petitioners further Humbly shew That the two first recited Grants were for small and inconsiderable Tracts of Land . . . . Whereas the Land claimed by the Heirs and Descendants of the said Robert Livingston . . . . is of much larger extent and of much greater Value containing at least the quantity of One hundred and Seventy five thousand Acres."10

9 Ibid., pp. 834-41.
10 Ibid., p. 838.
This petition the Assembly of the New York legislature refused to consider.\textsuperscript{11} Even if we make allowances, on the one hand, for possible malicious misrepresentation by discontented and aggrieved tenants (although it is to be noted that the facts recited in the petition do not differ materially from those we have already ascertained from other sources), yet, on the other hand, the fact that the New York Assembly in 1795 did not consider the petition worthy of being acted favorably upon is no adequate refutation of the charges made therein. For at this period the Livingston family and its supporters was one of the three most powerful political factions in New York State, and we are all familiar with the unwillingness of legislators in a democratic country to antagonize those who may hold the power of life or death over their political careers.

Again, during the anti-rent agitation in New York between 1839 and 1846, the whole question of the validity of all of the original manor grants was raised and some test cases were brought by the state to test the validity of the titles resting upon those grants. Although several of these cases seem at first to have been decided in favor of the State for recovery of the lands, yet the decision of the lower court was subsequently reversed by the Court of Appeals. It is important to note, however, that the reversal was based chiefly on the statute of limitations, which proved nothing with regard to the validity of the original grants but denied redress simply on the ground that too much time had been allowed to elapse between the acts complained of and the institution of suits for redress.\textsuperscript{12}

The conclusion seems inescapable, therefore, that the founder of the Livingston family in America and the grandfather of the subject

\textsuperscript{11}Ibid., p. 841 n.

of this study was guilty of land piracy on a grand scale. In extenuation of what appears by present standards to have been highly questionable if not unethical behavior in this instance on the part of Robert Livingston, it may be said that a man's morals must be judged by the standard existing in his own day. Similar practices, we repeat, were all too common among Livingston's contemporaries, nor does the prestige of the gentlemen who employed them seem to have suffered any diminution thereby, at least among the members of their own class, the landholding aristocracy, and at that time the opinion of this class was all that mattered. Moreover, the appropriation of land from the Indians without a comparable quid pro quo has been throughout our history an all too common practice. The frontier was pushed rapidly westward on the doctrine that the land belonged to those who could put it to the best use, and many an injustice has been perpetrated under cover of that philosophy. Frontiersmen have never been over-scrupulous in their regard for the rights of races of an inferior degree of civilization. At the time Robert Livingston erected his manor, it stood practically on the frontier of the fringe of British settlements along the Atlantic seacoast. Yet it was not quite on the frontier, being south of Albany, the actual frontier at that time. It is probable, therefore, that the Indians were no longer making great use of the land which Robert Livingston took for his manor inasmuch as they usually preferred to remove always just beyond the advancing frontier rather than to remain within it, even in comparatively unoccupied tracts. On the other hand, it was so near the frontier that not only it but the adjacent territory was very sparsely settled as yet by whites. Thus, it cannot be said that at the time Robert Livingston appropriated this land for his own use he was preventing its
occupation and use by more needy settlers.\textsuperscript{13}

This subject of the acquisition of land by Robert Livingston is of interest to us because William Livingston himself at a later date speculated to a considerable extent in land. Such land speculation, however, was a common practice on the part of the wealthier inhabitants in all of the American colonies, and it will not do to insist too much on the example of his grandfather as exerting any special influence on the propensity of William Livingston to indulge in a practice so widespread during the whole of the colonial period. The methods, however, by which Robert Livingston seems to have acquired a considerable portion of his land from the Indians, are of especial significance in view of the opinion subsequently expressed by his grandson as to the desirability of dealing fairly with the Indians in this respect, a conviction which he carried into practice in one instance by voluntarily giving up a tract of land to which he considered he had a valid legal claim because of the counter-claims of the original Indian owners, who insisted that they had never parted with it.\textsuperscript{14}

We must return to the patent of 1715 for a moment to note that in addition to confirming the original manor patent of 1686 and defining more accurately the boundaries of Livingston Manor, it granted for the first time to the manor a new privilege, namely, that of sending one member to represent the manor at each session of the General Assembly,

\textsuperscript{13}\textit{Cf.} Julius Goebel, Jr., \textit{Some Legal and Political Aspects of the Manors in New York} (Baltimore, 1928), p. 17: "The enormous Livingston holdings were granted at an annual quit rent of twenty-eight shillings, what seems an absurd amount; but when we consider the fact that the land was almost wholly untilled it is not so grossly inadequate."

\textsuperscript{14}\textit{Infra}, pp. 397, 100.
which was the lower house of the provincial legislature. Thus, like the other two manors, Rensselaerwyck and Cortlandt, which had previously been granted this privilege, Livingston Manor became and remained throughout the colonial period practically a "pocket borough," a thoroughly undemocratic political institution. This fact assumes the greater significance for us in view of the innumerable professions of attachment to democratic forms of government voiced throughout his life by William Livingston, whose grandfather, father, and elder brother in turn sat in the Assembly by virtue of this extremely undemocratic arrangement. Indeed, William himself once took advantage of this method of securing a seat in the Assembly.\footnote{Infra, p. 108}

The career of the founder of Livingston Manor subsequent to its establishment need not be traced in detail. Several incidents of interest may, however, be noted. During the Leislerian troubles in the colony of New York, coincident with the Revolution of 1688 in England, Robert Livingston, in company with the other aristocrats in the province, who regarded Leisler as a "Dutch boor," vigorously opposed the rule of this self-proclaimed leader of "the people." This incident is noteworthy because we shall frequently find William, the grandson of this unyielding aristocrat, insisting, as the leader at a later date of the popular party in the province, on the sacred rights of "the people," although he did, to be sure, like his grandfather, look with disfavor upon leaders chosen by "the people" from among their own ranks.

In view of the interest exhibited by William Livingston at one period in his life in privateering ventures,\footnote{Infra, p. 127} it is of interest to note that during a visit for business purposes to England during the last decade of the seventeenth century (the voyage during which he experienced the unfortunate shipwreck), Robert Livingston took a leading
part in setting on foot a privateering venture in which several of the leading politicians in England at that time took shares. This particular venture proved to be most unfortunate and almost brought disaster upon the heads of all concerned, for the worthy seaman chosen as commander of the privateer and recommended, incidentally, by Livingston, was no less than the Captain Kidd who subsequently attained such notoriety by hoisting the skull and cross-bones to his masthead and turning the very ship which had been put under his command for the purpose, among other things, of suppressing piracy, into a pirate ship itself.

After the peace of Ryswick Robert Livingston, together with his brother-in-law, Colonel Peter Schuyler, and another gentleman, was sent on a mission to the Indians to counteract the influence which the French under Count Frontenac had been attempting to exercise over them. In commenting at this time on the work among these Indians of the French Jesuits Livingston spoke in the most derogatory terms and with a bitterness which we shall see reflected in undiluted form in the writings of his grandson. For example, he declared in his report concerning this mission that "'the Jesuits of Canada are so cunning as to have their share of whatever an Indian hunts, which is brought and laid before the image of the Virgin Mary in the church, and this being done they have not only remission of their sins, but her prayers to the bargain for good luck when they go a hunting next time.'"

This fear of the Jesuits and their influence upon the Indians on the part of the Secretary for Indian Affairs in the colony of New York was a continuing one, for during a second visit to England in the early years of the eighteenth century, undertaken chiefly for the transaction of personal business, he prevailed upon the Society for the Propagation of the Gospel in Foreign Parts (the foreign missionary

17Livingston, Livingstons of Livingston Manor, p. 114.
organization of the Church of England) to send two clergymen to the Iroquois to counteract the Jesuitical influence. The instrumentality of Robert Livingston in this regard is interesting in view of the charges later put forward by his grandson that the missionaries sent out by this society during the eighteenth century, ostensibly for this purpose as well as to minister to Anglican parishes in the colonies, were in fact neglecting both of these duties and devoting themselves rather to proselytizing among the white colonists of other faiths and spreading propaganda for the establishment of an Anglican episcopate in America. 18

As Secretary for Indian Affairs Robert Livingston on numerous other occasions rendered valuable service to his government and to the colonial governors representing it in the province of New York, being to a considerable degree responsible during his tenure of that office for keeping the powerful Six Nations faithful to their alliance with the English. In this office he was succeeded by his son and heir, Philip, who carried on creditably the tradition established by his father in this respect. This special connection on the part of his father and grandfather with Indian affairs, a problem of the utmost importance to the government during the almost continuous wars with the French during the eighteenth century, no doubt explains in part the interest in this question shown on various occasions by William Livingston himself.

Because of the vagaries of factional politics in New York during his lifetime Robert Livingston frequently found himself exposed to the malice of his enemies and on more than one occasion was threatened with the partial or total loss of the valuable worldly estate which he had so spectacularly amassed and upon which he looked as the bulwark forever of the family fortune in America. The chief purpose of the two visits to England already referred to was to secure repayment of advances to

18 Cf. infra, p. 147
the government which in times of emergency he had patriotically made from his own private fortune but which he had found it impossible to collect through the usual channels. Several times, too, as a result of the machinations of his enemies, he was suspended from the various governmental offices which he held and which besides being posts of honor were also lucrative. Livingston, however, had influential friends at the Court of St. James as well as in the province of New York. Eventually Fortune smiled upon him again after each of these temporary setbacks, and he ended his days in the year 1728, in the estimation of his countrymen "full of honor and years." Before taking our final leave, however, of the patriarchal founder of the Livingstons of Livingston Manor, we must note that in the factional struggles which took place in New York politics during his lifetime, Robert Livingston was found almost invariably on the side of the royal governors and opposed to the Leislerians, as the more democratic faction was known even for many years after the execution of Leisler himself. This is of especial interest to us because of the fact that his grandson William became widely known throughout the province as a leader of the popular party, which opposed so vigorously the royal governors and the "Court" party, as the aristocratic faction was known in his day.19

There is little to detain us in the life of Philip, the second Lord of Livingston Manor. As the eldest surviving son of Robert, he inherited, according to the prevailing custom of primogeniture, the entire estate with the exception of a tract of thirteen thousand acres which by the will of the founder was bequeathed as a separate estate to his third son and namesake. This latter estate became known as Clermont, and the descendants of this branch of the family have been known as the

19 Cf. Goebel, Some Legal and Political Aspects of the Manors in New York, p. 17: "The grants to such men as Livingston, . . . . made by Dongan and his successors, indicates that a conscious effort was being made to create a land aristocracy devoted to the crown and its governor, that would offset the republican tendencies among the people, so deplored by all the governors."
Livingstons of Clermont to distinguish them from the older branch of the family. To this branch of the family belong two men who played very important roles during the period of which we are to treat, namely Judge Robert R. Livingston and his son and namesake, better known to history as Chancellor Livingston. Judge Livingston, the elder of the two, was the first cousin of William Livingston.

The size of the original Livingston Manor had been further reduced by the sale of a small portion of it to the government in 1710. Colonel Robert Hunter, arriving in the colony of New York as a new governor in that year, had found himself in a difficult situation inasmuch as he had been instructed to find suitable land upon which to settle the unfortunate Palatines, allies of the British, who had been driven from their homes in Germany during the continental wars of Louis XIV and for whom the British government had undertaken to find homes in the New World, in return for which the Palatines were to work as indentured servants of the Crown, producing naval supplies for the royal navy. There had seemed to be no unappropriated land suitable for this purpose and so located as to make shipment of the products feasible. At this juncture Robert Livingston had firmly established himself in the good graces of Governor Hunter (a fact indicated by the granting through the good offices of this gentleman of the second manor patent a few years later), and at the same time had garnered a profit for himself by offering to sell to the government a portion of his estate on the Hudson large enough for the purpose. The offer had been gratefully accepted and the transaction consummated, six thousand acres having been transferred to the government, for which Robert Livingston had received four hundred pounds in New York currency.

The estate as inherited by Philip remained intact until after the Revolution, passing upon Philip's death in 1749 to his eldest son Robert. According to the survey made in 1714, just prior to the final
confirmation of the second patent, the estate contained at that time, as we have seen, 160,240 acres. It was situated on the east bank of the Hudson River about midway between Albany and Poughkeepsie. It had a frontage on the river of about ten miles but broadened out as it receded from the river until it reached the boundary line of the Massachusetts Bay Colony about twenty miles eastward, along which it extended for more than fifteen miles. If we deduct in addition to the tract sold to the government the thirteen thousand acres erected as the separate estate of Clermont, the size of Livingston Manor as it remained from the death of its founder in 1728 until its breaking up after the American Revolution must have been somewhere between 140,000 and 150,000 acres. According to a map published in 1798 as the result of a survey made at that time and showing the limits of Clermont and Germantown (the portion on which the Palatines had been settled) as they then existed, the creation of these two separate units seems to have reduced the river frontage of the original manor by almost three fourths.

Philip had married Catharine Van Brugh, daughter of a leading Dutch citizen and former mayor of Albany. He was a handsomer man than his father and seems, moreover, to have been more addicted to extravagance than that thrifty gentleman. It is said that he lived in New York City in a style of courtly magnificence, maintaining at the same time another

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20 This survey, however, included in the estate the six thousand acres which had been sold to the government in 1710, which should be deducted, leaving 154,240 acres (Livingston, Livingstons of Livingston Manor, p. 110). A reproduction of the map made as a result of this survey faces p. 111. It is also reproduced in Doc. Hist. of N. Y., III, facing p. 690.

21 Livingston, Livingstons of Livingston Manor, pp. 110 f.; Joseph R. Bien, Atlas of the State of New York (New York: Julius Bien and Co., 1895), map 3 shows the various manor grants. The dimensions of the manor given by E. B. Livingston and by Sedgwick (Memoir, p. 39) do not coincide exactly with the dimensions as shown by the map in Bien's Atlas and that made in 1798, mentioned subsequently in the text. The dimensions given in the text above were arrived at by a careful measurement of the boundaries according to the scale of these maps. The map made in 1714 contains no scale.

home in Albany as well as the Manor House itself. This extravagant manner of living was capped at his death by a sumptuous funeral, said to have cost five hundred pounds, a large sum for such a purpose in those days. Two services were held, one in New York City where he died and another at the manor, lavish entertainment being furnished at both places. This extravagance we may surmise would not have been approved by his father Robert, nor was it approved by his son William, who in this respect resembled his grandfather more than he did his father. 23

Like his father, Philip played a prominent part in the political life of the colony. Like his father, too, he was a member of the aristocratic faction in colonial politics, 24 having, in fact, been made a member of the governor's council in 1725, a position with life tenure. In 1745, however, four years prior to his death, he quarreled with Governor George Clinton over the management of Indian affairs. As a result of this quarrel the irascible governor made vindictive attacks upon him and attempted, though unsuccessfully, to have him removed from his various offices. This is of especial significance for us because this quarrel was probably of considerable influence in causing the Livingston family as a whole from about this time to align themselves henceforth with the popular rather than with the "Court" faction.

We have outlined the chief facts which have for us any especial significance in the lives of William Livingston's more immediate ancestors. We have noted particularly the unyielding opposition to episcopacy on the part of his Scottish forebears and their rather remarkable exhibition of moral courage in adhering steadfastly to their convictions in the face of the severe punishment which was certain to

23 Cf. infra, p. 97

24 Sedgwick (Memoir, p. 44) says: "The first two heads of this family were evidently enlisted in the ranks of the aristocratic or government party, and, so far as the question was then mooted, against the popular cause."
be the result of such a course. We have noted in the founder of the Livingston family in America a high degree of acquisitiveness and a marked ability in advancing his personal fortunes combined with a sturdy patriotism capable at times of considerable self-sacrifice. We have seen this forebear of William Livingston, too, making bitter enemies as well as steadfast friends, a circumstance which indicates a strong, positive character rather than the reverse. We have noted finally a bitter and unreasoning hatred on his part of Jesuit priests. We have likewise discovered in both the founder and his son a penchant for politics and an especial interest on the part of both in Indian affairs. In view of the discredit which psychologists have cast upon the theory of inherited characteristics, we can scarcely claim that any or all of these traits were directly inherited by William Livingston from his ancestors. Insofar, however, as any or all of these characteristics became family traditions and were preserved as such in the family circle, they must have become part of young William's social heritage and must therefore, to some extent have been conditioning influences which affected his life. Let us now turn to examine the events and influences of his own boyhood and youth which may have been further conditioning factors in developing the mature man.
CHAPTER II
EARLY LIFE AND INFLUENCES

Little is known of the boyhood or early youth of William Livingston, nor indeed is it necessary for us to examine very closely this period of his life. We may confine ourselves to an examination of those influences during this period which seem to have definitely affected his mode of thought and general viewpoint during his later life, and which we may safely assume were instrumental in developing the liberalism, the fierce love of liberty, and the keen sensibility to injustice of any sort for which he became noted during his public career.

William was the seventh son of Philip, the second Lord of the Manor. ¹ He was born at Albany in November, 1723,

¹Sedgwick, Memoir, p. 45, states that William was the fifth child of Philip and Catharine Livingston. This, however, is obviously an error. According to the genealogical table in Livingston, Livingstons of Livingston Manor, Appendix D, p. 543 f., William was the eighth child and the seventh son.
probably on the 30th, and for the greater part of the first fourteen years of his life was under the care of his maternal grandmother, Mrs. Sarah Van Brugh, in that city. The influence of this elderly lady during this formative period of young William's life must have been very great, and as might be expected under the circumstances, he seems to have been somewhat spoiled by her. Sedgwick says of her influence on William's character: "The impatience and irritability of temper, which he never completely succeeded in overcoming, was by his immediate family generally attributed to her excessive fondness and undiscriminating indulgence." The impatience and acerbity of temper thus engendered may quite probably be responsible in part for the keen resentment which Livingston later showed against what he considered any unwarranted interference on the part of

2Sedgwick gives this as the probable date (Memoir, p. 45, n.*), and this date also appears in an entry in a family Bible (Oxford, 1769) presented by Mrs. Catharine Livingston, a daughter of William, to her daughter Susan A. L. Sedgwick, which is now in the possession of the Massachusetts Historical Society. E. B. Livingston gives the date as the 8th of November (Livingstons of Livingston Manor, p. 544), but this seems to be a confusion of the date of baptism, which was December 3 (Sedgwick, Memoir, p. 45, n.*) with the date of birth. A manuscript in the hand of William Livingston, Jr., Mass. Hist. Soc., Livingston Papers, Vol. I, gives under the caption, "The Nativities of my Father's Family," the date of his father's birth as November 29, 1725. The year in this instance, however, is quite certainly an error.

3Sedgwick, Memoir, p. 45.

4Ibid., pp. 52 f.
government or church with civil or religious liberty, and to this characteristic may also be attributed the penchant for sarcasm and biting satire which he later developed to such a marked degree in his writings. That the influence of his grandmother was strong, and although unfortunate perhaps in one respect, yet productive of good in other respects, is evident from a letter written in 1746 to Noah Welles, then a tutor at Yale College, in which Livingston speaks of "the wholesome precepts imbib’d from my Grandmother".

At some time during this period young William spent a year among the Mohawk Indians "with a missionary of the Society for propagating the Gospel". This influence also must have been important, for it undoubtedly gave him a better understanding of the Indians than was usual among the colonists and consequently a keener appreciation of the whole Indian question as it affected the colonies. The ideas which he later set forth with regard to the right to the soil and the proper treatment of the Indians doubtless found their roots in this experience. It was probably during this sojourn among the natives, too, that he learned of some of the methods practised by the French in their attempts to convert the savages to Roman Catholicism. Writing to the Reverend David Thompson in Amsterdam at a later date in regard to the French and Indian situation after the Albany Congress, he says:

I shall only give you two instances of these pious frauds to serve for an example. They [the French] persuade these people

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56 Manuscript letter in New York Historical Society, Miscellaneous MSS., L. The letter is undated, but is endorsed "Read 15 July 1746".

67 Letter to the Rev. Mr. David Thompson, in Amsterdam, Jan. 12, 1756, quoted in Sedgwick, Memoir, pp. 45, 46.

78 Infra, pp. 397, 420.
that the Virgin Mary was born at Paris, and that our Saviour was crucified at London by the English. A French Indian coming to Oswego, and discoursing with some of our traders on the subject of the Romish faith, insisted on its being the true religion, seeing his father confessor could work miracles, for that he had darkened the sun by a bare word of command. A knowledge of the methods pursued by the enemy could not have been without value at such a time. Finally, if the "Society" mentioned by Livingston in his letter was the Society for the Propagation of the Gospel in Foreign Parts, supported by the Church of England (and there can be little doubt that this was the organization rather inaccurately named by him), then his stay for a year with a missionary of that society must have given him at first hand some knowledge of its inner workings, which in turn could scarcely have failed to stand him in good stead in his later bitter contests with the society and its supporters.

Another important influence in William Livingston's youth was Yale College. Following in the footsteps of three of his brothers, Peter Van Brugh, John, and Philip, all of whom had been educated at Yale, William entered the college in 1737 and was graduated in 1741. To the influence of colleges in general, he himself bore witness in an essay written more than a decade subsequent to his graduation. "There is no Place where we receive a greater Variety of Impressions than at Colleges. Nor do any

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8 October 28, 1754, quoted in Sedgwick, Memoir, pp. 6. ff.
9 Supra, p. 34. 14
11 It is frequently stated that William stood at the head of his class. This statement, however, is misleading. It is true that his name heads the list of the twenty students graduated in this year, but until the year 1767 the names were entered in the order of family rank (F. B. Dexter, Biographical Sketches of the Graduates of Yale College with Annals of the College History [New York: Henry Holt and Co., 1885], I ser., p. v). The fact that Livingston's name heads his class is, therefore, an indication only of the social status of his family and not of his ability. For the class list itself see ibid., p. 664.
Instructions sink so deep in the Mind as those that are there received." The influence of his own college on him and his constant affection for it throughout a long life are evident from two of his letters, the first being that written in 1746 and previously quoted from, where, speaking of the wholesome precepts imbibed from his grandmother, he continues, "& strengthened at Colledge [sic]", and the second a letter written only three years before his death, in which he says: "Alas, alas! there is I suppose no probability, considering my time of life, of my ever having it in my power to revisit that darling spot of mine in which I received the first rudiments of my education, and for which I still retain the tenderest affection, New-Haven." Even if we discount the above quotations somewhat because in the first instance Livingston was seeking for purposes of argument to establish the importance of colleges in general and because in the second instance the passage of time and the approach of old age may be presumed to have cast a certain unreal glamor over the incidents of his youth, yet the conclusion still seems inescapable that his four years at college constituted a major influence in William Livingston's life.

But Yale College was considered by many in that day a radical institution in some respects at least, teaching republican principles dangerous to the established order. Thomas Jones, the Tory historian of the American Revolution, and, of course, a

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13 To Noah Welles, 1746, in N.Y. Hist. Soc., Misc. MSS, L.
14 To the Rev. Chauncey Whittelsey, Feb. 20, 1787, quoted in Sedgwick, Memoir, p. 48.
15 The essay quoted from was written during the controversy over the establishment of King's College in New York. See infra, Chap.iii.
prejudiced critic, speaking of Yale and its influence on Livingston, describes it as "a college remarkable for its persecuting spirit, its republican principles, its intolerance in religion and its utter aversion to Bishops and all Earthly Kings."\(^{15}\) Cadwallader Colden, another Tory, writing in 1762 to the British Board of Trade concerning the pernicious activities of William Livingston and his associates, William Smith, Jr., and John Morin Scott, describes them as "three popular Lawyers, educated in Connecticut, who have strongly imbibed the Independent principles of that Country." Later in the same letter he accuses them of "propagating the Doctrine that all authority is derived from the People",\(^{16}\) a doctrine which we may therefore assume was one of the "Independent principles" imbibed during their education at Yale. Finally, we have Livingston's own words attesting the fact that American colleges in general inculcated a spirit of liberty and freedom. In his public letter to the Bishop of \(^{16}\)Landaff, published in 1768, he writes: "...it is notorious, that the American colleges are friendly to liberty, and our excellent constitution; and so firmly attached to revolution-principles, and the illustrious house of Hanover, that not one of them...hath ever produced...a single Jacobite or Tory."\(^{17}\) If, then, his college

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This will hereafter be cited as Jones, Hist. of N. Y. The persecuting and intolerant spirit in religion which Jones attributes to Yale did not manifest itself until near the close of Livingston's stay there and was due to a reaction against the Great Awakening (cf. W. L. Kingsley (ed.), Yale College, a Sketch of Its History [New York: Henry Holt and Co., 1879], I, 70 ff.) Certainly, if it had any effect on Livingston, it was a reverse one (cf. his letter written only three years after graduation, infra, p.37).

\(^{16}\) The Golden Letter Books (Collections of the New York Historical Society, 1876, 1877), I, 187. This will hereafter be cited simply as Golden Letter Books.

experience exercised a great influence in moulding Livingston's character at an early age, and if Yale College in particular was notorious for its liberal and republican political teachings, we may safely assume that to the influence of Yale may be traced a large part of that intense attachment to republicanism and that ardent championing of freedom in various forms which marked Livingston's later life.

Another influence in William Livingston's youth which we must note in passing was his apprenticeship at law in the offices of James Alexander and subsequently of William Smith, Sr. Both of these men were noted in the colony for their liberal views; the two indeed had jointly been the original counsel for the defense in the famous Zenger case, which had established the principle of the freedom of the press, and had suffered temporary disbarment for their activities in Zenger's behalf. An apprenticeship under two such men could scarcely have failed to have had a liberalizing influence on the young law clerk under their care.

As we look back, then, upon the strongest influences which seem to have operated upon young Livingston during his boyhood and youth, we find that most of them were of a sort calculated to instil a liberal viewpoint, a reasoned love of freedom, and an impatience with unnecessary or unwarranted restraints. Such a background goes far to explain his life-long opposition to establishments of various sorts, which almost inevitably have a tendency to restrict individual freedom.

Let us look now at a few early instances of the application of this liberal mode of thought to the environment in which Livingston found himself. His quick and somewhat bitter resentment

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Note that he was not quite fourteen years of age when he entered Yale in 1737.
against real or fancied injustice is perhaps best illustrated by a letter to his father during his legal apprenticeship.

Sir,—I have received your letter of November 21st, whereof the first two lines are, 'I am much concerned to hear that you neglect your study, and are abroad almost every night.' As to neglecting my study, I am as much concerned to hear it as my father, having read the greatest part of this winter till 12 and 2 o'clock at night, and since I have had a fire in my room, have frequently rose at five in the morning, and read by candle-light, which I suppose your informant (whatever ingenious fellow it be) was ignorant, as 'tis impossible he should know it without being a wizard. As to my being abroad almost every night, I have for this month staid at Mr. Alexander's till 8 and 9 o'clock at night, and shall continue to do so all winter, he instructing us in mathematics, which is indeed being abroad.19

Lest, however, we misrepresent the character of the youthful Livingston, we must pause to present the other side of this picture of the young law student who according to his own account pored over his books until midnight and after and rose before dawn to resume his studies. That he was by no means the ascetic bookworm interested only in intellectual pursuits and unmindful of the joys of the flesh is indicated by a poem from his pen, which, though undated, probably belongs to this period of his life. Its lilting lines merit reproduction, and it may be considered probably the best example of his lighter verse that has been preserved.

Soon as I saw Eliza's blooming charms,
I long'd to clasp the fair one in my arms;
Her ev'ry feature prov'd a pointed dart,
That pierc'd with pleasing pain my wounded heart:
And yet this beauty, (it transcends belief)
This blooming beauty is an arrant thief.
Attend; her numerous theasts I will rehearse
In honest narrative and faithful verse.

From the bright splendour of the noon-day sky
She stole the sparkling lustre of her eye.
Her cheeks, though lovely red, still more t'adorn,
She filch'd the blushes of the orient morn.
T'embalm her lips she robb'd the honey-dew;
T'increase their bloom, the rose-bud of its hue.

*     *     *     *     *     *     *

Her voice, enchanting to the dullest ears,
She pillag'd from the musick of the spheres.

19Dec. 4, 1744, quoted in Sedgwick, Memoir, pp. 56 f.
To make her neck still lovelier to the sight,  
She robb'd the ermine of its spotless white.  
From Virgil's Juno (Jove's fictitious mate),  
She stole the queen-like and majestic gait.  
Of all her charms she robb'd the Cyprian queen,  
And still insatiate, stripp'd the Graces of their mien.  
But now to perfect an harmonious whole,  
With those internal charms that can't be stole,  
Kind Heaven, without her thieving, took delight  
To grant supernal grace, and inward light;  
To charms angelic, it voucharf'd t'impart  
Angelic virtues and an angel heart.  
Thus fair in form, embellish'd thus in mind,  
All beauteous outward, inward all refin'd;  
What could induce Eliza still to steal,  
And make poor plunder'd me her theft to feel?  
For last she stole (if with ill-purpos'd art  
I'll ne'er forgive the theft), she stole—my heart;  
Yes, yes, I will, if she will but incline  
To give me half of hers for all the whole of mine. 20

One who could conceive this vision of feminine beauty and grace can scarcely be pictured merely as the bookish student wholly unsusceptible to the lure of the physical joys of life. The lust for life at its fullest was strong within him.

A rather remarkable early evidence of Livingston's devotion to the principle of religious toleration, a principle which played a more important part in his life than any other, and to which he remained steadfastly attached throughout his whole career, is contained in a letter to a former classmate, written only three years after his graduation.

20 The original manuscript lies in the Mass. Hist. Soc., Livingston Papers, Vol. VI. Most of it is printed by Sedgwick in his Memoir, pp. 117 f. It is from this printed version that the quotations in the text are made.
I am sorry to hear you are so divided among yourselves with respect to religion, which is plain and simple, and to the meanest capacity intelligible. Every man has a right to think for himself, as he shall answer for himself, and it is unreasonable for me to be angry with any one for being of different principles, as he has the same pretence to quarrel with me. And when we consider that truth is comprised in a small compass, but that error is infinite, we shall not be so positive and dogmatical, to set up for infallibility, and anathematize those of a contrary opinion. There is no sect that come under the denomination of Christians but what pretend to ground their principles on the Holy Scriptures, and consequently all have an equal right to think themselves the best; and if they are heretical in some tenets, in others they are confessedly orthodox. Let us then resemble the bee, that collects the purest nectar out of a diversity of flowers, that we may not quake, but exult, at the second sound of the trumpet, when we shall not be asked of what sect we have been, but be judged according to our works.  

While this early zeal for religious toleration could scarcely have been due to any direct teachings which he assimilated as a student at Yale, since that institution was definitely affiliated with the established church of the colony in which it was situated, yet it may have been to a considerable degree an indirect effect of influences operating upon him while a student there. It may have been, as previously suggested, a reverse reaction against the repression in religious matters which he saw beginning to be practised there at the close of his college career,  

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21To the Reverend Mr. James Sprout, Sept. 22, 1744, ibid., pp. 54 f.

22Cf. supra, p. 17, n. 15.
of the Great Awakening itself, which was favorable throughout the colonies to the growth of dissent.\textsuperscript{23} There is, however, no positive evidence that Livingston was ever affected materially by this revival movement. To a certain degree, of course, his decided stand on religious toleration must be attributed to the fact that as a Presbyterian,\textsuperscript{24} Livingston was a member of a dissenting sect and withal one of the least favored of the dissenting sects in the colony of New York. This fact, however, does not seem adequate to account wholly for the unusual interest which he later took in the question of religious toleration. It was in no sense due to any atheistic or agnostic leanings on his part, for throughout his life Livingston was a firm believer in the existence of God.


\textsuperscript{24}Sedgwick (\textit{Memoir}, p. 59, n.*) implies that Livingston was a member of the Presbyterian Church before his marriage in 1745, which is probably true. He was baptized, however, in the Dutch Church at Albany (cf. \textit{ibid.}, p. 45, n.*), and the earliest positive evidence of his affiliation with the Presbyterian Church which I have been able to find is a record of the birth and baptism of his fifth child, Mary, in 1753 ("Records of the First Presbyterian Church of the City of New York," \textit{New York Genealogical and Biographical Record}, IV, 103).
and at approximately this same period in his life expressed his contempt for Hobbes and Spinoza for what he considered their atheistic tendencies. 25

Characteristically (for most of his subsequent writings were in the nature of protests), Livingston's first published essay was a protest against what he considered the unjust treatment of apprentices to the law in his day and the unnecessary restrictions placed upon them; it may in a sense be regarded as an attack upon the established order of things, a forerunner of his later attacks upon establishments of various sorts. The essay appeared in the New-York Weekly Post-Boy for August 19, 1745, over the nom de plume, "Tyro Philologis". A few excerpts will illustrate the nature of his complaint and will also serve to indicate the sharpness of his pen even at this early date, an asset which made him such a powerful opponent in his later pamphleteering in more important causes.

That a young Fellow should be bound to an Attorney for 4, 6, or 7 years, to serve him part of the Time for the Consideration that his Master shall instruct in the Mystery of the Law the Remainder of the Term; and that notwithstanding this solemn Compact ... the Attorney shall either employ him in writing during the whole Term of his Apprenticeship, or, if he allows him a small Portion of the Time for reading, shall leave him to pore on a Book without any Instruction to smooth and facilitate his Progress in his Study, or the least Examination of what Proficiency he makes in that perplexed Science; is an Outrage upon common Honesty, a Conduct scandalous, horrid, base, and infamous to the last Degree!

Lawyers, he goes on to say, have no regard for the future of their apprentices, and are interested in teaching them only enough to make them better workers, as we feed horses. "...to so high a Pitch do many of them carry their Inhumanity, as to deprive their Clerks of the proper Seasons for that Exercise, which is absolutely necessary for the Preservation of Health. ..." The lawyers may

plead custom (and here we see plainly manifesting itself young Livingston's impatience with blind adherence to established custom), "but Time immemorial can never give a Sanction to what is against Reason and common Sense". In concluding, he takes the following scornful and sarcastic fling at the profession which has momentarily his ire: "...It is...an Affront to common Sense to multiply Arguments for the Proof of a Thing which none but a Lawyer and a Madman will pretend to deny."

Many young men only a few years out of college suffer a similar reaction today, and we might dismiss the above tirade as the transitional disillusionment of a young college graduate thrown into the prosaic world of business and not yet fully adjusted, were the essay not so characteristic of Livingston's later and more mature writings, a fact which makes it seem rather the first milestone in the development of his keen perception of and vigorous protest against any unnecessary interference with individual rights, especially when based on no better foundation than mere custom.

That this is so is further illustrated by a second essay published the following year and again directed against established custom, resulting also in injustice, although the stimulus under which it was written was of a very different sort, and Livingston himself was not a sufferer in this case. It illustrates aptly, too, his democratic sympathies, and likewise his hatred of false pride and aversion to affectation, traits which also remained characteristic of him throughout life. Sedgwick relates as follows the circumstances which gave rise to the essay.

A Mr. Rice, organist of Trinity Church, forgetful of the strongly-marked distinctions which then practically established what has in later days been termed the "Theory of Ranks," presumed to send a valentine, viz. a pair of gloves with a copy of verses emblematic and expressive of his
devotion, to Miss Alexander. The fashionable young beauty and her mother resented it as an insult.26

Young Livingston, on the other hand, resented their resentment. He entitled his essay, "Of Pride, Arising from Riches and Prosperity," and presented the incident allegorically, a trick to which he later frequently resorted. The first part of his essay he devotes to an animadversion on pride in general, decrying the tendency of some people to regard it as a virtue, and suggesting that a consciousness of the brevity of our mortal existence, together with the fact that God has cast a reproach and disgrace upon outward advantages by conferring them so often upon "sorry Wretches" should be sufficient to correct the vice. In a peroration to this section of the essay, he sets forth the democratic and altruistic doctrine that "a Person puff'd up with Pride...is a Spectacle generally abhorr'd by man and always odious to God, who makes no Difference between the Monarch and the Beggar; but considers the universal Race of Men as his Children and Family."27

He then relates, as told by "Historious", the story of a young man in Venice, who on an occasion similar to the English celebration of St. Valentine's Day, presented a gift to a Miss Fatua. She, however, considering him her inferior, haughtily rejected it, an affront which was universally resented in Venice. The conclusion of the tale is cast by Livingston in the satirical vein of which he later became such a master and is best related in his own words.

26Memoir, p. 58, n.* Miss Alexander was the daughter of James Alexander, to whom Livingston was at the time apprenticed.

27This expression of belief in the essential equality of all mankind (which his record proves to have been no mere rhetorical flourish on the young essayist's part) is the more remarkable when we recall the social status of Livingston's own family (cf. supra, p. 15 n. 10).
...but the most intelligent People, knowing that Miss Fatuia's Understanding, did but too well correspond with her Name, pardon'd her Ignorance, and rightly concluded, that her Mamma (the Lady Superba) had put her Daughter upon this notorious Breach of Manners and Good-breeding. This detestable Piece of Pride was a strong Confirmation of the Report... that the Lady Superba was the haughtiest and most insolent Woman in the Republick. 28

When we consider that this pasquinade was directed against the wife and daughter of the man to whom he was apprenticed, we are the more struck by his audacity and readiness to take up the cudgels against a social custom the effects of which could in no way have been felt by him himself. But the zeal of the reformer was evidently already strong within him. In this instance, moreover, he suffered the martyrdom so frequently the lot of reformers. Sedgwick informs us that upon being charged by Mr. Alexander with the authorship of this piece (which bore no signature), Livingston did not deny it, with the result that relations between the two were severed, and the young clerk entered the office of William Smith, Sr., to complete his apprenticeship. 29

Such, then, were the outstanding evidences of young Livingston's developing spirit of liberalism during this period. Let us now glance for a moment at his achievements and the major events of his life before his entrance upon the stage of public affairs in order that we may complete the setting for this latter event. In 1745, before the end of his apprenticeship, William married Susanna French, daughter of Philip French, at one time owner of a large tract of land at what is now New Brunswick, New Jersey. 30 Apparenly Miss French at the time was residing with

29 Memoir, p. 59.
30 Sedgwick, ibid., p. 59. Sedgwick is uncertain of the date of this event, placing it tentatively in 1746. A sheet attached to the title page of William Livingston's own family
her aunt, Mary Brockholls, in New York City, and the couple seem to have remained with her for the first year after their marriage, after which they moved to a house in Water Street. 31 Though Mrs. Livingston proved to be an excellent wife and mother, there is no evidence that she exercised any influence on her husband's intellectual development.

Admitted to the bar in 1748, 32 Livingston rapidly established his reputation as a young lawyer of ability. Within a year or so of his admission to the bar we find him acting, in conjunction with William Smith, Jr., as counsel for the defense in the famous Elizabethtown Bill in Chancery case, a case involving on both sides almost five hundred people, the issue at stake being the ownership of certain property in New Jersey. It is of interest to note here, in view of the opinion later expressed by Livingston concerning the Indians' title to the soil, that the claim of the defendants rested on an original deed from the Indians. 33

One other achievement of this period of Livingston's life must be mentioned, in this instance in the literary field. In

Bible (the title page of which with two appended sheets is in the Mass. Hist. Soc., Livingston Papers, Vol. I), as well as the Catharine Livingston Bible already mentioned (cf. supra, p. 23, n. 2), both, however, give the year as 1745, although the month in neither case is mentioned.

31 Sedgwick, Memoir, p. 60, n.*
32 Ibid., p. 63.
33 Cf. infra, p. 410. The original bill in the case was filed in 1745 and printed by James Parker in 1747. The answer, signed by Livingston and Smith, was filed in 1751 and printed in 1752. The case was never concluded, being interrupted by the American Revolution and never afterward revived (R. S. Field, The Provincial Courts of New Jersey, with Sketches of the Bench and Bar [Collections of the New Jersey Historical Society, Vol. III] pp. 119 ff.).
1747 Livingston published a long poem of 684 lines, entitled *Philosophic Solitude; or the Choice of a Rural Life: a Poem by a Gentleman Educated at Yale College.* While quite different in type from most of his later writing, it nevertheless gives evidence of the literary skill he had already attained at this comparatively early age. Although not a work of great original merit, it is nevertheless far superior to much of the versification published under the guise of poetry in that era of colonial cultural development. Moses Coit Tyler says of it: "This poem is obviously the effort of a rhyming apprentice, still in bondage to the methods of his master, Alexander Pope; yet he catches the knack of his master with a cleverness proving the possibility of original work, on his own account, by and by." As indicated by the title, the poem expresses a preference for rural life and a yearning for retirement in a pleasant country seat where one might give himself over to philosophic speculation and communion with nature. Coming from so young a man and one whose later life was so filled with activity, we may perhaps regard this expressed desire as the day dreaming of a sensitive and artistic nature, or as the yearning so common

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34 Printed at New York.

35 *A History of American Literature* (New York: G. P. Putnam’s Sons, 1880), II, 218 (cited hereafter as Hist. Am. Lit.). The poem was considered worthy of republication on several occasions, e. g., by B. Mecon in Boston in 1762 and in the Boston Magazine, March–June, 1785. The quotations in the text are from this latter reprint; in a few instances the punctuation has been changed where, due obviously to typographical errors, the meaning has been obscured.

36 Cf. Sedgwick, *Memoir*, p. 46: "Before Mr. Livingston’s future profession was determined upon, he is said to have expressed a strong desire to devote himself to the art of painting, and to have urged that he might be sent to Italy, to study in the schools of that country ... ."
to those confined by their occupations in cities for the peace and quiet of the countryside. Yet Livingston did have a real love for the country and rural pursuits and attempted at a much later period in his life to carry into effect the desire expressed in this poem by establishing himself as a gentleman farmer,\textsuperscript{37} so that we must accept as an integral part of his intellectual and emotional make-up in some degree the love of nature and fondness for philosophic speculation herein expressed. Inasmuch as this is the best example of Livingston's more serious poetry and the piece upon which his modest reputation as a poet chiefly rests, we may with the indulgence of the reader pause to examine it in some detail. From another point of view, too, such an examination will prove of value, for the poem is to a remarkable degree self-revealing; in it the author, assuming the role of the philosopher who conjures up a vision of the "good life" in ideal surroundings expresses a philosophy and lays claim to characteristics which foreshadow with remarkable accuracy part of the philosophy and some of the characteristics expressed and exhibited by Livingston in his subsequent writings and actions throughout his life.

The opening lines of the poem set the theme for the whole.

\begin{verbatim}
Let ardent heroes seek renown in arms,
Pant after fame and rush to wars alarms;
To shining palaces let fools resort,
And dunces cringe to be esteemed at court:
Mine be the pleasures of a rural life;
From noise remote and ignorant of strife:
Far from the painted Belle, and white glow'd beau,
The lawless masquerade and midnight show,
From ladies lapdogs, courtiers, garters, stars,
Fops, fiddlers, tyrants, emperors, and czars.
\end{verbatim}

A description of the ideal home which the poet envisions, characteristic of the author's life-long preference for democratic simplicity, then follows.

\textsuperscript{37}Cf. \textit{infra}, pp. 147 f.
Full in the center of some shady grove,
By nature form'd for solitude and love;

My neat but simple mansions I would raise,
Unlike the sumptuous domes of modern days:
Devour of pomp, with rural plainness form'd,
With savage game, and glossy shells adorn'd.
No costly furniture should grace my hall,
But curling vines ascend along the wall,
Whose pliant branches should luxuriant twine,
While purple clusters swell'd with future wine:
To slack my thirst a liquid lapse distill,
From craggy rocks, and spread a limpid rill.

This modest mansion should be surrounded by cedars, poplars, "spiry firs," and "gloomy yews."38

The distaste for military life and the imperviousness to the lure of martial glory which the author displayed throughout his life are forecast in the following lines, worthy of the most ardent pacifist, though Livingston can hardly be called that.

No trumpets there with martial clangor sound,
No prostrate heroes strew the crimson'd ground;
No groves of lances glitter in the air,
Nor thund'ring drums provoke the sanguine war:
But white rob'd peace and universal love,
Smile in the field, and brighten every grove.

A sense of disillusionment and world weariness remarkable in one so young and which therefore we are probably justified in regarding as more feigned than real displays itself in the following.

There from the polish'd fetters of the great,
Triumphal piles, and gilded rooms of state:
Prince, ministers, and sychophantic knaves,
Illustrious villains, and illustrious slaves!
From all the vain formality of fools,
And odious talk of arbitrary rules,
The ruffling cards which the vex'd soul annoy,
The wealth the rich possess, but not enjoy;
The visionary bliss the world can lend,
The insidious foe, and false designing friend;
I'd live retired, contented, and serene,
Forgot, unknown, unenvied, and unseen.

38Cf. the description of Liberty Hall, the home which Livingston later built as a retreat from the world, infra, pp. 149 f.
The poet does not, however, propose to live the life of a hermit in complete solitude.

But with a friend sometimes unbend the soul
In social converse o'er the sprightly bowl.

After many lines recounting the glories of nature to be enjoyed in such a setting, there follows a passage which reveals the innate piety and attachment to Christianity which, despite his attacks on hollow ceremonialism and hypocrisy in religion, Livingston retained to the end of his life.

Say, raving Infidel! canst thou survey
Yon globe of fire, that gives the golden day,
Th'harmonious structure of this vast machine,
And not confess its architect divine?

None but a power omnipotent and wise
Could frame this earth, or spread the boundless skies:
He made the whole; at this omnific call
From formless chaos rose this spacious ball,
And one almighty God is seen in all.

Nature, it is true, in its many beauties sings the glory of God.

But man, endowed with an immortal mind,
His maker's image, and for heav'n designed!
To loftier notes his raptur'd voice should raise,
And chant sublimer hymns to his creator's praise.

There follows then, though as an integral part of the poem, a hymn in which the author with real spiritual fervor and considerable poetic skill (felicity of expression) pours out his praises to his creator.

For gold and glittering raiment the poet expressed the greatest contempt, and again it must be said that, judged by his actions throughout life, Livingston exercised no poetic license in laying claim to these virtues. The pith of his philosophy in this regard is contained in the lines

Or what, alas, avails the gay attire,
To wretched man, who breathes but to expire!
Oft as the vilest riches are bestow'd,
To shew their meanness in the sight of God.
Not only would the poet not bury himself in complete seclusion; his conception of the ideal "philosophic solitude" embraces even connubial bliss.

By love directed I would choose a wife,
T' improve my bliss, and ease the load of life.
Hail wedlock! hail inviolable tie!
Perpetual fountain of domestic joy,
Love, friendship, honour, truth, and pure delight,
Harmonious mingle in the nuptial rite.

A description of the first mating in the Garden of Eden, "when perfect innocence distinguish'd man," follows, which leads the poet to implore

Relate, inspiring muse! where shall I find,
A blooming virgin with an angel mind;
Unblemish'd as the white robe'd virgin choir
That fed, 0 Rome, thy consecrated fire?
By reason, and ambitious to be good,
Averse to vice, and zealous for her God.
Relate in what bless'd region can I find,
Such bright perfections in a female mind?

At this point the young poet appears to grow somewhat discouraged, for he employs many verses rehearsing the foibles and follies of ladies of the "gay and fashionable train," who have none of the virtues which he craves in his future helpmeet. This recital illustrates, however, the distaste for what he called "high life" for which Livingston in later years became well known and exhibits likewise a keen appreciation of the failings, if not of the virtues, of ladies of fashion. The caustic satire which became such a leading characteristic of Livingston's later writings and which was so largely responsible for their effectiveness at the time and for the entertainment which they afford even to the modern reader appears in this passage with sufficient sharpness to risk quoting the whole without danger of boring the reader.
This hates a flounce and this approves;
This shews the trophies of her former loves;
Polly averts that Sylvia drest in green,
When last at church the gaudy nymph was seen,
Clow condemns her optics, and lay,
"Twas azure satin interstreaked with grey;
Lucy, invested with judicial pow'r,
Awards 'twas neither — and the strife is o'er.
Then parrots, lap dogs, monkies, squirrels, beaux,
Fans, ribbands, tuckers, patches, furbeloes,
In quick succession thro' their fancies run,
And dance incessant on the flippant tongue;
And when fatigu'd with every other sport,
The belles prepare to grace the sacred court,
They marshal all their forces in array,
To kill with glances, and destroy in play.
Two skilful maids with reverential fear,
In wanton wreaths collect their silken hair:
Two paint their cheeks, and round their temples pour,
The fragrant unguent, and the ambrosial flower;
One pulls the shape creating stays, and one
Encircles round their waist the golden zone;
Not with more toil t' improve immortal charms,
Strove Juno, Venus, and the queen of arms,
When Priam's son adjudg'd the golden prize,
To the resistless beauty of the skies.
At length equipp'd in love's enticing arms,
With all that glitter and with all that charms,
Th'ideal goddesses to church repair,
Peep thro' their fans and mutter o'er a pray'r,
Or listen to the organ's pompous sound,
Or eye the gilded images around:
Or deeply studied in coquettish rules,
Aim wily glances at unthinking fools;
Or shew the silly hand with graceful air,
Or wound the floping with a lock of hair,
And when the hated discipline is o'er,
And misses tortur'd with REPENT nor more,
They mount the pictur'd coach, and to the play,
The celebrated idols hie away.

After having flayed in this manner the frivolous among the opposite sex, the poet then proceeds to an elaborate portrayal of the virtues which must be possessed by the woman whom he will make his wife and we see why he was momentarily discouraged, for he expects much indeed. She must not only be naturally beautiful without the aid of artifice but also absolutely chaste, for "charms ill supply the want of innocence." Moreover, she must possess an imposing list

39 From the applicability of this description to the present day one is led to wonder whether ladies of fashion have changed much during the last two centuries.
of intellectual qualities: sublime reason, native wit, "unstrain'd with pedantry and low conceit," a lively fancy, and a judgment free "from female prejudice, and bigotry." She must be no flirt, and not given to dissimulation; finally, her heart must be fairly bursting with love for the philosopher poet whose "solitude" she is to share. The poet then celebrates the joy he would anticipate with such a mate. 

With her I'd spend the pleasurable day,
While fleeting minutes gayly dance away:
With her I'd walk delighted o'er the green,
Thro' ev'ry blooming mead, and rural scene,
Or sit in open fields damask'd with flowers,
Or where cool shades imbrowm the noon tide bow'rs,
Imparadis'd within my eager arms,
I'd reign the happy monarch of her charms.
Oft on her panting bosom would I lay,
And, in dissolving raptures, melt away;
Then lull'd, by nightingales, to balmy rest,
My blooming fair should slumber at my breast.

In bringing to a close his picture of the ideal philosophic solitude and the "good life," the poet promises to view with truly philosophic calm the approach of old age

Offences pardon'd, and remitted sin,
Should form a calm serenity within;

and of death.

Tho' death with his imperial horros crown'd,
Terrific grin'd, and formidably frown'd,

Inexorable death should smile, for I,
Who know to live, would never fear to die.

William Livingston may be said to have entered public life, although not in any official capacity, to be sure, in 1752. In this year he took a leading part, along with William Smith, Jr., and John Morin Scott, two other young lawyers of about his age, both

40 It may be said here that the wife Livingston had chosen two years before the publication of this poem seems, from what little is known of her to have approached this ideal in many respects as closely as could be expected of a mere mortal.
of whom had also been educated at Yale, in the founding of the Whig Club.\textsuperscript{41} The three young men thus associated continued to work together in public affairs in close cooperation for the next fifteen years, playing an increasingly important part in the colonial politics of New York. So close indeed was their cooperation that they soon came to be known as the triumvirate, and in their advocacy of liberal measures and leadership of the popular party drew down upon themselves the anathemas of the conservatives. The Whig Club became one instrument through which William Livingston translated his liberal views into action. Of it Thomas Jones, a hostile critic, says: "In this club matters were settled, plans laid, schemes devised, and resolutions formed, for carrying the grand project into execution, of pulling down the Church, ruining the constitution, or heaving the whole province into confusion."\textsuperscript{42}

In this year also Livingston, in collaboration with William Smith, Jr., published a digest of the laws of the colony of New York, the first such code which had been attempted.\textsuperscript{43} Finally, in this year, Livingston began the publication of a weekly magazine devoted to the discussion of public affairs and entitled The Independent

\textsuperscript{41} Jones, Hist. of N. Y., I, 5; Carl Becker, "The History of Political Parties in the Province of New York, 1760-1776" (Madison, Wisconsin, 1909), Bulletin of the University of Wisconsin No. 286 ("History Series," Vol. II, No. 1), p. 49. This will hereafter be cited as Hist. of Pol. Parties in N. Y.

\textsuperscript{42} Hist. of N. Y., I, 6.

\textsuperscript{43} Laws of New-York, from the Year 1691, to 1751, Inclusive (New York, 1752). It contains a preface in which the editors beg indulgence for errors, offering as their chief excuse "the incredible Confusion and Chaos, out of which it is composed." The manuscript of this preface, in Smith's handwriting, lies in the Smith Papers, Box 198-206, in the New York Public Library. The digest was authorized by act of the legislature, Nov. 24, 1750 (The Colonial Laws of New York from the Year 1664 to the Revolution [Albany, 1894], III, 832 ff.). This will hereafter be cited as Col. Laws N. Y.
Reflector, with which we shall deal more fully in subsequent chapters.

Thus, as we bring Livingston to the threshold of his entrance into public life, we find that he has already developed several embryonic or already well marked characteristics: a certain acerbity of temper and impatience at restraint; a sensitive appreciation of and quick resentment against injustice, whether affecting himself or others, and a consequent tendency to "rush in where angels fear to tread"; a zeal for reform and a point of view predisposed to be liberal and democratic. We find him also already well established in his profession, happily married, and possessed of an unquestionable social status by virtue of his family affiliations as well as by his marriage. Finally, we find him enjoying some reputation as an author and editor, by virtue of his publication of Philosophic Solitude and his collaboration in the editorship of a code of laws.

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44 Cf. Sedgwick, Memoir, p. 59: "Miss French was the granddaughter by the mother's side of Anthony Brockholts, Lieutenant Governor of the colony of New-York, under Andross, and subsequently its chief magistrate."
CHAPTER III
THE COLLEGE CONTROVERSY

As indicated at the close of the last chapter, William Livingston established in 1752 a weekly magazine entitled The Independent Reflector. He was not, however, alone in undertaking this work. Associated with him in its editorship were the other two members of the triumvirate, William Smith, Jr., and John Morin Scott, and others of the Whig group contributed occasional essays. Livingston, however, seems to have regarded himself as the chief editor and to have contributed the greatest number of essays, Smith being the next most active and Scott the least active of the three. The various essays were each signed with an initial, the initials used being "A.", "B.", "M.", "N.", "O.", "T.T.", "X.", and "Z."

An absolute identification of the authorship of each essay is probably impossible, but it has been rather conclusively established that of these initials "B." and "Z." were used by Livingston, "A." by Smith, and "X." by Scott,¹ the other initials, which occur only

¹Sedgwick, in his Memoir, p. 83, n.*, says that Livingston wrote under the initials "Z.B.X." and "Z.Z." and "B.X.A." None of the essays is signed with any of these combinations nor can the attributing to Livingston of the use of all these initials separately be defended. L. N. Richardson, History of Early American Magazines (New York: Thomas Nelson and Sons, 1931), pp. 78 ff. (hereafter to be cited as Early Am. Mag.), makes a rather exhaustive analysis of the authorship of these essays, the results of which I have checked. My own conclusions agree with his, except in the number of essays assigned to William Smith, Jr., as sole author, which he gives as nine, where I have ten. The Independent Reflector, No. 24, contains two essays, the first by Scott and the second by Smith, which may account for his having overlooked this contribution of Smith's. No. 48 also contains two contributions, and since the Independent Reflector continued for exactly one year, this makes a total of fifty-four signed contributions, exclusive of occasional brief notes. The following chart gives a tabulation of the allocation of authorship, so far as it can be determined.
once each, being doubtless the work of various other members of the group. 2

This paper was modeled to a considerable extent on the Spectator of Addison and Steele; in the preface to the collected edition of the essays published early in the year following their termination Livingston speaks in commendatory terms of the former. 3 Richardson indicates the strong influence also of Thomas Gordon, the author of the Independent Whig, 4 and points out that some of

With any accuracy. Joint authorship of an essay is indicated by the notation ½; thus 1 ½ indicates joint authorship of three essays, the collaboration being indicated by corresponding notations under the names of the respective joint authors.

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An illustration of the carelessness with which authorship of the essays in this series has been attributed is furnished by a reprint of one of the essays as No. 39 of Heartman’s Historical Series. The essay, entitled "A Brief Consideration of New York with Respect to Its Natural Advantages" is attributed with certainty to William Livingston, whereas the manuscript of this essay, in Smith’s handwriting, lies in the Smith Papers in the New York Public Library.

2 As noted by Richardson, the names of William Peartree Smith and the Reverend Aaron Burr have been suggested as possible contributors, the former by Sedgwick and the latter by Thomas (ibid., p. 82).

3 The Independent Reflector: or Weekly Essays on Sundry Important Subjects, More Particularly Adapted to the Province of New-York (New York, 1755), p. xxv. It was actually printed in 1754 (cf. p. 42 n. 52). Page references hereafter will be to this collected edition.

4 A series of weekly papers published in England during the years 1720 and 1721.
Livingston's essays were paraphrased from this work.\(^5\) In No. 41 of the *Independent Reflector* Livingston pays a high compliment to Gordon.\(^6\) Furthermore, during the very year in which the majority of the *Independent Reflector* essays appeared, Livingston and his associates republished one of Gordon's essays under the title, *The Craftsman, A Sermon from the Independent Whig*.\(^7\)

The literary quality of the new sheet was unusually good, and the magazine as a whole was a considerable advance over anything of the sort which had previously appeared in America. Richardson says of it and its editor:

As a writer of trenchant prose in *The Independent Reflector*, William Livingston made a distinct contribution to American essays....No essays had appeared previously in American magazines so fitting to the time, place, and idea....In the midst of severe and scurrilous remarks printed against him in the press, he directed the magazine-journal remarkably high above the plane of petty disputation....*The Independent Reflector* is to be commended for its balanced judgment in the main and for its directness and clearness. It maintained a fairness in point of view seldom elsewhere encountered in its time.\(^8\)

The *Independent Reflector* was not founded, however, as a literary magazine, and in the very first number, which is the production of his own pen, Livingston declares his intention of rarely dabbling in "Subjects meerly [sic] literary." Its purpose,

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\(^5\) *Early Am. Mags.*, p. 77. Richardson says the four volumes of the *Independent Whig* were well known in the colonies. The influence of Gordon on Livingston is further indicated by the fact that six (Nos. 15-20, incl.) of the essays in the "Sentinel" column conducted by Livingston in 1765, are reprints of essays by Gordon.

\(^6\) P. 163: "The INDEPENDENT WHIG has gone farther towards shaming Tyranny and Priestcraft, than could have been effected by austere Dogmas, or formal Deductions. He has often displayed their Deformity with a Sarcasm, and struck Terror into a whole Hierarchy, by raising a single Twitter."

\(^7\) For full title and discussion of authorship of the preface see infra, p. 45n. 46.

\(^8\) *Early Am. Mags.*, p. 77.
as set forth in this first essay, was frankly reform, social and political. After enumerating at some length the difficulties which beset the path of the reformer, the editor goes on to say:

None of these Discouragements shall, however, deter me from vindicating the civil and religious RIGHTS of my fellow Creatures; From exposing the peculiar Deformity of publick Vice, and Corruption; and displaying the amiable Charms of Liberty, with the detestable Nature of Slavery and Oppression. In a Word, I shall dare to attempt the Reforming of the Abuses of my Country, and to point out whatever may tend to its Prosperity and Emolument.9

He denies attachment to any political party or religious sect and warns that he will take part in no polemical debates between sects; he will not use "rude and virulent Expressions" nor make personal reflections except when exposing corruption in office. In the eleventh issue of the paper, smarting from the attacks of those whose ire had been aroused by the Reflector's reforming zeal, after reiterating his determination to proceed unabated, Livingston elaborates somewhat further the purposes of the paper.

What he [the Reflector] intends to oppose, is Superstition, Bigotry, Priestcraft, Tyranny, Servitude, public Mismanagement, and Dishonesty in office. The Things he proposes to teach, are the Nature and Excellency of our Constitution. — The inestimable Value of Liberty: the disastrous Effects of Bigotry, and the Shame and Horror of Bondage: — The Importance of Religion unpolluted, and unadulterated with superstitious Additions, and the Inventions of Priests. He should also rejoice to be instrumental in the Improvement of Commerce and Husbandry. In short, any Thing that may be of Advantage to the Inhabitants of this Province in particular, and Mankind in general, may freely demand a Place in his Paper.10

Such a program would seem to be a large undertaking, but Livingston and his associates were inspired with the zeal common to young reformers and threw themselves vigorously into their task. As already indicated, opposition to their efforts was not long in showing itself. In the eleventh number previously quoted

9 Independent Reflector, p. 2.
10 Ibid., p. 46.
from, Livingston asserts that "he hath been branded with the opprobrious Language of Rascal, Scoundrel, Atheist, Deist, Mocker of Things sacred, and vile Reflector"; he has been attacked by both the clergy and the magistrates and even threatened with death and "the greater Excommunication". The ire of the clergy seems to have been particularly aroused by one of Livingston's essays which appeared as number six of the Independent Reflector, entitled "A Vindication of the Moravians, against the Aspersions of their Enemies". This essay, as indicated by its title, was devoted to Livingston's favorite theme, religious toleration, and contained a rather caustic attack on the clergy of other denominations because of their illiberal attitude toward the Moravians. The nature of these attacks on the clergy in this and previous essays may be indicated by a few excerpts. "Let but a Priest long for a Man's Fortune, or his Wife, and he pronounces him an Heretic; which renders his Death inevitable: Without further Ceremony, his Body is burnt for the Good of his Soul; and the Father of Mercies glorified by the cruel Slaughter of his rational Creatures."  

Orthodoxy he condemns in the following terms:

For ORTHODOXY, as it is commonly used, is a meer [sic] levitical Engine, that has done more Mischief to Mankind, than all the Tyrants that ever ravag'd the Globe. Every Man is orthodox to himself, and heretical to all the World besides; but that he should therefore be calumniated or butcher'd, the Scripture saith not:...  

Again, he contrasts vividly the simplicity and spirituality of religion pure and undefiled with the "antic-Mimickry, and idolatrous Trumpery" of religion contrived by men for the sake of wealth and power. Finally, turning his attention to the

11Ibid., p. 15.
12Ibid., p. 22.
13Ibid.
magistrates, he recommends to them to confine their interference in religion to that only which is necessary for the preservation of religious liberty; "for he [the magistrate] should not only avoid persecuting his Subjects, for differing from him in their Opinions; he should also prevent their persecuting each other." 14

Livingston lists in number eleven of the Independent Reflector the statements in his previous essays which have caused the greatest offense. An examination of a few of these will show clearly the intolerance which existed even in a colony not notable for its persecuting spirit.

That whoever believes that CHRIST was the MESSIAH, and practises the Morality he taught, is to all Intents and Purposes, a complete Christian, tho' he be as incredulous about the divine Right of Episcopacy, as the divine Right of Geography. 15

That in the Judgment of many learned Men, the Washing of Feet, is as much instituted by the divine Author of Christianity, as Baptism or the Lord's Supper, and more peremptorily commanded than either.

That the Parliament hath acknowledged the Moravians for good Christians; which perhaps is more than can be said of any Church in the Province. 15

Since James Parker, the printer of the Independent Reflector, was also the printer of the New-York Gazette, or Weekly Post-Boy, the attacks on the Independent Reflector appeared chiefly in the columns of the rival newspaper, the New-York Mercury, published by Hugh Gaine, creating a rather anomalous situation. Gaine was really more in sympathy with the liberal view espoused by Livingston and his colleagues, whereas it was to the advantage of Parker, who was the official printer for the colony, to stand well with those in authority. As Richardson points out, the position of Gaine in this instance was due solely to competitive dissent. 16

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14 Ibid., p. 24.
15 Ibid., pp. 44 f.
16 Early Am. Mags., p. 76.
During the course of the next year and a half an actual reversal of this situation was effected, resulting in each printer's publishing the views of the group with which he really sympathized.\textsuperscript{17}

The attacks on the Independent Reflector in the Mercury early in 1753 were replied to in a letter published on the front page of the Gazette for February 19, and signed "Philo-Reflector."\textsuperscript{18} This defense of the Reflector caused such bitterness that, as Livingston tells us in the preface to the collected edition of the Independent Reflector, twelve people immediately cancelled their subscriptions to the Gazette, whereupon Parker refused to accept any further material of this sort.\textsuperscript{19}

This was the situation of affairs when in the seventeenth number of the Independent Reflector, appearing on March 22, 1753, Livingston began an attack on the movement to secure a charter for the college which it was intended shortly to establish in the colony. The controversy thus inaugurated continued with increasing bitterness for the next three years and was not finally settled until the close of the year 1756. Because of the fact that Livingston took the leading part in the opposition to a college established on this basis and because the story, though frequently

\textsuperscript{17}Not all of the attacks on the Independent Reflector, however, appeared in the newspapers, nor were they all made by Anglicans. In April, 1753, David Marinus, a Dutch pastor at Aquenonka, Long Island, using a nom de plume, wrote and published a pamphlet of thirty-one pages addressed to the Independent Reflector, in which he bitterly attacked the latter, assailing his right to be considered a Christian, defending the divine right of the clergy and episcopacy, and calling upon the Independent Reflector to repent of his heresy before it should be too late. The title of this work was \textit{A Letter to the Independent Reflector} by David Marin Ben Jesse (New York: printed and sold by Hugh Gaine, 1753).

\textsuperscript{18}Richardson believes he has established beyond doubt that "Philo-Reflector" was Livingston's associate, William Smith, Jr. (\textit{Early Am. Magrs.}, p. 87, n. 52).

\textsuperscript{19}P. viii.
told, has never, I believe, been told completely, especially from Livingston's point of view, it will be necessary to examine the history of this struggle in some detail. We shall relegate to a subsequent chapter, therefore, a consideration of the other reforms advocated in the *Independent Reflector*.20

There had long been a feeling among the more public spirited men of the colony that New York should have a college of its own.21 No doubt the example of the neighboring colonies stimulated the movement for a college in New York at this time. William Smith, Jr., the contemporary historian of the colony, and as we have seen, one of William Livingston's closest associates, speaks of the spirit of emulation inspired by the example of the New England colleges.22 Samuel Johnson, subsequently the first president of the college, mentions the influence of the college recently established in Philadelphia.23 It is significant also that the first legislative action toward the consummation of such a project occurred in the very year when the College of New Jersey, later to

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20 It has frequently been implied, if not expressly stated, that the *Independent Reflector* was founded to oppose the movement for a charter college. That this was not the case, however, is indicated by what has already been said with regard to the purpose of its founding, and also by the fact that of the fifty-two numbers of the paper, only nine, viz., Nos. 17 to 22, inclusive, and 27, 50, and 51, were connected with the college controversy, and of these only the first six were direct attacks on a charter college.

21 A recent historian of the colony states that proposals for a college had been made almost from the beginning of the eighteenth century (A. H. Shearer, "The Church, the School and the Press", Chap. 11 of *History of the State of New York*, ed. A. C. Flick, [New York: Columbia Univ. Press, 1933—], III, 76). This work will be cited hereafter as *Hist. of N.Y.*.


23 "Autobiography", *Samuel Johnson, President of King's College, His Career and Writings*, eds. Herbert and Carol Schneider (New York: Columbia Univ. Press, 1929), I, 32. This work will be cited hereafter as *Samuel Johnson*. 
become Princeton, was founded. The Episcopalians always claimed
that they had taken a leading share in this agitation for a
college and that the progress of the movement in its early stages
was the result chiefly of their efforts, a claim which some modern
historians have been disposed to accept, but which seems open to
some question or at least modification, particularly as the first
concrete step was taken by the Assembly, which was composed pre-
dominantly of Dissenters. Additional reasons for the founding
of the college, mentioned at a later date, when the college had
already been in existence some time, were the desire to attain
through the medium of the college a greater uniformity of thought
and custom in an unusually heterogeneous population; the necessity
of combating the Roman Catholic propaganda of the French priests
among the frontier colonists and the Indians; the desirability of
instilling a proper veneration for the British constitution, and
the duty of spreading through missionaries the true religion among
the surrounding aborigines.

The first actual step toward the founding of a college had
been taken when the colonial legislature on December 6, 1746, had
passed "An Act for Raising the Sum of Two Thousand Two Hundred and
Fifty Pounds by a Publick Lottery for this Colony for the Advance-

24 See e. g., letter of Samuel Johnson to the Archbishop of
Canterbury, June 29, 1753, in Documents Relative to the Colonial
History of the State of New-York, ed. E. B. O'Callaghan (Albany,
1853-1858), VI, 777. This will be cited hereafter as Docs. Rel.
Col. Hist. N. Y.

25 There seems no doubt, however, that the Episcopalians
were at least as anxious as any other sect for the establishment
of a college.

26 Petition of Sir James Jay to the King for a grant of
land to King's College, July 17, 1764 (Docs. Rel. Col. Hist. N. Y.),
VII, 643 ff. The reasons mentioned in this document cannot, of
course, be accepted at face value in view of the circumstances
under which they were presented.
ment of Learning & Towards the Founding a Colledge [sic] within
the Same." In 1743 a second lottery act had been passed and
in November, 1751, when £3443 18 s. had been raised, a sum still
considered insufficient for the purpose, it had been enacted that
this sum should be vested in certain trustees named in the act, who
should for the time being lend the money out at interest and receive
further donations. There were ten trustees appointed by the act,
of whom seven were members ex officio; of the three private citizens
appointed to the board William Livingston was one. We must pause
a moment to examine the religious affiliations of the members of this
board because this later became a matter of great importance. Of
the ten, seven were in communion with the Church of England, two were
members of the Dutch Church, and William Livingston alone was a
Presbyterian.

At a meeting of the vestry of Trinity Church, the Episcopal
church in New York City, on March 5, 1752, it was unanimously
agreed "that this Board is willing to give any reasonable Quantity
of the Church Farm . . . . for the erecting and Use of a College . . . ."
This resolution was reported by the Reverend Henry Barclay, the

28 Ibid., p. 679 ff.
29 Ibid., p. 842 ff.
30 Sedgwick, Memoir, p. 79; cf. also A Brief Vindication of
the Proceedings of the Trustees Relating to the College (New York,
1754), p. 4. This will be cited hereafter as Brief Vindication. It
has been implied by Sedgwick that this board was packed in favor of
the Church of England. This seems hardly a fair inference, however,
when we consider that seven were members ex officio, who would
probably have been members in any case, and that the act appointing
the trustees was passed by an Assembly composed largely of Dissenters.
Of the three private citizens appointed one, Benjamin Nicoll, was an
Episcopalian, one, James Livingston, a member of the Dutch Church,
and one, William Livingston, as already noted, a Presbyterian.
Rector of Trinity, to the trustees of the college on April 8, and
the trustees agreed to view the land, which was done.31

Nothing further seems to have been done about the proposal
for the time being. The next step was the movement to secure a
charter for the college. Exactly when this began to be discussed
is difficult to determine. It was probably not long before
Livingston began to publish his attacks on such a scheme in the
Independent Reflector in March, 1753. Inasmuch as he was acting
as secretary to the board of trustees of the proposed college, he
would certainly have been aware of its inception of any such
discussion among them. In this proposal Livingston immediately
"smelled a rat", so to speak. He regarded it, and not without
some reason, as an attempt on the part of the adherents of the
Church of England in the province, to gain control of the proposed
college and make of it a sectarian institution. For a charter
would be granted by the governor, a member of the Church of England,
with the consent of the Council, the majority of the members of
which were of the same religious faith. Furthermore, the college
under a charter would be governed entirely by its board of trustees,
the majority of which, as then constituted, we have already seen
were Episcopalians, while if a new board should be appointed under
the charter, the appointment of it would rest with the governor
and Council, both Episcopalians in their sympathies. The only hope
then, as Livingston clearly saw, of preventing the college from
falling into the hands of the Episcopalians was to have it estab-
lished by act of the legislature, making the trustees responsible
to this body. By this means the Assembly, dominated by Dissenters,

31Report of William Livingston to the Assembly, Journal of
the Votes and Proceedings of the General Assembly of the Colony of
New-York, 1691-1765 (New York, 1764-1766), II, 398 ff. This will
hereafter be cited as N. Y. Assembly Journal.
since its consent would be necessary to any act regarding the college, could block any move of the Episcopal faction to extend its influence over the college.

But this was not the whole story. There were other factors also involved. One of these was the scheme set on foot a few years previous to this by the Reverend Doctor Secker, afterwards Archbishop of Canterbury, to have the Acts of Supremacy and Uniformity enforced throughout the English colonies. Another, closely allied with it, was the desire of some of the Anglican clergy in both England and America for the establishment of an Anglican Episcopate in the colonies. This ogress, so dreaded by Dissenters in America, which had already reared its head more than once during this century, was now spurred into action again by the policy of Thomas Sherlock, who in 1748 became Bishop of London. It had been the traditional policy for the incumbent of this see to exercise jurisdiction over all affairs affecting the Church of England in the American colonies. Sherlock did not believe the Bishop of London was properly possessed of this wide jurisdiction and upon his succession to the office adopted a policy of neglect on the one hand and propaganda on the other, which he hoped would result in forcing the establishment of a resident bishop in America. A. L. Cross, the recognized authority on this subject, sums up his policy as follows: "...it was marked by an almost total disregard of American ecclesiastical affairs, and by a persistent endeavor to further the establishment of bishops in the colonies."33


Livingston, with the supersensitiveness to what he considered injustice, as well as to any unwarranted restriction of personal liberty which we have seen to be characteristic of him, immediately connected these latter movements with the agitation for a charter college and wove the whole together in his imagination into a gigantic scheme on the part of the Anglican Church to ally itself with government in the colonies in the same way that it had always been allied with government in England, and having finally become the established church, to crush out once for all the liberty which the fathers of the generation of colonists then living had fled to America to seek. Livingston was not alone by any means in this fear, but he seems to have felt it more keenly than most. This, of course, explains his peculiar animosity to the Anglican clergy in particular.\(^{34}\)

This, then, was the general setting, and Livingston's own immediate intellectual and emotional background at the time he actively entered, or rather inaugurated, the college controversy. We may summarize briefly the arguments set forth against a charter college at this time by Livingston in the six numbers of the Independent Reflector appearing between March 22 and April 26, 1753.\(^{35}\) The first essay he devotes to general remarks on education,

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\(^{34}\) That Livingston's conviction that the attempt of the Episcopal faction to get control of the college and to use this as a means toward the establishment of an American episcopate was not entirely a chimera of his imagination is indicated by a letter of Bishop Sherlock to Samuel Johnson, Oct. 20, 1754, in which he says: "...if the College can be settled upon the terms you mentioned, it will go a great way in showing that the zeal for establishing the Church of England is not so inconsiderable in New-England as it has sometimes been industriously represented" (quoted in Docs. Rel. Col. Hist. N. Y., VI, 910).

\(^{35}\) Two of these essays were by Smith, but we may accept them as expressing also Livingston's ideas, especially since Livingston assumed editorial responsibility for all the essays. Where direct quotations are made from essays in the Independent Reflector not written by Livingston himself, either in this instance or subsequently in the text, the fact will be indicated by a footnote.
laying down the maxim that since the true purpose of education is to render youth better members of society, education must be practical. He then points out that since the influence of a college soon permeates the whole colony in which it is situated, a sectarian college will necessarily in course of time establish in a dominant position the sect with which it is affiliated, in proof of which he cites the examples of Harvard and Yale, which, he claims, have established presbyterianism throughout the New England colonies to the practical exclusion of other denominations.36

Finally, since youthful minds are so susceptible to the slightest impression, great caution must be exercised to insure that the impressions which they receive at college, and which will later become fixed intellectual habits, are those which will produce habits of thought acceptable and useful to the society of which they are members.

In the succeeding essays the attack on a charter college is fairly launched. In the first place, the claim that a charter is necessary for the establishment of the college is flatly denied, and a legal justification for the setting up of the college by act of the legislature is established. Then the dangers which would result from a charter are pointed out. A charter could be annulled at any time those in power might wish to do so, or it might be rendered null and void involuntarily through some inadvertent action of the trustees contrary to one of its provisions. The power of the governor over the college would be much too great under such an arrangement; it would rest with him alone "to encourage or oppose the Trustees in the Abuse of their Authority". 37

36 In this instance Livingston employs the term presbyterianism, as he frequently does, to indicate almost any non-episcopal type of church organization, e.g., Congregationalism.

37 Independent Reflector, p. 78.
Moreover, if at some future time an arbitrary or wicked governor should be placed over them, the danger of irreparable harm to the college would be great. Then again, even though the first charter might be quite inoffensive in its provisions, it would be perfectly possible after the money raised or appropriated for the college had once been secured, to have it replaced by another charter, the provisions of which might be totally unacceptable to a majority of the inhabitants of the province. Furthermore, there was the probability that the trustees under a charter, by their conduct of the college would extend their own power and that of the church with which they were affiliated throughout the colony, monopolizing all offices, endangering the liberties of other religious denominations, and effecting eventually perhaps the complete establishment of the one church. This would create dissension and animosity in the province; all other sects would oppose a college thus controlled and administered for the especial benefit of one sect. Only the children of members of the favored church would attend; the children of others would be sent abroad or to other colonies for their education and perhaps lost to New York permanently, or they would receive no education at all. The donations such a college would receive would be far less than if established on a basis of equality for all. Even under the latter more favorable circumstances, however, the college could not be supported entirely by private subscription, and would be dependent to some extent upon appropriations from the legislature; but the

\[38\] It is impossible to determine the exact number of inhabitants belonging to each sect. Various estimates have been made as to the relative numbers at different times, a study of which seems to indicate that at this period the Dutch was the largest, the Presbyterian next, and the Episcopalians a poor third, constituting probably not more than one-tenth of the total church membership in the colony, although making up to a considerable extent in wealth and influence what they lacked in numbers, especially strong in the City of New York, and controlling the governor's office and the Council.
legislature could not be expected to entrust public funds to men over whom it had no control. Again, redress against unjust actions of the trustees or authorities of the college would be difficult to obtain under a charter, inasmuch as the laws for the government of the college would be made by the trustees, who would be responsible in turn only to the governor. Finally, it would be impossible to construct a perfect charter at first even if it were honestly attempted; the charter might have to be changed several times before becoming even reasonably satisfactory, each time at more or less expense to the public.

As against a charter, establishment of the college by act of the legislature would have many advantages. In the first place, it would be philosophically defensible, because (according to the philosophy of the Independent Reflector) a public academy is a civil and not a religious institution. In the second place, an act of the legislature could be changed or repealed only by a subsequent legislature and not through the whim or caprice of one man. Furthermore, the trustees would be subject to dismissal at the will of the legislature and would thus be effectively prevented from attempting to advance the interests of any one religious sect at the expense of the others. The college would be better patronized and endowed. Redress could be more easily obtained since action could be brought in the ordinary courts. Finally, since the college is to be established by public funds, it should be administered for the good of all, and the only way to insure that this will be the case, is to have the control of the college vested in the people as a whole. "While the Government of the College is in the Hands of the People, or their Guardians, its Design cannot be perverted."39

39 Independent Reflector, p. 81. The arguments against a
Such, briefly, were the arguments used at this time by the Independent Reflector against a charter college. In the concluding number of this series of essays on the college, Livingston threw aside temporarily cold logic and in a rhetorical and oratorical address appealed to the emotions of his fellow citizens. Besides addressing the inhabitants of the province in general, he appealed to the various sects individually, Dutch, Presbyterian, and Quaker, as well as Episcopalian, to guard their interests against invasion by any one sect. The vigor and earnestness of this address can be expressed only by direct quotation.

_Arise, therefore, and baffle the Machinations of your and their Country's Foes. Every Man of Vertue [sic], every Man of Honour, will join you in defeating so iniquitous a Design. To overthrow it, nothing is wanting but your own Resolution. For great is the Authority, exalted the Dignity, and powerful the Majesty of the People._

_And shall you the avow'd Enemies of Usurpation and Tyranny,...shall you commence Cowards at a Time when Reason calls so loud for your Magnanimity? I know you scorn such an injurious Aspersion._

In concluding, Livingston not only exhorts them again to action but also points the way to such action.

_Come on then, My Country-Men, and awake out of your Lethargy! Start, 0 start, from your Trance!...In Imitation of the Practice of your Brethren in England, when an Affair of Moment is on the Carpet, petition your respective Members to take it into their serious Consideration. Acquaint them with your Sentiments of the Matter, and I doubt not, they will remove the Cause of your Disquiet by an Interposition necessary to the public Prosperity, and eventual of their own immortal Honour._

charter college here summarized can be found in detail _ibid._, Nos. 18 to 21, inclusive.

40 This essay, No. 22, was entitled, "An Address to the Inhabitants of This Province."

41 Cf. the charges of Jones and Colden against the teachings at Yale, _supra_, p. 27.

42 Independent Reflector, p. 88.

43 Ibid., p. 90. Most of what Livingston and his associates wrote in the Independent Reflector against the establishment of a charter college has been reproduced in _Ecclesiastical Records_.
This attack on the movement to secure a charter for the college, as might be expected, increased still further the opposition to the Independent Reflector of those who had already regarded him with disfavor and brought new foes into the field as well. He was now charged not only with atheism and a desire to subvert the existing government but also with being opposed to education. In number twenty-seven in answer to the critics who accused him of desiring to do away with religion in the college altogether and in support of his contention that it was not necessary to take the prayers to be used in the college from the liturgy of any one sect, Livingston in collaboration with Smith submitted a form of prayer to be used in the college, which he claimed would be acceptable to all Christians of whatever denomination. This prayer, with the exception of a few connecting phrases, consisted entirely of quotations from the Bible. Needless to say, this satisfied no one among their opponents and was attacked as a mere hodgepodge.

On July 4, 1753, the legislature passed another lottery act to provide funds for the college[44] and, moreover, in an excise act passed the same day provided that, of the money accruing to the government as a result of the excise levied, the sum of five hundred pounds should be paid annually to the trustees of the college for a period of seven years.[45]

During the spring or early summer there was published by the Anglican faction and printed by Caine, An Answer to Some Late of New York (Albany, 1901-1905), V, pp. 3338-41, 3354-62, 3359-69. This will hereafter be cited as Ecc. Records of N.Y.


[45] Ibid., 908 ff.
Papers Entitled, *The Independent Whig*. This was simply a republication of a book written by one Francis Squire, a clergyman of the Church of England, against the original *Independent Whig* essays, which, we have already seen, had been printed some thirty years previously in England by Thomas Gordon and were directed against tyranny and priestcraft. It also contained, however, a preface, or advertisement, in which it was stated that the purpose of the present publication was to counteract "the indecent Attack, of late, made upon the externals of Religion, and solemn Rites of Christian Worship" and "the Malevolence expressed in an insulting Manner against the Clergy of all Sorts and Professions," as well as "to convince PHILO-REFLECTOR of his mistaken Apprehension, that no Clergyman had attempted an Answer to those Papers [the *Independent Whig*]." Although, as we have seen, the columns of Parker's *New York Gazette* had been closed to the friends of the Independent Reflector after the appearance of Philo-Reflector's article in February, the latter replied by publishing in the late summer or early fall *The Craftsman. A Sermon from the Independent Whig. Suitable to the Peculiar Malignity of the Present Day. With a Preface, Exposing the Artifices of Our Priests and Craftsmen.*

The preface was an attempt to apply Gordon's philosophy to the existing situation, but a large part of it was devoted to an attack on Hugh Gaine for printing in his *New York Mercury* the

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46New York: printed by J. Parker and Weyman, 1753. This information is from Charles Evans's *American Bibliography* (Chicago, 1903-1934), III, No. 9007. This will be cited hereafter as *Am. Biblio*. I have been unable to locate a copy of this publication. It has been pointed out that Philo-Reflector was in all probability William Smith, Jr., Livingston's chief associate in the production of the *Independent Reflector* (cf. supra, p. 33 n. 18). The manuscript of the preface to *The Craftsman* is in the Smith Papers, Box 198-206, in the N. Y. Pub. Lib. It is in the handwriting of both Smith and Livingston with marginal notes probably by Scott, the other member of the triumvirate. That part of it relating to Hugh Gaine has been printed by P. L. Ford (ed.), in *The Journals of Hugh Gaine, Printer* (New York: Dodd, Mead and Co., 1902), I, 211 ff.
attacks of the Anglican faction on the Independent Reflector and yet refusing to allow the latter or his supporters to reply in kind in his paper.

In September, in order to have some convenient vehicle through which they could defend themselves against attacks, as well as launch new offensives of their own (since the Independent Reflector, because of its special character, did not lend itself to this sort of thing), the editors of the Reflector launched a new paper, called by the resounding title of the Occasional Reverberator, and like the Reflector itself, published by James Parker. The raison d'être of the paper is indicated in the very first number as follows: "The Enemies of Liberty, and a Freedom of Reflection, having by the most iniquitous Arts, engrossed the New-York Mercury, and utterly excluded their Antagonists from a fair Hearing in that Paper; and the Printers of the Gazette declining the Insertion of any Thing, that savours of political or religious Controversy; the Author has thought proper to set up this, and proposes to continue it on Fridays, as often as occasion shall require." The first number, which appeared September 7, 1753, was devoted to paying off a score against the printer, Hugh Gaine. In the second Livingston, signing himself "The Independent Reflector", in two letters defended himself against the attacks of one of his opponents among the clergy. Only two more numbers, however, of the paper appeared, the last on October 5. The only knowledge we have of the reasons for its sudden demise is contained

47 This is generally bound with the collected edition of the Independent Reflector. Richardson believes Livingston and Smith to have been the chief instigators of the paper (Early Am. Mags., p. 91).

48 The story of this minor feud resulting from the college controversy is told by P. L. Ford in Journals of Hugh Gaine, I, 11 ff.
in Livingston's own statement: "...thro' the irresolution or corruption of the Printer and his various devices to embarrass the Reverberator, that paper was not continued beyond four Numbers."\(^9\)

A month and a half later, however, the group of young reformers received a still more serious blow, for on November 22 the last number of the *Independent Reflector* appeared, Parker refusing to print it any longer. The only account which we have of the circumstances of its discontinuance is that given by Livingston himself in the preface to the collected edition published early in the following year. He tells us that about two months before the appearance of the last issue, he had heard it rumored that the paper would not continue beyond a year, and upon questioning Parker on this head, since he himself had no intention of discontinuing it, was informed that there was no foundation for such a rumor and secured Parker's promise to continue the publication until June 1 of the next year, or at least to give the editors due notice if he felt it necessary to discontinue the printing of it sooner. At the end of the proof of the last number, however, there appeared a request for subscribers to pay up their arrears and subscribe anew. This Livingston deleted inasmuch as the subscriptions had not been for any definite period, and the paper appeared without this notice. Nevertheless, he was informed that the boy who delivered the papers demanded the subscription money and declared that there would be no further issues. Livingston thereupon called upon the printer and demanded an explanation. The latter admitted finally that he had promised to continue publication but offered as his excuse for failure to keep his promise the fact that he had been threatened with the loss of the public.

i.e., the government business, if he did so. 50

However much or little faith we may put in this account, since it is unsupported by other direct evidence and was related by one of the interested parties, there seems little doubt that pressure of some sort was brought to bear on Parker by the Anglican faction to force him to discontinue this paper so inimical to their interests.

Livingston then sought to have Parker print a supplement in which he might vindicate himself and explain the circumstances of the discontinuance of the Independent Reflector. This was also refused, nor could he for some time find any other printer who would undertake the work. Finally he prevailed upon Henry De Forest, an inferior printer who had made one or two unsuccessful attempts to conduct a newspaper in the colony, to do the job, 51 and early in 1754 a collected edition of the essays with a long preface of thirty-one finely typed pages was brought out, bearing on the title page the legend, "Printed (until tyrannically suppressed) in 1753." 52 In this preface Livingston reviews the whole history of the Independent Reflector, the opposition to it, and the attempts to restrict the freedom of the press, at the same time, however, denying any intention on his part of attacking Christianity in general or any single church. He expresses surprise that the Presbyterians were so violently attacked in

50 Ibid., pp. 11 ff.

51 Isaiah Thomas, The History of Printing in America, 2nd ed. (Transactions and Collections of the American Antiquarian Society, Vols. V, VI), II, 125. This will be cited hereafter as Hist. of Printing in Am.

52 The date 1753 is either a mistake, due perhaps to confusion resulting from the change in the English calendar made in 1752, whereby the new legal year began on January 1, instead of on March 25 as previously; or else it was intended to refer to the year in which most of the essays originally appeared.
in retaliation against him, asserting flatly that he has no connection with the Presbyterian sect. He summarizes the college controversy to date. He also reviews the achievements of the Independent Reflector and gives a list of the projected titles of the next fifty-seven numbers of the paper had it continued. An examination of these titles indicates that he would have continued to conform to the originally expressed purpose of the magazine and that he had no intention of allowing it to lapse into a purely controversial organ. In conclusion he defies those who "by the basest arts" have put a stop to his writings, and asserts his intention of continuing as soon as an honest printer can be found.

On the same day that the last number of the Independent Reflector appeared, November 22, 1753, the trustees of the proposed college elected a president for the institution, their choice falling upon Samuel Johnson, a graduate of and former tutor at Yale, later a convert to the Church of England, who at the time of his election was presiding over a parish at Stratford, Connecticut. He appears to have been nominated by William Livingston.

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53 Ibid., p. xxv: "...he [the Independent Reflector] declares that he neither is, nor ever was attached to presbyterianism." This, however, must have been merely an attempt to throw his opponents off the track, and, judging from the available evidence, was not true. (cf. supra, p. 32, n. 24).

54 This preface is signed "The Independent Reflector" and dated January 19, 1753.

55 William Livingston, "in Behalf of the Trustees", to Samuel Johnson, Jan. 7, 1754, quoted in Schneider, Samuel Johnson, IV, 7 f.

56 Henry Barclay, writing to Samuel Johnson on July 5, 1754, says, discussing the election of Chauncey Whittelsey as assistant to Johnson: "The reason of their [the trustees'] complying so suddenly was that Mr. L...n, who proposed you, also proposed him, as a man of catholic principles" (Schneider, Samuel Johnson, IV, 19). James Livingston was also, of course, a member of the board of trustees, but was not a graduate of Yale, and could scarcely
Johnson, however, was very much of a progressive, and since, in view of the composition of the board of trustees, there was no likelihood of a non-Episcopalian being chosen to the office, Livingston was doubtless making the best of the situation, especially as he at the same time nominated for the first assistantship Chauncey Whittelsey, a Presbyterian and one of his own friends, whom he knew to be an advocate of religious toleration, thus placing the Anglican faction in something of a predicament. Johnson was loath for various reasons to accept the position thus offered, but was prevailed upon to do so by the threat of the New York Anglicans to give up the whole undertaking unless he would consent to head the new institution.

In the meantime further encouragement had been given by the legislature to the college scheme by the passage of another lottery act on December 12, 1753. In April Johnson arrived in New York City to take charge of the arrangements for opening the college, which it was now proposed to do as soon as possible. The Anglicans thereupon determined to push their project for a charter. At a meeting of the trustees on May 16, a draft of such

have been well acquainted therefore with Whittelsey, who was a graduate of Yale and a resident of Connecticut.


Whittelsey was not acceptable to Johnson and the Anglicans (cf. letters of Henry Barclay to Johnson, Dec. 24, 1753, and July 5, 1754, quoted in Schneider, Samuel Johnson, IV, 6 ff., 19). He never occupied the post, whether because of the opposition of Johnson and his friends or not, is not entirely clear. Ill health was the nominal excuse presented.


Col. Laws N. Y., III, 930 ff.

a charter was read. Livingston apparently had previous knowledge that this was to be done, for he immediately offered a written protest containing twenty reasons why such a charter should not be granted, desiring that this protest should be entered on the minutes, which was refused. He then desired that the fact that he had made such a protest be entered, which, although at first also denied, was finally agreed to. At a meeting on May 20 two of the trustees reported that the lieutenant-governor (acting governor for the time being) had given them permission to present a petition for a charter. This petition was then read. Among other things it stated that the rector and vestry of Trinity Church were willing to grant a valuable parcel of ground to the college "on Condition that the Head or Master of the Seminary or College, be a Member of, and in Communion with the Church of England...", and that the Liturgy of the said Church or a Collection of Prayers out of the said Liturgy be the constant Morning and Evening Service, used in the said College for ever." 62 These two conditions had not been part of the original offer of land made by Trinity Church. The petition was approved by all except William Livingston, and it was agreed that his protest of the last meeting should be entered on the minutes. At this point Livingston again protested, this time against the presentation of the petition, but his protest on this occasion was not entered on the minutes.

On the same day this petition was presented to the lieutenant-governor and by him laid before the Council. 63 On

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62 Report of William Livingston to the Assembly, Nov. 1, 1754, in N. Y. Assembly Journal, II, 400. The account given in this paragraph of the text follows this report.

May 30 the Council recommended that the charter be granted,64 James Alexander and the elder William Smith, under both of whom it will be remembered William Livingston had served his apprenticeship, dissenting and offering a written protest.65 The charter, however, was not immediately granted. Lieutenant-Governor De Lancey, though an Anglican and the leader of the dominant faction at that time in the colony, the faction which was being so vigorously opposed by the rising young triumvirate, seems not to have been very enthusiastic about the charter and apparently tried to dissuade his Anglican friends from pushing the matter. His indifference to the project was doubtless due solely to concern over his personal political situation, and the fear of having his popularity suffer if the charter project should prove too unpopular throughout the province. The result was that he continued to temporize for several months.

At this point it may be well to examine the attitude of the Dutch. They constituted at this time probably the largest single sect in the colony, and held the balance of power between the Presbyterians and the Episcopalians, who, generally speaking, constituted the opposing political factions.66 Domine Ritzema, the leader of the Dutch sect, was on intimate terms with the Episcopal faction. He hoped to have a clause inserted in the charter providing for a Dutch professorship in the college, and apparently aspired to be appointed himself to this chair. A majority, however, seem to have been opposed to this alliance

64 Ibid., p. 3480.
65 Smith, Hist. of N. Y., II, 192.
with the Episcopalians. Nevertheless, Ritzema had his supporters among the Dutch clergy.

Interwoven with this schism in the Dutch Church was another dispute over the question as to whether preaching in English should be allowed for the benefit of the younger generation in the church who, having dropped the use of the Dutch tongue, found it difficult to understand sermons preached in Dutch. This situation was causing the Dutch Church to lose members to other denominations, particularly to the Presbyterian. In the third number of the Occasional Reverberator, published September 21, 1753, had appeared an article, probably by Livingston, strenuously advocating the installment of an English minister in one of the Dutch churches, and in the preface to the Independent Reflector Livingston had accused the Episcopalians, because of their opposition to this scheme on the ground that it was a plot of the Presbyterians to gain control of both churches, of aiding in the downfall of the Dutch Church.

The Anglicans hoped, by working through Ritzema, using a Dutch professorship as a bait, to gain the support of a majority of the Dutch for a charter college on the conditions laid down in their petition, and to win over sufficient Dutch members of the Assembly to assure the passage of a bill transferring to the


68Apparently William Livingston himself had embraced Presbyterianism for this reason, his father and grandfather both having been members of the Dutch Church (cf. Sedgwick, Memoir, p. 78). He did, it is true, read Dutch easily (cf. infra, p. 287), but it is quite probable that he encountered greater difficulty with the spoken language. Moreover, his children probably had even less familiarity with it.

college under the charter the funds already raised.\textsuperscript{70}

On the 17th of July the college opened with ten students, of whom two had spent some time in other colleges.\textsuperscript{71} It had, of course, no building but was allowed to use the vestry room of the schoolhouse belonging to Trinity Church. Livingston sarcastically remarked in a letter to Whittelsey that the majority of the students were utterly unqualified but were admitted "to make a flourish?\textsuperscript{72}

During this summer both sides were active. Livingston apparently published his famous protest containing the twenty reasons why a charter should not be granted.\textsuperscript{73} Johnson endeavored to have this protest answered but was finally persuaded that this would not be the best policy. In his letter to Whittelsey in the middle of this summer, Livingston discusses the situation at length, mentioning the activities of each side to gain the support of the Assembly. This was, of course, the key to the contest, for without the support of this body, even though the charter were

\textsuperscript{70}Cf. the following letters: Samuel Johnson to his sons, June 10, 1754, quoted in Schneider, \textit{Samuel Johnson, IV}, 15 ff.; the same to the Bishop of London, July 6, 1754, \textit{ibid.}, pp. 20 ff.; Henry Barclay to Samuel Johnson, Nov. 4, 1754, \textit{ibid.}, pp. 24 ff.; Samuel Johnson to his sons, Nov. 25, 1754, \textit{ibid.}, pp. 26 ff.

\textsuperscript{71}Johnson, "Autobiography", in Schneider, \textit{Samuel Johnson, I}, 34.

\textsuperscript{72}Aug. 22, 1754, quoted in Sedgwick, \textit{Memoir}, pp. 91 ff.

\textsuperscript{73}I can find no mention of this in Evans, \textit{Am. Bibliogr.}, but Johnson mentions sending a copy of it to his sons (letter of June 10, in Schneider, \textit{Samuel Johnson, IV}, 15 ff.), and in his "Autobiography" definitely states that Livingston printed this paper (\textit{ibid.}, I, 33). Furthermore, Livingston himself asserts that he published it (letter to Whittelsey, Aug. 22, 1754, in Sedgwick, \textit{Memoir}, pp. 91 ff.). This protest was, of course, later printed in the minutes of the Assembly (cf. infra, p. 76), but this could not have been available at this time.
granted, the Anglicans could not hope to get the money which had been raised for the college, and it was through the Assembly that Livingston and his friends hoped to cripple the college if erected on a charter basis. One important step taken by Livingston and his colleagues in this connection was the preparation of a bill for establishing the college on their own plan, which they hoped to have some member of the Assembly introduce in the fall session. Even as late, however, as October 18, Livingston still had hopes that the lieutenant-governor would not grant the charter.\textsuperscript{74}

In this, however, he was destined to be disappointed. The charter was finally signed on October 31, establishing the college under the name of King's College, and contained, of course, the two objectionable features, namely that the president of the college must be a member of the Church of England and that the morning and evening prayers must be according to the liturgy of that church.\textsuperscript{75} By this charter a new board of governors was appointed to supersede the trustees previously designated by the legislature. The new board consisted of forty-one members, of whom seventeen were ex officio, and was even more favorable to the Anglicans than they had expected. Writing to Johnson, who was out of the city at the time, Barclay, the Rector of Trinity Church, computed that they would have a majority of twenty-nine to twelve.\textsuperscript{76} All three lay members of the old board of trustees

\textsuperscript{74} On the activities of both sides during the summer see the following letters written in 1754: Johnson to his sons, June 10, in Schneider, Samuel Johnson, IV, pp. 15 ff.; W. S. Johnson to Samuel Johnson, June 13, \textit{ibid.}, p. 17 f.; Livingston to Whittelsey, Aug. 22, in Sedgwick, \textit{Memoir}, pp. 91 ff.; the same to Noah Welles, Oct. 18, \textit{ibid.}, pp. 93 ff.

\textsuperscript{75} The \textit{Original Charter of Columbia College in the City of New York, October 31st, 1754, with the Acts of the Legislature Altering and Amending the Same} (New York, 1854), pp. 13, 19.

\textsuperscript{76} Nov. 4, 1754, quoted in Schneider, Samuel Johnson, IV, 24 f.
were appointed to the new board of governors, including William Livingston. 77

On the 25th of October the trustees appointed by the legislature had been ordered by the Assembly to report to that body. 78 Since Livingston did not approve the report agreed upon by the rest of the trustees, considering it incomplete because, among other things, it did not contain an account of the petition of the trustees for a charter, by which action he claimed they had exceeded their powers, he decided to present a report of his own, which he did on November 1, the same day on which the report of the rest of the trustees was presented. In his separate report, after explaining in detail why he had felt it necessary to make one, Livingston incorporated the now famous protest, containing his twenty reasons. Both reports were subsequently printed in the minutes of the Assembly. 79

The effect of Livingston's separate report was to throw the House into a turmoil on the question. We have no report of the debates, but we may well imagine that they were heated, considering the pains each side had taken during the summer to attach members of the Assembly to its own point of view. That the anti-charter faction, however, still held the field is evident from a resolution passed on the 6th of November, "That this House will not consent to any Disposition of the Monies raised by Way of Lottery, for erecting and establishing a College, within this Colony for the Education of Youth or any Part thereof, in any

77 Cf. Sedgwick, Memoir, p. 95, n.†: "'As I could not conscientiously take the oaths of office,' says Mr. Livingston (letter of 12th Jan. 1756), 'I never frequented their meetings'".
78 N. Y. Assembly Journal, II, 392.
79 Ibid., pp. 396 ff.
other Manner whatsoever, than by Act or Acts of the Legislature of this Colony, hereafter to be passed for that Purpose."\textsuperscript{80}

The granting of the charter seems only to have spurred Livingston and his friends to greater activity. In the afternoon of the same day on which the above resolution was passed, there was introduced by Robert L. Livingston, a brother of William, who sat as representative of the Manor, a bill to establish and incorporate a college.\textsuperscript{81} Smith asserts that this bill was drafted by Scott,\textsuperscript{82} but it was probably the one which had been worked up during the summer, and there is little doubt that each of the three members of the triumvirate had a share in its authorship. This bill placed the House in a still further dilemma, especially since pressure was beginning to be exerted by the lieutenant-governor in favor of the charter he had granted. Because of this latter circumstance, the triumvirate decided not to press for an immediate vote on the bill but to play for time, hoping in the meanwhile to arouse the people in its favor.\textsuperscript{83} All hands, therefore, were satisfied when on November 26 the consideration of the bill was postponed to the next sitting and the bill itself was ordered printed for the perusal of the public.\textsuperscript{84}

In the meantime under date of November 20 Livingston had published an anonymous pamphlet, which he called \textit{The Querist}, in which, after reviewing the progress of the controversy since his

\textsuperscript{80} Ibid., p. 404.

\textsuperscript{81} Ibid.

\textsuperscript{82} Hist. of N.Y., II, 200, n.*.

\textsuperscript{83} Ibid., pp. 200 f.; also Livingston to Noah Welles, Dec. 7, 1754, quoted in Sedgwick, Memoir, pp. 104 f.

\textsuperscript{84} N. Y. Assembly Journal, II, 413.
famous protest in the spring, he took up the recently published charter clause by clause and presented forty-eight objections to it in the form of queries.\footnote{The Querist, or a Letter to a Member of the General Assembly of the Colony of New-York. Containing a Variety of Important Questions Occasioned by the Charter Lately Granted for the Establishment of a College (New York, 1754).} In answer to this, although more especially in reply to the protest with its twenty "unanswerable" reasons, Benjamin Nicoll brought forth, also anonymously, \textit{A Brief Vindication of the Proceedings of the Trustees Relating to the College. Containing a Sufficient Answer to the Late Famous Protest, with Its Twenty Unanswerable Reasons.}\footnote{New York, 1754. It contained on the title page the legend, "By an Impartial Hand". It was scarcely by an impartial hand, however; it will be recalled that Benjamin Nicoll was an Anglican member of the original board of trustees.} In this he in turn reviewed the history of the controversy, defending the grant of land by Trinity Church and the conditions subsequently attached to it, defending likewise the petition for a charter and insisting that the granting of a charter is not only the usual but the only proper way of setting up such an institution as the college. He then takes up several of Livingston's "unanswerable" reasons one by one, offering a refutation of each of the first several and finally dismissing the ones he has not discussed as mere repetition, a criticism which was, in fact, not without justification. Turning to \textit{The Querist}, he declines to answer it in detail inasmuch as the charter itself is in every one's hands. Besides making the usual charges against Livingston of attempting to foment discord among the various sects in the province and of appealing to the lowest type of people for support, he further charges him with failing to make several entries in the minutes of the proceedings of the trustees which, as secretary, he was ordered to make.\footnote{This charge was publicly denied by Livingston in a sworn}
Still another evidence of the determination of the triumvirate to carry on the contest with unremitting vigor was the appearance on November 25 in the New York Mercury, of the first number of the "Watch-Tower", a column which appeared regularly from this time for the space of a year. With considerable difficulty the triumvirate had finally prevailed upon Hugh Gaine, the printer who at the opening of the contest had accidentally found himself on the other side, and who have been bitterly attacked by the triumvirate for his refusal to print material in defense of the Independent Reflector, to allot them the front sheet of his paper. The essays which subsequently appeared in this column were written in general by the same group which had written the Independent Reflector essays and resembled to a considerable extent the latter essays although frequently more controversial in tone. Not all of the essays were concerned with the college controversy; some were on such related subjects as the claim of the Episcopalians to an establishment in four counties of the province and their various attempts to secure a general establishment as well as their persecution of other sects in the past. Other essays were on more general subjects like those in the Independent Reflector, while still others, especially

statement published in a supplement to the N. Y. Mercury, Jan. 13, 1755, which seems to have closed the matter.

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88 Livingston to Noah Welles, Dec. 7, 1754, quoted in Sedgwick, Memoir, pp. 104 f. In this letter Livingston invites Welles to become a contributor.

89 Most of the essays are signed by one or another of the letters "B.", "F.", and "W.". Internal evidence seems to indicate that Livingston was the author of those signed "W." There is a draft in the N. Y. Hist. Soc. (Misc. MSS, Watch-Tower) of No. 28, signed "F.", which seems to be in the hand of William Smith, Jr., which would indicate that this was the letter used by him. Further evidence will probably be necessary before the authorship of the essays signed "B." can be definitely established.
after Braddock's defeat, were devoted to the French menace and the necessity of patriotic exertions against this dangerous enemy. This column, too, called forth opposition, a series of ten two-page broadsides, entitled John Englishman, appearing against it between April and July, 1755.\footnote{\textit{John Englishman} originated as an essay with the signature, "John Englishman", in the \textit{N. Y. Mercury}, directed against the "Watch-Tower" (cf. Richardson, \textit{Early Am. Mag.}, p. 92).}

Let us at this point summarize briefly the additional arguments against a charter college presented by Livingston since the essays in the \textit{Independent Reflector}. In his protest with its twenty "unanswerable" reasons\footnote{\textit{N. Y. Assembly Journal, II, 397 ff.}} he attacks the conditional grant of land by Trinity Church on the ground that since the original offer was unconditional, conditions could not fairly be attached later,\footnote{The chief defense offered by the Episcopalians for the attaching of conditions subsequent to the original offer was that they were led by the furious attacks of Livingston and his associates to believe that these gentlemen would, if permitted, ban all religious teaching in the college, to the detriment of the morals of the students (cf. The Episcopal Clergy of New York to the Secretary of the Society [for the Propagation of the Gospel in Foreign Parts], Nov. 3, 1755, in Schneider, Samuel Johnson, IV, pp. 39 ff.; also Nicoll, \textit{Brief Vindication}, p. 5).} and also on the ground that the trustees had no power to accept such a grant but only to report the offer to the legislature. Furthermore, since the money raised was raised for a "free college," it cannot be transferred to "Trinity Church College", as Livingston persists in calling the institution, without defrauding the province, and if they do so, the trustees should be held liable personally for repayment to the government of money so transferred, especially since the trustees appointed by the legislature are responsible to that body while those appointed under the charter are not. Again, the exclusion from the presidency of all except members of the Church of England will not only raise animosities
but may result in the disqualification of those best fitted for the office; besides, the act of the legislature empowering the trustees to appoint the officers of the college prescribed no religious test. Especially does Livingston emphasize the fact that the legislature has reserved solely to itself the establishment of a plan of government for the college and that this right cannot be delegated without its consent. Then, touching a different chord, he deplores the fact that the insistence on a charter has raised such animosity at a time when the greatest unity is needed against the French.

In The Querist he adds a few further criticisms. Turning again to the grant of land, he points out that the value of the other property of Trinity Church will by the establishment of the college on part of its property be increased to an amount exceeding the value of the land given away; thus Trinity Church has no right to special privileges in the college. Moreover, he asserts the imprudence as a general policy of the college's accepting any donation of land, and, applying this axiom to the case in point, indicates the tremendous and dangerous political influence which the college and Trinity Church, with their combined wealth, might exert. Turning to the charter itself, he criticizes it as poorly and inexpertly drawn. Furthermore, why should there be among the governors so many affiliated with the Church of England when that sect constitutes only one-tenth of the total population? He expatiates further upon the impossibility of legal redress in case of a refusal on the part of the college authorities of the privileges of the college to a citizen of the province because (1) the mayor, who presides over the Mayor's Court of New York City, is a governor of the college;
(2) the judges of the Supreme Court are governors, and (3) the
governor of the colony, who presides over the Court of Equity, is
also a governor of the college. Nor would any legislative action
to correct such a situation be feasible because the governor,
seven Councillors and the Speaker of the House are on the board
of the college. Finally, appeal to England would likewise be
unsuccessful because the Archbishop of Canterbury and the First
Lord of Trade are likewise governors of the college. For similar
reasons the chances of successful legal action against the pre-
sident of the college for misbehavior would be slight. A further
criticism of the constitution of the board of governors under
the charter is the fact that those members of the Assembly who
have been appointed to the board will probably as a result abate
their zeal for a "free" college. Looking into the future, he
emphasizes again the desirability of maintaining all sects on an
equal basis and the great danger which would ensue from establish-
ing any one sect in a dominant position. Religious liberty has
hitherto encouraged settlement, but an ecclesiastical establish-
ment would have the opposite effect. In all of these papers, of
course, Livingston reiterates again and again the arguments
originally presented against a charter college.

Turning from his merely destructive criticism, let us
examine for a moment his more constructive proposals. What kind
of a college did Livingston want? The answer to this question
can be gathered from an examination of the bill drafted by Scott
and presented in the Assembly by Livingston's brother.93 According
to this bill there should be no trustees ex officio. Those
appointed, as well as the president of the college, should hold

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93 Printed at large in the N. Y. Assembly Journal, II,
413 ff. William Smith, Jr. earlier outlined such an act in No. 21
of the Independent Reflector.
office during good behavior. They would constitute a corporate body but in the acceptance of any conditional gifts or the disposal of any property of the college would be bound by the consent or dissent of the legislature. In order to insure religious freedom, no religious test except, it must be noted, adherence to Protestantism, would be imposed on any officer of the college, nor would any officer or instructor be permitted to attempt to persuade any student to change his religion, nor even cause him to profess his adherence to any faith. Students should be allowed to worship where they chose although they might be compelled to attend a church of their own choice on Sunday. To preserve still further a complete religious freedom for the student, no system of divinity should be publicly taught in the college, although the Church of England and the Dutch Church might each appoint a divinity professor who should instruct privately such of the students as should come to him, and whose salary should be paid by the college. All officers of the college should take an oath of allegiance to the state (except Quakers, who might affirm). All by-laws of the college and appointments made by the president and trustees must be confirmed by the legislature at its next session. All questions as to the location of the college must also be settled by the legislature. All disputes among officers of the college or between officers and students might be taken to the courts if satisfaction should not be obtained from the president and trustees. Morning and evening prayers should be said publicly in the college, a form being drawn up for the purpose which should be "least exceptionable to the several Denominations of Protestants in this Province". Still further to insure freedom of thought and speech, officers and students of the college were to be allowed free access to all of the books
in the college library, and "free Conversation and Enquiry, by
the Scholars of the said College, upon all polemical and contro-
verted Points in Divinity, shall at all Times forever hereafter,
be countenanced and encouraged by all the ....Officers of the
said College?"

Except for its restriction of religious liberty to
Protestants this was a truly liberal bill and shows a remarkably
advanced and progressive attitude on higher education on the part
of its sponsors. A college founded on such a basis would suffer
little by comparison with our better state universities of the
present day and would certainly be superior, from the standpoint
of freedom of thought, to some. The similarity, indeed, to the
model on which our state universities of a century later were
constructed is striking.

On December 7, 1754, another lottery act for the benefit of
the college was passed. 94 In the spring of 1755 the Dutch were by
an additional charter granted the professorship in the college
which they desired but for which provision had not been made in
the original charter. Feeling that they had thus definitely
attached the Dutch to their cause and being willing to risk a
vote in the Assembly, the governor of the college on June 12
petitioned the Assembly to have the charter confirmed and the
money already raised for the college, amounting at this time to
about five thousand pounds, transferred to them. 95 They had, how-
ever, been too sanguine. Consideration of the petition was post-
poned to the October session and then conveniently forgotten.
When on December 18 of this year Livingston, Smith, and Scott
presented to the Assembly a counter-petition with the request that

94 Col. Laws N.Y., III, 1027 ff.
95 N. Y. Assembly Journal, II, 446 f.
a copy of the governors' petition be furnished them in order that they might prepare and present their case against it, they were informed that no such application of the governors lay before the House. Johnson in despair wrote the Bishop of London that the college had little hope now of ever obtaining the money.

Livingston and his associates had by no means given up the fight but were still endeavoring through the "Watch-Tower" column to arouse the people against the charter college. Indeed, in the issue for June 23, 1755, Livingston devoted a whole essay to the above petition of the governors, charging them with foul play because they had without any previous notice of their intention to present such a petition taken advantage of the temporary absence of several members of the opposition. Furthermore, in this year Livingston republished the original account of the trial of Francis Makemie, the Presbyterian minister who early in the century had been prosecuted and prosecuted by Lord Cornbury, then governor, for preaching without a license. To this narrative Livingston prefixed an introduction, dedicated to the members of the Assembly, in which he pointed to the Makemie trial as an eternal monument to the danger of bigotry, supported by power, and used it as a lesson to instil the need of perpetual watchfulness against religious intolerance. Commending the Assembly upon its stand thus far in the controversy, he called upon its members as the guardians of liberty in the province not

96 Ibid., p. 468.

97 Oct. 27, 1755, quoted in Schneider, Samuel Johnson, IV, 36 f.

98 N. Y. Mercury, June 23, 1755.
to abate their zeal for its preservation. Finally, upon the arrival of a new governor, Sir Charles Hardy, in September of 1755, Livingston drew up, had printed, and presented to this gentleman immediately after his arrival an address in which, after warning the new incumbent against false friends and flatterers and advertsing to the strong attachment of the people to civil and religious liberty, he summarized the history of the college controversy to that point and expressed the hope that the new governor would take proper steps to preserve the religious liberty of the people from the danger with which it was threatened.

Interest in the question of the college had by this time, however, considerably abated, due in large part to the outbreak of hostilities with the French and the more pressing nature of the questions raised by this situation. Even the "Watch-Tower" devoted a number of essays to this new menace. As a result of this subsidence of interest in the affair of the college and because its editors felt that it had accomplished all that could be expected, the "Watch-Tower" was discontinued after the completion of a full year. When, however, a proposal was made to the effect that the governors of the college should be given the various sums raised by lottery, but should resign all claim to the

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99 A Narrative of a New and Unusual American Imprisonment, of Two Presbyterian Ministers, and Prosecution of Mr. Francis Makemie One of Them, for Preaching One Sermon in the City of New-York (New York, 1755). The introduction is signed "The Author of the Watch-Tower".

100 Smith, Hist. of N. Y., II, 219.

101 An Address to His Excellency Sir Charles Hardy, Knt., Captain-General and Governor in Chief of the Province of New-York, and Territories Thereon Depending in America, and Vice-Admiral of the Same (New York, 1755). This was also printed as No. 42 of the "Watch-Tower" column, N. Y. Mercury, Sept. 8, 1755.
annual five hundred pounds from the excise tax, the ever vigilant Livingston published as a broadside an additional issue of the "Watch-Tower", numbered fifty-three, under date of January 16, 1756. In this he waxes highly indignant at the effrontery of the governors in condescending to give up a part of the money to none of which they had any right, and he gives thirteen objections to the confirmation of the charter, most of them repetitions of the old ones against the original granting of the charter. He takes advantage of the situation created by the hostilities of the French, however, to prophesy that such a step toward the establishment of one religion would discourage immigration and encourage emigration from the colony to such an extent as to render it unable to defend itself against the enemies on its borders. Furthermore, seeing their liberties at home encroached upon, the people would be discouraged from opposing the enemy in proportion as these liberties were diminished. In short, such an action on the part of the Assembly "would be to sell that for nothing, which a Million of Pounds Sterling, would not repair the Damage of to this Province, in general, in this present and future Generations."

Nothing further was done about this proposal, but the opponents of the college became increasingly convinced that they could not hope for the establishment of a college on the plan favored by them, especially since the new governor had shown his approval of the college on its present basis by donating five hundred pounds to it. Furthermore, interest in the college

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102 Johnson, however, implies that this proposal was made by the opponents of the college (cf. his letter to W. S. Johnson, Dec. 21, 1755, in Schneider, Samuel Johnson, IV, 38 f.

103 The Watch-Tower, Numb. LIII (New York, Jan. 16, 1756).
question continued to flag, its place in the public discussions of the day and in the debates of the Assembly being usurped more and more constantly by the war with the French and Indians. Moreover, feeling satisfied with themselves by virtue of a victory over the governor at this time in the perennial question of the annual support of the government, the Assembly was the more willing to compromise the troublesome college question. Finally, there was a desire to secure money for the erection of some public buildings of which the colony was in need. Consequently, by means of unofficial conferences between the opposing factions, a compromise was finally arranged which, being put into effect at the end of the year, finally put an end to the controversy.\textsuperscript{104}

On November 27, 1756, clauses of the various lottery acts which had stipulated that any member of the Assembly who should move or consent to the applying of the money thus raised to any other purpose than the founding of the college should be expelled from the Assembly were repealed.\textsuperscript{105} On December 1 an act was passed granting to the governors of the college one half of the lottery money, together with the annual five hundred pounds from the excise (except a sum which was to be applied to sinking certain bills of credit), while the other half of the lottery money was appropriated to the erection of a jail and a pest house.\textsuperscript{106} This settlement of the long controversy, somewhat in the nature of an anti-climax, led the elder William Smith to remark humorously: "It rides us of a bone of contention, by

\textsuperscript{104}Cf. Smith, Hist. of N. Y., II, 237 f.; Jones, Hist. of N. Y., I, 16 f.; Johnson to Dr. Bearcroft, Secretary of the Society [for the Propagation of the Gospel in Foreign Parts], Dec. 21, 1757, in Schneider, Samuel Johnson, IV, 42 ff.

\textsuperscript{105}Col. Laws N. Y., IV, 104 f.

\textsuperscript{106}Ibid., pp. 160 ff.
dividing it [the money] between the two pest houses." 107

Both sides claimed the victory, the supporters of the college because they had finally secured a large share of the money originally intended for the college as well as having it established on their own plan, and its opponents because they had prevented it from obtaining all the money raised at public expense for this purpose and had cast a stigma of illiberalism upon it which, they hoped, would prevent its securing any further legislative support. An impartial judgment, however, would seem to give to the Anglican faction, the supporters of the college, the major share of the spoils.

Thus ended William Livingston's first great struggle in the cause of religious liberty and complete separation of church and school as well as of church and state, a cause which remained throughout life closer to his heart, perhaps, than any other. He had not, to be sure, come off with the palm of victory nor emerged from the battle unscathed, but he had fought vigorously and with great perseverance against powerful forces and had established a reputation as a fearless defender of both civil and religious liberties and as a leader of liberal thought in the colony. An incident related concerning Livingston at the beginning of this period, before he had identified himself with any faction, whether true to fact or not, rather aptly pictures the uncompromising spirit of the young reformer at this period. It is said one of the De Lanceys remarked to him at this time: "Well, you would be the cleverest fellow in the world if you were only one of us," to which Livingston's reply was: "I will try to be a clever fellow without being one of you." 108

107 Smith, Hist. of N. Y., II, p. 238.
108 Sedgwick, Memoir, p. 66.
CHAPTER IV

ACTIONS AND REACTIONS 1752-1768

We have confined our discussion of the Independent Reflector and the "Watch-Tower" column chiefly to their relation to the college controversy. Although the latter, to be sure, was inaugurated with the prime purpose of keeping alive the college question, neither it nor the Independent Reflector were wholly confined to this controversy. Let us examine, therefore, the opinions on other contemporary topics expressed in these two series of essays.

We have already spoken of the rather violent attacks made in the Independent Reflector upon the clergy and priestcraft before its attention was diverted to the college. This was one of Livingston's favorite topics, and besides adverting frequently to this subject when discussing related questions which by any stretch of the imagination could justify its introduction, he returned directly to the attack in number thirty-four of the Independent Reflector, entitled "Of the Veneration and Contempt of the Clergy." In this essay Livingston freely admits that to condemn the clergy as a body because of the wickedness of some members of it is unfair; "there is not a more lovely Character in Nature, than that of a good Clergyman." On the other hand, to worship all priests simply because of their clerical garb is idolatry. It is this tendency of mankind to accept mere show and ceremony as evidence of real Christianity without bothering to inquire into the purity or sincerity of the soul within that so irritates Livingston.
Above one-half of Mankind are struck with the exterior Garb. A worthless Fellow may wear a red or blue Coat to Eternity, without being esteemed more knowing or virtuous; but let him cover his Body with black Crape of a particular Cut, and from a Cheat or Debauchee, he is transform'd into an Angel.

This is obviously absurd; "to expect our Homage without a suitable Merit, is either insulting our Understanding, or proclaiming our Bondage." Again, in a later essay, he taunts the clergy for their total lack of wit and of any sense of humor; their attempts at pleasantry, he asserts, always result in something far coarser. He charges them with failing to use delicacy even in their disputes with each other. "Their controversial Writings are replete with Spleen, Ill-Nature, and Ribaldry." ¹

These attacks upon the clergy were directed nominally against the clergy of all denominations, but it was the clergy of the Church of England that Livingston had particularly in mind. The claim of this church, too, to a general establishment in the colony was combated in number forty-four of the Independent Reflector and subsequently in four of the "Watch-Tower" essays.²

The arguments presented were in general as follows. The claim to an establishment cannot rest on a colonial law, for, if so, the establishment would obtain in only four counties at the most.³

¹Independent Reflector, No. 41.

²These essays were probably written by William Smith, Jr., but doubtless reflect Livingston's views on the subject accurately. The "Watch-Tower" essays on this subject were Nos. 26, 27, 28, and 34, appearing in the N. Y. Mercury of the following dates: May 19, 26, June 2, July 14, 1755.

³This refers to the claim of the Church of England to an establishment in the counties of New York, Westchester, Queens, and Richmond by virtue of the so-called Ministry Act of 1693 and subsequent acts relating to the subject. This claim itself, although a dubious one and denied in theory by many Dissenters, had been made good in practice, and the Church of England continued to enjoy an establishment in these counties down to the Revolution. For a discussion of this question see "A brief View of the State
One of the chief arguments used by the Anglicans to support the claim is that the constitution of England is binding in the English colonies, and that therefore the establishment of the Church of England was coincident with the founding of the colony. To this Livingston replies that only so much of the English constitution goes with English colonists into a new country as is necessary to enable them to enter into a state of society, and for this purpose the establishment of a church in the sense of the connection of the church with the state is not necessary. To suppose all the laws of England binding upon every new colony is absurd, and, if admitted, would prevent all colonization. Then again, if colonists took with them the religion of the mother country, it would be the religion of that country at the time of their leaving, which might subsequently be changed in the mother country. Another favorite argument in support of the Anglican claim is that the act establishing the Episcopal Church in South Britain, passed in the reign of Queen Anne, extended also to the colonies. But this, says Livingston, has already been thoroughly refuted by Mr. Hobart. This result, moreover, could not have obtained from any previous acts, for in that case charters like those of Massachusetts Bay, Connecticut, Rhode Island, and Pennsylvania could not have been granted.

The Episcopal claim to lenity and a policy of tolerance was also attacked in a series of essays in the "Watch-Tower".  

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4Nos. 18, 21, 22, 23, 29, 30, and 32 in N. Y. Mercury of the following dates: Mar. 24, April 14, 21, 28, June 9, 16, 30, 1755.
In combating this claim, the history of the various persecutions and attempts at oppression on the part of the Church of England in the colony of New York was traced in minute detail. Another essay was devoted to a refutation of the assertion by the Episcopalians, made to further their political interests and counteract the influence of the Presbyterians with the Dutch, that the Churches of England and of Holland were sister churches.  

But not all of the essays were devoted to religious questions and the college controversy. Political issues of immediate moment also came in for their share of consideration. The abuses in the farming of the excise tax are exposed and decried by Livingston in numbers two and twenty-five of the Independent Reflector. To the evils of faction and of party spirit he devotes number thirteen. The selling of offices feels the lash of his pen in still another essay. This latter is in part in the broadly satirical vein so often adopted by Livingston. The selling of offices, he asserts, has ruined other states, but we have laws to prevent this, with the result that the best men are always chosen. He has, indeed, heard insinuations to the contrary, but they are doubtless "groundless Aspersions of impotent disappointed Malice". 

A ringing denouncement of election jobbers occupies another essay, in the conclusion of which Livingston exhorts his fellow-citizens to have done with this evil. "Up then, for Shame, my Countrymen, and vindicate the Dignity of your highborn Natures; exert yourselves and be Men. Dare to follow the honest Dictates of your own Hearts. Dare to think for yourselves, and scorn to be bought and

5 "Watch-Tower", No. 24, N. Y. Mercury, May 5, 1755.
6 Independent Reflector, No. 9.
Law, the courts, and the imperfections of the legal system also come in for their share of criticism. Number thirty-five of the *Independent Reflector* is directed against untrained and pettifogging lawyers; it protests against the improper licensing of lawyers and the practising of some without license and recommends the passage of an act requiring for all candidates a public examination in open court by the judges of the Supreme Court, pointing out that most of the inferior judges at present vested with the privilege of granting licenses know as little law themselves as any yeoman. The title of number forty-two, "The Importance of the Office of a Justice of the Peace, with the Qualifications Necessary for Its Due Discharge", indicates sufficiently the nature of this essay. "Watch-Tower" number six outlines the qualities and characteristics necessary for a good judge. In a later essay in this column the deterioration of the jury system receives its share of attention. The jury system itself is defended as the impregnable fortress of the civil rights of Englishmen, but the juries chosen to try cases in the province of New York are frequently not only incapable of performing their duty but often cause a miscarriage of justice. "Our Juries...are generally chosen from amongst the meanest of the People: Men of the weakest Understandings, and so utterly illiterate, that for the most Part, the Plantiff [sic], and Defendant, might as well throw Cross or Pile, as leave the Cause at Issue, to their Determination." In mercantile cases particularly, where "Men of the best Sense, and Fortunes" ought to be chosen as jurors because of the intricacy of the litigation, "nothing is more common, than

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7 *Ibid.*, No. 32

8 *N. Y. Mercury*, Dec. 30, 1754.
to submit such Disputes, to Juries, famous only for their Honesty, and Ignorance. Furthermore, in some counties cases are tried before Dutch juries, "who perhaps do not understand above one Word in ten of the Language, in which the Evidence is given". The multiplicity of oaths and the pernicious effect on society of the levity and indecorum with which they are too often taken receive attention in number thirty of the Independent Reflector. Finally, the long and expensive delays in the Court of Chancery, a favorite point of attack for most reformers of the legal system since such a court has existed, are duly criticized in the Independent Reflector, number twenty-eight. One of the chief causes of these delays, it is pointed out, is the fact that the governor, whose time is generally occupied with other business, is also the chancellor; the appointment of a special chancellor is therefore recommended. A second recommendation is that the fees for lawyers practising in the Chancery Court should be raised because the existing fees established by law are so low that no good lawyer will practise there.

Social problems of the day offer subjects for other essays. Medical quackery is assailed. The minister, it is asserted, not only binds himself in the presence of God, but is constantly exposed to the animadversions of the public; the lawyer is not only regulated in his practice by the law, but is under the obligation of an oath to demean himself therein uprightly; but upon the physician there is no check, with the result that quackery flourishes unrestrained. Regulation of this profession is recommended to the legislature, and the promise is made that if such regulation is not imposed at the next session, an act for the purpose will

9 "Watch-Tower", No. 36, ibid., July 28, 1755.
be outlined in a later essay. Since no action was taken on the subject by the legislature at this time, the promised outline of an act for regulating the practice of medicine appeared in a later essay.

Two essays are devoted to the immigration problem, that is, the problem presented by the importation of mendicants and the transportation of felons from England to the colonies. The deleterious effects of these practices on the population of the colony are pointed out, and the strict enforcement of the existing laws, which are sufficient to prevent these practices, is called for. Two further essays are devoted to a description of New York and its natural advantages, calculated to interest immigrants of the right type.

Education also receives consideration in addition to the general remarks on that subject which preface the attack on the charter college. The backwardness of New York in education and at the same time the absolute necessity of having good grammar schools as feeders for the college are pointed out. An act is proposed for the establishment of two grammar schools in each county, the salary of the master in each (suggested as fifty pounds per annum) to be supplied by taxation. When we consider how long it took the various states to found even moderately satisfactory systems of public education, this will appear as a remarkably forward looking proposal in this field.

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10 Independent Reflector, No. 12.
11 Ibid., No. 24.
12 Ibid., Nos. 5 and 16.
13 Ibid., Nos. 8 and 52.
14 Ibid., No. 50.
The currency question is discussed in number twenty-six of the Independent Reflector. The claim is made that the value of copper pence is placed too high in the colony, which will result in their continued importation until they become the sole currency. A reduction of their value in exchange is recommended. A warning is also sounded against the further issuance of paper money. It is pointed out that the fact that the bills of credit of New York have held their value fairly well thus far is in part due to accidents which cannot be counted on to recur. A further issue, however, would certainly result in depreciation, bringing with it among other evils the growth of a spirit of extravagance.

Lesser foibles and follies of the day are not neglected. As might have been expected, Livingston contributed an essay on "The Vanity of Birth and Titles; with the Absurdity of Claiming Respect without Merit". Another of Livingston's contributions was entitled "Of the Extravagance of Our Funerals", in which he pointed out the incompatibility of such display with real sorrow as well as the waste of money sometimes needed to support survivors at the same time deploiring the drunkenness common on such occasions. The wealthy are called upon to take the initiative in doing away with such a pernicious custom.

Civic improvement furnished still further material for these zealous reformers. The Independent Reflector, number three, is devoted to a criticism of the acts providing for the maintenance of the roads and the city watch, the chief defects mentioned being that they tax the poor as much as the rich and permit too

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15 Ibid., No. 43.

16 Ibid., No. 29. It seems quite probable that this essay was inspired by the gross extravagance displayed at the funeral of his own father in 1749 (cf. Sedgwick, Memoir, p. 64).
much graft, strangely familiar criticisms even today. Number seven contains proposals for the speedier and more effectual extinguishing of fires in the city. Number twenty-four suggests the need of further acts governing the sale of beef and pork, as well as the necessity of an act for the inspection of butter. The "Watch-Tower", number fourteen, comments on a scheme for improving the channel to the city.17

As has previously been indicated, the rapidly developing hostilities with the French gave rise to some patriotic essays exhorting the inhabitants of the colony to more effective action. Some of these essays were eloquent pleas for preparedness. Others defended taxation for purposes of war and called for even higher taxes, deplored the ill-timed persimony of the colony in the face of such grave danger. Young men were urged to enlist for the defense of their country, and united action on the part of the colonies was advocated. Finally, one essay was devoted to the desirability of public prayers in time of public danger, the author regretting that this had thus far been neglected and calling upon the government to take the necessary steps to have public prayers offered for the safety of the country.18

More general subjects, such as the origin of government, the relation of church and state, the freedom of the press, and other similar topics, were also discussed from time to time in these essays, but we shall postpone our consideration of these to the later chapters where Livingston's general political and social philosophy is treated.

Contemplating the accomplishments of the Independent

17N. Y. Mercury, Feb. 24, 1755.

18"Watch-Tower", Nos. 8, 9, 35, 37, 38, and 44 in N. Y. Mercury of the following dates: Jan. 13, 20, July 21, Aug. 4, 11, Sept. 22, 1755.
Reflector alone, Livingston surveys the result with a certain amount of pride and satisfaction.

Not to mention several useful laws, which have either passed the legislature or been moved in the house of Representatives, to which my reflections gave rise, the reformation in the roads and city watch, the alteration of the Excise Laws, the reduction of copper half pence, and the diffusing a public spirit among people of all ranks and conditions; 'tis enough that I can, in some degree, boast the subversion, or at least obstruction, of the horrible plot to establish the party college above remembred [sic]. Nor much inferior is the pleasure I receive, from contemplating my instrumentality, in restraining, or debilitating the overgrown power of priest-craft and bigotry, which had generally overspread the province, and grew daily more fastidious and rampant. 19

It was during the very midst of the college controversy that the Albany Congress was held. William Livingston was not a member of this congress, but in connection with its proceedings he performed an act which both illustrates the genuineness of his patriotism and also is concrete evidence of his willingness to act upon his belief, later expressed, 20 in the Indians' title to the soil. The Six Nations had been showing signs of dissatisfaction and disaffection. One of the chief causes of their complaints was that much of the land which the English claimed to have purchased from them had been secured by fraud. From this point we shall allow the journal of the congress, under date of July 8, 1754, to tell the story.

...the complaints of the Indians relative to their lands coming under their consideration, the Board were acquainted that Mr. William Livingston and Mr. William Alexander, 21 two of the heirs or devisees of Philip Livingston, Esq. deceased, the proprietor or patentee of the lands on which Canajoharie castle stands, had declared their readiness to give up all right to said patents, or such parts as shall be thought

19 Independent Reflector, p. xxvii.

20 Cf. infra, p. 420.

21 William Alexander, later by courtesy Lord Stirling, was Livingston's brother-in-law, having married the latter's sister, Sarah, in 1748. He was the son of James Alexander, the lawyer to whom Livingston had first been apprenticed.
necessary. It was ordered, that the said Mr. Livingston and Mr. Alexander be informed that the Board desired to speak with them.

The Mr. Livingston and Mr. Alexander, being present, informed that Board that they were interested one eighth each of them in their father's right. The circumstances of his title they had made no inquiry into, but were ready to make any resignation which either justice or the public service required. 22

A committee from each colony was appointed to inquire into the matter, but nothing further seems to have been done, in spite of the fact that the problem continued to be a serious one. 23 William Livingston, however, eventually carried into effect his offer. On November 22, 1763, he and other part owners of a tract in the Canajoharie district transferred their claims to the Indians for the purely nominal sum of five shillings. 24

Of the plan of union eventually proposed at this congress Livingston seems to have approved, as indeed we should expect from his advocacy in the "Watch-Tower" column of united action on the part of the colonies. Writing to the Reverend David Thompson in Amsterdam he says: "At the treaty before mentioned [with the Six Nations], the several provinces concerted a plan for a general union, which has since been transmitted to England for the ratification of the parliament; and which I hope, by the Divine blessing, may enable us to repel the encroachments of an ambitious and


23 Governor Hardy, acting on the suggestion of the Lords of Trade, in a message to the N. Y. Assembly, July 6, 1756, recommended the passage of a law vacating grants at the disputed spots, one of these being Canajoharie, a recommendation which he repeated in September of the same year (N. Y. Assembly Journal, II, 497, 501).

24 A MS copy of this deed from Philip Livingston, William Livingston, Walter Rutherford, and others, part owners of the Van Horn tract, to Johannes Carehagaga and other Indians is in the N. Y. Hist. Soc., Misc. MSS, Canajoharie.
In 1756 Livingston wrote a pamphlet, probably in collaboration with his friend William Smith, Jr., entitled *A Review of the Military Operations in North-America; from the Commencement of the French Hostilities on the Frontiers of Virginia in 1753, to the Surrender of Oswego, on the 14th of August, 1756. Interspersed with Various Observations, Characters, and Anecdotes;* 25


26 The authorship of this tract has been disputed. Although generally ascribed to Livingston, it is claimed by E. F. De Lancey, in his notes to Jones, *Hist. of N. Y.* (I, 436), that Smith was the author. The evidence presented by him, however, is far from conclusive, since it rests chiefly on the assertion of a person who was a clerk in Smith's office at the time, that it was his belief that Smith was the author, although he admits he never saw the manuscript there and was even unable to procure one of the printed copies. De Lancey's statement is still further vitiated by his speaking of Smith as "son of the historian, subsequently chief-justice of Canada" (*ibid.*). This Smith who was later chief justice of Canada was himself the historian, a fact which one well acquainted with the period could not fail to know, and at this time had no sons himself (cf. M. L. Delafield, "William Smith—the Historian," *Mag. Am. Hist.*, VI, 418-439).

Justin Winsor in his *Narrative and Critical History of America* (Boston and New York: Houghton, Mifflin and Co., 1889), V, 557, n. 2 (to be cited hereafter as *Narr. and Crit. Hist.*), cites Stone, *Life of Johnson,* I, 202, to the effect that the coincidences between passages in the Review and Smith's *Hist. of N. Y.* are so striking as to warrant the conclusion that Smith had a share in the former. I have compared the two accounts and find no greater similarity than would exist between any two works written from the same materials. The account in the Review is far more detailed and is in a livelier style (more like Livingston's) than Smith's account in his *History.*

A further indication that Livingston was probably the chief author and Smith the collaborator in the Review is contained in the following letter from William Alexander, who acted during the war as General Shirley's aide-de-camp and from whom much of the information contained in the Review was obtained. The letter was addressed to William Smith, Jr., March 23, 1756. "Dear Smith—I shall inclose to you copies of the two Councils of War held at Oswego, and also a copy of that lately held at New York; but remark, my dear Smith, of what a nature these minutes are: No person must even know that you have them, except yourself and William Livingston. What I write you for the future, I intend for you both; and I hope the Boss will take that for a sufficient apology if I don't write to him" ("Selections from the Correspondence of William Alexander, Earl of Stirling" *Proc. N. J. Hist. Soc.*, I ser., VII, 39).
Necessary to Give Light into the Conduct of American Transactions in General; and More Especially into the Political Management of Affairs in New York. In a Letter to a Nobleman.\textsuperscript{27} The title has been given in full because it indicates quite definitely the nature of the work. It was a pamphlet of 144 pages, dated at New York, September 20, 1756. Although a detailed history of the war up to August of 1756, it was not written primarily as a history but as a defense of General Shirley against the obloquy cast upon him by the machinations of the De Lancey faction in New York. We cannot here go into all the details of this affair, but we can indicate briefly the nature of it. General Shirley, the governor of the Massachusetts Bay Colony, who succeeded Braddock in command of the British forces in America after the latter’s death, was regarded with great jealousy by James De Lancey, the lieutenant-governor of New York and leader of the faction which at that time still controlled New York politics. De Lancey consequently, it is charged in the Review, used every means to embarrass and discredit General Shirley, and to further this purpose supported as a rival to General Shirley, William Johnson, who heretofore had himself been persona non grata to De Lancey. It is Livingston’s charge in the Review that the sudden growth of Johnson’s reputation, which resulted so long in the grant of a baronetcy, was almost entirely manufactured out of whole cloth by De Lancey and his supporters. His influence over the Indians is said to have been magnified many

times in reports to Europe although actually very ineffective at this time. His repulse of the French under Baron Dieskau at Lake George in September, 1755, though hailed as a brilliant victory, is shown really to have been more or less of an accident, and the sequel a horrible blunder because of the failure of Johnson to follow up the advantage he had gained. All the credit for success was, however, given by the De Lancey faction to Johnson, while all the blame for failure was artfully heaped on Shirley’s head. Shirley had from the first insisted on the importance of Oswego and had made careful preparations to defend it in the following year, and his judgment on this point is vigorously defended in the Review. This plan, however, had been decried and represented by the opposition as a waste of effort and of the king’s money. So well, indeed, did De Lancey manage his campaign to discredit his rival that in the spring of 1756 Shirley was superseded in the chief command by the Earl of Loudon and recalled to England in disgrace.

The Review of Military Operations was thereupon written, as already indicated, to vindicate Shirley and to counteract what were claimed to be the false reports which had been forwarded to England concerning the whole situation in America. Besides the real interest which Livingston no doubt had in correcting what he felt to be an injustice (a trait which we have already marked in his character), there was also the fact that he was almost certain to be found in opposition to any scheme of the De Lancey faction. William Alexander, who accompanied Shirley to England in the fall of 1756, to aid in the settlement of the latter’s accounts and the vindication of his character, as well as to prefer
his own claim to the Earldom of Stirling, took with him the pamphlet, which he caused to be published early the following year. It apparently created quite a stir. Thomas Pownall, who had succeeded Shirley as governor of Massachusetts Bay, and whose character had been very unfavorably portrayed in the Review, strove through his brother, secretary of the Board of Trade in England, to discover the author but without success. The pamphlet seems to have accomplished its immediate purpose, if we may accept the testimony of William Smith, Jr., who, though a very much interested party, to be sure, exhibits, nevertheless, a high degree of impartiality in his History of New York. "General Shirley emerged from a load of obloquy. His extensive designs acquired advocates; his successors became cautious and vigilant; the nation suspicious and inquisitive."  

Besides being a defense of General Shirley, however, the Review contained a detailed description and analysis of the political situation in New York at the time, together with a history of the politics of the colony as far back as the administration of Governor Clinton, the purpose being to show how James De Lancey had come to occupy the foremost place in the political life of the province and to expose the arts and wiles by which he managed to influence and control the governor on the one hand while at the same time holding the Assembly at his beck and call; how, in other words, he succeeded at one and the same time in posing as the guardian of the royal prerogative and the champion and defender of the liberties of the people. In the course of his exposition of this feat of political jugglery Livingston draws a

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29II, 256.
colorful, though, of course, unfavorable full-length word portrait of James De Lancey, as well as less extensive but just as unfavorable portraits of some of his tools and accomplices, such as Pownall and William Johnson. We cannot reproduce this portrait of De Lancey here, interesting as it is; a single sentence, however, may serve to indicate Livingston's judgment of the man. "His own interest is his idol, and every thing else made subservient to procure it veneration and esteem." 30 Another sentence can similarly be used to summarize the characterization of William Johnson. "... Mr. Johnson was never distinguished for his sense or penetration." 31

In this pamphlet, too, Livingston reveals an admiration for the people and the government of Massachusetts Bay which is rather remarkable in those days of intercolonial jealousies, especially since New York and Massachusetts were at that very time engaged in a stubborn dispute over their respective boundaries, a dispute furthermore which directly affected Livingston Manor and for the solution of which William Livingston himself had in 1754 been appointed a commissioner. 32 An ability to free himself from these petty jealousies and to appreciate the merits of a rival colony would seem to indicate a breadth of view and a judicial outlook decidedly unusual and which, it must be confessed, Livingston himself, inclined as he was to active partisanship, did not often exhibit. It may, of course, be held that, being a member of the opposition in the politics of the colony, Livingston,

31 Ibid., p. 98. Livingston's judgment as to the inefficient management of Indian affairs by William Johnson acquires greater weight when we recall that Livingston himself was no novice in his knowledge of the Indians, having lived a year with them during his boyhood.
32 Smith, Hist. of N. Y., II, 185.
like many other politicians in a similar situation, was simply following the temptation to use foreign governments for the purpose of making odious comparisons with his own government under the existing administration, and indeed there may be some truth in such a charge. Yet his admiration, expressed in several places throughout the pamphlet, seems too genuine to be entirely due to this cause. Let us cite but two instances.

The New-England colonies, my Lord, take the lead in all military matters....Their [the first settlers'] descendants retain the martial prowess and spirit of their ancestors; and for wisdom, loyalty, and an enterprising genius, are a people of renown. In these governments lies the main strength of the British interest upon this continent.\(^{33}\)

Speaking later of the approbation of Shirley's conduct by the people of Massachusetts Bay, Livingston says: "They are too numerous and wise to be deceived, too free and independent to be driven."\(^{34}\)

The description near the end of the pamphlet of the French and English colonies in America in this, the year of the outbreak in Europe of the Seven Years' War, and the analysis of the resources and relative advantages and disadvantages of the two nations in conducting the war in America shows a grasp of the whole situation quite remarkable in a contemporary work and so sound that I question whether it has been surpassed by any later historian with the advantage of perspective. It merits reproduction.

Though the French colony contains, perhaps, not 30,000 men capable to bear arms; yet these are all under the despotic command and sole direction of their Governor-General; and experience teaches us, that, in spite of our navy, they may be annually reinforced. The strength of our colonies, on the other hand, is divided; and the concurrence of all necessary both for supplies of men and money. Jealous are


\(^{34}\)Ibid., p. 161.
they of each other; some ill constituted; others shaken with intestine divisions, and, if I may be allowed the expression, parsimonious even to prodigality. Our assemblies are diffident of their Governors; Governors despise their assemblies, and both mutually misrepresent each other to the Court of Great-Britain. Military measures demand secrecy and dispatch; but while the colonies remain divided, and nothing can be transacted but with the universal assent, it is impossible to maintain the one, or proceed with the other. Without a general constitution for warlike operations, we can neither plan nor execute. We have a common interest, and must have a common council; one head and one purse. The French service is unexposed to those embarrassments; and hence they project without discovery; and we scarce collect their designs, before we are attacked and defeated. 35

In conclusion we have the ringing demand, which indeed hits the nail on the head: "Canada, my Lord, Canada must be demolished. Delenda est Carthago, or we are undone." 36

Before leaving the Review of Military Operations we must indicate briefly the literary quality of the work. On this head an able critic has the following to say. "As a literary work, the book rises above the mob of political pamphlets. Though somewhat lacking in concentration, it is written with much elegance; and it is especially remarkable for its elaborate portraits of the great men of the day." 37 Francis Parkman, who quotes the pamphlet in regard to the unwarranted eulogy of Johnson after the Battle of Lake George, speaks of its author as "an able but somewhat caustic and prejudiced opponent". 38

Because of a law which required the election of a new Assembly at least every seven years, such an election became necessary at the end of 1758, the previous Assembly having sat since 1752. In the election which took place at this time the

36 Ibid., p. 163.
opposition party, now known as the Livingston party, gained a majority in the Assembly although the De Lancey faction still retained control of the Council, and in fact, strengthened their hold on this branch of the government. The shift of power in the Assembly was due, according to William Smith, Jr., to the prejudice against the De Lancey faction which the triumvirate had aroused during the memorable college controversy, the embers of which were still smouldering. William Livingston himself at this juncture for the first time took a seat in the Assembly, which convened on January 31, 1759, as the representative of Livingston Manor, the only instance during his residence in the colony of New York of actual participation on his part in the government. We need not linger long over his activity in this Assembly although we may note in passing that his position of leadership in the popular party which controlled a majority of this House is indicated by the fact that he was generally the spokesman in reporting from the Committee of the Whole to the Assembly. He is also credited with having written the addresses of the Assembly to the governor during the period of his membership in the House. In these addresses, which for the most part are of the usual sort, there are only two paragraphs which, for our purposes, need arrest our attention. The first is in reply to a request by Lieutenant-Governor De Lancey in February, 1759, that the laws regarding the impressment of horses and carriages for war purposes, which had

39Hist. of N. Y., II, 272.

40"Extracts from the Journals of the Assembly of New-York, while he [William Livingston] was a Member of it, and held the Pen for the House, as many on both sides of the Lines can attest", N.Y. Gazette and Weekly Mercury, Aug. 28, 1780, reprinted in the New Jersey Archives, 2 ser., IV, 603. Cf. also the statement by William Smith, Jr., concerning the reply of the House to Acting Lieut.-Governor Golden's address of Oct. 22, 1760: "Mr. William Livingston penned the address..." (Hist. of N. Y., II, 286).
proved such a burden to the citizens, be revised. In the reply Livingston takes the opportunity to express as the sentiment of the Assembly (which no doubt it was) his own high regard for and attachment to civil liberty and individual freedom. "The Liberty of the Subject, with Regard to their Persons, shall always be considered by us a Matter of too great Moment, to neglect any Measure conducive to its further Preservation and Security."41 The other statement worthy of note here is contained in the address of the Assembly to Acting Lieutenant-Governor Colden on October 29, 1760, and is the expression of the fervent hope that Canada, now conquered, will not again be surrendered to the French at the conclusion of peace.42

One other action of Livingston's during his membership in the Assembly must be noted. Acting on the suggestion made in numbers twelve and twenty-four of the Independent Reflector,43 Livingston on December 12, 1759, offered for the consideration of the Assembly "A Bill to Regulate the Practice of Physick and Surgery in the City of New York".44 Although passed by the Assembly ten days later, it was held up temporarily in its further progress and did not finally become law until June 10, 1760.45 Since this was a pioneer effort in this particular branch of social welfare legislation, the law, as might be expected, had many defects, some of which were pointed out by William Smith, Jr., who was himself the actual author of the original essays on the

41N. Y. Assembly Journal, II, 587.
42Ibid., pp. 637 f. Cf. Livingston’s demand, "Canada must be demolished" (supra, p. 107).
43Cf. supra, pp. 95 f.
44N. Y. Assembly Journal, II, 608.
subject. He says:

But the remedy was very inadequate to the evil, for the law which restrained all unlicensed practices under the penalty of five pounds for every offence, was limited to the capital, and gave the right of examining the candidates to incompetent judges, a councillor, a judge of the supreme court, the mayor and the attorney-general, assisted by such persons as they should think proper to call upon.46

A later commentator points out a further serious defect in that the law was not retroactive and allowed the immense number of charlatans already in the city to continue their irregular practices.47 Nevertheless, it was a first step, probably the farthest that could be taken at the time, and may therefore be considered a definite contribution in the field of social legislation, especially when we consider that no further act of the sort was passed until 1792.

The death of George II and the accession of George III in 1760 necessitated another election of members of the Assembly. Although in this election, held in 1761, the Livingston party made still further gains, William Livingston himself retired from the Assembly, his place as representative for the Manor being taken by his nephew. One reason for his retirement was probably the demands of his private law practice upon his time.48 Furthermore, he had always shown a preference and greater aptitude for the kind of politics which is carried on out of doors than for the dull routine of legislative assemblies.

It was at this time that the controversy concerning the tenure of office of judges arose. Cadwallader Colden, who had

46Hist. of N. Y., II, 281.


48Suggested by E. B. Livingston in Livingstons of Livingston Manor, p. 175.
become the chief executive of the colony upon the death of James De Lancey in 1760 and who was very intent upon upholding the prerogative of the crown in the colony, had granted to a certain Benjamin Pratt a commission as judge during pleasure instead of during good behavior as had been the custom. Immediately the leaders of the popular party, sensing a trick of the British government to extend its control in the colony, raised the cry of abridgment of the liberties of the people. Pratt was harassed and obstructed in every judicial act he attempted to perform and was practically ostracized socially. Among the leaders in this opposition, of course, was William Livingston. Colden's annoyance, bordering on despair, at the activities of Livingston and his associates in the triumvirate at this time is indicated in his letter to the Board of Trade of April 7, 1762.

I think it necessary to inform you, that for some years past, three popular Lawyers, educated in Connecticut, who have strongly imbibed the Independent principles of that Country, have zealously endeavoured to propagate their principles both in Religious and Civil matters & for that end make use of every artifice they can invent to calumniate the administration in every Exercise of the Prerogative. In doing this it evidently appears that they think the goodness or holiness of the cause sanctifies every measure necessary for that purpose, however base or wicked it be in itself.

Further on in the same letter he asserts: "...they got the applause of the Mob by their licentious harangues & by propagating the Doctrine that all authority is derived from the People".

In 1764 Colden once again ran afoul of the "popular lawyers" in the famous Forsey case. The circumstances of this case were briefly as follows. Forsey had brought an action of trespass for assault and battery against one Waddel Cunningham and had been awarded by a jury damages in excess of one thousand pounds.

49 Jones, Hist. of N. Y., I, 228.
Cunningham's lawyer had applied to Colden, who was at the time as lieutenant-governor again the chief executive of the province, for a writ directing the chief justice to bring the proceedings in the case before the governor and Council for review, a request which Colden had granted. Inasmuch as this was the first time an attempt had been made to appeal a case at common law to the governor and Council except by writ of error, a great uproar immediately arose. Colden seems to have been motivated in allowing this unwonted appeal by his antipathy to the lawyers and his suspicion that the great landed proprietors were also back of the opposition to such an appeal as well as by his desire to strengthen the hand of the crown. The technical basis for his action was the omission, probably inadvertent, from the instructions of the crown to the governor in 1753 of the phrase, "in error only", in defining the right of appeal to the governor and Council. On January 11, 1765, the Council, however, ruled that only appeals in error could be entertained by the governor and Council sitting as a court.

This then was the situation which brought Livingston once more into the field as an essayist, this time in defense of civil rather than religious liberty. On February 28, 1765, there appeared in the New York Gazette, or the Weekly Post-Boy, published by John Holt, a new column, entitled "The Sentinel." The first three numbers are devoted to the Forsey case alone. In the first Livingston upholds the opinion of the judges, who had denied the legality of such an appeal, and also cites the instructions to the


52 Livingston appears to have been solely responsible for the editorship of this column, and most of the essays seem to have been written by him.
governor forbidding the establishment of new courts without the king's permission. The second he devotes to a discussion of the superiority of the oral examination of witnesses in open court over the taking of written testimony, which would obtain in an appeal to the governor and council. In the third he defends the jury system, asking rhetorically if trial by juries, "which has been the boast of Englishmen from the remotest antiquity," has all at once become so pernicious that it is no longer to be tolerated without an appeal. He then proceeds to attack those who would disturb the balance of the British constitution, for which he expresses the greatest regard, by introducing an innovation such as the one proposed. Here we must pause a moment to examine more closely Livingston's conception of the British constitution.

This can best be expressed in his own words, quoted from this same essay.

If the excellency of our constitution depends (as it certainly does) on the equal poise of the several branches composing the whole legislature, proportionably great must be the mischiefs resulting from the destruction of the balance. He therefore, and he alone is a true friend to the constitution, who . . . . is always ready to defend the prerogatives of the crown, against the encroachments of the people; the rights of the commons against the encroachments of prerogative; and the attempts of the nobles against the privileges [sic] of either; and of both, against their privileges. But he who wishes that either should swallow up or impair the other . . . . is a traitor and felon to his country.

Thus we see that Livingston, in common with most of the other patriot leaders of the American Revolution, failed to appreciate the growing tendency toward the supremacy of parliament in Great Britain and like Montesquieu overemphasized the principle of balance. This misunderstanding of the British constitution as it had developed since 1689 was, of course, one of the salient reasons

53 N. Y. Gazette, Mar. 7, 1765.
54 Ibid., Mar. 14, 1765.
for the failure of the colonists and the British to appreciate each other's points of view in the quarrel of ideas which, commencing at this time, culminated eventually in the outbreak of war a decade later. It is evident from the above that Livingston shared this misunderstanding.

In the twelfth number Livingston took up, analyzed, and refuted an essay by Colden in defense of the appeal. In this essay Colden has offered, Livingston points out, two chief arguments. The first he quotes in Colden's words: "In all the colonies, appeals to the king lie. This is essential to the prerogative of the crown, without which the dependence of the colonies, cannot be preserved." In the second place, Colden has cited an act of parliament, "for the better securing the dependency of Ireland," as proof that Great Britain intends to keep the colonies dependent. Livingston disposes of the second argument first, dismissing it with the remark that the only thing in the act of parliament referred to by Colden pertinent to the question at issue is the occurrence in it of the word "dependent." As to the first argument, Livingston replies that while appeals from errors in law do secure and are requisite to secure the dependence in question, appeals on matters of fact, on the other hand, have no such tendency whatever.55

About this time it became known that the attorney and solicitor-generals in England had upheld the interpretation that only appeals in error were admissible. Colden was thus forced to admit defeat, and further discussion of the case in the "Sentinel" became unnecessary. We cannot conclude, however, the relation of Livingston's part in this struggle against what was considered an encroachment on the civil liberties of the people without giving

55 ibid., May. 16, 1765.
an example of the caustic satire which in this dispute, as in all in which he engaged, he so frequently employed. Number five of the "Sentinel" purports to be a speech in favor of an appeal from the verdict of a jury by "Paracelsus Arecolus Philippus, Theophrastus de Hohenheim, M.D."56 The address commences as follows.

I am no lawyer myself, nor have I taken the opinion of any Lawyer whatsoever; but as every man of common sense has a thorough knowledge of the law by natural instinct, I shall proceed to the consideration of the subject, and that with greater positiveness than if I had been bred up to the profession; and for the sake of method I shall endeavour to shew;

I. What the law in the case is, and
II. That it is of no signification what it is.

After spending some time on the first point, the imaginary Dr. Hohenheim concludes in the following delightfully incongruous manner. "Let me add to this, that Ireland is made dependent on the crown of Great Britain by act of parliament; and therefore most clearly there lies an appeal from the verdicts in the supreme court of the province of New-York, to the governor and council."

On point number two the chief argument runs thus.

For I suppose it will not be denied that all law was intended for public convenience, and consequently may be changed whenever it happens to prove otherwise. Hence it appears of very little consequence what the law speaks respecting trial by juries. The question is, whether such trials . . . are inconvenient or not, and I think they are so; Ergo they ought to be abolished.57

Other topics besides the Forsey case were discussed in the "Sentinel" essays. In number eight appears a note addressed to the "Sentinel," informing him that it was rumored that unless he desisted from publishing papers in his usual strain, he would be prosecuted for libel. To this the Sentinel replied: "I despise

56 Golden, being a doctor of medicine, had, of course, no special knowledge of the law.

57 N. Y. Gazette, Mar. 28, 1765.
every menace of that kind ... " Yet it furnished him with a new topic for discussion, for in number thirteen we find him attacking the English libel law, pointing out the absurdity of allowing a man to say the most defamatory things even before large audiences, provided they are true, but subjecting him to prosecution for putting into writing the most innocuous statement, though equally true, if such statement can be shown to be in any way derogatory of another's character. 59

Another question of greater moment which Livingston discussed at this time was the Indian question, an issue more important than ever since the announcement of the plan of the British ministry to station an army in the colonies for the protection of the colonists against Indian raids. Such action by the British ministry was, Livingston claimed, entirely unnecessary. The use of force was not the way to approach the problem; it would be both impolitic and ineffective. The Indians did not number above fifty or sixty thousand men, and their manner of living kept them widely scattered. A large force sent against them would find no enemy; a small force would be destroyed. Constant patrolling of so extensive a border, on the other hand, would require far more than the number of men proposed for the purpose. 60

Livingston then put forward his own proposals for the management of Indian affairs, a subject on which, as we have already seen, he was fitted to speak with some authority. In the first place, he would do away with the system of having Indian agents. The job is too big a one for any one man or for two or three men, each having jurisdiction over a large district. Besides,

58 Ibid., April 16, 1765.
59 Ibid., May 23, 1765.
60 "Sentinel," No. 6, ibid., April 4, 1765.
such a system gives to the agent far too much power, nothing less than the power of dragging a whole nation into war at his own discretion, or perhaps even whim. Finally, the huge sums entrusted to such men for use in influencing the Indians present too great a temptation for graft. In the place of these agents Livingston would substitute two grand councils, one in Virginia and the other in New York, consisting of representatives of the legislative bodies nearest to each. "In a multitude of counsel-lors there is safety ..." These councils in turn should send out their own agents, but all communication between such agents and the British government would be through the respective councils.61

Having thus described the machinery of administration which he would set up, Livingston next turns to the methods to be employed. Polity rather than force is the proper method; the sachems being the controlling personalities among the Indians, every effort should be made to win the friendship of these leaders. The way to accomplish this is through splendid treaties and conventions, which flatter the vanity of Indians. Experience has proved these valuable in the past; their discontinuance in recent years has been a mistake. Indians, moreover, have no use for money. "The spectacle of a bull baiting at Albany.— A council in the open air with two or three governors.— An oratorical combat.— A feast and a crowd of auditors, are the scenes they delight in." Furthermore, since no war would commence while these negotiations were going on, such meetings should be held annually every spring, inasmuch as the spring is the normal time for the Indians to take to the warpath. Finally, Livingston would have

61Here we see both Livingston's animosity toward Sir William Johnson and his preference for republican government.
the Indians supplied with liquor and ammunition.

A little rum and ammunition would gradually purchase the whole country without observation. — The Indians would waste away like a March snow. — The frontiers be in peace — Towns rise in the desert — And an end be put to Indian claims of land, sold by their ancestors, and patented by the crown above sixty years ago. 62

Such a scheme for the management of Indian affairs lacks perhaps the pious humanitarianism of the Quakers and of other religiously inclined people who would have kept hard liquor and firearms from the Indian for the good of his own soul and would have sought in the meanwhile to make a Christian of him, but, on the other hand, it also lacks the hypocrisy and cruelty of others among the colonists who would have kept the same things from the Indian for their own protection while proceeding to a ruthless extermination of the race by force. From the point of view of modern psychology, Livingston's seems a more realistic approach to the problem, and might, in fact, have been a more humanitarian approach than either of the others in practice. It has, at any rate, the merit of recognizing the inevitability of the extinction of the red race by the white and of seeking to render the process as painless as possible to both races.

In number twenty-one of the "Sentinel" Livingston again propagates a doctrine similar to the doctrine so annoying to Dr. Golden that all authority is derived from the people. The title of this essay is "A New Sermon on an Old Text," the text in question being "Touch not mine anointed." The word "anointed," Livingston shows, has been made to signify chief magistrates and princes, and the prohibition made to apply to the people, thus resulting in a justification of tyranny and the doctrine of

passive obedience and non-resistance. As a matter of fact, however, the "anointed" was really applied to the people and the injunction not to touch them laid upon the kings. This he proves quite satisfactorily by quoting the phrase in its full context and by showing that it was said concerning the children of Israel three hundred years before they had any king. Thus any attempt to tyrannize over the people or deprive them of the liberties which they should rightfully enjoy is "touching the Lord's anointed." Finally, in his peroration, Livingston concludes thus his defense of the people.

... however the tools of power may affect to disparage the people, and stigmatize them with the opprobious [sic] names of Mob and Rabble, they are the darlings of Providence; and in the eyes of their original author and continual preserver, of great estimation. They are the Lord's anointed; and he will first or last rebuke their oppressors.63

The year 1765 was, of course, made memorable by the Stamp Act, which was the most serious step yet taken by the British government toward infringing upon the rights and encroaching upon the liberties of the colonists, in other words, "touching the Lord's anointed." Moreover, the Assembly of the colony of New York now being under the control of the Livingston party, it fell upon that party to offer the expected opposition to the measure and to voice the rapidly rising resentment of the people. What, then, was the attitude of William Livingston at this critical juncture? May we not expect to find him rushing pen in hand to the defense of the liberties of his countrymen, as he had already so frequently done? The instrument was ready to his hand. He was already conducting a weekly column, started, it is true, for another purpose, but a purpose which had already been rendered obsolete by the failure of the British government to uphold the

63 Ibid., July 18, 1765.
contention of Dr. Goldin. Trial by jury was no longer in danger. Appeals to the governor and Council were to be restricted as formerly to writs in error. May we not then expect to find Livingston turning out essay after essay against this new intrusion on the liberties of the people, pouring forth his invective against tyrannous officials of the British government? Strangely enough, we do not find this to be the case. It is true, he adverts to the Stamp Act in a few of his essays at this time. In one of his essays on the Indian question, for example, he points out that instead of becoming so wrought up over the tax itself, the colonists should direct their attack against the alleged necessity under which it is laid, namely, the protection of the colonists against the Indians. This necessity he shows, as we have already seen, does not in reality exist; if this supposed necessity, then, can be demolished, the justification for the tax itself falls to the ground. He seems, however, to hold that once the necessity is admitted the tax itself cannot then justly be opposed. Let us hear his own words.

It [an army of fifteen thousand men] is alleged [sic] to be necessary for our protection; and then concluded that according to our abilities we ought to contribute to its support; and the premises admitted, pray who can deny the consequence? Later in the summer when the opposition had become more extreme, he advocated a boycott of British goods and the manufacturing of necessary articles, especially clothes, in the colonies. In this manner, he maintained, the colonists will be able to do more harm to British trade than the British government can do to the colonists by new impositions. Furthermore, the manufacturing which will as a result spring up in the colonies will be a definite gain

64 Ibid., No. 6, April 4, 1765.
for them. There is no evidence in his words, however, of the alarm felt by so many of his compatriots. He seems rather to feel that if this step which he has advocated, and which he apparently considers sufficient, be taken, the future may be regarded with equanimity. "So that instead of being disheartened at any late Measures, they will undoubtedly terminate in our real Advantage; and however they may tend to render a Minister odious at Home, they will only promote Industry and Frugality in the Plantations." 65

It is significant that not a single entire essay is devoted to the Stamp Act. It is even more significant that on August 29, 1765, the "Sentinel" essays ceased abruptly with no word of explanation, a very unusual procedure for Livingston. 66 He was not the type of person to give up a fight when it became dangerous to continue, nor to "Retreat when the Bullets begin to fly" as suggested in the letter quoted below. He has left us no explanation of his action. The conclusion seems inescapable, however, that he did not approve of the lengths to which the opposition to the Stamp Act was beginning to go. 67

65 Ibid., No. 23, Aug. 1, 1765.

66 That this sudden cessation of the column was unexpected is indicated by a letter from a former occasional contributor to the "Sentinel" column, which appeared in the N. Y. Gazette, Oct. 10, 1765. The writer states: "We are all at a Loss how to Account for the sudden Disappearance of the SENTINEL. Some suppose you to be sick . . . . Others . . . . are sure that you act upon prudent Principles, or as they express it, Retreat when the Bullets begin to fly.—For my own Part, I think, in such Times, we need such a Guard."

67 Livingston was later taunted by his opponents in the Episcopal controversy (cf. Chap. v) with his failure at this time to write in defense of the liberties of his country ("A Whip for the American Whig," No. 2, A Collection of Tracts from the Late Newspapers, [New York, 1768, 1769] I, 53). This will hereafter be cited as Coll. of Tracts.
In seeking light on his attitude let us examine briefly the general situation as it developed in the colony. The Stamp Act was not a measure which could be successfully opposed by the Assembly alone; successful opposition to it required the united action of the people as a whole, and of the unfranchised as well as the enfranchised classes. These poorer classes among the population had been to a certain extent organized and taught the tricks of politics by the triumvirate in the course of its opposition to a charter college and in its later struggle against the De Lancey faction for control of the Assembly. They had been taught the uses of petitions, of broadsides, of letters to the newspapers, of mass protests, and had watched the dexterity with which their aristocratic leaders handled these instruments for arousing public opinion. Now when their former leaders seemed content to rely upon purely legal measures and to be satisfied with the formal protests of a continental congress, while the people cried for more active and vigorous measures, leaders began to appear from their own ranks who were both willing and anxious to take the more radical steps demanded by their followers. Such men were John Lamb and Alexander McDougall. Even before the adjournment of the Stamp Act Congress the dangerous restiveness of this class, which had been increasing throughout the summer, was very apparent. Early in November serious riots occurred, involving the destruction of property. This truly alarmed men of

68 It is stated by G. E. Howard in Preliminaries of the Revolution, 1763-1775 ("The American Nation: A History"; New York and London: Harper and Bros., 1905, Vol. VIII), pp. 154 f., that William Livingston of New Jersey was a member of the Stamp Act Congress. This, however, is a double error. An examination of the list of delegates from New York and New Jersey to the congress shows that he was not a member (Authentic Account of the Proceedings of the Congress Held at New-York, in MDCCLXV, on the Subject of the American Stamp Act [1767], P. 5). Furthermore, Livingston was not at this time an inhabitant of New Jersey. Howard's book will be cited hereafter as Prelims. of the Rev.
wealth and standing, among whom, of course, was Livingston. It became apparent that the cries of "no taxation without representation" which were being raised against the British parliament could just as well be raised by the unfranchised and unpropertied classes in the colony against their more fortunate fellow citizens. Thus a conservative reaction against the excesses of the mob set in, which, it soon became evident, was but the beginning of a rift in the old party divisions in the colony, culminating eventually in an entirely new alignment, radical vs. conservative rather than Livingston vs. De Lancey or Presbyterian vs. Episcopalian factions. For a time the conservatives stemmed the tide by having, through clever manipulation, members of their own group elected to represent the radicals. When early in 1766, however, the Sons of Liberty, which had existed for some months at least as a sub rosa organization, came out into the open with a formal organization, the lines of cleavage became more clearly marked. Livingston, Smith, and Scott were then left much in the situation of leaders without a party.  

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69 This they accomplished at a radical meeting late in November, 1765, when William Livingston, William Smith, James De Lancey, and John Morin Scott were appointed to wait upon the representatives in the Assembly with resolutions far more conservative than had originally been intended by the radicals (cf. Becker, Hist. Pol. Parties in N. Y., p. 38). The account given in the text of the political situation in the colony at this time is based largely on Chap. II of this work. See also H. B. Dawson, The Sons of Liberty in New York, (1859).

70 The political gospel of Livingston at this time is accurately summed up as follows by Levermore in "The Whigs of Colonial N. Y.," Am. Hist. Rev., I, 245: "Livingston and his friends were aristocratic Whigs, equally anxious to clip the pinions of ambitious royalty and to curb the insolence of the unlettered mob. The Livingston party in New York did .... cherish the .... doctrine that 'all authority is derived from the people,' but they were quite content with the narrow English definition of the term 'people.' With Edmund Burke, they thought that a parliamentary assembly of aristocratic representatives of the people was an ideally perfect form of government. Livingston's management of the college controversy showed that he realized the political
The election of a new Assembly in 1768 proved this to be the case. The lawyers had become personae non gratae to all factions. The conservative property owners charged them with responsibility for the riotous demonstrations at the time of the Stamp Act, while, on the other hand, the Sons of Liberty accused them of having deserted their cause.\textsuperscript{71} The merchants of New York City felt that lawyers could not properly represent a commercial city, and the Episcopalian faction was as usual opposed to them as Dissenters. The result was a rather incongruous coalition of the merchants, the Sons of Liberty, and the De Lancey-Episcopal faction,\textsuperscript{72} which nevertheless was successful at the polls, thus ousting the Livingston party from the control of the Assembly which it had enjoyed since 1759. In another election the next year the Livingston party lost still further ground.

Livingston's attitude toward the Sons of Liberty is revealed in some of his essays written during the episcopal controversy in 1768 and 1769.\textsuperscript{73} Here he reproaches them for their importance of the public opinion of the multitude, but he expected to use King Demos as a Greek chorus and not to introduce him as a principal character in the play."

\textsuperscript{71}Cf. the following under date of March, 1768, in I. N. Phelps Stokes, \textit{Iconography of Manhattan Island, 1498-1909} (New York: Robert H. Dodd, 1913-1923), IV, \textit{782}: "A broadside entitled 'The Voters Catechism' is issued. It is directed against New York lawyers in general . . . . The series of questions and answers aims to prove that the lawyers have always opposed the colonists' struggle against Great Britain, and that they have never been in sympathy with the measures taken against the Stamp Act and other oppressive laws." This work will hereafter be cited as \textit{Icon. of Man. Is.}.

\textsuperscript{72}Smith claimed that the young De Lancey's alliance with the Sons of Liberty was hypocritical and purely for the purpose of advancing his own political interests ("Diary" [1769] in N. Y. Pub. Lib., Wm. Smith Papers, Vol. IV).

\textsuperscript{73}This controversy is discussed in Chap. V.
alliance with the De Lancey-Episcopalian faction and their activities in defeating one of the candidates because of his opposition to an Anglican episcopate in the American colonies. True sons of liberty would have been just as vigorous in their opposition to this scheme to enslave Americans, Livingston asserts, as they had been in their opposition to the Stamp Act. "... a man who is clamorous against one ill measure, and regardless of others equally mischievous, can have no claim to true patriotism ... ."

Such men he calls "pretenders to the character of sons of liberty."\(^74\)

If therefore we find any man, or any set of men, who affect not only to appear as distinguished patriots, but even to arrogate and appropriate to themselves the pompous title of the Sons of Liberty, constantly betraying the narrow spirit of punishing as far as in them lies, their fellow-subjects for using this very liberty, in what a ridiculous and motley [sic] light must we regard such hollow and hypocritical pretenders?\(^75\)

Mere opposition to government, unless such opposition can be justified, does not according to Livingston entitle one to the character of a patriot or son of liberty. Unwarranted opposition is mere licentiousness, which is as much to be condemned as tyranny itself.

... every true Son of liberty is a friend of good government. ... The true son of liberty will therefore abhor both tyranny and licentiousness, and think it his duty to oppose every bad measure, whether attempted by princes or people, and conduct his opposition with a steady eye to the general good.\(^76\)

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\(^74\)"The American Whig," No. 46, Parker's N. Y. Gazette, Jan. 23, 1769. The full title of Parker's paper was the New-York Gazette, or the Weekly Post-Boy. There was also published at this time by Hugh Gaine, the New-York Gazette, or Weekly Mercury. References to the N. Y. Gazette hereafter will be preceded by the printer's name.

\(^75\)Ibid., No. 59, April 24, 1769.

\(^76\)Ibid., No. 46, Jan. 23, 1769. It has been frequently
The advent of the Sons of Liberty upon the scene marks the beginning of the break-up of the triumvirate. Smith, Livingston, and Scott seem gradually to have drifted further and further apart. Smith became more and more conservative until the outbreak of the Revolution found him aligning himself with the loyalists. He eventually became chief justice of Canada. Scott, on the other hand, became ever more radical, allying himself more and more definitely with the Sons of Liberty, and becoming one of the leaders of that faction. Livingston seems to have occupied a middle ground, undecided which way to turn and eventually retiring from the New York political arena.

A few other activities of Livingston's during the whole period under consideration in this chapter remain to be mentioned. His interest in civic betterment and in the cultural life of the colony is indicated by his becoming in 1754 one of the founders of a free library in the City of New York, five pounds toward an endowment being subscribed by each founder, with the promise of a further payment of ten shillings yearly for the support of the institution. The institution thus founded later became the New York Society Library. The improvement of the law and the legal profession also continued to occupy his attention. In 1762 he asserted that Livingston was a member, indeed a founder of the Sons of Liberty. From what has been said in the text, it will be seen that this was not the case. Allan Nevins states that the Sons of Liberty was founded by John Morin Scott, William Smith, and William Livingston at the time of the Zenger trial in the thirties (The American States during and after the Revolution, 1775-1789 [New York: Macmillan Co., 1924], p. 54). The only comment necessary upon this is that none of these three was over twelve years old at that time. Nevins's work will be cited hereafter as Am. States, 1775-1789.

brought out, again in collaboration with Smith, a revised code of the laws passed since the publication of their previous code a decade earlier. Two years later together with Smith and fourteen others he took part in the founding of the New York Law Society, the purpose of which was to prevent the threatened overcrowding of the legal profession while at the same time it aimed at the improvement of the quality of practitioners of the law. This was to be accomplished by the adoption of a strict set of rules regarding apprenticeship and admission to the bar, to which all the subscribers bound themselves to adhere. A commentary perhaps upon the public morals of the time rather than upon the private morals of the individual is the fact that during the French and Indian war Livingston was financially interested in many privateering ventures.

Before his final retirement from political activity in New York Livingston had the opportunity to engage once more in the cause nearest his heart, the struggle for the preservation of religious liberty, and to this contest we must now turn.

78 Laws of New-York, from the 11th Nov. 1752, to 22nd May 1762 (New York, 1762).

79 The manuscript of the articles drawn up on this occasion containing the sixteen signatures is in the N. Y. Pub. Lib., Smith Papers, Box 198-206.

80 In Vol. I of the Livingston Papers in the Mass. Hist. Soc. are a number of receipts and bills of sale for the year 1757 indicating Livingston's share in these enterprises. Sedgwick asserts he took part in them as late as 1760 (Memoir, p. 154).
CHAPTER V

THE EPISCOPAL CONTROVERSY

We have already noted that there had been at various times during this century agitation for the establishment in America of a bishop of the Church of England, and we have seen that Thomas Sherlock as Bishop of London between 1748 and 1761 had pursued a policy calculated to further the accomplishment of this scheme.\footnote{Cf. supra, p. 58} In 1766 the agitation for such an establishment was renewed with the commencement of the holding of annual conventions of the Episcopal clergy of New York and New Jersey. One of the earliest of these conventions addressed a petition for an American bishop to seven persons in England who might be presumed to have an interest in the plan, among whom were the king, the Archbishop of Canterbury, and the Bishop of London.\footnote{Cross, Ang. Epis., pp. 216; 221, n. 2.}

In February, 1767, John Ewer, Bishop of Llandaff, in the course of a sermon delivered at the annual meeting of the Society for the Propagation of the Gospel took occasion to lament the wretched state of religion in America, attributing it largely to the lack of a resident bishop. In the same year Dr. Thomas Bradbury Chandler, the rector of St. John's Church in Elizabethtown, New Jersey, was commissioned by the convention of the Episcopal clergy of New York and New Jersey, acting on the suggestion of Dr. Johnson, to write a pamphlet which should explain clearly to the people of America the exact basis upon which the Episcopalians
proposed to introduce a bishop. It was felt that once the plan were fully understood, it would be recognized as containing no elements dangerous to religious liberty or to the dissenting denominations, and the violent opposition which the scheme had always aroused previously would thereupon fade away. Chandler undertook the task, and later in the same year there appeared from his pen *An Appeal to the Public, in Behalf of the Church of England in America.*

It must be mentioned here that in this same year, 1767, the fourth petition of the Presbyterians of New York for a charter of incorporation was refused. Three previous petitions during the course of the century had met the same fate, but this was the first petition which had been addressed directly to the king. The New York Presbyterians attributed this denial of their petition to the influence of the New York Episcopalians and the intervention of the Bishop of London. Quite naturally, therefore, their antagonism to the Episcopalians was still further increased by this incident.

William Livingston, while reading Chandler's *Appeal to the Public*, had his attention directed to the Bishop of Llandaff's sermon by a quotation from the latter in the *Appeal*. Procuring a copy of the bishop's sermon, he was so enraged by the latter's derogatory remarks concerning the American colonists that he proceeded to write a pamphlet in reply. Dr. Charles Chauncy of

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*New York, 1767. This will be cited hereafter as Appeal to the Public.*

*Cross, Ang. Epis., p. 181. The report of the Lords of Trade against the petition shows that the unfavorable report of the governor and Council of New York on the subject was one factor which influenced their own adverse decision (Docs. Rel. Col. Hist. N. Y., VII, 943 f).*

*A Letter to the Right Reverend Father in God, John, Lord Bishop of Llandaff; Occasioned by Some Passages in His Lordship's
Boston had already at the close of the year 1767 replied in an open Letter to a Friend to the bishop's sermon. Livingston was cognizant of this reply, and in his own letter acknowledged his indebtedness to Chauncy "for several facts and observations." In a letter to Dr. Samuel Cooper of Boston, however, he says: "But I thought he [Dr. Chauncy] had treated that haughty prelate rather too tenderly, and that he deserved a little severer correction." While Chauncy's pamphlet, however, was devoted chiefly to refuting the bishop's arguments for an American Episcopate, Livingston devotes the greater part of his to disabusing the bishop of the misinformation which he has received concerning conditions in America. As to the source of the bishop's information Livingston points out that it must have come from the missionaries of the Society for the Propagation of the Gospel, but such a source according to him is unreliable because, in the first place, these missionaries are interested parties, and in the second place, they have for years been misrepresenting conditions in America. The Bishop of Llandaff should have investigated the truth of the reports he received before accepting them at face value.

Livingston denies flatly the bishop's charge that no proper provision has been made for supplying the colonists with

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Sermon, on the 20th of February, 1767, in Which the American Colonies Are Loaded with Great and Undeserved Reproach (New York, 1768). This will be cited hereafter as Letter to Bishop of Landaff. Unlike most of Livingston's productions, this pamphlet was published under his own name. In the advertisement preceding the main body of the text he gives as his reason for doing so his desire that any one who questions his statements may be able to call upon him for proofs. He also promises to acknowledge any errors that are pointed out, "on condition that the person discovering his mistake, does it with decency and temper; and is not ashamed to discover his own name."


7Letter to Bishop of Landaff, p. 3.

ministers, citing as proof to the contrary the legislative support of the ministry in New England. To the bishop’s assertion that the failure to provide ministers is due to a scandalous neglect on the part of the government Livingston points out that many of the colonies were settled not only without the protection of but because of the persecution and intolerance of the British government.

To the bishop’s diatribe on the morals of the colonists, in which he describes them as "living without remembrance or knowledge of God, without any divine worship, in dissolute wickedness, and the most brutal profligacy of manners,"\(^9\) Livingston replies that this language might possibly be applied to the Episcopal clergy of Maryland and the West Indies, but is a little strong even in regard to them. If the bishop’s sermon is directed against the people of New England, as it seems to be, there is certainly no truth in the statement. Of them Livingston asserts that there is not a more virtuous or religious people upon the face of the earth.\(^10\) As to the New England colonists having abandoned their native religion, they have in fact preserved it in a purer form than has the Church of England. In proof of their having taken pains to preserve it Livingston cites the catechisms which have been drawn up and the ecclesiastical councils which have been held in New England.

But if your lordship means by their native religion, an implicit submission to ecclesiastical-political power arbi-

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\(^9\)Quoted in *Letter to Bishop of Landaff*, p. 7.

\(^10\)Another evidence of Livingston’s partiality toward New Englanders (cf. supra, pp. 136 ff.). In his letter to Dr. Cooper, quoted in Sedgwick, *Memoir*, pp. 136 ff., he says, referring to his letter to the Bishop of Landaff: "I beg your acceptance of the enclosed . . . . , which I wrote out of real affection for the New-England colonies, and a sincere regard for truth."
trarily assumed, and tyrannically exercised; or, a recognition of any man on earth, as supreme head of the Christian church, in derogation of the transcendent authority of him, to whom angels and authorities are made subject; or a superstitious attachment to rights and ceremonies of human invention, to the neglect of vital piety and purity of heart; it is agreed, my lord, that in this sense, they did in good earnest abandon their native religion; and 'tis devoutly to be wished, their posterity may never be so infatuated as to resume it.\footnote{Letter to Bishop of London, p. 12.}

In answer to the bishop's charge that the colonists have done nothing to convert the heathen in accordance with the pretences and conditions on which they obtained their charters, Livingston asks what the Society for the Propagation of the Gospel has done along this line. The money of this society, he asserts, has been squandered in proselyting among people already Christian, and they have even been delinquent, especially in Maryland and Virginia, in maintaining their religion among their own people. But the colonists have not, in fact, neglected their duty in this direction. In proof of this Livingston quotes Chauncy on the work of Eliot and the Mayhew family among the Indians and on the state of missionary work among the Indians in Massachusetts Bay at the time of his writing, and refers further to the work of the Brainerds and of Dr. Wheelock.

Finally, to the bishop's assertion that the colonies are in need of seminaries for the education of ministers Livingston replies by naming six colleges, which, he maintains, are more than sufficient for the purpose. While on this subject, too, he shows that he has not forgotten the college controversy nor ever become reconciled to the basis on which King's College was finally established. Of it he says sarcastically: "That in New-York, being able to boast a most honourable origin; being distinguished
by a president, a clergyman of the church of England, as by law established, and founded with a particular eye to the advancement of episcopacy in America, will probably e'er [sic] long appear as conspicuous above the rest, as father Æneas amongst his fellow-adventurers."12

In a like sarcastic manner Livingston concludes his letter, after cautioning the bishop to be more careful in the future to ascertain the truth of reports concerning America before repeating them.

And heartily wishing, my lord, . . . . that your lordship may be so successful, and so thoroughly satisfied in the discharge of your episcopal function, within the limits of your present diocese, as never to think it your duty, to exchange the See of Landaff, for an American Bishopprick. I am, my lord, [etq.]13

Although in writing to Samuel Johnson concerning this letter of Livingston's, Chandler described it as "an impudent, blundering performance," he nevertheless regarded it as dangerous enough to require an answer and informed Johnson that he was trying to prevail upon Charles Inglis, an Episcopal clergyman in New York, to undertake the task.14 Inglis eventually did so, bringing forth A Vindication of the Bishop of Landaff's Sermon from the Gross Misrepresentations, and Abusive Reflections, Contained in Mr. Wm. Livingston's Letter to His Lordship: with Some Additional Observations on Certain Passages in Dr. Chauncy's Remarks, &c.15 This work was published anonymously although the author's identity was no secret even at that time. We need not

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12Ibid., p. 23.
13Ibid., p. 25.
14Letter dated April 7, 1768, quoted in Schneider, Samuel Johnson, I, 436 f*.
15New York, 1768 (Evans, Am. Biblioc., IV, No. 10934).
linger over it except to note that in a postscript to it Livingston is charged with plagiarism of Chauncy's work. Since, Livingston, however, had mentioned Chauncy's pamphlet in his own letter and had frankly acknowledged his indebtedness to it, this charge seems rather extravagant, to say the least. Livingston later interrupted the "American Whig" column, which he had inaugurated for another purpose, to devote an essay to replying to Inglis's Vindication. In this essay, entitled "Inglisiana," he calls attention to the fact that he had promised to answer only those who wrote over their own signatures, but since it is known that Inglis wrote the preface at least, Livingston will regard him as the author "de jure" if not "de facto." Before coming to the arguments contained in the Vindication, however, Livingston asserts that he must clear away much rubbish with which the entrance is choked, one piece of which is Inglis's sorry attempt at wit in charging that Livingston, being a lawyer, probably wrote his letter for a fee. Besides denying that he received a fee (just in case Inglis was really serious in making this charge), Livingston counters by asking what Inglis ever does without a fee. He then proceeds to take up in detail several instances of misquotation and misrepresentation of his meaning in Inglis's pamphlet. Livingston announced his intention of continuing in future papers his reply to the Vindication, but "An American Churchman," writing in the "American Whig" number forty-nine in defense of Livingston's statements in his Letter to the Bishop of Landaff, expressed the hope that the latter would desist from carrying any further in his column the contest with Inglis but

16 Cross, Ang. Epis., p. 163.
would confine the column rather to its original purpose. Livi-
ingston seems to have acted on this advice, for nothing further
in regard to Inglis or the Vindication appeared in the "American
Whig" column.

Let us now turn to the "American Whig" and discover the
causes and circumstances of its founding. The purpose of the
"American Whig," as stated in the initial number, was to answer
and controvert Chandler's Appeal to the Public. Chandler had
asserted in the Introduction to his work that if no objections
should be offered, "it will be taken for granted that all Parties
acquiesce and are satisfied." This statement, of course, really
forced the opposition into activity, but Livingston, as we know,
was not the kind of person to have to be dragged into a contest
of this sort. The greater relative importance which he attached
to this question than to more purely political issues is very
evident in the following quotation from number ten of the "Ameri-
can Whig."

I have engaged in this course of periodical papers, as an
advocate for the general liberties of my fellow-subjects in
North-America. I have entered upon the question of an
American Episcopate, and a consideration of Doctor Chandler's
Appeal to the Public, in favour of it; as I esteem the
question to be of greater importance, in its consequences,
to my native country, than the imposition of any customs, or
commercial restrictions, which afford not the rights of
conscience.

Again, in number twenty-four, he indicates clearly his attitude.
"... I am confident the generality of the people would more
quietly submit to three stamp-acts, than to the exertion of the
English ecclesiastical hierarchy, in these regions of unshackled

18 Ibid., Feb. 13, 1769.
19 P. 2.
20 Parker's N. Y. Gazette, May 16, 1768.
religion liberty."21

He soon had a group organized to carry on a weekly series of papers and on March 14, 1768, the first number of the "American Whig" appeared in Parker's New York Gazette. In this same year Dr. Chauncy published in book form an able reply to the Appeal,22 but Livingston had already started his column before he was aware that Chauncy had undertaken a reply. Even when informed of this by Dr. Cooper of Boston, he still felt that the newspaper articles would have certain advantages not possessed by a pamphlet. These he states in his reply to Dr. Cooper.

But though your venerable brother [Dr. Chauncy] may strip our Episcopalian champion of his triumphal trappings, I think it cannot have the same salutary effect towards defeating the scheme at home as a course of weekly papers inserted in the public prints. These are almost universally read, and from the greater latitude one may there give himself, will prove more effectual in alarming the colonies. For I take it that clamour is at present our best policy, and that if the country can be animated against it, our superiors at home will not easily be induced to grant so arrogant a claim, at the expense of the public tranquillity.23

At about the same time that the "American Whig" made its appearance in New York, a similar column, entitled the "Sentinel," began publication in a Philadelphia newspaper. That this was not pure accident but rather the result of a preconcerted scheme to open the attack simultaneously in as many quarters as possible is indicated in Livingston's letter to Dr. Cooper just mentioned, in which he writes:

... a few of your friends here have lately begun a paper under the name of the American Whig... . A number of gentlemen will shortly open the ball in Philadelphia. I should be glad the same measure was pursued in Boston. ... Without some such opposition, I am apprehensive the ministry may be prevailed upon to gratify the lawn-sleeves by way of recompense for so often voting against their consciences for the

21 Ibid., Aug. 22, 1768.
The newspaper agitation thus started soon developed into a widespread and virulent war of words. In New York three weeks after the first appearance of the "American Whig," an opposition column by "Timothy Tickle," entitled "A Whip for the American Whig," was started in Gaine's New York Gazette, and continued to appear weekly like its predecessor. This column took up and attempted to refute the arguments of the "American Whig" as fast as the latter were put forward. About a month and a half after the first appearance of the "Whip" there appeared in Parker's Gazette, along with the "American Whig," the first of another weekly series, entitled "A Kick for the Whipper," by "Sir Isaac Foot." This latter column descended rather far toward the depths of buffoonery and scourrility. In Philadelphia the "Centinel" was opposed by the "Anatomist" and "Anti-Centinel." Other articles on the subject appeared in the newspapers of Boston and Connecticut. The warfare thus commenced continued merrily and without interruption for over a year. The various contributions from all sides were subsequently collected and published in two volumes by John Holt.

24Ibid.


26A Collection of Tracts from the Late Newspapers, etc. Containing Particularly The American Whig, A Whip for the American Whig, with Some Other Pieces, on the Subject of the Residence of Protestant Bishops in the American Colonies, and in Answer to the Writers Who Opposed It, etc. (New York, 1768, 1769). A third volume was promised, but William Nelson states that such a volume has never been found and probably never appeared (The Controversy over the Proposition for an American Episcopate, 1787-1774. A Bibliography of the Subject [Paterson, N.J.: Paterson History Club, 1909], No. 14). Although sixty-two numbers of the "American Whig" appeared in Parker's N.Y. Gazette, the last number which appears in Vol. II of the Collection is forty-six. This
It is impossible to identify definitely all who were concerned in the composition of the "American Whig" papers. Certainly both Livingston and Smith were. Sedgwick suggests also the cooperation of Dr. Archibald Laidlie, the Dutch clergyman who had been called to New York to preach in English, and of Dr. John Rodgers, a Presbyterian minister in the city. Jones mentions a host of others, but his statement contains so many inaccuracies as to render it totally unreliable. Among the chief authors of the "Whig for the American Whig" were Inglis, Samuel Seabury (another Episcopal clergyman and secretary of the

fact probably explains Nelson's error in his bibliography just referred to where he states in his description of the "American Whig": "These articles began in the issue for March 14, 1768, continuing regularly until they reached No. XLVI, in the Gazette of January 22, 1769." The same error is also made by Sedgwick (cf. Memoir, p. 146).

27Chandler, writing to Samuel Johnson, April 7, 1768, (quoted in Schneider, Samuel Johnson, I, 436) says that Livingston wrote the first, which is signed with the letter "Q." It is probably safe to assume, then, that the other essays carrying this signature were also by Livingston. In the same letter Chandler attributes the authorship of No. 2 and the letter which takes up the first part of No. 4 to Smith. No. 2 is signed with the letter "N," and the letter in No. 4 is signed "An American Churchman." That Smith was "An American Churchman" is further borne out by the fact that the manuscript of No. 25, also by "An American Churchman," is in the Smith Papers in the N. Y. Pub. Lib., and is apparently in Smith's handwriting. The use of letters as signatures, however, gradually ceased after the first twenty odd numbers, and most of the later essays carry no signature at all, although many, if not most of them, seem from the style to have been by Livingston himself. The assumption from these facts and from what is said further in the text concerning the authorship of the essays would seem to be that while at the outset he received considerable aid from a fairly large group, as time went on he was left more and more to conduct the column alone, although William Smith probably continued with him to the end.

28Memoir, p. 144.

29Hist. of N. Y., I, 19 ff.
convention which had authorized the writing of the *Appeal*, and Chandler himself.30

We cannot, of course, go into the details of the newspaper controversy as a whole, but must confine ourselves to Livingston's share in it. In announcing in the opening number of the "American Whig" his intention to take up and refute the arguments contained in Chandler's *Appeal*, Livingston asserts that the nature of his weekly essays will prevent him from taking up the various points in logical order from beginning to end and that although he will eventually consider every point, he will take them up, therefore, in any order he sees fit. This was a privilege which Livingston generally granted to himself at the beginning of any such controversy. He points out, too, how inopportune it was to bring up such a controversy at a time when the colonists because of the recent encroachments on their civil liberties needed more than ever to present a united front. He announces also that besides confuting Chandler's *Appeal*, "he proposes to give himself the farther scope and latitude of defending the liberties of his country, against every other project calculated to ruin and enslave it; and particularly to assert and defend the religious privileges of all protestant denominations, against the secret or open attempts of their enemies."31

Before speaking of the comparatively few essays which were not written in direct refutation of the *Appeal*, let us take up the refutation of this latter work by Livingston and his associates.

Because of the somewhat illogical order in which Chandler's arguments were taken up by the "American Whig," it will be advisable for the sake of greater clearness to follow the order of the


Appeal, taking up the arguments as they were presented there and drawing the refutations together from the various scattered essays in which they appeared.

Much was made by the supporters of Chandler of the moderation and candor with which his plan was put forward, and indeed it was a work very temperate in tone and very plausible in its presentation of the case for an American episcopate, which made its refutation a doubly difficult task. It became necessary to break down this appearance of candor and moderation, and to this task the Whig addressed himself in one of his essays. Virtues, he asserts, may be and frequently are counterfeited for nefarious purposes, and he quotes from the Bible: "The words of his mouth were smoother than butter, but war was in his heart: His words were softer than oil, yet they were drawn swords." 32 This is the case, says the Whig, with Dr. Chandler. Yet the counterfeit is not so good that it cannot be detected. In the first place, while the Doctor does not openly assert that Episcopalians are the only true Christians, yet he constantly "appropriates the title and character of THE CLERGY and THE CHURCH, to that party to which he belongs." Capitals used in this manner, says the Whig, really imply "the only." Again, although Chandler does not actually say so, yet according to his reasoning, the ordinations of all other ministers than those of the Church of England are void. Finally, when a man uses moderation and candor merely to accomplish an evil design and his purpose is detected, he generally becomes greatly enraged and throws off the mask. This has been, says the Whig, the reaction of the Anglicans and even of Dr. Chandler himself since his opponents have accepted his challenge to offer their

32 Ps. 55:21.
objections to his scheme. 33

Chandler devotes the first two sections of his Appeal to a discussion of the origin and nature of the episcopal office, attempting to establish the necessity for episcopal government in the church and the divine right of bishops to exercise this government, at the same time, however, asserting that the plan for an American bishop would be just as valid whether this doctrine is admitted or not. Against these "entangling weeds of chicanery" the Whig warns his readers. They must not be deceived by Chandler's mild, "velvet-mouthed delicacy." Why, after taking such pains to establish the necessity and divine origin of episcopal government, does the Doctor thus dismiss the subject with an airy wave of his hand and the statement that it does not matter anyway? Why, simply to avert attention from the consequences of accepting such a thesis. But what would the consequences be?

According to that, not one of the ministers of other denominations, are sent out by Christ to promulge his gospel; and let my lords the bishops be once landed and fortified in their palaces, guarded by their dependents, and supported by their courts, and instead of coaxing and trimming, we shall soon hear the thunder of excommunication uttered with all the confidence and pride of security. The soft beatings of the lamb, will be changed into the terrible howlings of the wolf; and every poor parson whose head never felt the weight of a bishop's hand, will soon know the power of his pastoral staff, and the arm of the magistrate into the bargain. 34

Since Chandler himself, however, did not base his plea upon these tenets of the Church of England, we shall have to forego because of limitations of space any further analysis of the arguments which the "American Whig" in various essays offered against the validity of the doctrines of the apostolic succession, ordination, confirmation, and the like.

34 Ibid., No. 6, April 18, 1768.
In his next several sections Dr. Chandler takes up the various reasons why the Church of England in America should have a bishop or bishops of its own. The first of these is that the Church as at present constituted, is devoid of a regular government, and cannot enjoy therefore the benefits of ordination and confirmation. On this question of government, the Whig, after citing Chandler's assertion that the bishops are to govern only the clergy, points out that even so more than one bishop will be necessary for a country the size of America. Who, then, will govern the bishops? If groups of other bishops, then presbyters would do as well. If not, then there must be an archbishop. This whole system of having ecclesiastical superiors among the clergy leads inevitably to the concentration of power in the hands of one man; in other words, it is "that root of bitterness, from which have germinated all the corruptions and abominations of that most villainous and ungodly faction against the common rights of mankind, the papal hierarchy." Furthermore, since the clergy are the only ones who will be subject to the discipline of the bishops anyway, they can very easily be sent to England for the purpose of discipline when necessary. As for the necessity of having the power of ordination vested in some one resident in America because of the difficulties involved in making the trip to England, the Whig asserts, "... those must be small motions of the spirit indeed, towards the work of the ministry, which the sight of salt water will subdue." As for confirmation the colonists have got along without it thus far, and no one claims

\[35\] Ibid., No. 51, Feb. 27, 1769.

\[36\] Ibid., No. 5, April 11, 1768.

\[37\] Ibid.
their fathers are eternally damned for lack of it. But, if the Episcopalians deem it necessary, confirmation may be obtained anyway without the sending of a bishop. Here Livingston again makes use of his favorite weapon, satire. He suggests first the sending of a bishop's garments for the purpose, as St. Paul is said to have cured the sick at Ephesus. This would have the added advantage of increasing trade with the Mother Country, and probably this trade, too, could be monopolized by the clergy. Secondly, the pope at Rome might be induced to send a bone from one of the fingers of St. Peter. This would among other things solve the dispute about the uninterrupted succession, and furthermore, the passing around of the bone to the various missions could take the place of the circular visitation of the bishop in person. Thirdly (and here Livingston gets in another thrust at the hostility of the Anglicans in the colonies to the Morevians), the Church of England might make use of the Moravian bishops. "'Tis well known that the church of Moravia is not only admitted by the church of England, to be a truly episcopal and apostolick church, but to have preserved the succession uninterrupted."

Dr. Chandler dwells upon the hardships and persecutions suffered by the Episcopalians in America as a result of their lack of bishops. Reviewing the situation in the various colonies, the Whig points out that in many the Church of England is the established church, while even in the colonies least favorable to their religion, the Episcopalians are "freely tolerated in the full enjoyment and exercise of their religious principles." This is certainly not persecution. As to hardships, what about

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38 Ibid.
39 Ibid., No. 50, Feb. 20, 1769.
40 Ibid., No. 57, April 10, 1769.
the hardships, asks the Whig, of the Dissenters who fled from the Church of England? "Would it not be an unparalled [sic] hardship for the church of England, to prosecute [persecute?] us to these ends of the earth, with the same cruel bondage from which our fore-fathers fled?" Furthermore, the only hardships which the Church of England suffers are of its own making. Because of its constitutional connection with the state, it cannot have bishops without the consent of the civil authorities. Its own constitution is therefore at fault. 41

Chandler's emphasis on the loyalty of the Anglicans as a reason for granting their request and his implication that the dissenting sects have fostered a spirit of sedition is answered by the Whig with a flat denial that sedition has ever been preached from the pulpit of any dissenting church and the counter-charge that disaffection has, indeed, more often been discovered among the Doctor's own fraternity in England. 42 He furthermore turns the tables against the Anglicans by showing that it is really they, and not the Dissenters, as sometimes charged, who are fostering a spirit of independence in the colonies. The Dissenters, avers the Whig, are satisfied with the constitution as it is.

But,

The spirit of high-churchmen is absolutely incompatible with that of our excellent constitution; and was their power equal to their wishes, they would neither eat nor sleep, before they had turned a limited monarchy, into an absolute one . . . . When they talk of moderation, we know they mean want of power . . . . But give them bishops, and an hierarchy of their own; and destroy their present necessary intercourse with the mother-country, which would be the consequence of granting them an independent episcopate; and you dissolve the principal bond of union between them. 43

41 Ibid., No. 54, Mar. 20, 1769.
42 Ibid., No. 9, May 9, 1768.
43 Ibid., No. 12, May 30, 1768.
The plea that Anglicanism should be supported as the national religion brings from the Whig a furious onslaught against the principle of established churches. Christ's religion was never intended, he says, to be dangled on the knee of temporal authority. History shows that on every occasion when Christianity became connected with the state, it became adulterated. Moreover, it is an affront to God to suppose that a religion which boasts him for its author should need inferior aid or support. No real advantages to religion ensue from its establishment.

The rational and thinking professors can never be influenced by it; because they are wise enough to know that it is ne'er the more religion for being established. But the common herd are thereby taught to make religion consist entirely in an obedience to the establishment; and thus have their eyes closed, their ears sealed, and their hearts shut against a more truly religious and divine principle of conduct. Nothing can be a plainer truth than the assertion, that a people will have more of religion in proportion, as they have less of an establishment. That religious system is shrewdly to be suspected of imposture, that wants law to support it.44

But the Church of England is in no sense a national church for the empire anyway. In Scotland the Presbyterian Church is the established church; in New England it is the Congregational Church; in the other colonies there is no religious establishment.45

In the Appeal the history of the attempts to procure a bishop for America has been traced and various reasons assigned for the failure of these previous attempts, among them being the fact that because of the smaller size of the colonies in those times and the fact that some of them had been founded by Dissenters, the demand for a bishop had not acquired sufficient strength. But now, it is asserted, that desire has grown too strong to be denied; over a million people complain for want of bishops. This

44Ibid., No. 60, May 1, 1769.
45Ibid., No. 15, June 20, 1768.
assertion is branded by the Whig as a glaring misrepresentation so far as the desire is concerned and a gross exaggeration as to the numbers of those professing the Episcopal faith. "To have requested a Bishop at all... would have been highly unreasonable, but to report that we are desirous of such an oppression, is at once to enslave and insult us."46

A further argument thrown out by the Appeal for the granting of the demand for an American episcopate at this time is the fact that the present juncture is for various reasons the opportune time for taking this step. One of the chief of these reasons, and, according to the Whig, the only one which marks it off from any other times, is that the recent successful conclusion of a foreign war warrants recognition by some mark of gratitude of the victory at that time attained, and that the establishment of an American episcopate would be highly suitable for this purpose. Suitable, indeed, snorts the Whig in reply! The original settlers of these colonies were fleeing from the persecutions of this very church. God has caused the colonies to prosper and given numerous indications of his approval of their action. How inconsistent then would such a reward be! "What else would it be than a real mockery of God [?]" Furthermore, according to the Appeal itself, it has always been the design of the Society for the Propagation of the Gospel, ever since its founding, to secure an American episcopate. "To what then, is it to be ascribed, but to the overruling hand of Heaven, that this scheme, has not long before now been accomplished!" Instead, therefore, of pushing, their scheme further, "they would do well, the mean while to take the advice of

46Ibid., No. 37, Nov. 21, 1768.
the prudent Gamaliel, to refrain from this wild and iniquitous project, lest haply they be found even to fight against God." 47

The necessity of christianizing the heathen has been put forward by Chandler as a reason for sending a bishop to America. This is a laudable undertaking, admits the Whig, but would not be accomplished in this manner. Proof of this is the fact that the Society for the Propagation of the Gospel thus far, instead of christianizing the heathen, has directed all its efforts toward episcopizing the Presbyterians and other sects of Dissenters. "Is the conversion of presbyterians to episcopacy of so much greater importance, than that of Heathens to christianity, as to render it necessary first, to episcopise the colonists, before they proselitethe pagans!" That this is what they have done is indicated by the fact that most of their missions are in the northern colonies, where the colonists are already well supplied with ministers of other faiths. A second good reason why the sending of a bishop would deter rather than advance the christianizing of the natives is the fact that the additional expense of an episcopate would still further reduce the funds available for this purpose. 48

In his eighth section Dr. Chandler explains the plan according to which it is proposed to establish a bishop in America. The bishop is to have purely spiritual power derived from the Church alone; he is to have jurisdiction over only the clergy. Finally, he will be a "primitive bishop," exercising only the original powers of the office, i.e., ordaining and governing the clergy and confirming others. This was, to be sure, a modest proposal and is recognized as such by the Whig in his opening

48 Ibid., No. 52, Mar. 6, 1769.
essay, but—we shall let him speak for himself.

... could any man, above the capacity of an Ideot [sic] really persuade himself, that the Doctor and the Convention would content themselves with a Bishop, so limited and curtailed as he is pleased to represent his future Lordship; it were manifest injustice to deny them what in their opinion their eternal salvation so greatly depends upon. But it is not the primitive Christian Bishop they want. It is the modern, splendid, opulent, court-favoured, law-dignified, superb, magnificent, powerful prelate, on which their hearts are so intent.49

As to the claim that the bishop to be established will have authority only of a spiritual and ecclesiastical nature, this would be, the Whig points out, contrary to the British constitution. Such a bishop could therefore not be established by the government, nor, if established by the clergy, could it be supported by the government. If, then, all the bishop's power is to be derived from the Church, why all the fuss about it? The Church has always possessed this right to grant powers of this sort and has indeed appointed commissaries who have exercised these powers without being in the slightest disturbed in the performance of their duties. Why can they not continue to do so? If, however, bishops should be established in America in such an unconstitutional manner by act of parliament, would this not raise a cry on the part of the people in England for the same privileges and exemptions as had been thus granted to the Americans? Would any minister dare espouse such a cause? Granting, however, for the sake of argument, that such bishops could be established, yet the Church of England would soon be attempting to have them invested with the same powers as those enjoyed by bishops in England.50 An indication of this, says the

49 Ibid., No. 1, Mar. 14, 1768. The reasonableness of the plan proposed is again admitted in No. 21, ibid., Aug. 1, 1768. "Did they really desire, or was there the least probability of obtaining such an ideal Bishop, as they hold up to public view, ... no other denomination ought in justice to give them any opposition."

50 Ibid., No. 10, May 16, 1768.
Whig, is the fact that although these bishops are, according to the plan, to exercise only spiritual authority, yet Dr. Chandler has asserted that it should be no cause for complaint even if they were invested with a proportionable degree of civil authority.51

Finally, the Whig enumerates several differences between a really primitive bishop and Dr. Chandler’s bishop. Primitive bishops were chosen by the people; the Doctor’s would be appointed by a superior. There was at least one primitive bishop in every town; Chandler proposes not more than three for a whole continent. It was the duty of primitive bishops to preach and to "feed the flock"; the bishops proposed would do no regular preaching at all. Primitive bishops disciplined all offenders; the Doctor’s bishop would be concerned entirely with the clergy. Chandler’s bishop could be prevented from coming by such external circumstances as a change of government at home, or the attack of some neighboring kingdom; no such circumstances affected the installation of primitive bishops. To conclude, the proposed bishop would be a grand personage, as indicated by the steps already taken to provide for his maintenance; "but were there any such preparations made, and funds provided for the maintenance of the primitive Christian Bishops? Was it by any divine institution appointed, that Bishops must be thus rich and magnificent?"52

An episcopate established on the basis he has outlined cannot possibly harm the Dissenters and is free from all reasonable objections, says Dr. Chandler. In fact, the opposition to such a scheme among Dissenters has greatly abated in recent years.

51Ibid., No. 21, Aug. 1, 1768.
52Ibid., No. 22, Aug. 8, 1768.
To this the Whig replies: "The Doctor will unquestionably find himself grossly mistaken, in his opinion of the tame acquiescence of the inhabitants." He further declares that if a vote were taken the majority of the Episcopalians themselves would be found to be opposed to the introduction of a bishop among them.\textsuperscript{53} Chandler has also declared that the fierce opposition to the late Stamp Act was in no way connected with the question of an American episcopate. The Whig, however, finds such a connection.

The late stamp-act was intended to squeeze out of the colonies, a fund which they [the Tories] probably had hopes of applying to prelatical purposes. And their restless endeavours to break over the civil constitution, are in no small degree, owing to their attachment to the prospect of establishing episcopacy in America.\textsuperscript{54}

Furthermore, asserts Chandler, the bishops in England have for years exercised their power with so great moderation as to allay all cause for complaint among Dissenters. On this head the Whig inquires in what light the opposition of the Archbishop of Canterbury and the Bishop of London to the recent request of the Presbyterians of New York for a charter is to be considered.\textsuperscript{55}

And that so trifling a favour, hath been frequently refused to both English and Dutch Presbyterians in this province, is a matter of general notoriety. These are illustrious instances, surely, of the friendly disposition of the church of England, and her benevolent Prelates, towards their Protestant fellow Christians in America!\textsuperscript{56}

As to the moderation of bishops toward Dissenters in England the

\textsuperscript{53}Ibid., No. 10, May 16, 1768. This was the purport, too, of various essays signed "An American Churchman," which we have seen were probably written by William Smith, Jr.

\textsuperscript{54}Ibid., No. 54; Mar. 20, 1769. To find such a connection as this between these two affairs seems to us, viewing the matter from the vantage point of our historical perspective, an entirely unwarranted stretch of the imagination, but there can be no doubt that such a connection was at least suspected by Livingston and his associates.

\textsuperscript{55}Cf. supra, p. 129

Whig devotes a whole essay to the citation of numerous cases of oppression and persecution of Dissenters by English bishops between 1739 and 1767. 57

In the Appeal it has been promised that no spiritual courts will be created. But, queries the Whig, what right has Dr. Chandler to dictate to a prelate who will be his superior or to lay down conditions affecting his exercise of power? 58 If, too, as the Doctor has asserted, the bishop may grant degrees of his power to subordinates as he sees fit, what security can be given that he will not see fit to erect spiritual courts? 59 Furthermore, the power of the bishop over the clergy is, according to the Appeal, to be as full and complete as the laws and canons of the church direct; yet the only method by which the clergy can be disciplined is through spiritual courts. 60 Finally, Dr. Chandler has maintained that Anglicanism is the national religion and should be supported as such in America. This argument, however, if logically followed out, would lead to the establishment in America of the same kind of ecclesiastical hierarchy as exists in England, including spiritual courts with all their appendages. 61 In addition to arguments such as these, the Whig devotes two essays to a satirical exposé of the abuses existing in the ecclesiastical courts in England and the great expense involved in litigation therein. 62

57 Ibid., No. 47, Jan. 30, 1769.
58 Ibid., No. 23, Aug. 15, 1768.
59 Ibid., No. 35, Nov. 7, 1768.
60 Ibid., No. 54, Mar. 20, 1769.
61 Ibid., No. 15, June 20, 1768.
62 Ibid., Nos. 26 and 27, Sept. 5 and 12, 1768.
The last section of the Appeal is devoted to a refutation of the objections which might conceivably be urged against the scheme of an American episcopate. In the first place, it is asserted that no taxes are to be levied for the support of the proposed bishop, but Chandler then lays himself open to attack by going on to say:

But should a general Tax be laid upon the Country, and thereby a Sum be raised sufficient for the Purpose . . . . yet I believe such a Tax would not amount to more than Four Pence in One Hundred Pounds. And this would be no mighty Hardship upon the Country. 63

Pouncing upon this statement, the Whig asks why, in the first place, does a primitive bishop need a tax of four pence in a hundred pounds? Moreover, to indicate that such a tax would be sufficient is to misrepresent the wealth of the colonies (a serious offense at a time when taxation of the colonies was such a vital issue). The Doctor has said this should be no "mighty Hardship."

But why should the colonists submit to any hardship for the support of some religion other than their own? Finally, the Whig draws up a list of the probable annual expense of such an establishment to the colony, and arrives at the amazing total of £21,740, exclusive of the expense of lower officials. 64

Taking up the possible objection that even if bishops were settled in America in the innocuous manner suggested, there would be an augmentation of their power as soon as circumstances would admit of it, Chandler asserts that objections of this sort would not be valid; "for if every possible ill Effect of a Thing, although confessedly proper in itself and harmless in its natural

63 Appeal to the Public, P. 107.
Tendency, may be made an Argument against it, there is nothing that can escape."65 The Whig, however, objects to the use of "possible"; the objection, fairly stated, would be not to "possible" but to probable ill effects. Furthermore, the Whig does not admit the project to be "harmless in its natural Tendency," but believes its natural tendency would be quite the reverse. As examples of other harmless things from which ill effects might possibly result, the Doctor has cited religious toleration, allowing the common people the use of the Scriptures, and education. But from these, the Whig points out, ill effects have never ensued, even if barely possible, whereas from "inordinate power in the hands of ecclesiastics" evil has always ensued and the probability of its continuing to do so is very great.66

On the question of civil power in the hands of the clergy, Chandler has asserted that, although this is not part of the plan, no harm could result even if at some later date some degree of civil power should be allotted to bishops. To this the Whig replies that, in the first place, all the time of any conscientious clergyman should be taken up by his spiritual duties. In the second place, the happiness of the colony thus far has been due to the division of political power among the various denominations, the Church of England controlling the governor and Council, and the Dissenters the Assembly. If, however, a bishop should take his seat in the Council, and Anglican clergymen should become justices and judges (which Chandler has intimated might be done without danger), the power of the Church of England would soon become so great that it could control elections to the

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65 Appeal to the Public, p. 109.

Assembly. The danger of entrusting any measure of civil power to
the clergy is summed up by the Whig as follows.

. . . . if we may judge from what is past, civil authority can
never be intrusted to the clergy with safety to the people.
Secluded from the world, and ignorant of mankind, . . . . they
grow sour and vindictive, over-rate their order, are impatient
of opposition, and enemies to freedom of thought. — Being
intriguing, speculative, systematical and enterprizing, they
are always an over-match for the vulgar; and by the advantage
of their numbers, and the devotion of their weak and bigotted
adherents, naturally acquire a dominion the more to be feared,
as their operations proceeding upon the flattering principles
of advancing the glory of God, and the good of souls, rarely
cease until an implicit submission to their opinions is
extorted.67

The Appeal closes with an exposition of the close connec-
tion of the Church of England with the civil government in England
and of the advantages of the resulting situation: church and
state, happily connected and interwoven, and mutually supporting
each other. But the Whig points out that the church was just
as closely connected with the state before the Reformation and
yet was always inimical to it. What changes have occurred since
to make this connection happier? The chief changes have been
toward greater popular participation in the civil government,
whereas the government of the church has remained as arbitrary as
ever. Thus, "the great dissimilitude in the constitutions of
state and church . . . . affords not, indeed, the least possibility
of a mutual interchange of happiness, support, or harmony. For
how can blind submission and obedience in the church, accord with
English liberty in the state?" What the Doctor really must want,
then, is to make the state more like the church, i. e., to estab-
lish absolute monarchy. He cannot wish to make the church more
like the state, for in that case he would destroy the church in

67 Ibid., No. 28, Sept. 19, 1768.
its present form by introducing democracy.68

In concluding our consideration of the arguments presented by the "American Whig" against those put forward in Chandler's *Appeal* in behalf of an American episcopate, we quote in full an admirable summary of the Whig's side of the case, which appeared under the title, "A Short Way to End Strife Now It Is Meddled With," in number eleven of the Whig's column.

1. That the Convention desire an *American Bishop*, is certain.

2. That they declare, that they only want a *primitive Bishop*, is certain.

3. That they *really mean* what they declare, is uncertain.

4. That a *modern English Bishop* would be dangerous to the religious rights and privileges of all the Non-Episcopalians in America, is certain.

5. That they ought therefore in justice to themselves and their posterity, and according to the rules of common prudence to be alarmed about their religious liberty, and oppose the project of introducing a bishop into America; till they have sufficient security that he will be only a *primitive Bishop*, is certain.

6. That the Tory scribblers, for representing them as disloyal subjects, for taking such alarm; and as a faction against religion, the church, and the clergy, are extremely abusive, and rather exasperate than allay the ferment, is certain.

7. That the Convention, as honest men, ought to give such security before they can expect our acquiescence in their project, is certain.

8. That they have not hitherto done it, is certain.

9. That until it is done, the opposition will proceed; and may be attended with very disagreeable consequences, is highly probable.

10. That when it is done, the controversy ought to cease, is certain.69

The significant contribution of the "American Whig," it is pointed out by Cross, was that it succeeded in connecting the political element in the question of an American episcopate indissolubly with the purely religious.

Hitherto, though the apprehension of an ecclesiastico-political tyranny had been the essential underlying cause of the opposition to bishops, particularly in New England, the issue had been obscured by a network of theological polemics. During

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the period from Hobart to Chauncy, however, the political element was steadily pushing its way to the front, and now for the first time presented itself squarely and unequivocally as the chief topic of consideration. In spite of the efforts of the Episcopalians, the Independents had at last succeeded in shifting the basis of the argument.70

We have already quoted passages which illustrate this connection of the political with the religious phase of the question. Another passage will perhaps serve to make this more clear.

A bishop and his officers, independent of the people! I tremble at the thought of such a powerful spy, in a country just forming to a state of soundness and stability. — Rouse then, Americans! You have as much to fear from such a minister of the church, as you had lately from a minister of state, and whether this project is not a device of the latter, by dividing us, to favour his designs, tho' he is now in disgrace, is submitted to your wisdom, to discern and prevent.71

Cross raises the question whether this coupling of political with religious questions was due to an effort to use the hostility to political measures of the government to aid in the defeat of the aspirations of the Episcopalians, or whether the hostility to the introduction of a bishop was being used to fan the flame of political unrest and discontent.72 In the case of William Livingston, at any rate, we may safely say, from what we have already seen of his attitude, that an uncompromising hostility to the introduction of bishops was with him the primary motive, and that the references in the "American Whig" to political measures of the government are simply attempts to capitalize the hostility created by those measures for use against the more nefarious scheme now proposed by the Anglicans. Cross maintains that it is well established now that there was no such conjunction of ecclesiastical and political motives in the colonial policy of the British

70Ang. Epis., p. 197.
72Ang. Epis., pp. 199 f.
government as was suspected by Livingston and his associates, but he also asserts that such a connection was suspected by a large portion of the American public and that the "American Whig" truly represented the viewpoint of this section of the people in indicating the probability of such a connection, and fanning the flame of mistrust which helped to alienate the colonies from the mother country at this already critical time.\(^7^3\) Generally speaking, it seems well established that the episcopal controversy taken as a whole was an important phase of the revolutionary agitation in the colonies and had much to do with creating that enmity toward the mother country which before long eventuated in war.\(^7^4\) Thus Livingston, as a result of the leading rôle which he played in this controversy may be considered one of the fathers of the Revolution, although it is highly probable, in fact, practically certain that he had no intention of taking such a part.

A second contribution of the "American Whig" noted by Cross is that by resorting to the newspapers instead of presenting its arguments in pamphlet form, it succeeded in making the matter a question of more general interest.\(^7^5\) Another advantage of the newspaper method of presenting the case which may be mentioned is that it afforded the opportunity for frequent repetition in a variety of forms of the stock arguments, so that even the dullest mind could not fail eventually to grasp the points thus offered for consideration.

We have indicated that Livingston was mistaken in suspecting a connection of the British government with the plan to establish an American episcopate. That he was right, however, in

\(^7^3\)Ibid., p. 199.

\(^7^4\)Cf. ibid., p. 214; also Howard, Prelims. of Rev., pp. 207, 221.

\(^7^5\)Ang. Epis., p. 197.
suspecting that the very innocuous proposals put forth in Chandler's *Appeal* were not all that the Anglicans wanted is indicated by a letter from Chandler himself to Bishop Terriick, in which he states:

There are some Facts and Reasons, which could not be prudently mentioned in a Work of this Nature, as the least Intimation of them would be of ill Consequence in this irritable Age and Country: but were they known, they would have a far greater Tendency to engage such of our Superiors, if there be any such as are governed by Political motives, to espouse the Cause of the Church of England in America, than any contained in the Pamphlet. But I must content myself with having proposed those only which could be mentioned safely, and leave the event to Divine Providence.\(^76\)

The "American Whig," as we have already indicated, stuck closely to its original purpose of confuting Dr. Chandler's *Appeal* to the Public. The few essays which were not directly on this subject were generally closely connected with it. Even the strictures upon the Sons of Liberty, discussed in the last chapter, were prompted by the activities of this organization against one of the candidates in the election of 1769 because of his opposition to an American episcopate. We have mentioned, too, the single essay devoted to Inglis's *Vindication of the Bishop of Landaff's Sermon*. Essay number eleven, in an effort to acquaint the Dutch speaking population with the merits of the case, was written in Dutch,\(^77\) and another essay, although written in English, undertook again the task of showing that the Dutch Church was presbyterian rather than episcopalian in its organization and that the Anglican attacks on the Presbyteriant Church were therefore also attacks on the Dutch Church. There was again revived in this essay, too, the old charge that the Anglicans had stirred up opposition in the Dutch Church to preaching in English in order that they might attract to their own

\(^{76}\) Oct. 21, 1767, quoted *ibid.*, pp. 165 f.

\(^{77}\) *Parker's N. Y. Gazette*, May 23, 1768.
church those who were forced because of the language difficulty, to leave the Dutch Church.\textsuperscript{78}

In number thirty-three there was printed, with the purpose of showing that there was opposition even in England itself to the plan proposed in the \textit{Appeal}, an article from the \textit{North-Briton}, published in London, upholding the American opposition to an episcopal. This essay had not only the advantage just mentioned, but it also emphasized strongly the political phase of the question, pointing out that Anglicanism was best suited to monarchy and that Episcopalians had therefore always been the supporters of the monarchical feature of the British government whereas Dissenters, on the other hand, had always been defenders of liberty and supporters of the republican features of the government.\textsuperscript{79}

A later essay took the form of a public letter to the Bishop of Lincoln on the subject of his anniversary sermon delivered in February, 1768, before the Society for the Propagation of the Gospel. The Whig, while commending the bishop's candor and moderation, takes exception to two of his statements: first, his allusion to the propagation of the gospel among the heathen by the Society, which the Whig had already shown to be a farce; secondly, the bishop's query as to whether, after having allowed to others the free exercise of their religious rights, the Church of England was to be denied the exercise of its own. To this the Whig replies that the religious liberty enjoyed by other denominations is not due to the toleration of the Church of England but to that of the king and the state; that furthermore the Anglicans enjoy all their religious rights in America, "and if they do not enjoy the English

\textsuperscript{78}\textit{Ibid.}, No. 14, June 13, 1768.

\textsuperscript{79}\textit{Ibid.}, Oct. 24, 1768.
hierarchy, it is merely because it is not their right," there not being any such thing as a national religion. 80

The controversy offered the opportunity for occasional comments on related political affairs. The right of the clergy to sit in the British parliament is shown to be a real deformity in the constitution.

The several parts of that august body, as consisting of three estates, ought legally and absolutely to be independent, in the exercise of authority, each of the other: And yet, in the house of Peers, there are no less than twenty-six unapostolical ecclesiastical Lords ever dependant [sic] on the will of the Prince... and too often ready, not only to countenance, but execute court measures, as history abundantly shews. 81

The refusal of the Episcopalians in the current pre-election campaign in New York City to accept the compromise offered by the Dissenters that each side should have two of the city's four representatives is cited as proof that the Episcopalians are aiming at domination of the Assembly as well as of the other two branches of the government, and all Dissenters are therefore called upon to unite against them. As a further incitement to the Dissenters to unite a list of eighteen encroachments of the Church of England upon the liberties of Dissenters in the province, starting with the Ministry Act of 1693 and ending with the recent refusal of the Episcopalians to compromise, is printed. 82

A motion presented in the Assembly by Colonel Morris in the spring of 1769 that the legislature should be conducted with open doors brought forth from the Whig an enthusiastic endorsement of this democratic innovation. He lists seven advantages which

80 Ibid., No. 56, April 3, 1769.
81 Ibid., No. 17, July 4, 1768.
82 Ibid., No. 45, Jan. 16, 1769. The appeal was unsuccessful, all four candidates of the Episcopalians being returned (cf. Becker, Hist. of Pol. Parties in N. Y., pp. 18 f.; 74 f.).
will ensue from the adoption of such a measure, many of which, indeed, indicate that he is attaching an exaggerated value to the proposal, and concludes with the following whole-hearted endorsement.

The people have a right to be spectators of what so intimately concerns them; and a faithful trustee has no reason to fear that the whole world should be a spectator of the fidelity with which he executes his trust. — However repugnant therefore to the selfish views of artful and designing men, every true patriot will be zealous for the measure, and cry open doors forever. 83

Another motion by the same gentleman for the repeal of the Ministry Act of 1693 brought forth from the Whig a further paean of praise of him who thus moved "for rescuing a people thus enslaved by the vile artifices of former bigots, from their ignominious vassalage. While the pulse of liberty beats in any one individual in this colony. . . . the name of Col. Lewis Morris, will be remembered with gratitude and applause." 84

Before taking leave entirely of the "American Whig," we must take note of a remarkable prophecy which occurred in number five. This essay is attributed by Sedgwick to Livingston, 85 but seems actually to have been by Smith. 86 Its unusual accuracy in part, at least, as a prophecy, and Livingston's connection with it as chief editor of the column in which it appeared must be our excuses for reproducing it here.

The day dawns in which the foundation of this mighty empire is to be laid, by the establishment of a regular American constitution. All that has been hitherto done, seems to be little

84 Ibid. This, as well as several subsequent bills of a similar nature presented during the next two years failed, however, of passage (cf. C. W. Baird, "Civil Status of the Presbyterians in the Province of New York," Mag. Am. Hist., III, 621 ff.).
85 Memoir, p. 145.
beside the collection of materials, for the construction of this glorious fabric. 'Tis time to put them together. The transfer of the European part of the family is so swift, and our growth so vast, that, before seven years roll over our heads, the first stones must be laid. — Peace or war; famine or plenty; poverty or affluence; in a word no circumstance, whether prosperous or adverse, can happen to our parent: nay, no conduct of hers, whether wise or imprudent, no possible temper on her part, whether kind or cross grained, will put a stop to this building. . . . Britain, who began the work, will not, cannot withhold her assistance. . . . What an era is this to America! and how loud the call to vigilance and activity! As we conduct, so will it fare with us and our children.  

Only a few further facts must claim our attention before we take our leave of this period of Livingston's life. We have already noted the hostility which had long existed between Cadwallader Colden and William Livingston, the one a champion of Tory and the other of Whig principles. In 1770 Livingston had an opportunity to throw another brand on the fire of political enmity which was constantly smouldering between them. In this year suit was brought by Lord Dunmore, the then governor, against Lieutenant-Governor Colden for a moiety of the profits of government during the latter's administration between the date of Lord Dunmore's commission and the date of his arrival.  

Livingston thereupon published a brief pamphlet, entitled _A Soliloquy_, in which he pictured in a merry burlesque the old man's predicament and his state of mind on being unexpectedly called upon to give up half of the profits of the governorship during part of his most recent administration of that office. The piece is allegorical, purporting to be the lament of a farmer whose landlord is suing him for half of the harvest according to the terms of the lease. In this lament Colden as the farmer is made to rue bitterly all his past deeds that have rendered him


so unpopular and left him now in his hour of need friendless. The implied misdeeds are also, of course, cloaked in allegorical garb, but most of them are easily recognizable, such as, for instance, Colden's action in the Forsey case, his vacating of some of the patents of large landholders, and his attitude on the Stamp Act.

Livingston's continued interest in cultural movements as well as in the more philosophical phases of the law is indicated by his becoming in this same year one of the founders and the first president of a club composed of the principal lawyers in New York City, called "The Moot." The purpose of the club is revealed by the first clause of its set of rules or constitution: "The subscribers being desirous of forming a club for social conversation, and the mutual improvement of each other, have determined to meet on the evening of the first Friday of every month . . . ." Its non-political nature is indicated by the fifth clause: "No member shall presume upon any pretence to introduce any discourse about the party politics of the province, and to persist in such discourse after being desired by the president to drop it, on pain of expulsion." Other well known lawyers of the city who were among the founders of this club were the other two members of the former triumvirate (William Smith, Jr., and John Morin Scott), Robert R. Livingston, Jr., later chancellor of the state, and William Livingston's future son-in-law, John Jay. 89

Humanitarian movements, too, continued to claim part of Livingston's attention. A draft of a charter presented in 1771 for incorporating "The New Jersey Society for the better Support of the Widows and Education of the Children of deceased Presbyterian Ministers in Communion with the present established Church of

89 Sedgwick, Memoir, p. 151 and n.*.
Scotland" reveals Livingston as one of the proposed corporation. 90

Livingston seems to have been actively interested in the defense of Alexander McDougall during the latter's trial in 1770, a further indication of his vital interest in the freedom of the press. He is said by Jones to have appeared in court with a copy of his Review of Military Operations, insisting that the book contained many libelous passages and ought also to be presented for action by the court if McDougall was to be prosecuted for libel. He is also said by the same author to have acted as one of the leaders of the crowd which escorted the prisoner from the jail to the City Hall, whither he was brought upon motion of his lawyer, Livingston's old friend and former associate in the famous triumvirate, John Morin Scott. 91

As already indicated, however, the triumvirate had practically broken up, largely because of the varying reactions of its members to the new factor injected into New York politics by the sudden rise of the Sons of Liberty. Livingston seems to have taken no further very active part in the party politics of the colony, 92 and in the spring of 1772 carried out a plan which he had apparently long had in mind, namely that of retiring to a country estate in the neighboring colony of New Jersey. On the back of a memorandum

90 N. J. Arch., 1 ser., X, 345.

91 Hist. of N. Y., I, 29 f. The presenting of various pieces which were asserted to be libelous was, according to Jones, part of the strategy of the defense, several other of McDougall's supporters bringing in similar publications.

92 Some political essays directed against the De Lancey faction which appeared in New York newspapers early in 1770 have been ascribed in a vague way to William Livingston (cf. Sedgwick, Memoir, p. 150 and n. f.). One of these, entitled "The Watchman No. 1," is described by E. F. De Lancey as "a bitter personal attack on the De Lancey family and its members by name," and ascribed by him to William Livingston (Jones, Hist. of N. Y., I, Note ix, p. 425). I have examined this essay carefully and do not believe it to have been written by Livingston, although the evidence is not conclusive either way.
giving the value of his property at this time Livingston has left us the only explanation which he himself gave for his withdrawal from active political life in New York at this time: "... as I was always fond of a country life, and thought that at that time I could with justice to my dear children go into the country, where the interest of that sum would more than maintain me, I accordingly went with the intention to lay up the surplus for their use ... ."\textsuperscript{93} That his withdrawal at this particular time, however, from the stage upon which he had so long played a leading rôle was due largely to the existing political situation in the colony of New York rather than to the normal desire for retirement of one who feels that his life work has been completed admits of little doubt when we recall that at this time he was only forty-nine years of age, and that his ability to endure many more years of active public life was proved by his subsequent career. That discouragement at defeat and disappointment at the failure of the masses to support consistently his conception of what was \textit{pro bono publico} played an important part in his decision is further borne out by a letter written by him in 1774, in which there still glow the embers of the bitterness engendered years before in the white heat of the strife. "Ask Captain M'Dougall, how far a man ought to sacrifice his fortune and character in serving a country that will not be served, and in opposing a majority which, notwithstanding such opposition, will be triumphant, or whether there be any future crown for political, as there is for religious martyrdom."\textsuperscript{94}

It seems quite probable, therefore, that, had the Livingston faction remained in the ascendant and had the triumvirate continued to function smoothly instead of breaking up on the rocks of radicalism,

\textsuperscript{93}Sedgwick, \textit{Memoir}, p. 158.
\textsuperscript{94}Letter of Mar. 7, extracts from which are quoted \textit{ibid.}, pp. 159 f.
William Livingston would have remained at least several years longer in the province of New York before retiring to his Jersey farm for the enjoyment of that "philosophic solitude" for which he had so early in his life expressed a preference. Let us leave behind, however, as did Livingston himself, the clash of conflicting opinions and factional political struggles and follow him into the comparative seclusion of the Jersey countryside, where we may turn our attention for a time to his private life, which hitherto the press of public affairs has kept in the background.
CHAPTER VI
LIBERTY HALL

It seems quite probable that Livingston first became interested in Elizabethtown at the time of his employment as counsel for the defense in the famous Elizabethtown Chancery case and decided upon it then as the site of the future country estate to which he might eventually retire.\(^1\) Another factor influencing his choice may have been the fact that William Peartree Smith, a former college chum and one of his close friends (but not to be confused with William Smith of the famous triumvirate), resided there.\(^2\)

The estate to which Livingston at this time removed with his family, consisting of one hundred and twenty acres, lay on the outskirts of Elizabethtown and had been put together by a series of purchases of land, the first as early probably as 1760.\(^3\) He seems to have occupied his leisure during several years prior to his removal in developing this land, planting on it especially various species of fruit trees.

On April 6, 1772, there appeared in the New York Gazette; and the Weekly Mercury the following notice.

THE subscriber purposing to remove into the Province of New-Jersey, by the first of May next, and to decline all business in this province, except that of going the river circuits, desires his Clients to call for their papers upon

\(^1\)Suggested by E. F. Hatfield in History of Elizabeth, New Jersey (New York: Carlton and Lanahan, 1863), p. 370.

\(^2\)Suggested by Sedgwick in his Memoir, p. 157.

\(^3\)This is the date given by Sedgwick, ibid., p. 155. Deeds for subsequent purchases of three additional lots in 1764, 1767, and 1768 lie in the Mass. Hist. Soc. Livingston Papers, Vol. I.
Mr. James Linn, in New York, paying the costs hitherto accrued. To him also those indebted to the subscriber for costs in suits already finished, are requested to pay the same with all convenient speed; and all persons writing to him from the more northern parts of the province, may direct to him at Elizabeth-Town, in New Jersey, to the care of James Linn, Esq; Attorney at Law in New York.

WILLIAM LIVINGSTON.

At this time the total value of Livingston's property was, according to the memorandum left by him, £8512, exclusive of the lands left him by his father. Computing this according to the value of New York currency at that time, Sedgwick concluded that this fortune was equal to a little more than $21,000. We have already seen that Livingston considered this sum to be sufficient to enable him to support his family on the interest, leaving the principal to be divided among them upon his death. It is very likely that he was correct in this supposition, yet "man proposes, but God disposes," and the depreciation of the currency during the American Revolution which broke out within a few years after Livingston's removal to New Jersey played havoc with his comfortable fortune and left him unable to provide as adequately as he had hoped for his children.

Although the family removed to Elizabethtown in the spring of 1772, the house which was to be their future home was not yet complete, or perhaps not begun, for it was the following year before they finally occupied it. In the meantime they rented a smaller house probably in the village. The new home erected on the estate,

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4 This was doubtless the James Linn who had married Livingston's daughter Mary the previous year; cf. infra, p. 176.

5 N. J. Arch., 1 ser., XXVIII, 102.

6 Memoir, p. 158.

the first one ever owned by Livingston, was appropriately named by him Liberty Hall, thus symbolizing his attachment to a principle to which he had already devoted his greatest energies during the best years of his life and to which he was destined also to dedicate the greater part of his declining years.

Liberty Hall was situated about a mile northwest of the village on elevated ground a few rods back from the road leading to Springfield and Morristown. The central portion of the house, two stories high and surmounted by a gable roof, was almost square. From this central portion projected two wings, one from each side, that on the eastern side being only one story high, while the west wing was two stories in height like the main body of the house. These two wings were only about half the depth of the central portion, and were attached to the rear half of each side of that portion, thus being set back a considerable distance from the front wall of the main body of the house. A clearer idea of the general structure of the house may be conveyed to the reader by comparing it to a modern aeroplane viewed from the rear, with the two wings of equal length extending out on each side and the fuselage (corresponding to the main portion of the house) protruding toward the front. Small windows almost flush with the ground admitted light to the basement or cellar. In the center of the main portion a flight of some half dozen steps, flanked on each side by a balustrade, rose from the ground to a small porch, from which through a spacious doorway one entered the house.

Until 1768 the family had occupied the house in Water Street in New York City, rented from Nathaniel Marston, to which Livingston had taken his young wife within a year after their marriage. The increasing value of real estate in New York City as well as the prosperous aspect of Livingston's own affairs is indicated by the fact that in 1762 the rent for this house had been raised from £65 to £90 a year. In 1768 the family had removed to a house on the corner of William and Garden Streets, rented from David Clarkson at £100 (Sedgwick, Memoir, p. 60, note*; the receipted rent bills are in the Mass. Hist. Soc., Livingston Papers, Vol. VIII).
The ceilings on this first floor were high. In the rear, extending the full width of the main body of the house, was the reception or main living room, in which it is said John Jay and Livingston's daughter Sally stood to take their marriage vows within a year or so after the completion of the house. From either side of this room one entered the wings, each consisting of one large room with a fireplace at the farther end between two bow windows. One of these rooms was the dining room and the other was very probably the study of the master of the house. The second floor, the ceiling of which was lower, was taken up with bedrooms. Descriptions of the house at a later period mention especially the refreshing shade afforded by the numerous trees planted on the lawn about the house by Livingston. But these trees, however much pleasure they may subsequently have afforded, could have furnished little shade at the time when the Livingston family first made Liberty Hall their home, inasmuch as they must have been planted after, or at best, but a comparatively short time before the erection of the house.  

At this point we may be permitted to digress a bit to glance briefly at the subsequent history of this interesting residence. By the time of Livingston's death it had become well known, owing to his continued residence in it during his many years as governor of the state during and after the American Revolution. In the disposition of his estate after the governor's death, Liberty Hall passed into the hands of strangers. After being for some time in the hands of Lord Bolingbroke, who had fled from England with a young daughter of Baron Hombasch, leaving behind him, it is said, a broken-hearted wife, it was purchased by a

The earliest picture of Liberty Hall which I have been able to discover is a sketch published in the issue for October 4, 1856 (p. 216), of Ballou's Pictorial Drawing-Room Companion, which represented the house as it appeared at that time. A sketch of the house as it appeared somewhat later, after an additional story had been added, appears in Martha J. Lamb's History of the City of New York: Its Origin, Rise and Progress (New York and Chicago: A. S. Barnes and Co., 1877-1896), II, 61. Various other pictures of the house are extant, almost all of them, however, picturing it with the additional story.
daughter of the governor's brother, Peter Van Brugh Livingston, the widow of the Honorable John McKean. This lady subsequently married a Polish nobleman, Count Niemcewicz, and Liberty Hall was rechristened Ursino in honor of the Count, whose middle name was Ursin. It has remained in the possession of her descendants, the Kean family, since that time.¹⁰ A writer in the issue for April, 1924, of the Proceedings of the New Jersey Historical Society described as follows the appearance of the old mansion at that time.

As mute evidence of the lively days of Governor Livingston's occupancy of what is now the Kean homestead at "Ursino," there may still be seen in the balustrade of the main staircase of the original house deep nicks made by the swords of the Hessian soldiers. . . . .

There is much of the present "Ursino" that was of the original "Liberty Hall." Although many additions have been made under the Kean ownership, much that was part of the first house is still to be seen. Besides the old staircase there is the reception room . . . .; the present dining room, which was the Governor's library; the quaint old back hall leading to the kitchens, with its odd folding doors . . . .

. . . . Incidentally, the facade which is seen to-day is the back of the original house, the main entrance having been on the opposite side. The original front door and entrance steps are still in place.¹¹

The house is still standing and in an excellent state of preservation. Only five or ten minutes ride by automobile from the center of Elizabeth, it stands in the midst of spacious grounds some distance back from Morris Avenue, shaded by tall trees, some of which were doubtless planted by Livingston himself and members of his family. Because of the numerous changes and additions made by subsequent owners, it bears little resemblance from the outside to the country seat originally erected by Livingston, but the structure of the original house can easily be traced by an examination of the walls in the cellar, where the original walls are quite readily distinguishable from subsequent additions.¹¹¹a

Let us now return to enjoy with Livingston in the bosom of a large family his retirement, his books, and his hobbies. We must note first, however, that he did not retire entirely from the practice of law, for there are among his papers bills of costs

L. H. Patterson, "Governor William Livingston As Apprentice, Writer and Executive," *Proc. N. J. Hist. Soc.*, N. S. IX, 105. A photograph of Liberty Hall, or Ursino, as it appeared at the time this article was written faces p. 97.

The present owners, Captain and Mrs. John Kean were kind enough to permit the writer to examine the house and to conduct him through each of the rooms of the original house. Of their interest in the present study and their hospitality on that occasion he wishes in this place to express his appreciation.
for legal cases conducted by him during the years 1774 and 1775.  It is likely, however, that the few cases in which he engaged at this time were undertaken at the request of friends or as an avocation, to keep his hand in, so to speak, for we must recall again that he was only in his early fifties. That his legal knowledge was highly regarded in the province in which he had chosen to make his new home is indicated by the fact that there were submitted to him within a year after he had established his permanent home there three important questions of procedure on which his advice was sought in connection with the proposed prosecution of one Stephen Skinner, a treasurer of the province who some time previously had been robbed of a considerable sum of money, due, it was claimed, to his own negligence. We need not concern ourselves further with the details of this case, but it is interesting to note in passing that once again we find Livingston favoring the popular cause against royal authority as represented by the governor. The demand for the prosecution of Skinner had been put forth by the Assembly of the colony, but Governor William Franklin had shown himself opposed to such a course and had attempted to cast doubt upon the legality of such action. Livingston, however, in his reply to the above mentioned questions, indicated that in his opinion action against Skinner for recovery of the money could legally be taken. It may also be mentioned in connection with this incident that Livingston, amused at the charges and counter-charges of the Assembly and governor, could not resist the temptation to follow his usual bent, and, grasping his pen, to reduce the whole procedure to the ridiculous through the medium

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13His reply, dated June 1, 1773, lies ibid.
of a burlesque pasquinade. He apparently retained it, however, for his own amusement and that perhaps of his intimate friends, for it seems never to have been printed during his lifetime.\textsuperscript{14}

It will be convenient at this point to picture so far as is possible the relations of William Livingston with his immediate family and personal friends, not only up to the period which we have reached but also subsequently to the time of his death eighteen years later. Several years prior to his removal to New Jersey his last child had been born. As to the size of his family, he is said to have remarked at a later time: "Of children I have had to the number of these United States."\textsuperscript{15} Of these thirteen, seven were sons and the rest daughters. The first two sons, born respectively in 1746 and 1750, the fourth son, born in 1755, and the last child, a daughter, born in 1764, had died in infancy. Another son had met a tragic death at an early age, just a few years before the family's removal to Elizabeth. This boy, Philip French, the seventh son and eleventh child, had been born in 1760. At the age of eight he was attending what must have been a boarding school in Hackensack, New Jersey. On June 2 of this year (1768) there appeared in the \textit{New York Journal or General Advertiser} the following news note.

\begin{itemize}
\item \textsuperscript{14} A considerable portion of it is printed by Sedgwick in his \textit{Memoir}, pp. 163 f.
\item \textsuperscript{15} \textit{Ibid.}, p. 446. A list of William Livingston's children with dates of their births, marriages, and deaths is in E. B. Livingston, \textit{Livingstons of Livingston Manor}, App. I, pp. 553 f. There are also in the \textit{Mass. Hist. Soc. a family Bible of the Sedgwick family and in the Livingston Papers, Vol. I, the title page of the Livingston family Bible, inscribed on the back chiefly in the hand of William Livingston himself, both of which give similar information. The dates in the latter two sources, except for a few minor discrepancies, coincide for the most part with those printed by E. B. Livingston in his book. One exception, however, should be noted. E. B. Livingston's chart shows the second son, who died in infancy, as also the second child, born 1747, whereas both the family Bibles agree in placing the birth of this son in 1750, after the birth of the first daughter, thus making him the third child. There can be little doubt that in this case the family Bibles are the more reliable sources.}
\end{itemize}
We hear from Hackinack [sic] that the following melancholy Accident happen'd there on Sunday last, just after Sunset, viz. A fine little Boy, who went to School there, about 8 Years of Age, (Son of Wm. Livingston, Esq. of this City) proposed to one of his Companions to take a Sail, (as he called it) that is to go in a Canoe on the little River at that Place. They went off together, but the other Boy changing his mind and coming back, little Livingston went alone. He had been gone about half an Hour when he was missed and enquired for. On going to the Landing, his Hat was found on the Shore, and at a little Distance his Body quite Dead lying in the Water, which was but about 2 Feet deep. The Canoe was not put off, but it is imagined by some Accident he fell into the Water, and thro' Surprise was disabled from helping himself.  

The remaining children, with the exception of one son of whom we shall speak later, survived their father. Of the boys Henry Brockholst, the fifth son, born November 26, 1757, is the best known. He later dropped the use of his first Christian name and is generally known as Brockholst. He followed his father's profession of the law and after the latter's death became a judge on the bench of the Supreme Court of New York State and ultimately as associate justice of the Supreme Court of the United States, a position which he retained until his death. Of the daughters Sarah Van Brugh, known in the family circle as Sally, became the best known because of her marriage to John Jay, subsequently chief justice of the Supreme Court. She was the fairest of the daughters and many tales are told of her remarkable beauty. It is said, for instance, that when in Paris she and her husband on a certain occasion attended the theatre, the audience rose en masse at her entrance, having mistaken her for their queen, who was then at the height of her beauty.  

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16 _N. J. Arch.,_ 1 ser., XXVI, 176 f.  
17 The fourth daughter, born Aug. 2, 1756.  
18 Livingston, _Livingstons of Livingston Manor_, pp. 474 f., citing Mrs. Wharton's _Social Life in the Early Republic_, p. 35. A portrait of Sarah bearing the legend "From the original in the possession of Banyer Clarkson, Esq., of New York," is reproduced in Livingston's work, facing p. 460.
bar in New York City, Livingston had, of course, known Jay, as a young attorney of great promise and seems to have taken a real liking to him. After the removal of the Livingston family to New Jersey, Jay, in spite of the difficulties of the journey at that time, made numerous visits to their home and in a short time there developed a romance between the diffident young lawyer and the gay Sally, which was consummated in the spring of 1774 by their marriage at the Livingston family seat, Liberty Hall. Both the Livingston and Jay families appear to have been pleased with the match, and the marriage remained a happy one throughout. Of the life-long affection of Jay for his wife, Monaghan, his most recent biographer, says:

His love for her was deep and full . . . . When, shortly after Jay's retirement from public cares in 1801, Sally died, his private world, so carefully built, collapsed about him. The vision of a reunion with his beloved Sally in that future life beyond the grace, to which he confidently looked forward, was the chief consolation of his last years.

Susanna, the eldest daughter, and a girl also of much spirit, remained the spinster of the family during the lifetime of her father. She subsequently married in 1794 John Cleves Symmes of New Jersey, well known to history for his interest in land projects connected with the settlement of the Ohio Valley.

Catharine, the second daughter, more familiarly known as Kitty, also remained long a spinster, but in 1787, three years

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19 It will be recalled that they were both members of the lawyers’ club known as "The Moot" (cf. supra, p. 143).


22 Born Dec. 30, 1748.

23 Born Sept. 16, 1751.
before her father's death, married Matthew Ridley of Baltimore. The marriage was of short duration, for Ridley died two years later. In 1796 his widow married John Livingston of Oak Hill, a son of Robert, the last lord of Livingston Manor, and therefore her cousin. That Catharine had been throughout her life a model daughter is evident from a tribute paid her by her father in a letter which he wrote to her not long before the close of his life: "... you are one of those of my children who have never given me a moments [sic] uneasiness respecting your conduct from your Childhood upwards, nor been disobedient to me in a single instance ... ."

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Livingston was not, however, so fortunate in all of his daughters, nor were all of their marriages as successful as Sally's, for we find him in a letter to his wife concerning the request of a Mr. Watkins for the hand of his youngest surviving daughter, Judith, making the following remarks: "I have no objection to the match as he bears a fair character ... & I hope she will be no disgrace to the Family after the Change of her Condition as another of them has --- notoriously been, to my unspeakable Sorrow."26 The daughter concerning whom these reflections were made must have been Mary, the third daughter,27 who in 1771 had married James Linn,

24 They had, however, a daughter Susan, born in Baltimore May 24, 1788, who became subsequently the wife of Theodore Sedgwick, Jr. The eldest son of this union, also named Theodore, who was born at Albany, Jan. 27, 1811, was the author of the biography of his great-grandfather frequently referred to in this work, the first and only previous biography of William Livingston. The dates given here are those in the Sedgwick family Bible in the Mass. Hist. Soc.


26 Letter of Mar. 9, 1780, ibid., Vol. II. Cf. also a remark in a letter to John Jay, Mar. 21, 1785 (Frank Monaghan [ed.], "Unpublished Correspondence of William Livingston and John Jay" Proc. N. J. Hist. Soc., LII, 151 f.): "I am unfortunate in several of my children ... ."

27 Born Feb. 15, 1753.
for except for Sally she was the only daughter who had married previous to the time the letter referred to above was written. In just what respect she had brought disgrace upon the family does not appear, but that her marriage had foundered upon the reefs of discord in some manner and had ended in separation is evident from the explanation given by her father in a preliminary draft of his will of his action in cutting off her children from any share in his estate: "... as her husband hath not for some years thought proper to maintain her but devolved that office upon me I do not think proper to devise any part of my estate to maintain his Children ... ." 28 In the final draft of his will, his son Brockholst was named trustee of Mary's share of the estate in order to prevent her husband from appropriating any part of it. 29

There is evidence, too, that the marriage of Judith, 30 who accepted and married the Mr. Watkins whose request for permission to propose we have already noticed, was not as satisfactory to her father as it might have been. The chief difficulty in this case seems to have been financial. It had been customary for Livingston to give each of his children upon their marriage a sum of five hundred pounds as an "outset." Owing, however, to the shrinkage of his estate as a result of the currency depreciation during the Revolution, he had found it impossible to continue this practice in the case of Judith, who was married at the time when the financial situation of the country was at its lowest ebb, but he had promised

28This draft, drawn before the death of Mrs. Livingston, lies in the Mass. Hist. Soc., Livingston Papers, Vol. IV.

29Ibid. This draft is dated June 13, 1790.

30Born Dec. 31, 1758.
to make it up in some other way "so as to do equal justice to all." 31

In a letter written August 19, 1782, we find Judith reminding her
father that he had promised her husband a sum of money to set the
latter up in business. The implication of parsimony on the part
of her father contained in this reminder must have irked Livingston,
who, in spite of his Scotch ancestry, seems to have been not only
uniformly generous with his children but actually careless of his
property in his dealings with others. 32 The financial situation
of Mr. Watkins grew progressively worse, for in 1785 Livingston
wrote to John Jay as follows.

Respecting Mr. Watkins's situation, I should be glad to
confer with you on that subject as soon as possible. Whatever
I can do for him, consistent with the state of my finances, &
my duty to my other children, I will freely do. But if the
matter should prove so desperate, it or all the assistance
I can give him will only amount to a temporary, instead of a
permanent, relief; it may alter the matter. 33

As to whether the matter proved too "desperate" or not there is
no evidence, but judging from what transpired after Livingston's
death, he probably never provided the money to Mr. Watkins, which
that gentleman desired. Relations between Judith and her father
seem still to have been strained at the end of his life, for in
the draft of his will already referred to, in providing that in
the event of the remarriage of his wife, whom he had named his
executor, all the children should become executors in her stead,
Mary and Judith are excepted. In the final draft of the will, too,

31 A copy of Livingston's letter to Watkins on this subject

32 Writing in 1802 to Livingston's son and namesake concerning
an unpaid debt owed to the estate of her father, his daughter Susan,
then Mrs. Symmes, said: "Papa was too lenient, he suffered every
one to do as they pleased with his property" (letter of Sept. 3, ibid.,
Vol. VI).

33 Letter of Mar. 21, in Monaghan, "Unpub. Corr. of Wm. Livingston
Judith's share of the estate, like Mary's, is placed in trusteeship, the trustee named in this case being John Jay, Livingston's favorite son-in-law. Further evidence that the relations between the Watkinsses and Livingston were not entirely harmonious is the fact that after Livingston's death Watkins sued the estate for the five hundred pound "outset" which his wife had never received, taking care to add interest from the date of his marriage to Judith, and in this suit Watkins produced as Exhibit A Livingston's letter previously referred to in which he had apologized for not being able at the time to provide his daughter with the usual dowry, but had promised to make it up in some other way, which Watkins claimed constituted a contract.

Of Livingston's two sons who lived to attain their majority. William, the elder, seems also to have turned out to be something of a black sheep. Like his father he took up the study of law and appears to have been licensed to practice in New Jersey in 1780. Exactly in what manner he subsequently strayed from the path of virtue does not appear but that his aberration was a serious one and of some duration is indicated by a passage in the final draft


35 He seems to have won the case, for there is among the family papers an order from Chancellor Livingston of New York (Judith's second cousin, it is interesting to note) requiring payment of the final installment of the amount involved, on the back of which is a receipt for the sum dated Feb. 15, 1793 (ibid., Vol. V).

36 Born Mar. 21, 1754.

37 There lies in the Mass. Hist. Soc., Livingston Papers, Vol. II, the following recommendation signed by Justices David Brearley and Isaac Smith of the Supreme Court of the State of New Jersey, dated May 11, 1780, and addressed to Governor Livingston, the father of the applicant: "It having been certified to us that, William Livingston has served an Apprenticeship to the Law for the term of five years, and we being of opinion that he is qualified to practice as an Attorney at Law, Do recommend him to your Excellency for a License for that purpose."
of his father's will in explanation of the cutting off of his son William from all share in the estate. "I do hereby declare that I have purposely & with serious deliberation omitted him ... upon account of his conduct & behaviour which for a number of years past has been such that no part of my Estate would be of any use to a Person of his turn of mind ..."

Even Brockholst, who as we have already indicated, later attained considerable eminence in public life, brought a measure of disgrace on his family and irritated exceedingly his father when, upon taking up the study and practice of law in New York City at the close of the Revolution, he chose as his wife the daughter of his landlady. To John Jay, his beloved son-in-law, the outraged father wrote concerning this "signal disgrace" that "this absurdity, allowing for the bizarrerie of human amours, might in time be overlooked, tho' as to himself, I doubt not but the expiration of the honey-moon, & the consequent dismasking of his Dulcineas, will bring him to a repentance never to be repented of." As Monaghan, who relates the story, aptly puts it: "The Governor was a fiery republican, but his democracy did not easily embrace landladies."

Though disappointed in some of his children, Livingston was most fortunate in having a faithful and most capable wife. Little

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38 Ibid., Vol. IV. This provision of the will was changed by a codicil dated July 6, 1790, according to which William was to receive £ 500 and to share equally with the others in the real and personal estate. His share, however, was to be held in trust by the executors and only the interest paid to him until such time as they should think fit to pay him the principal (ibid.). William must subsequently have mended his ways at least to some degree, for it was he who in 1801 undertook to collect and publish all the writings of his father, together with a biographical memoir, in three octavo volumes, and at this time his brother Brockholst wrote to him in a letter dated May 22: "You will permit me to add that in my opinion no one is better calculated to do Justice to this undertaking than yourself." Unfortunately nothing ever came of the project. The papers relating to it lie ibid., Vol. V.

is known of her, but throughout her life she retained the most tender affection of her husband. Her Christian name, it will be recalled, was Sarah, but her husband was accustomed to address her affectionately as "Sukey." From Trenton during the Revolutionary War, which because of Livingston's duties as governor of the state and his fear of capture by the enemy had caused him to be separated from his family the greater part of the time, he wrote to his wife: "... nothing in the world gives me greater pleasure than receiving Letters from you, except the Prospect of shortly living with you without fear of the Tories or the Enemy, when I shall make it my constant Endeavour to stud learning & promote your happiness, & to make the Remainder of your Life as agreeable to you as the tenderest of husbands can make that of a valuable & excellent Wife." On another occasion at a later period, when he was again detained away from home by affairs of state, he wrote his wife that he would be glad to meet her at [New] Brunswick any Saturday if the time of year were suitable but that under the circumstances he feared the trip would not be worth the trouble for her. As for himself, he concluded, "... I would not mind the trouble for the pleasure of seeing you." His solicitude for her comfort and welfare is illustrated by his reply to a proposal from her at the close of the Revolution that in the interest of economy, they dispose of their home at Elizabethtown and rent a smaller place. After indicating that he

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40 Sedgwick speaks of "her sound sense, her devotion to her husband, and sympathy in all his pursuits, and her maternal tenderness, singularly free from every tincture of selfishness" (Memoir, pp. 433 f.).


42 Ibid., Vol. III. This letter is endorsed 1794, but the date and place are missing due to a mutilation of the manuscript. New Brunswick is about half way between Trenton, where the legislature met, and Elizabeth, where Liberty Hall was located.
did not think it really necessary to dispose of Liberty Hall but was willing to do so if the conserving of his fortune thereby would be most advantageous to his children, Livingston concluded: "But as to hiring a place, I should not like, because in that case, if I should die before you, you would be at the mercy of a landlord, without a house of your own to put your head in." 43 The most beautiful tribute, however, which Livingston paid his wife and perhaps one of the most beautiful tributes ever paid by an appreciative and affectionate husband to a constant and faithful helpmeet who had shared the trials and tribulations as well as the fleeting joys and the more enduring contentment of over forty years, is contained in the postscript of a letter which he wrote to her just three years before her death. She had gone to Lebanon in New York State for her health, and in a letter written from there had reproached her husband with lack of affection because he had not written more frequently. In reply, after asserting that he had written more letters than she in spite of having been indisposed himself and expressing his distress at her imputation of lack of affection on his part, he added the following tender sentiment: "If I was to live to the age of Methusalem, I believe I should not forget a certain flower that I once saw in a certain garden; and however that flower may have since faded, towards the evening of that day, I shall always remember how it bloomed in the morning; nor shall I ever love it the less for that decay which the most beautiful and fragrant flowers are subject to in the course of nature." 44

44 Letter from Trenton, dated March 4, 1786, quoted ibid., pp. 390 f.
With his children Livingston was a strict disciplinarian. An amusing incident related by Sedgwick which occurred while the family were still residing in New York well illustrates this characteristic.

News reached New-York, that a troop of comedians were coming to the city, and the principal gentlemen of the place, among whom was the subject of this memoir, taking the matter into consideration, came to the conclusion that theatrical entertainments belonged to a class of luxuries injurious to the colony, and which ought not to be patronized. They accordingly entered into a mutual agreement for themselves and their families, that in no case would they attend the performances. When, however, the actors arrived, and proved to be accomplished in their vocation, the remonstrances of the officers and attachés of the government became so loud, and the entreaties of the young beauties so urgent, that their united forces gradually vanquished the opposition of the worthy burgesses,—till, one by one withdrawing from the compact, Mr. Livingston found himself alone in his opposition to the drama. Neither fashion nor the entreaties of his daughters could, however, make him depart from his resolution, and so long as the company remained, so long were his family tantalized by the description of pleasures which they were not allowed to enjoy.\footnote{Ibid., pp. 102 f. It may be pointed out here that this incident illustrates also another trait characteristic of Livingston, namely, his dogged tenacity in adhering to a principle, once he had accepted it.}

Another amusing anecdote concerning the boycott by good patriots in the colonies of tea imported from England during the controversy over that subject with the mother country adds color to this picture of Livingston as the strict disciplinarian, although it reveals also the ingenuity of his children (a talent developed by most children of parents who lay down somewhat too arbitrary rules) in circumventing parental fiat which they considered too harsh. As head of the house Livingston had laid down the rule that there should be no tea used henceforth at Liberty Hall. His daughters, however, being very fond of the beverage and yet not daring to act contrary to their father's wishes overtly, resorted to making real tea but coloring it with strawberry juices and representing it to their father as "strawberry tea." It is said, however, that they
entertained the gravest fear of their father's discovering the subterfuge. 46

That his children could expect no special favors from their father which did not accord with his sense of duty and strict justice is indicated by some incidents which occurred during the Revolutionary War period. One of his daughters, anxious to have some friends of hers from New York, which was then in the hands of the British, visit her in New Jersey, but knowing that her father, then governor of New Jersey, had made it a rule to grant no passes to visitors from within the enemy's lines, instead of even broaching the subject to her father, applied instead to Alexander Hamilton, at that time an aide-de-camp to General Washington, to make the request in her behalf of the commander-in-chief. 47 A further illustration of Livingston's total lack of favoritism is a letter written at about the same time to his son William in which the governor said that he would have appointed the latter to a civil post in Morris County of which he had the disposal except for the fact that he did not want to lay himself open to censure on the ground of nepotism. 48

The picture of the stern head of the house whose unyielding attachment to his sense of duty, however unpleasant the performance of that duty might be to him or his, was fully appreciated by his family, may perhaps be completed by reference to a request made during the Revolution by Mrs. Livingston on behalf of a friend for the granting of a favor by the governor in his official capacity.

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46 Ibid., p. 177. While such anecdotes as these, transmitted as they were for the most part by word of mouth, are likely to be inaccurate in detail, yet they are probably substantially correct in the general impression they convey. It must be kept in mind that Sedgwick had the opportunity to talk with members of the family and others who had known his great-grandfather in the flesh.

47 Ibid., p. 324. It may be said in passing that the ruse failed. Hamilton's long reply, both gallant and entertaining, is printed by Sedgwick in full.

Mrs. Livingston seems to have suspected that the granting of the request would be contrary to her husband's sense of duty, for she apparently spoke in her letter of approaching him "with fear and trembling." To this letter the governor replied in part: "You have no reason, my dear friend, to approach me with fear and trembling, in asking any favour for any person, and if it is either out of my power or improper to grant it, I can only do what in such case I ought to do, refuse it." In closing, he indicated that in the particular case in point, had a change in the situation not made unnecessary the granting of the request, he should have been compelled to refuse it.\footnote{49}{Letter from Trenton, Feb. 1, 1782, quoted in Sedgwick, \textit{Memoir}, pp. 366 f.} To the writer it seems that there could scarcely be a more candid commentary upon the complete integrity and thorough honesty of Livingston's character than the incidents related above illustrating his rigid adherence to his sense of duty and even-handed administration of justice as he saw it even within the intimate circle of the family.

Strict disciplinarian though he doubtless was, Livingston had always at heart the best interests of his children and held up before them always the highest ideals. He was, moreover, a solicitous parent with a real affection for his children. To his daughter Catharine he wrote concerning her sister Sally and the latter's husband John Jay, who were then on the Atlantic Ocean on their hazardous trip to Europe: "I have already suffered more anxiety on their account than I should have imagined I could be affected by on any account. The tenderness of a parent's heart can never be known till it is tried."\footnote{50}{Letter of Nov. 16, 1779, quoted \textit{ibid.}, p. 340.} It was his firm conviction, however, that children, especially sons, should not be allowed to grow up
in idleness but should be trained from early youth for some profession or trade in order that they might at the same time play a useful role in the world, and avoid the demoralizing effect of idleness upon their character during its most plastic period of development. To prevent this latter untoward eventuality was, in his opinion, one of the first duties of a loving father. Such a philosophy he expressed in general terms in an essay written toward the close of his life. "Is any father so unnatural as to wish to have his son hanged? Let him bring him up in idleness, and without putting him to any trade." Thus we find him frequently counseling his own sons to apply themselves assiduously to their studies. "Dear William, if you intend to give me pleasure, or to render yourself useful either to yourself or to the Public—mind your studies, & prize your own Character." And again to the same son: "The most profitable Business you can follow at present, is to study hard . . . ; you may safely reckon every day's hard study worth five Pounds, that is in your future reputation, and consequently practice . . . ." To Brockholst he wrote during the same period, "I hope you will embrace every leisure moment to improve yourself in French," and advised him not to mind the lack of a tutor, but to get himself a good grammar and do the best he could. It is worth remembering, too, that this interest in and attention to the proper training of his children was displayed


53 Letter from Raritan, July 31, 1779, ibid.

54 Letter from Morristown, Mar. 20, 1779, Mass. Hist. Soc., Livingston Papers, Vol. II. This is a copy by Theodore Sedgwick, Jr., of which there are several among these papers. Such copies will hereafter be noted as "Sedgwick Copy."
during the midst of the American Revolution when his mind and time were taken up by a thousand and one affairs of state. Such advice Livingston would doubtless have given under any circumstances, but it was especially appropriate at this time, for only the next year he wrote to another son: "From the diminution of my estate by the depreciation of the currency, you and your brothers must expect to make your fortunes by your own industry and frugality."  

How much stress he placed upon allowing nothing to interfere with the proper equipment of his sons for their entrance into the world of affairs may be seen from a letter which he wrote to Brockholst in 1778. This son was at a critical point in his development. He was at the moment in the army but was on the verge of attaining his majority, and although he had graduated from Princeton College, he had not yet fitted himself for any particular profession. Ardent patriot though he was, sacrificing his own time and fortune and risking his own life in the struggle for American independence, Livingston nevertheless advised his son to quit the army, which in his opinion could never provide a suitable livelihood, and take up the study of law immediately.

Perhaps as sound advice as was ever given by a father to a son about to rub elbows for the first time with the world was given by Livingston in a set of directions which he drew up for the guidance of his son John Lawrence, who in 1780 was about to embark as a midshipman on one of the few remaining vessels of the American navy.

When you are obliged to associate with the common mariners, I would have you act towards them with becoming familiarity and freedom, without assuming any airs of superiority on account of your connexions; but . . . . I would by no means have you enter

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55 "Directions to Son John Lawrence," April 19, 1780, quoted in Sedgwick, Memoir, pp. 346 f.

56 Letter from Parsippany, [Jan.?] 4, 1778, ibid.
into their vulgarisms and low-lived practices, for which they themselves will rather despise you; and above all, that you must carefully avoid contracting that abominable custom, so common among seaman, of profaning the name of God by oaths and imprecations.

... I must press upon you to be saving of your money, and not to spend it unnecessarily. If you do not observe this direction, you will find by woful experience that you have rejected the most salutary advice. ... But when I advise you to be saving of your money, I do not intend that you should ever appear mean and niggardly, nor grudge little expense upon proper occasions, when you must either part with your money or appear contemptible; as when you are necessarily engaged in company, and they go rather farther in the expenses of the club than you could wish: in such cases and in others that will occur, one must sometimes conform against his inclinations, to save his character, and afterwards make it up by retrenching some other expenses and a greater economy.

And now ... let me entreat you not to forget your Creator in the days of your youth, but wherever you go, to remember your duty to the great God, who alone can prosper you in this life, and make you happy in that which is to come.57

Livingston did not, moreover, neglect to hold up the same high ideals before his daughters. In 1779, as she was about to depart with her husband for Europe, Mrs. Jay received the following advice from her father: "And pray my dear Child, suffer not the Gaities [sic] and Amusements of the world, and the particular Avocations of what is called high life, to banish from your mind an habitual sense of an all-present Deity, or to interrupt you in paying him the homage you owe Him."58

Though continually exhorting his children to walk in the paths of virtue and to lead clean and upright lives, as befitted his responsibility as a father, Livingston was by no means a prude himself. His correspondence reveals that he was not on occasion above engaging in somewhat ribald raillery concerning the most intimate phase of the connubial relation. In the postscript of a letter to Nathaniel Scudder, one of the New Jersey delegates to the

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57Quoted in Sedgwick, Memoir, pp. 346 f.
Continental Congress, he wrote: "Please to give my respects to your Mr. President [Livingston's son-in-law, John Jay] & to tell him that his present office appears rather obstructive of the performance of the promise he has made me of using his best endeavours to [give?] me another Grandson as soon as possible." 59 Ten years later he wrote in much the same vein to Jay himself: "I am told that the long & deliberate exertions of you & Sally are like to increase the number of my grand Children . . . ." 60

Conscientious father and fond husband though he was, Livingston must at times have been a trial around the house, for the natural impatience and acerbity of temper which we have already noted in his youth had not abated materially with advancing years. Though he seems to have kept his hasty temper under admirable restraint in public, it is quite probable that like so many persons of similar temperament, he felt no obligation to exercise the same restraint within the intimate confines of the family circle. As a result, the family must occasionally have felt the hot blasts of his fiery tongue and withering sarcasm, succeeded perhaps, by a period of morose silence, especially when, as in later years, affairs of state weighed heavily on his mind. Of this characteristic of Livingston's, Sedgwick, who on the whole dipped his pen deeply in the ink of hero worship in drawing his word portrait of his great-grandfather, but who had the advantage of conversation with those who had known William Livingston personally, says: "An extreme sensitiveness to noise; an occasional unwillingness to converse when not excited by society; and a sensibility more quickly


manifested with regard to trifling vexations than serious evils, sometimes threw a gloom over the fireside of Liberty Hall . . . ."61

Again like so many others of similar volatile temperament, Livingston seems to have taken great delight in young children and to have enjoyed taking part in their games. This trait was especially noticeable, as might be expected, in his relations with his grandchildren. He was, indeed, a doting grandffather. An idyllic picture of this side of Livingston is presented in a letter to his son-in-law, Matthew Ridley, written when grandpapa Livingston was sixty-five. "Suppose in reality that you and _____, and _____, and Mr. and Mrs. Jay, and _____, should come to Liberty Hall next cherrytime; why, then, what with my romping with some upon the piazzy, and shooting robbins [sic] with others out of the mazzard-trees, and talking and walking with the elder boys and girls, and their fathers and mothers round the table, I pertest (as some ladies say), that I would not exchange such a scene of happiness for any gratification of the Grand Seigneur."62

One of Livingston's methods of amusing his grandchildren was to draw pictures for them. In a letter to his son William we find him writing: "If Peter comes with his grand mamma I will draw him a pretty fish."63 When we recall that Livingston had at one time seriously considered taking up the study of art as a life work,64 we may assume that the pictures which he drew on such occasions were considerably above in artistic merit what might be attempted by the average grandfather.

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61 Memoir, p. 445.
62 Letter of Mar. 10, 1788, from which the above is quoted ibid., p. 446.
64 Supra, p. 38, n. 34.
The Peter mentioned in the above letter was Peter Augustus Jay, the first son of John Jay and the former Sally Livingston, and one of Livingston's prime favorites among his grandchildren, who is frequently mentioned with affection in his correspondence. His especial fondness for this grandchild may perhaps be accounted for by the fact that when John Jay was sent in 1779 by the Continental Congress on a diplomatic mission to Spain, Sally, his wife, accompanied him but young Peter was left behind in the care of the Livingstons. Thus, during the five years that the Jays were abroad, Livingston must, in spite of his long absences from home, have seen more of this child than of his other grandchildren. When during this period, young Peter had been taken for a visit with the elder Jays at their home in New York, we find Mrs. Livingston writing to her daughter, Mrs. Jay: "Your pappa [sic] keeps a constant correspondence with his little grandson; he prints all his letters so that my dear little Peter can read them for himself." 65

Outside of the family circle and in addition to the friends whom he had left behind in New York, Livingston enjoyed the friendship of many of the most noted men in the province which he had made his adopted home, some of whom he had counted among his friends before his removal to New Jersey, while with others he became acquainted as a result of his establishment of a permanent residence in that colony. Of this circle of friends William Peartree Smith and Elias Boudinot were also neighbors, living like Livingston in the vicinity of Elizabethtown. Another noted figure in New Jersey at that time with whom Livingston seems to have become more or less intimate was Dr. John Witherspoon, president of Princeton College at

65 Letter from Elizabeth-Town, April 21, 1782, in H. P. Johnston (ed.), The Correspondence and Public Papers of John Jay (New York: G. P. Putnam's Sons, 1891) 11, 297 f. This will be cited hereafter as Corr. of John Jay.
the time the Livingstons took up their residence at Elizabethtown and subsequently one of the most fiery of that colony's patriots during the Revolution.

To Livingston shortly after his removal to New Jersey came a young and ambitious lad, a stranger in a strange land, having only recently arrived from St. Croix in the West Indies. With him he bore a letter of introduction to William Livingston from a Presbyterian minister in that region who had formerly resided on the continent and must have known Livingston at that time. The youth who thus modestly began his career in America was Alexander Hamilton. He was sent to a school in the village until he entered King's College in New York in the fall of 1773 and during at least part of this time was the guest of the Livingston family. 66 Thus was began a friendship between the older and the younger man which persisted until the former's death although there seems to have been comparatively little correspondence between them after Hamilton's departure from Elizabethtown.

In addition to family and friends Livingston had like most other men his hobbies; but unlike many others with hobbies he had also after his retirement to Elizabethtown the time to indulge them to his heart's content, at least for a brief period. The hobby to which he appears to have devoted most time and attention was farming. Inasmuch as this occupation was not a means of livelihood for him we may, although it is probable that the term was not employed at that time, describe him as a "gentleman farmer" in spite of the fact that he himself performed some of the manual labor connected with his agricultural experiments. In this connection Sedgwick relates an

66 Sedgwick, Memoir, p. 157.
interesting anecdote.

He was accustomed to work in his garden like a common laborer; and there is an anecdote related of a Jerseyman who came to see him for the first time, on business, and was told by a person occupied with a spade, and looking very like a gardener, that he should be called. The applicant seated himself in the parlor, and when the governor entered, was somewhat surprised to find that the gardener was, with the addition of only a coat, the high dignitary whom he had ventured to approach. 67

Livingston was particularly interested in special phases of farming, such as the raising of rare fruit trees and rare plants and flowers. Even prior to his removal to Elizabethtown he had been importing from England various species of fruit trees. The great variety and special distinction of these trees may be gleaned from a description of them by Sedgwick, who found among Livingston's papers the original orders.

On looking over his orders I am surprised to see how few of the names are the same with those now in use. Of 65 pears, the Beurre's, the Ambre, St. Germain, Bergamot, and Vergaloo are alone to be recognized. Of plums, the proportion is somewhat greater, but a decided majority even of these is now so obsolete, that I question whether even the Linnaeus of Flushing, or of Liberty-street, would be able to recognize them. 68

That Livingston was proud of his success with his fruit trees is indicated by the fact that in 1767 he sent two barrels of Newtown pippins to a friend in England. 69

Like all riders of hobbies Livingston was indefatigable in collecting from all sources information regarding his particular subject of interest, even enlisting the aid of others in pursuit of it. As an illustration of this particular failing, or virtue if you prefer, of all hobbyists, there may be cited a letter which Livingston

67 Ibid., p. 444.

68 Ibid., p. 155 n.*. The orders referred to are not now among the papers of Livingston which I have been able to locate.

69 Ibid. An interesting question in regard to this incident is whether it does not indicate that even this early the transit of civilization, to some degree at least, had begun to reverse itself.
wrote to John Jay, who was at the time in Spain on his diplomatic mission and whose personal secretary there was Livingston's son Brockholst. "I hope Brockholst will keep a particular Journal of all that is worthy of Notice in Spain; & as he has Opportunity, make a Collection of the seeds of all the flowering shrubs & lush-melons that he thinks will suit our Climate & be worth raising at Elizabeth Town."\textsuperscript{70} Whether Brockholst was careful to carry out his father's wishes in this respect does not appear, but at any rate Jay himself undertook seriously to make a collection of the desired seeds, for we find him writing to his father-in-law: "When Peace shall again afford you Liesure [sic] and Opportunity to cultivate your Farden at Liberty Hall, Seeds of the best Fruits in this Country shall not be wanting to enrich it." He goes on to describe the excellent roots and herbs to be found in Spanish kitchen gardens and concludes: "You shall in due Time have Samples of them all . . . ."\textsuperscript{71}

Like all hobbyists Livingston exhibited greater pride in his achievements in this avocation than in those in other fields. Brissot de Warville, a French traveler in the United States after the American Revolution, said of him: "You may have an idea of this respectable man, who is at once a writer, a governor, and a plowman, on learning that he takes a pride in calling himself a New Jersey farmer."\textsuperscript{72} That his pride in this role was pardonable, however,


\textsuperscript{71}Letter from Madrid, Nov. 22, 1780, Ledyard Collection, Vol. III.

\textsuperscript{72}J. P. Brissot de Warville, \textit{New Travels in the United States of America} (London, 1794), p. 145. This work will be cited hereafter as Brissot, \textit{New Travels}.
and that he attained unusual success in his agricultural experiments is indicated by John Jay in his letter from Madrid previously mentioned. Speaking of the Spanish fruits he said: "The Melons and Grapes are very good, but I have met with no other Fruits superior, if equal, to those you already have." As to muskmelons he wrote: "Some of your's [sic] at Eliz. Town were as good as the best I have seen here."73 Perhaps Jay may be regarded as a prejudiced witness; he was, however, not the man to flatter without cause even his father-in-law. To allay suspicion, nevertheless, the following tribute may be cited from a more impartial source.

Your Excellency was kind enough the last Winter to favour me with a few Beens [sic] of an Extraordinary kind.—I have given them a fair tryal, and find them to Excel my most Sanguine expectation . . . . 74

Another favorite pastime of Livingston's was fishing. Sedgwick avers that during the Revolution, when he could not cultivate his garden, it was practically his only form of relaxation,75 and at one time during that struggle we find him writing from Trenton, where the legislature was in session: "We have hitherto proceeded so slowly in our legislative capacity, that I fear we shall sit out the whole trouting season . . . . "76 His interest in this recreation and at the same time his truly sportsmanlike attitude are illustrated in a letter to one of his grandchildren.

I am obliged to you for mentioning to me Mr. Hunt's directions for catching fish in their beds of spawn. But at the same time I hope you do not believe that grandpapa wants any

73Letter of Nov. 22, 1780, Ledyard Collection, William Livingston Papers, Vol. III.
74Joseph Kirkbride to William Livingston, Bordentown, Nov. 12, 1781, ibid., Vol. VI.
75Memoir, p. 408.
76Letter to Anthony Bleecker, May 1, 1779, quoted ibid., p. 328.
instructions from a West Chester man how to catch fresh water fish. Why, he understands it better than he does the affairs of government. Nor do I think that fish ought to be caught at all in their beds of spawn. There is a very humane prohibition in the law of Moses against taking the dam of birds while guarding her eggs or young ones; and I think that the like tender-heartedness ought to be extended to the mother of the spawn of fishes; for as soon as ever she is caught, her spawn are devoured by those fish of prey which she is so industriously employed in chasing from the spot in which she has deposited it, and which she defends with perhaps as much maternal affection as that with which a human mother watches over the safety of her children.  

Sketching must also have been an avocation in which Livingston occasionally indulged. We have already spoken of his early interest in art and have watched him drawing pictures for the amusement of his grandchildren. That he also employed this talent for his own amusement and that of the more mature members of the family circle seems evident from a letter addressed to him by his daughter Sally aboard the frigate Aurora on her way to Europe with her husband John Jay. After describing at considerable length the romantic picturesqueness of the island of Martinique, she added: "I wish'd exceedingly for papa's pencil at the time I view'd it; and not less for his pen to describe it." However adept he may have been with his pencil, it must be admitted, on the other hand, that in later years his mechanical skill with the pen failed him, for his chirography became increasingly more careless and illegible. The story is told that during the Revolution whenever General Washington received a letter from Governor Livingston, he was accustomed to


call in his staff officers to aid him in deciphering it. 79

Then there was his library. Together with his agricultural pursuits, Livingston's books afforded him the greatest source of gratification. To Monsieur de Marbois, the French minister to the United States, he wrote at the close of the Revolution: "Thanks to heaven that the times again permit me to pursue my favourite amusement of raising vegetables; which, with the additional pleasure resulting from my library, I really prefer to all the bustle and splendour of the world." 80 Some years later he wrote to a former Tory who had called upon the governor to perform a favor for him:
"... if I find greater pleasure in any worldly occupation, than I do in books and gardening, it is in serving my friends; and I hope, to a considerable degree, even my enemies too." 81 Livingston's library at the time of his death, as revealed by the appraisal of his estate at that time, consisted of 552 volumes. It is very probable that most of these were already in his possession at the

79 Sedgwick, Memoir, p. 410, n.*. While this anecdote illustrates the point, it is no doubt exaggerated, for though Livingston's handwriting during this later period of his life was frequently very bad, the present writer encountered no insuperable difficulty in deciphering it. After his return to Liberty Hall at the end of the Revolution, Livingston was accustomed to employ one of his daughters as his amanuensis. In a letter to Mr. Kempe, Mar. 3, 1787, quoted ibid., pp. 409 f., he says: "My principal secretary of state, who is one of my daughters, is gone to New-York... I mention this absence of my secretary to atone for the slovenly hand-writing of this letter,... because she is as celebrated for writing a good hand, as he father is notorious for scribbling a bad one."

80 Letter of Sept. 24, 1783, from which the above is quoted ibid., pp. 378 f.

81 Letter addressed to Mr. Kempe from Elizabethtown, Mar. 3, 1787, quoted ibid., pp. 409 f.
time of his removal to Elizabethtown. Although not one of the largest of private libraries in colonial days, it was, nevertheless, of very respectable size. Many of these books were, of course, professional in their nature, being devoted to various aspects of the law. There were 148 volumes, constituting 27 per cent. of the total, of this type.

It may be of value for us to examine somewhat more closely the types of books which comprised the remainder. Outside of books on strictly legal subjects the largest single group was that devoted to history; this group contained 75 volumes or 13 per cent. of the total. Next came the classics, with 69 volumes, comprising 12½ per cent. Books on religion numbered 58, only 11 per cent. of the total. This fact warrants more than passing notice, for in colonial libraries, especially in the northern colonies, religious works were likely to constitute the largest single group, even in the libraries of those who were not themselves clergymen. Livingston, too, was by no means uninterested in religion and religious questions as we have already seen. He had, however, grown to maturity during the middle of the eighteenth century. The relatively less important place occupied in his library by books on religion is just another indication, therefore, of the broadening influences which had been playing upon colonial culture since the beginning, indeed, of this century. Men's minds were no longer being confined solely to contemplation of the relations of man to God and to his universe and to discussion of abstruse theological doctrines concerning predestination, freedom of the will, and the like, but were inquiring as well into more mundane subjects.

The fact that books concerning the science of politics constituted the next largest class, with 52 volumes, comprising 9½ per cent. of the whole, is also worthy of comment. If we add
to this group the works on history, we find that together they account for 22½ per cent. of the total. If then we except the professional law books and the classics (many of which were also in fact historical or political in their nature), we have history and politics combined and religion forming the two largest general groups. This again is illustrative of the greater part which political questions began to play in colonial intellectual life after the middle of the eighteenth century and of the tendency of even discussions connected with religion to become religio-political rather than to remain within the narrow confines of theology.

As might be expected, books on husbandry were sufficiently numerous in Livingston's library to warrant classification as a separate group. There were 13 books on this general subject, which accounted for 2 per cent. of the total. This leaves 137 volumes to be lumped together under the classification "Miscellaneous." Of these we may note that 5 were concerned with criticism, 4 with the physical sciences, 3 with philosophy, a like number with mathematics, and 2 with medicine.  

Not only in his own hobbies and books was Livingston interested; he was also looked upon to some extent as a patron of the arts and a person who could be relied upon to furnish aid and encouragement to those who were engaged in meritorious projects of a cultural nature. Thus we find Noah Webster, "schoolmaster to America," as his recent biographer has aptly termed him, presenting himself to Governor Livingston in the summer of 1782 with a letter

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82 The list of the books in Livingston's library made at the time of the appraisal of the estate lies in the Mass. Hist. Soc., Livingston Papers, Vol. IX.

83 H. R. Warfel, Noah Webster, Schoolmaster to America (New York: The Macmillan Co., 1936).
of introduction stating that "he is now doing some business in
the literary [sic] way which will in opinion of good Judges be of
service to posterity . . . ." 84 One of Webster's purposes in
visiting New Jersey at this time was to secure if possible the
passage of a copyright law which would protect his interest in
the spelling book which he expected soon to publish. Livingston
was not able to afford much aid to the young grammarian in this
respect, for although he put the question as to whether a copyright
law might be obtained to the Council, which was in session at the
time, the answer of that body was not very encouraging. 85

Three months later came Joel Barlow, classmate of Webster
at Yale and at the time engaged in the composition of his cherished
epic of America, "The Vision of Columbus." This ambitious young
poet and author came armed with a letter of introduction from
Livingston's friend, Elias Boudinot. 86 Whether Livingston was able
to be of any actual aid to him I have been unable to discover.

To a later applicant, also a young man struggling to achieve
something in the world of letters and of science Livingston was
able to give some substantial aid. Late in 1786 or early in the
following year Jedediah Morse came to Governor Livingston with a
recommendation from the latter's old friend, Chauncey Whittelsey.
Morse was at the time engaged in compiling a comprehensive geography
of the United States and was seeking accurate data in the various
states. The story of Livingston's efforts to aid the geographer
is an amusing one. In order to facilitate the process of acquiring


85 Warfel, Noah Webster, p. 56.

the kind of information which he wanted, Morse had drawn up a set of "queries," or questionnaire, as we should term it today. The governor had copies of this questionnaire made and sent one to every member of the Council with the request that the desired information be supplied concerning the county represented by the Council member in each case. Livingston's description of the method he employed to insure a reasonable degree of accuracy in the returns shows that despite his well known impatience and irritability of temper, he was, nevertheless, not lacking in a certain shrewd tact. Speaking of the Councillors he wrote: "Those of them who from the mediocrity of their intellects I had reason to think could not be very instrumental in collecting the requisite materials I referred to certain gentlemen in their respective counties, who, I was persuaded would with my compliments to them give them every necessary assistance & this I so managed as to make it appear to those members what I wished it to appear rather as a concern in me to save them trouble than any [doubt?] of their ability."\(^{87}\) In spite of Livingston's precautions the information seems to have been slow in forthcoming, for on February 2, 1787, he wrote to Whittelsey in disgust at the prevailing lack of interest in intellectual affairs: ". . . . alas such is our Indifference about every Science save the Science of getting money\(^{88}\) that I have hitherto received an answer to his [Morse's] queries from one county only."\(^{89}\) Inasmuch as The American Geography finally appeared in

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\(^{87}\)Note attached to several pages of critical suggestions for the improvement of Morse's Geography Made Easy in Mass. Hist. Soc., Livingston Papers, Vol. VI.

\(^{88}\)It is interesting to note that this characteristic, so marked in America in more modern times, was even thus early manifesting itself.

1789, we may assume that other counties were heard from later. In addition to aiding Morse in collecting his material, Livingston also offered detailed critical suggestions as to style although whether Morse actually made use of these suggestions it is impossible to say. He did, at any rate, dedicate the first edition of his work to Governor Livingston, which leads us to assume that he valued highly that gentleman's services in connection with its publication.

A few words concerning Livingston's physical appearance may be appropriate at this point. In the language of Sedgwick, his earliest biographer, "he was considerably above the middle stature, and in early life, so very thin as to receive from some female wit of New-York, perhaps in allusion to his satirical disposition, the nickname of 'the whipping-post.'" In a satirical letter in the American Whig essays, mimicking the attacks made upon him by his opponents, he described himself in words some of which his italics seem to indicate had already been applied to him by the opposition press, as "a long-nosed, long-chin'd [sic], ugly-looking fellow." The picture thus presented, though a caricature, is not inappropriate, for the portraits of him which have survived reveal a face which certainly could not be called handsome. The long nose, slightly aquiline, is very evident although the chin seems to be of average

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90 Ibid., Vol. VI, there are about thirty pages of such suggestions concerning the second edition of Morse's Geography Made Easy, the textbook which was the predecessor of his later and more comprehensive work.

91 The American Geography: or, A View of the Present Situation of the United States of America (Elizabeth Town, [1789]), contains on page 111 the dedication, dated March 12, 1789, in the following words: "To His Excellency, William Livingston, Esq. L.L.D. Governor of the State of New Jersey, this book is most respectfully inscribed, by His Excellency's most obliged, and most obedient servant, the author."

92 Memoir, pp. 446 f.

93 No. 9, Parker's N. Y. Gazette, May 9, 1768.
contour. In later years, as Sedgwick rather quaintly puts it, "he acquired a more dignified corpulence." Mrs. Montgomery, the widow of General Montgomery, wrote to Livingston's daughter, Sarah Jay, in 1780: "I saw your father well and very fat a very few days since." In his dress, Livingston was "plain and indifferent, almost to slovenliness." Describing him as he appeared at the First Continental Congress, John Adams said: "He is a plain man, tall, black, wears his hair; nothing elegant or genteel about him."

Here we must conclude our sketch of Livingston as the husband, the father, the gentleman farmer, and the patron of the arts. We may imagine him between his retirement in 1772 and the outbreak of the Revolution which was to call him forth once more into the world of affairs as enjoying as much happiness as is generally accorded even to the most fortunate mortals, blessed as he was with an excellent wife, a numerous and at that time harmonious family, most of them old enough to be beyond the nuisance stage, a comfortable fortune, and the opportunity to employ his time as his whims might suggest. Except for the babies who had

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94 The best portrait of Livingston as a young man is an etching by Albert Rosenthal, frequently reproduced. One of these reproductions faces p. 162 in Livingston, Livingstones of Livingston Manor, bearing the legend "From the original portrait in the possession of Miss Catharine McVickar of Buffalo, N. Y." A profile silhouette of Livingston as an older man is reproduced as the frontispiece of Sedgwick's Memoir.

95 Memoir, p. 447.

96 Letter of Sept. 6, 1780, quoted in part in Livingston, Livingstones of Livingston Manor, p. 465.

97 Sedgwick, Memoir, p. 444.


99 The family tribulations referred to in this chapter all developed subsequently to this period.
died at a tender age and who could scarcely have secured a real
hold on their father's affections, only the tragic death some years
before of little Philip French cast a shadow over the trail behind,
and in the sunshine of so much present happiness even that shadow
must have been well nigh dispelled. Truly this was the "philosophic
solitude" which Livingston himself had described in verse so many
years before. 'Tis a pity that we cannot leave him longer to enjoy
it but must follow him from these quiet paths of peace as he is
recalled to the world of action with the first ominous rumblings
of the thunder of civil war.
CHAPTER VII

INDEPENDENCE

When news of the Boston Port Bill reached America in the spring of 1774 the colonies were electrified into action. At a meeting of the freeholders and inhabitants of Essex County, New Jersey, in Newark, June 11, resolutions were passed suggesting the adoption of a general non-importation agreement among the colonies and the calling of a general congress. The election of committees in the various counties for the purpose of choosing delegates to the general congress and of corresponding with each other was also proposed, and a committee for Essex County was chosen. Of this committee William Livingston was a member, as were his friends from Elizabethtown, William Peartree Smith and Elias Boudinot. Similar committees were chosen in the other counties, and at a general meeting of the several committees at New Brunswick, commencing on July 21, at which seventy-two members were present, William Livingston was chosen one of the five delegates to the Continental Congress

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1Essex County at that time included all of the present counties of Essex, Union, Passaic, a large part of Bergen, and a part of Somerset (John Whitehead, The Judicial and Civil History of New Jersey [Boston: Boston History Co., 1897] p. 304. This will be cited hereafter as Jud. and Civil Hist. of N. J.

2Peter Force (ed.), American Archives, 4 ser., I, 403 f. This will be cited hereafter as Am. Arch.

3Two types of committees of correspondence came into existence in the colonies at this time, the assembly committee on the one hand and the provincial committee, composed of delegates from the various county committees, on the other. Some colonies employed the former system, others the latter. The county committee system seems to have been the more effective at this time, and it was in New Jersey that it was developed in its most perfect form (cf. E. D. Collins, "Committees of Correspondence of the American Revolution," Annual Report Am. Hist. Assoc. 1901, I, 255 ff.).
to be held at Philadelphia in September. 4

The records show the whole New Jersey delegation in attendance on September 5, the opening day of the Congress. 5 Livingston seems to have been in constant attendance throughout the session, which ended October 26. 6 Of the first committee chosen, consisting of two delegates from each colony, for stating the rights of the colonies, he was a member. 7 He was also one of the committee of three, along with his son-in-law, John Jay, and Richard Henry Lee, later appointed to draw up the address to the people of Great Britain. 8 According to the account given by Jefferson, to whom the story had been told by one of the Virginia delegates, the first draft of this address, drawn by Lee, was entirely unsatisfactory, and the next day another draft was read by Livingston, which was heard with great satisfaction and ultimately adopted. Livingston was by some thought to have been the author of this second draft, but on subsequent evidence the authorship has been attributed to Jay. 9

4Minutes of the Provincial Congress and the Council of Safety of the State of New Jersey (Trenton, 1879), pp. 25 ff. This will hereafter be cited as Min. N. J. Prov. Cong. The other members of this first delegation were James Kinsey, John De Hart, Stephen Crane, and Richard Smith. The commission of these delegates was dated July 23 (ibid., pp. 30 f.).

5W. C. Ford (ed.), Journals of the Continental Congress 1774-1789 (Washington, 1904 —), I, 14. References to the journals of this congress will always be to this edition unless otherwise noted, and it will be cited hereafter as Journals of Cont. Cong.

6E. C. Burnett (ed.), Letters of Members of the Continental Congress (Washington, 1921 —), I, 1. This will hereafter be cited as Letters of Mem. of Cont. Cong.


8Ibid., p. 62.

On January 24, 1775, two of the delegates from New Jersey to the First Continental Congress laid before the Assembly of the colony the proceedings of the congress together with a report of the election of themselves and their associates the preceding summer by the unofficial provincial committee and of their actions at the Continental Congress. The proceedings of the congress were thereupon unanimously approved by the Assembly and the same group of delegates was appointed to attend the congress to be held in May. Livingston seems to have been instrumental in securing this approbation of the measures of the Continental Congress by the Assembly. Governor Franklin wrote to Joseph Galloway concerning this:

I am sorry the Assembly here did not take my Advice & avoid giving any express Approbation of the Measures of the Congress. But they were hurried precipitately into it, early in the session, by Kinsey, who was weak enough to suffer himself to be made a Tool of by Wm. Livingston, J. Dehart & Elias Boudinot who came down on purpose from Eliz. Town & caballed among the Members.

Livingston was present on May 10, the opening day of the Second Continental Congress, and with the exception of occasional absences of a few weeks attended consecutively until June, 1776. He served on many important committees with some of the most influential members of the Congress. Only a few of his activities in this connection need be noted here. As a member of the committee appointed to draw up the declaration to be published by General Washington upon his arrival at the camp at Boston, Livingston together with John Dickinson objected to the draft presented by Jefferson, who was also a member of the committee, the former on account of its harshness, while Livingston criticized it for


its "much fault-finding and declamation, with little sense or dignity." He continued: "They seem to think a reiteration of tyranny, despotism, bloody, &c. all that is needed to unite us at home and convince the bribed voters of North of the justice of our cause." Considering his own frequent efforts previously at raising a clamor and his reiteration on such occasions of the very terms to which he objected in this instance, this would seem to be an unusually conservative attitude for Livingston to have taken. With the two Adameses and James Duane, Livingston served on a committee to draw up an address to the people of Ireland, and with Thomas Lynch and James Wilson on a similar committee to prepare a letter to the Canadians. On March 13, 1776, "Mr. W[illiam] Livingston moved for leave to bring in a resolution for appointing a fast, which was granted." This was in line with Livingston's firm belief in public piety and in the offering up of public prayers in time of national danger, a practice which we have already seen him advocating during the French and Indian War. The resolution which three days later he presented and which was thereupon agreed to expresses his sentiments as follows.


14 Ibid., p. 80.

15 Ibid., IV, 79. In Vol. V of the Livingston Papers in the Mass. Hist. Soc. is a list of Livingston's writings drawn up by his son William, who in 1861 was considering the writing of a biography of his father and its publication together with a collection of his father's fugitive pieces. One item in this list is entitled "Address to People of Ireland and Canada," which probably refers to these two separate addresses, and furnishes some evidence that Livingston was probably the author of them. Without further and more definite corroborative evidence, however, we cannot be sure that this was so.

In times of impending calamity and distress; when the liberties of America are imminently endangered by the secret machinations and open assaults of an insidious and vindictive administration, it becomes the indispensable duty of these hitherto free and happy colonies, with true penitence of heart, and the most reverent devotion, publicly to acknowledge the over ruling providence of God; to confess and deplore our offences against him; and to supplicate his interposition for averting the threatened danger, and prospering our strenuous efforts in the cause of freedom, virtue, and posterity.\(^{17}\)

On February 14, 1776, another delegation to represent New Jersey in the Continental Congress was chosen, this time by the Provincial Congress, inasmuch as the regular legislature of New Jersey was not in session, having adjourned for the last time, as it turned out, in the previous December. With the exception of the substitution of John Cooper and Jonathan D. Sergeant for James Kinsey and Stephen Crane the delegation remained the same.\(^{18}\) During the spring of this year, however, there was considerable discord among the members of this delegation. The question of independence was now coming to the fore, and on this issue the delegation was not a unit. This is quite clear from a letter written by Sergeant in April to John Adams. Sergeant himself evidently favored strongly the idea of independence, and he implies that Smith also was inclined in that direction. The rest of the delegation seems to have been opposed, and it is evident from Sergeant's letter that the matter was due to come to a head in the colony in the election of members to the provincial convention in May.

\[\ldots\] I know the old Leven [sic] of Unrighteousness will strive hard to poison that Body by pushing in every Creature that can lisp against Independence, which\[\ldots\] in my Opinion, is every Creature who would wish to give up the Quarrel. In Congress, if I am to be alone, it will avail little; if with my Colleagues less still.\[\ldots\]\(^{19}\)

\(^{17}\)Ibid., p. 208.


\(^{19}\)Quoted in J. H. Hazelton, The Declaration of Independence, Its History (New York: Dodd, Mead, and Co., 1906), pp. 58 f. The
That the New Jersey delegation consistently opposed in Congress the idea of independence is stated by John Adams, who wrote years later to Mercy Warren: "In the previous multiplied debates which we had upon the subject of Independence, the Delegates from New Jersey had voted against us ... ."²⁰

That Livingston himself stood with the majority of the delegation on this question and was opposed to the declaring of independence at this time admits of no doubt. This, in fact, seems to have been the original attitude of the whole Livingston family on the question. E. B. Livingston quotes from a letter of Judge Livingston of Clermont to his son Robert, May 5, 1775, the following passage, which he regards as representative of the views of the whole family at this date.

Every good man wishes that America may remain free. In this I join heartily; at the same time, I do not desire that we should be wholly independent of the mother country. How to reconcile these jarring principles, I profess I am altogether at a loss. The benefit we receive of protection seems to require that we should contribute to the support of the navy, if not to the armies of Great Britain.²¹

That William Livingston continued to oppose independence in 1776 is evident not only from the testimony again of John Adams in his "Autobiography" under date of June 23, [1776],²² but also from Livingston's own words in a letter written to Henry Laurens in 1778: "As to the policy of it [independence], I then thought, and

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²¹"The Declaration of Independence and the Livingstones," American Historical Register, I, 130.

²²Works of John Adams, III, 53.
I have found no reason to change my sentiments since, that if we could not maintain our separation without the assistance of France, her alliance ought to have been secured by our stipulation to assert it upon that condition.\(^{23}\)

This opposition to independence on the part of their delegates was evidently not in line with the desires of the New Jersey electorate, and as a result Livingston left the Continental Congress for the last time sometime between June 5 and 12.\(^{24}\) On June 21 Livingston was desired by the Provincial Congress, in his capacity as brigadier general of the militia,\(^{25}\) to take charge of the troops which the province at the request of the Continental Congress was sending for the defense of New York City.\(^{26}\)

\(^{23}\) Feb. 5, quoted in Sedgwick, Memoir, p. 185.

\(^{24}\) June 5 is the date given, but with no evidence to support it, by Sedgwick in his Memoir, p. 182. Burnett regards this as impossible, pointing to Livingston's appointment to a committee on June 5 and the report on June 7 of another committee of which he was a member as evidence that he was present on those days (Letters of Mem. of Cont. Cong., I, 11). With regard to the committee appointed on June 5, however, it is quite possible that it was chosen before Livingston's departure, or at least before his departure was known. With regard to the report submitted on the 7th, although this report is in Livingston's own handwriting (Journals of Cont. Cong., V, 426, n.1), it is quite possible, in fact, probable, inasmuch as this committee had been appointed as long ago as April 30 (ibid., IV, 321), that the report was ready several days before it was presented on the floor of Congress, and it is very likely, therefore, that Livingston, if he did leave on the 5th, entrusted the report to another member of the committee. The evidence both for and against his departure on the 5th, therefore, is inconclusive. Burnett states that he may have remained in Congress as late as June 21 or 22, but this seems impossible for two reasons: first, because the absence of a New Jersey member from a committee of one from each colony appointed on June 12 suggests, as Burnett himself points out, that no member from New Jersey was present at the time; secondly, because the Journals of the Continental Congress show that on June 14 a letter from William Livingston was laid before the Congress (V, 440).

\(^{25}\) As early as Oct. 28, 1775, Livingston had been commissioned by the Provincial Congress second brigadier general of the militia forces of the colony (Min. N. J. Cong., P. 246).

\(^{26}\) Ibid., p. 468.
very next day, and before Livingston had had an opportunity to decline, as he subsequently did, the command of these forces, an entirely new delegation was chosen to represent New Jersey in the Continental Congress, not one of the previous delegation being reappointed. The new delegation was then furnished with the following instructions.

The Congress empower and direct you, in the name of this Colony, to join with the Delegates of the other Colonies in Continental Congress, in the most vigorous measures for supporting the just rights and liberties of America. And, if you shall judge it necessary and expedient for this purpose, we empower you to join with them in declaring the United Colonies independent of Great Britain, entering into a confederacy for union and common defense, making treaties with foreign nations for commerce and assistance, and to take such other measures as to them and you may appear necessary for these great ends, promising to support them with the whole force of this Province. . . . 27

On June 25 a letter was received by the Provincial Congress from General Livingston declining the command of the militia ordered to New York, and Colonel Heard was thereupon appointed in his place. 28 Under the circumstances there seems no doubt that the appointment of Livingston to this command on the day before the election of new delegates to the Continental Congress was simply a pretext for dropping him from the delegation on account of his known views against the declaring of independence at this time. That Livingston himself regarded it as such and resented the subterfuge is evident from a letter written by him on August 9 to the president of the Provincial Congress. "... I did really mean to resent the conduct of those of your members who assigned the my being appointed to the command of that brigade' . . . .' as a reason against my being eligible as a member of Congress, when I

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27 Ibid., p. 473. The new delegates were Richard Stockton, Abraham Clark, John Hart, Francis Hopkinson, and Dr. John Witherspoon.

28 Ibid., p. 475.
had plainly refused that command in the presence of the Convention." 29 That the new delegation was favorable to the idea of independence and that this was the real reason for the action of the Provincial Congress in displacing at this time the delegation which in February had been elected to serve "for the space of one year, or, until others shall be legally appointed in their stead," 30 is evident from the comment of John Adams in his "Autobiography," under date of June 28, 1776: "Mr. William Livingston and all others, who had hitherto resisted independence, were left out." 31 Francis Hopkinson, one of the new delegates, appeared in the Continental Congress as early as June 28 and presented the credentials of the delegation. 32 The Declaration of Independence itself was signed by the whole New Jersey delegation. 33

During his attendance at the First and Second Continental Congresses Livingston had, of course, made the acquaintance of the delegates from the other colonies. For all the delegates this must have been a broadening experience. For Livingston it must

29 Quoted in Sedgwick, Memoir, pp. 194 f. There is no record in the Minutes of the Provincial Congress, however, of Livingston's having appeared in person before them as he states at any time between June 5, the earliest date when he may have left the Continental Congress, and June 22, the date on which his letter refusing the proffered command was received by the Provincial Congress. The name of the latter body was changed on July 13 to the Convention of the State of New Jersey, which explains Livingston's use of the word Convention in his letter written subsequent to this date (Min. N. J. Prov. Cong., p. 511).


31 Works of John Adams, III, 53. Cf. also his letter to Mercy Warren, Aug. 17, 1807, in Burnett, Letters of Mem. of Cont. Cong., I, 523, n. :"In the previous multiplied debates which we had upon the subject of Independence, the Delegates from New Jersey had voted against us, their Constituents were informed of it and recalled them and sent us a new sett [sic] on purpose to vote for Independence."


33 Ibid., p. 515.
have been such to a greater degree than for some of the others, for his life had been hitherto strictly provincial. He had not enjoyed as had some others the advantages of travel or residence abroad nor had his horizon been extended by the more restricted but still valuable experience of service in the colonial armies. Except for his four years at Yale in Connecticut his life had been circumscribed for the most part by the colonial boundaries of New York and New Jersey.

Of the delegates from other colonies, outside of members of his own family, whom Livingston met at this time, he seems, judging from his correspondence, to have become more or less intimate with James Duane of New York, Benjamin Harrison of Virginia, William Hooper of North Carolina, and Samuel Chase of Maryland. That a feeling of friendship between Jefferson and Livingston, too, was engendered as a result of their meeting at this time, although they do not seem to have corresponded subsequently to any extent, is evident from a letter which Jefferson wrote from Philadelphia to Livingston years later toward the close of the Revolution. "It gives me real concern that I have been here several days, and so closely engaged that I have not been able to pay you the respect of a letter, and to assure you that I hold among my most estimable acquaintances, that which I had the pleasure of contracting with you at this place."34

During the summer Livingston was occupied with his military duties as a brigadier general, a position suited neither to his tastes nor his abilities. Fortunately he recognized his own limitations in this direction. Writing to the Provincial Congress on July 6, he says: "'I must acknowledge to you' . . . . 'that I feel

34Letter dated Jan., 1783, quoted in Sedgwick, Memoir, p. 373.
myself unequal to the present important command, and therefore
wish for every assistance in my power." Two days previously
he had written to Washington: "Your Excellency must be sensible
that as the department I now act in is to me entirely new, I must
be desirous of every aid that can possibly be obtained. If you,
sir, could spare a few experienced officers to assist me in this
important business, it might be of essential service." His
distaste for military life is indicated in a letter written from
the camp at Elizabethtown—Point later in the summer. "My ancient
corporeal fabric is almost tottering under the fatigue I have late-
ly undergone: constantly rising at 2 o'clock in the morning, to
examine our lines... till daybreak, and from that time perpet-
ually till eleven in giving orders, sending despatches, and doing
the proper business of quarter-masters, colonels, commissaries,
and I know not what." It was not long, however, before Livingston was transferred to a position more suited to his abilities and his tempera-
ment. On the second day of July the Provincial Congress had adopted a constitution for the new state. We cannot here enter into a discussion of this constitution; suffice it to say that it

\[\text{Quoted in Sedgwick, Memoir, pp. 197 f.}\]

\[\text{Force, Am. Arch., 4 ser., VI, 1262.}\]

\[\text{To William Hooper, Aug. 29, 1776, quoted in Sedgwick, Memoir, pp. 199 f.}\]

\[\text{Min. N. J. Prov. Cong., pp. 552 ff. The word colony in-
stead of state is used throughout the Constitution, a sop to those
who at the time still hoped for reconciliation, but the instrument
remained the fundamental law of the state until 1844.}\]

\[\text{For a thorough discussion of this constitution, see C. R. Erdman, Jr., The New Jersey Constitution of 1776 (Princeton
Univ. Press, 1929). For an older discussion see L. F. C. Elmer,
Constitution and Government of the Province and State of New Jer-
sey (Coll. N. J. Hist. Soc., Vol. VII), Chap. II; see also his
made no startling innovations but tended rather to perpetuate the
type of government which had existed while the colony was a royal
province, with the substitution, of course, of an elected governor
and Council for those previously appointed by the crown. We must
note also that because of the abhorrence of executive independence,
which the colonists had developed as a result of their experiences
with royal governors, the office of governor, while left with many
high-sounding titles, was stripped of almost all real executive
power. Among other things the governor was deprived of the veto
power and the power of appointment, except to vacancies during a
recess of the legislature. Even the power of calling the legislature
in special session was vested not in him, but in the Speaker of the
Assembly. The governor was to be elected annually in joint
meeting of the Council and Assembly.

On August 27 the new legislature met for the first time and
on the 31st Livingston was chosen the first governor of the new
state. This was the beginning of an uninterrupted tenure by him
of the office of chief executive of the state, which terminated only
with his death in 1790, a fact the more remarkable when we consider
that the term of office of the governor was only one year. In the
subsequent elections Livingston was thrice elected unanimously; for
two elections no vote is given; in each of the other eight contested

\[40\] Erdman, N. J. Const. of 1776, pp. 63 ff.

\[41\] Const. of N. J., 1776, Art. V.

\[42\] Ibid., Art. VII.

\[43\] The vote is not given in the Minutes and Proceedings of the
Council and General Assembly of the State of New-Jersey, in Joint
Meeting (hereafter to be cited as Min. of Joint Meeting), but it was
apparently a tie at first between Livingston and Richard Stockton;
John Cleves Cymmes seems to have been instrumental in breaking the
tie in favor of the former (cf. Sedgwick, Memoir, p. 206, n.1). Symmes
later became the husband of Livingston's daughter Susanna
(cf. supra, p. 175).
elections he rolled up huge majorities, totalling 282 votes to 40 for his opponents, an evidence of unusual popularity in days when executives were regarded with more than usual suspicion. The only really serious opposition to his administration appears to have occurred in the fall of 1778, but even this failed to make much headway. Writing to Theophilus Elmer on December 9 of that year, Livingston adverts to the attempts made at the close of the last session to raise a storm against him and asserts that he would have resigned, even though re-elected, had the opposition been respectable, because of the danger to the state in having a considerable group in the legislature opposed to the governor. The opposition was so weak, however, and so influenced by mere malevolence, that he did not feel disposed to gratify the personal malice of his opponents.

As governor, in spite of his lack of real power, Livingston's duties were various and exacting. "Those duties included not only what was required of him as the executive of the State, but, also, those of Chancellor, Ordinary, Surrogate General and President of the Council." In addition to this he was a member of the Council of Safety as long as it continued in existence.

In his first speech to the legislature Livingston showed his complete acquiescence in the Declaration of Independence, now that the step had been taken, and pointed out the grounds for acceptance of it on the part of those who had previously had conscientious scruples in this regard.

44Min. of Joint Meeting for respective years.
46J. Whitehead, Jud. and Civil Hist. of N. J., p. 337.
Considering how long the Hand of Oppression had been stretched out against us; while the most assiduous Applications for Redress were either totally disregarded or treated with Insult:—How long the System of Despotism concerted for our Ruin had been insidiously pursued, and was at Length attempted to be enforced by the Violence of War; Reason and Conscience must have approved the Measure had we sooner abjured that Allegiance, from which, not only by the Denial of Protection, but the hostile Assaults on our Persons and Properties, we were clearly absolved. It may however, afford some Consolation to every Man duly regardful of the Convictions of his own Mind, and the Honour and Reputation of his Country; that America deferred this important Step, till the decisive Alternative of absolute Submission, or utter Destruction, announced by a numerous Fleet and Army, had extinguished all Hope of obtaining Justice; and the whole Continent, save a few self-interest-ed Individuals; were unanimous in the Separation. In a Word, till the most scrupulous Conscience could, on the maturest Reflection, find itself justified before God and Man, in renouncing those Tyrants who, after having ravaged a great Part of Asia; and dissipated in Venality and Riot, the Treasures extorted from its innocent Inhabitants by the Hand of Rapine and Blood; finally meant to prolong their Luxury and Corruption, by appropriating to themselves the hard-earned Competence of the American World.\textsuperscript{48, 49}

This speech, the first part of which is reproduced above, was printed in the Pennsylvania Gazette, October 1, 1776,\textsuperscript{47, 48} and attracted more than usual attention and commendation.\textsuperscript{48, 49}

\textsuperscript{47, 48} Votes and Proceedings of the General Assembly of the State of New-Jersey, Sept. 13, 1776. These minutes will hereafter be cited as Votes of Assembly.

\textsuperscript{48, 49} Reprinted in N. J. Arch., 2 ser., I, 200 ff.

\textsuperscript{49} The last sentence was quoted by an anonymous commentator in Philadelphia with the remark that the passage "ought to be printed in letters of gold, that it might engage the attention of the most heedless American." He continued: "This observation is true as the voice of truth itself. It is highly important. May it make a lasting impression on the mind of every one who wishes well to mankind." (Force, Am. Arch., 5 ser., II, 289, n.\textdagger). John Adams, writing to his wife Oct. 1, 1776, said: "I shall inclose to you Governor Livingston's speech; the most elegant and masterly ever made in America." (Familiar Letters of John Adams and His Wife Abigail Adams, during the Revolution [New York: Hurd and Houghton, 1876], pp. 228 ff. Although many of Livingston's speeches are excellent when read, he was not, however, a good speaker himself. Adams reports as follows a conversation he had on Aug. 27, 1774, with Dr. Witherspoon, president of Princeton College and a friend of Livingston: "Livingston, he [Witherspoon] says, is very sincere and very able in the public cause, but a bad speaker, though a good writer" ("Autobiography," Works of John Adams, II, 356). Jones also describes him as "a very indifferent speaker" (Hist. of N. Y., I, 3).
A further indication of Livingston's acceptance without reservation of the situation, once the die of independence had been cast, and of his realization of the irrevocability of the step is contained in his letter of February 5, 1778, to Henry Laurens.

We must endeavour to make the best of every thing. Whoever draws his sword against his prince must fling away the scabbard. We have passed the Rubicon, and whoever attempts to recross it will be knocked in the head, by the one or the other party on the opposite banks. We cannot recede, nor should I wish it if we could. Great Britain must infallibly perish, . . . and I have never loved her so much as to wish to keep her company in her ruin.49 50

The concluding sentence of his first speech to the legislature shows, however, that his philosophy in regard to the struggle was not that of the destructive revolutionary who regards his work as finished when the old structure is pulled down but rather that of the true statesman, who appreciates that this is but the first and the easiest step in the task undertaken. "In fine, Gentlemen, while we are applauded by the whole impartial World, for demolishing the old Fabric, rotten and ruinous as it was; let us unitedly strive to approve ourselves Master-Builders, by giving Beauty, Strength and Stability to the new."50 51

In an essay written later under one of his favorite noms de plume, "Hortentius," and addressed to King George, Livingston expressed his conviction that the Revolution was of truly popular origin.

In this contest, the people in reality had no leaders. They fled, spontaneously and self-led, to extinguish the common fire; and for conducting with greater regularity, the measures which you compel them to adopt, they afterwards appointed the proper officers. Those officers, (which to serve your purpose, you call leaders) cannot tyrannize over them, because they are constituted by the people, and by them removeable.51 52

49-50 Quoted in Sedgwick, Memoir, p. 186.
51-50 Votes of Assembly, Sept. 13, 1776.
This question of whether the American Revolution was really of popular origin or whether it was brought on by designing leaders has, of course, been debated from the days of the Revolution itself to the present. Although this essay was doubtless written for its possible effect on both the American patriots and the British, there is no reason to doubt that Livingston was sincere in the view here expressed. His own experience in being ousted just before the vote on independence from the delegation representing New Jersey in Congress because of his temporary disagreement with the popular will would, indeed, tend to confirm in him such a view.

The character of the man who was thus called, in spite of his earlier misgivings as to the wisdom of attempting to achieve total independence, to lead through a protracted foreign war and bitter internecine strife this one of the thirteen new-born states which was destined to play such an important part in the coming struggle, was described (somewhat inaccurately in regard to his views on independence) in 1778 to the British ministry by John Vardill, a former fellow student of John Jay's at King's College in New York, who, espousing the British point of view in the controversies between the colonies and the mother country, had gone to England shortly before the outbreak of hostilities.

William Livingston, Govr of New Jersey, is a man of Genius & Learning, an elegant writer, in principle a Republican, & a violent Advocate for Independency, which has ever been his favourite Object. He is a man of Integrity, tho warm in his Resentments & stern in the exercise of his Authority. He . . . . is ambitious of the Character of a Freethinker, idolizes Sydney, Hampden & Gordon, & will be found the most inflexible enemy to Reconciliation.53

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CHAPTER VIII
YEARS OF STORM AND STRESS

Because of his position as chief executive of one of the rebel states and more especially perhaps because of the stinging pen-pricks with which, as we shall see subsequently, he annoyed them beyond measure, the capture of Governor Livingston became a special aim of the British and loyalists in New York. Because, too, of the proximity of Elizabethtown to New York and its easy accessibility from their base of operations there after the British had occupied that city in 1776, Liberty Hall was in constant danger from that time until the end of the war.

As a result of this situation as well as of the fact that his multifarious duties kept him for the most part occupied elsewhere Livingston was for the remainder of the war virtually a man without a home, able to pay only fleeting visits to those members of his family who still remained together.¹ We find him writing in the fall of 1783: "I have had the pleasure of spending the last summer with my family at Elizabethtown, which is the first time in seven years that I have had any place which I could properly call my home."² During the winter of 1776-1777, when New Jersey was the

¹The translator of Travels in North-America in the Years 1780, 1781, and 1782, by the Marquis de Chastellux (Dublin, 1787), in a note concerning the activities of Governor Livingston at this time says: "... he was obliged, for many months, to shift his quarters every day, and under the necessity of sleeping every night in a different place..." (I, 171, n.*). This is an exaggeration, but Livingston's itinerary during the Revolution as revealed by his correspondence, does show him changing his place of residence very frequently during the early years of the war when the North was still the center of activity.

principal battleground of the war, it became unsafe for even the family to remain at Liberty Hall. Consequently the Livingstons fled to Baskenridge, where they spent the winter at the home of Lord Stirling, the governor's brother-in-law. Inasmuch, however, as the British continued to occupy New York for the remainder of the war, even after they had withdrawn from New Jersey, and residence at Liberty Hall continued therefore to be unsafe, Livingston rented for his family a small farm at Parsippany, not far from Morristown, and this place from this time forward continued to be their home until near the end of the war when active hostilities in the North had practically ceased.

During their enforced absence from Liberty Hall, the unoccupied homestead there suffered materially from abuse not only by the British army when it was in the neighborhood but also by the American forces. The following description by one of Livingston's daughters presents a vivid picture of the damage which the neglected house had suffered during the advances and retreats of both armies in their struggle for possession of the state during the campaigns of 1776-1777.

K——— has been at Eliz. Town; found our house in a most ruinous situation; Gen. Dickinson had stationed a captain with his artillery company in it, and after that it was kept for a bullock's guard. K——— waited on the general, and he ordered the troops removed the next day, but then the mischief was done; everything is carried off that mamma had collected for her accommodation, so that it is impossible for her to go down to have the grapes and other things secured; the very hinges, locks, and panes of glass, are taken away.

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3Ibid., p. 196, n.*.

4This is the modern spelling. At the time of the Revolution the name was spelled in various ways.

5Receipted bills for the rent of this farm lie in Mass. Hist. Soc., Livingston Papers, Vols. II, III.

6Doubtless Livingston's daughter Catharine.

7Letter of Nov. 29, 1777, quoted in part in Sedgwick, Memoir, p. 246.
Mrs. Livingston showed her mettle, however, during these trying times, and after the British had withdrawn their forces to New York, made it a practice to return frequently to Liberty Hall during the remainder of the war, abiding there at times for a considerable period in order the better to protect the property against vandalism or the malicious spite of Tory neighbors, if not, indeed, to do what she might to prevent its being purposely consigned to flames by the British themselves. This latter eventuality was fully expected by Livingston himself. In a letter to his daughter Catharine in 1779 he wrote: "The enemy are collected in great force on Staten Island; and if they don't burn my house, I shall think them still greater rascals than ever; as I have really endeavoured to deserve that last and most luminous testimony of their inveterate malice."\(^8\)

There was ever present, indeed, the danger of raids by the Tory "refugees," as they were called, from New York, or of military excursions by the regular British troops stationed at that base, and on more than one occasion such raids materialized at times when Mrs. Livingston and that portion of her family which had not yet been scattered by the vicissitudes of war were inhabiting Liberty Hall. On a night in February, 1779, about two hours before dawn a party of British troops from New York, hoping to catch the rebel governor, took possession of the house. Fortunately, the governor had been persuaded to spend the night with a friend, but the house was occupied at the time by two of his daughters, who had been alarmed only barely in time to dress themselves before the arrival of the British soldiers. Though disappointed at not finding the governor, the British officers acted on this occasion with the

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\(^8\)Letter from Mount Holly, Nov. 16, 1779, quoted ibid., p. 340.
greatest politeness, offering no harm to the house or its inhabitants though they demanded the governor's papers. They were directed by Susan, the eldest daughter, to a drawer containing a quantity of papers, which they carried off, believing them to be the private papers which they were seeking, whereas, according to the contemporary newspaper account of this incident, they were merely letters from London, taken from a captured British vessel.\footnote{An account of this episode as reprinted from the \textit{New Jersey Journal} of Mar. 2, by \textit{Rivington's Royal Gazette}, Mar. 10, 1779, appears in \textit{N. J. Arch.}, 2 ser., III, 160 ff.}

This incident has been embellished in the retelling, and as related by Sedgwick, Susan emerges as the clever heroine playing upon the gallantry of the young British officers in order to save her father's valuable papers. According to this version, valuable letters of the governor, including recent correspondence with Congress and with General Washington, were lying in the box of his sulky, which had been deposited in the parlor. Taking her stand before this, so the story goes, Susan insisted that the box contained only property of a private nature belonging to her and promised, if it were left untouched, to show the officers where her father's papers were. This being chivalrously agreed to by the officer in command, she led him into the library and pointed out some old law papers of no value, which were promptly seized by the soldiers, who went off congratulating themselves on their success in having confiscated valuable state papers.\footnote{\textit{Memoir}, p. 323.}

On this incursion the British respected private property generally, burning only a few buildings which were being used for public purposes. A subsequent expedition under the command of
Major General Knyphausen\textsuperscript{11} in the late spring of the following year, however, partook to a much greater extent of the nature of a plundering foray. Mrs. Livingston had just returned with her family to Liberty Hall on one of her periodic visits a few days before the British in considerable force landed on the Jersey shore on the evening of June 6.\textsuperscript{12} The following day the enemy advanced almost to Springfield, being only temporarily checked by the continental forces and militia. Receiving news of an alarming nature at this point, they began a gradual retreat again to Elizabethtown Point, where they remained for a fortnight before retiring again to New York after a second abortive attempt to reach Washington's camp near Short Hills.\textsuperscript{13} During the course of this brief invasion they burned numerous private dwellings as well as public buildings. It was on the occasion of their first attempt to penetrate to Short Hills, too, that Mrs. Caldwell, the wife of a patriot minister, who lived in the hamlet of Connecticut Farms, close to Elizabethtown, was shot.\textsuperscript{14}

On both their advance and retreat the British army passed through Elizabethtown. According to an anecdote related by Sedgwick, Mrs. Livingston and her daughters were visited in the evening of

\begin{itemize}
\item \textsuperscript{11} General Knyphausen, a German mercenary, was second in command to Sir Henry Clinton in New York.
\item \textsuperscript{12} Robert Morris to John Jay, July 6, 1780, quoted in Livingston, Livingstons of Livingston Manor, p. 465.
\item \textsuperscript{13} A detailed account of this invasion appears in Hatfield, Hist. of Elizabeth, pp. 486 ff.
\item \textsuperscript{14} Contemporary American accounts of this unfortunate incident may be found in N. J. Arch., 2 ser., IV, 415, 422, 433, 441, 446. These all proclaim that she was foully murdered by the British in cold blood. A British officer, however, writing in Rivington's Royal Gazette, asserted that she was struck by a stray bullet coming from the American side (issue of June 21, 1780, reprinted ibid., pp. 451 ff.). Hatfield, who seems to have examined the evidence on both sides, insists that it is fully established that she was shot by a British soldier (Hist. of Elizabeth, p. 492).
\end{itemize}
this day by a group of British officers who desired to spend the night at Liberty Hall while the retreat was in progress. Their request was perforce granted and the ladies themselves retired, feeling safe from molestation by marauding stragglers while the officers, who were, of course, gentlemen, were in the house. About midnight, however, it became necessary for the officers to depart. The noise of their departure roused Mrs. Livingston and her daughters and they were again thrown into a state of great trepidation, having no longer any adequate guarantee of protection. A thunder storm coming up about this time increased the terrors of the night. Not long after the departure of the officers the house was invaded by a band of drunken soldiers uttering threats to consign it to flames. Discovering in which room the women were hiding, the ruffians demanded that they come out, and rather than have them break down the door one of the daughters opened it. Her arm was seized by one of the marauders. At this moment a flash of lightning with all its preternatural brightness revealed the woman's white face and dress. Quick as the flash of lightning itself, the drunken soldier dropped her arm and reeled back, exclaiming, "God! it's Mrs. Caldwell that we killed today." The lightning had also revealed to the ladies the face of one they had formerly known among the soldiers, who were loyalists and not regulars. Through his intervention the house and its occupants were spared.\footnote{Memoir, pp. 353 ff.}

The anecdote related above has been repeated by various historians since Sedgwick's day, but since it seems to rest on nothing more than oral tradition, we can scarcely regard it as representing established facts. We must place it with those legends which the members of patriotic societies love to preserve and which may be characterized, perhaps, as the "may have been" of history.
It is, however, of interest because it does represent what may have happened and the type of danger to which the governor's family, while they remained at Liberty Hall, were exposed. On this occasion they may well have considered themselves fortunate, for although the blaze from the burning dwellings in nearby hamlets, especially Connecticut Farms, which was totally destroyed after having been plundered, was plainly visible from Liberty Hall, the Livingston home was again spared.

Such experiences must have been unnerving, but nothing seems to have daunted Mrs. Livingston or turned her from her purpose to secure for Liberty Hall what protection her presence there might afford, for only three months after the occurrence of the incidents just related, a friend wrote to Mrs. Jay, then in Spain: "Your Mama is gone to live at Elizabethtown with her family."\(^\text{16}\) Her daughters, however, did not continue to exhibit the same fortitude, for toward the end of the war they took to visiting friends and relatives residing in less exposed positions. The situation is clearly portrayed by Livingston himself in a letter of the following year to his brother Robert, third lord of the manor, concerning the projected visit to Livingston Manor of the governor's eldest daughter.

Dear Brother,

I hear that your very numerous family is going to be increased by the addition of one of mine. I fear \[\_
\] will be troublesome to a house so overrun with company as yours. But my poor girls are so terrified by the frequent incursions of the refugees into Elizabethtown, that it is a kind of cruelty to insist on their keeping at home, especially as their mother chooses rather to submit to her present solitary life than to expose them to such disagreeable apprehensions. But she herself will keep her ground to save the place from being ruined, and I must quit it to save my body from the provost in New York; so that we are all scattered about the country.\(^\text{17}\)

\(^{16}\)Letter from Mrs. Montgomery, Sept. 6, 1780, from which the above extract is quoted in Livingston, Livingston's of Livingston Manor, p. 465.

\(^{17}\)Letter from Trenton, Dec. 17, 1781, quoted in Sedgwick, Memoir, pp. 369 f.
This danger of marauding expeditions by the loyalists persisted until the very end of the war, for as late as February 10, 1783, Governor Livingston received a letter from Ephraim Harris and Theodore Elmer complaining of recent repeated incursions of "refugees" into Cumberland County and on August 10, of this year, we find the governor writing to Sir Guy Carleton, then the British commander in New York, concerning rumors of a projected loyalist plundering expedition into New Jersey, expressing in his letter the hope that the British general will prevent the execution of any such plan.

The dispersion of Governor Livingston's family to which he referred in the letter to his brother Robert continued progressively during the war. Sarah in the fall of 1779 accompanied her husband John Jay to Europe on his diplomatic mission, leaving their young son, Peter Augustus, not yet four years old, in the care of the Livingston family. Susan, previous to her visit to Livingston Manor, had left New Jersey in August of 1781 to visit with the elder Jays at Poughkeepsie, taking with her their grandson. Kitty had spent the winter of 1779-1780 with the Robert Morrises in Philadelphia and returned for another extended visit with the same family during the summer, autumn, and winter of 1781-1782. She seems to have found life in Philadelphia, noted for its gayety and devotion to "high life" even during the darkest periods of the war, more

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18Quoted ibid., p. 376. Sedgwick mentions several such expeditions in the years 1781 and 1782 (ibid., p. 368).
20Mrs. Livingston to Sarah Jay, April 21, 1782, quoted in part in Livingston, Livingstons of Livingston Manor, p. 467.
21Robert Morris to John Jay, July 6, 1780, quoted in part ibid., p. 465.
22Ibid., p. 466.
entertaining though perhaps less exciting than residence at Liberty Hall or Parsippany. The following from her pen indicates to what extent the social life of the metropolis continued to flourish even at the very time when Congress was wrestling with baffling monetary problems and Washington was desperately struggling to keep together some semblance of an army.

As the General does not meet Mrs. Washington here, she sets out early to-morrow for camp. We had yesterday a Christmas dinner in compliment to her at the Chevalier's. Next Thursday he gives a ball to thirty Ladies; to-morrow evening we have a second at Mrs. Holker's. His Excellency intends having concerts once a week at his house; he entertains very generally and with Elegance. . . . Last Thursday the assemblies commenced, and there are private dances once a week; to-morrow evening there is one at the City tavern.23

Her second visit to the Morrises, however, was rendered less enjoyable than it might otherwise have been by her concern regarding the fate of her young brother John Lawrence.

In the spring of 1780 Livingston had secured for this son, then nearing his eighteenth birthday, a commission as midshipman in the American navy, "from a view to the public interest, which requires our navy to be officered by the children of respectable families."24 By that time the American navy had been reduced to six vessels, and to the smallest of these, the Saratoga, an eighteen gun ship,25 young John Lawrence was assigned. In October of this year the Saratoga sailed from Philadelphia and after taking a few prizes suddenly disappeared and was never again heard from. She seems to have been last sighted in March of 1781, and it was supposed that she founder.
in a storm, taking down the whole crew with her. The mysterious disappearance in this manner of its youngest member brought home to the whole family yet another phase of the tragedy of war. The distraught father, clinging to the hope that the ship had been captured and the crew, including John, made prisoners, wrote to Brockholst, then in Spain, begging him to make all possible inquiries in Europe concerning the fate of the Saratoga and its crew. Subsequent letters from Brockholst to his father indicate that the former had made such inquiries but had been unable to secure any information concerning either the Saratoga or John. After the surrender of Cornwallis in the fall of 1781 Brockholst, at the suggestion of his father, renewed his inquiries concerning the possibility of John's having been captured by the British, but with no greater success. 

Livingston never gave up entirely the hope that his son might still be alive. Although it was eventually established beyond any doubt that he had not been made a prisoner by the British, there was always the possibility that the Saratoga might have been captured by pirates and its crew enslaved somewhere on the Barbary coast in Africa. Only six months before his death the governor was visited by an impostor, one Charles Blinckhorn, who, hoping no doubt to extract from a solicitous father a handsome sum for information regarding his long lost son, revived this hope and reopened afresh the wound in Livingston's heart. This man's story was that he himself, a sailor, had been captured by the Algerian pirates and forced to labor as a slave on the fortifications at


Algiers for three years before being transferred to a galley from which he was later rescued by a Spanish ship and liberated, and that while at Algiers he had become acquainted with another prisoner, a young man named John Livingston. Blinckhorn cited various other facts to enhance the plausibility of his story, and Livingston, grasping eagerly at a last straw, seems to have been somewhat taken in by the impostor at first. He immediately wrote to John Jay, begging him to use the facilities of his office as Secretary for Foreign Affairs to check Blinckhorn's story. Jay, after making such inquiries as he could immediately, the results of which tended to cast doubt on the authenticity of the information confided to his father-in-law by the strange sailor, wrote Livingston that the story appeared highly improbable and gave cogent reasons for his opinion, but promised nevertheless to attempt to check the story further through the French and English consuls at Algiers. Livingston's reply indicates that he had already come to the conclusion himself after mature consideration that Blinckhorn was an impostor. Thus once again for the last time was the earth, but recently so unnecessarily disturbed, allowed to settle upon the grave of Livingston's hopes of welcoming to his bosom once again this son so long and so mysteriously lost.

Brookholst early in the war had entered the army as aide-de-camp to General Schuyler with the rank of major, though at the

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29Letter of Jan. 25, 1790, part of which has been printed ibid., p. 158 f., and the remainder of which (as noted ibid., p. 159, n. 11) appears in Johnston, Corr. of John Jay, III, 383 f.

time not quite eighteen. In spite, however, of the fact that he held an unusually high rank for one so young, General Schuyler, when first offering his resignation to Congress in the fall of 1776, on account of the machinations even this early of his enemies in and out of Congress, recommended the promotion of his young aide. The promotion, however, failed to materialize at once and in a letter written September 14, 1777, Brockholst expressed his pique at this neglect. After explaining that he had frequently stayed with the army voluntarily even when his general was absent and he was therefore under no obligation to remain, he continued:

I never screened myself under the cloak of duty. I mention not this by way of boasting, but only to convince you I have been neglected. Gen. Schuyler's recommendations in my favour have been repeatedly neglected. I am happy that I shall soon have an opportunity of leaving the army with honour to myself and family, it being my fixed determination, the moment my general resigns, to leave a service where promotion goes by favour, and not by merit.

Less than a month later, however, the desired promotion took place, Brockholst being raised to the rank of Lieutenant-Colonel. In the unfortunate disputes which shortly thereafter broke out among the commanders of the army which had brought about the surrender of General Burgoyne, he allied himself with the group opposing the faction dedicated to advancing the interests of General Gates.

Brockholst's active military service came to an end in the winter of 1778 when he accepted the opportunity to become private secretary to his brother-in-law John Jay, whom he accompanied in the same capacity to Europe at the end of the following year. He

31 Livingston, Livingstons of Livingston Manor, Appendix A is entitled "A List of Livingstons Who Held Commissions in the American Army and Navy during the War of Independence"; for a summary of Brockholst's military service see this appendix, II, pp. 517 ff.

32 Quoted in Sedgwick, Memoir, p. 237.

33 Livingston, Livingstons of Livingston Manor, pp. 249 ff.
seems to have taken advantage of the opportunities afforded him by his residence abroad, for in a postscript of a letter to his father a year after their departure, Jay wrote: "You will be pleased to hear that Brockholst speaks Spanish and French [sic] fluently, and that his application in acquiring useful knowledge promises much."34 That he did not, however, confine himself entirely to "acquiring useful knowledge" but partook also of the lighter amusements afforded by his situation is evident from a paragraph in a letter to sister Susan written from Bordeaux. After describing some Italian dances performed on the stage, which it had been his good fortune to witness, he added the following philosophical reflection: "Was it not for a pair of draws [sic] these prudent dancers wear, we should often see what Nature perhaps never intended should be hid."35

During the latter part of his stay abroad relations between Brockholst, who apparently was afflicted with the same irritability of temperament as his father, and the Jays seem to have become very strained. In fact, Brockholst, influenced by the arch troublemaker, William Carmichael, Jay's official secretary, appears to have played very much the part of a cad, causing Jay and his wife, who it will be recalled, was Brockholst's sister, no end of trouble and embarrassment.36 Partly on account of the unpleasant relations which had thus arisen between them, Brockholst did not accompany the Jays to Paris but sailed for home early in 1782. On the way the vessel in which he was traveling was captured by a British cruiser and taken to New York, where Brockholst was promptly imprisoned. He was not left long, however, to languish in this unfortunate situation, for Sir Guy Carleton, arriving shortly

34Letter from Madrid, Nov. 22, 1780, in Ledyard Collection, William Livingston Papers, Vol. III.

35Letter of Mar. 31, 1781, ibid., Vol. IV.

36For an account of these difficulties see Monaghan, John Jay, pp. 153 ff.
thereafter to take over the chief command in New York City, released him on parole, entrusting him at the same time with a letter to his father in which the general stated that, being desirous of rendering the evils of war as light as possible to individuals, he had made the "enlargement" of the governor's son one of the first acts of his command. 37

Shortly after this Brockholst decided to act upon the advice which his father had given him a few years previously 38 that he take up the study of law as soon as possible. Desiring to practice in New York State, he proposed in discussing the matter with his father that he go into some office at Poughkeepsie or Albany (New York City being, of course, still in the hands of the British). He seems at first to have intended to start work in an office in one of these towns as soon as the necessary arrangements could be made, that is to say, in the summer or fall of 1782. He subsequently changed his mind, deciding that it might be better to spend the winter studying law at home and to enter an office the following spring, a plan which seems to have been favored by his father. The advice of Colonel Troup dissuaded him, however, from following this course and he reverted to his original plan. Although Governor Livingston did not approve of his son's going to Albany at this time, his objections must have been withdrawn, for arrangements were made for Brockholst to enter the office of Peter Yates in that city, and he arrived there in the latter part of November, writing to his father that he had secured a boarding place near Mr. Yates for forty pounds, exclusive of candles, washing, and

37 This letter, dated May 7, 1782, lies in the Ledyard Collection, William Livingston Papers, Vol. VIII. There is also a copy in the Library of Congress, Force Transcripts, Miscellaneous Letters, C-H.

38 Cf. supra, p. 187
wood. After the evacuation of New York by the British at the end of 1783 Brockholst removed to that city to continue the study and practice of his profession.

The dispersion to a considerable extent of Governor Livingston's family during the Revolution, as just related, was, of course, a hardship for all concerned, and in the case of the youngest son resulted, as we have seen, in tragedy. There was in addition, however, the ever present danger of the capture, or even assassination of the governor himself. Sedgwick describes an attempt made to capture the governor in 1777 as related in a letter written by Elisha Boudinot on July 27 of that year. Livingston was making one of his infrequent visits to his family at the farm at Parsippany which he had only recently rented for them on account of the exposed situation of Liberty Hall. During the night a party of loyalists surrounded the house for the purpose of making the governor a prisoner, but for some reason which is not apparent decided to wait until daylight before effecting the capture. In the meantime they made themselves comfortable in the grounds about the house and fell asleep. The governor, however, probably having an appointment the following morning, though entirely unconscious of any lurking danger, rose early and galloped away while his would-be captors were still peacefully sleeping in their places of concealment. 40

On January 13 of the following year Livingston wrote General Washington from Morristown: "I have this moment received Intelligence that a party is engaged to way-lay me between this place & my house

..." 41 A fortnight later he wrote to the same personage: "Since

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40 Memoir, p. 242.

41 Lib. of Cong., Washington Papers.
I wrote you last, I have detected them [the enemy] in offering a Bribe to assassinate me." These rumors persisted, for on April 10 Livingston wrote to Levinious Clarkson thanking him for the warning the latter had given of an assassination plot being hatched against the governor's life, and adding the characteristic comment: "The Villains do me great honour without intending it, as I should certainly despise myself if they did not hate me & suspect myself for a traitor to my country in proportion as I had their good wishes." 

Substance was added to these rumors when on June 19 one Ephraim Marsh, Jr., appeared before a judge of the inferior courts of Essex County and swore to a deposition stating that on two occasions, once in February and once in May last, when he had been on Staten Island, he had been approached by loyalist officers in the British service (one of them being General Cortlandt Skinner), and had offered two thousand guineas for bringing to the Island, alive or dead, "that d . . . d old rascal Gov. Livingston." Writing to Henry Laurens, president of Congress, the following week concerning these plots, Governor Livingston said with the biting sarcasm which he so frequently and effectively employed: ". . . . they certainly overrate my merit, and I cannot conceive what induces them to bid so extravagant a sum, having now raised my price from 500 to 2000 guineas, unless it be that General Skinner intends to pay his master's debts as he has long been used

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42 Letter of June 26, 1778, ibid.
44 One of the most notorious of the New Jersey loyalists who took service with the British.
45 The deposition is printed in full in J. W. Barber and H. Howe, Historical Collections of the State of New Jersey (New York, 1844), p. 163.
to pay his own." This letter, which Livingston sent to Laurens along with a copy of the affidavit of Ephraim Marsh, was read by the president to Congress, and created quite a stir in that body, for on July 17 Laurens wrote to Livingston as follows.

On the 8th I had the honor of presenting that Letter and the pleasure of perceiving an high degree of indignation kindling in the minds of Members as I advanced in unfolding the villainous [sic] attempts of the Enemy against your Excellency's Person. This Indignation was discernable even in Gentlemens countenances, but more strongly marked in expressions suitable to the occasion which broke forth from many quarters of the House. The Letter was committed . . . .

Sympathetic with the governor's plight though it was, Congress seems to have confined itself to the spontaneous expressions of indignation referred to by President Laurens, for no record of a report from the committee to which Livingston's letter was referred has been found.

During the following year there took place between Livingston and Sir Henry Clinton, commanding the British forces in New York, a correspondence on this subject which exhibits the bitterness and bad temper which occasionally revealed itself during the American Revolution even among the more cultured leaders on both sides. We can scarcely wonder under these circumstances at the grosser and more brutal deeds of cruelty committed by the more untutored and primitive among their supporters in this fratricidal strife. In reference to the deposition of Ephraim Marsh, Jr., or perhaps to more recent information of a similar nature which had come to his attention, Governor Livingston wrote in March of this year, shortly after the abortive attempt of the British to capture him at Liberty

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46 Letter of June 25, of which the above portion is quoted in Sedgwick, Memoir, p. 242.
49 Ibid., note 2.
the following letter.

Hall, 50 to Sir Henry Clinton, commanding the British forces in New York.

Elizabeth-Town, 29th March, 1779.

SIR,

... . I beg leave to acquaint you that I am possessed of the most authentic proofs of a General Officer under your Command having offered a large sum of money to an inhabitant of this State to assassinate me, in case he could not take me alive; this Sir is so repugnant to the Character which I have hitherto formed of Sir Henry Clinton, that I think it highly improbable you should either countenance, connive at, or be Privy to a design so sanguinary and disgraceful. Taking it however for granted that you are a Gentleman of too much spirit to disown any thing that you think proper to abet, I give you this Opportunity for disavowing such dark Proceedings, if undertaken without your Approbation, assuring you at that same time that if countenanced by you, your person is more in my Power than I have reason to think you imagine.

I have the Honour to be with all due respect,
Your Excellency's most humble Servant,

Wil. Livingston. 51

Such a letter can scarcely be termed the most tactful which Livingston might have addressed to the British commander. The veiled threat contained in the penultimate sentence particularly must be condemned as in bad taste; moreover, it gave General Clinton an opening for a cutting thrust in return. When we consider, however, to what extent Livingston had been harassed and annoyed by rumors and reports of plots to capture or assassinate him, of which General Clinton could scarcely have been in complete ignorance, we can readily understand, even if we cannot approve, the thinly veiled irritation with which he addressed the British commander, nor can we forget as a contributing factor Livingston's well known irritability when oppressed by a multitude of cares.

Whatever defense may be offered for General Clinton on the ground of similar personal characteristics, the extraordinary incivility of his reply cannot be excused on the grounds that he

50 Cf. supra, p. 223

had almost constantly for the past two years been the target, as had Livingston, of assassins or would-be captors. On April 10 he addressed the following reply to Governor Livingston from New York.

SIR,

As you address me on a grave subject, no less than life and death, and your own person concerned, I condescend to answer you, but must not be troubled with any further correspondence with Mr. Livingston.

Had I a soul capable of harbouring so infamous an idea as assassination, you Sir, at least would have nothing to fear; for be assured I should not blacken myself with so foul a crime to obtain so trifling an end.

Sensible of the power you boast of being able to dispose of my life by means of intimates of yours, ready to murder at your command, I can only congratulate you on your amiable connections, and acknowledge myself,

Your most humble Servant,
H. CLINTON

In resorting to sarcasm in this duel of words, General Clinton was virtually permitting his adversary to choose his own weapons and rashly throwing away all chance of maintaining the contest on an even basis. Sarcasm, as we have already seen, was Livingston's favorite weapon, one in the use of which he had seldom, if ever, been excelled in his previous innumerable battles of words. On this occasion he replied to his opponent's few keen thrusts with a blast of withering sarcasm which would have rendered futile any further efforts on the general's part even if he had chosen to reply. Livingston's letter is too long to quote in full but parts of it will give the flavor of the whole. Claiming as the plaintiff the right to have the last word, he renounced any intention, however, of attempting to surpass Sir Henry in the use of indecent language. He continued:

It had doubtless redounded more to your honour, and afforded a stronger argument of your abhorring such infamous measures, to have called upon me for proofs, and manifested a proper

52Ibid., p. 253.
resentment against the criminal, than to flourish about the capability of your soul, and to betray a want of politeness so unusual in persons of your rank and breeding, and without any other provocation than my complaining to you of the conduct of one under your command, so repugnant to the law of arms and the sentiments of humanity.

... Whatever your soul may be capable of, I should have ventured, before the receipt of your letter, to have pronounced it impossible for you to be capable of opprobrious language. How far, Sir, I am now to believe this impossibility, I leave you in your cooler moments to determine.

... What could induce you to say, that I boast of the power of being able to dispose of your life by means of intimates of mine ready to murder at my command, I am at a loss to guess: Is there a word in my letter either about your life or about murder? Or is your Excellency so haunted with the thoughts of murder, from a consciousness of British barbarity, that you cannot write three paragraphs without being startled by the shocking spectre? ... Indeed Sir, from the specimen of your inductions you ought to be a much better General than you appear to be a logician, or America need be under no apprehensions about her independence during your administration.

As to your must not be troubled with any further correspondence with Mr. Livingston, believe me Sir, that I have not the least passion for interrupting you in your more useful correspondence with the Ministry, by which the nation will doubtless be greatly edified, and which will probably furnish materials for the most authentic history of the present war, and that you cannot be less ambitious of my correspondence than I am of yours ... I am therefore extremely willing to terminate it by wishing you a safe voyage across the Atlantic with the singular glory of having attempted to reduce to bondage a people determined to be free and independent.

I am, Sir, your humble Servant,

Wil. Livingston

As might be expected, nothing was accomplished toward the suppression of such nefarious plots by such an interchange of letters. Within a couple of months after the conclusion of this correspondence, the governor's son William wrote warning his father of a new plot to capture him upon his return from the current sitting of the legislature to the farm at Parsippany. In the same letter the younger William

53Ibid., April 26, 1779, pp. 266 ff. Livingston's opinion of Clinton never changed for the better. At the end of 1781 he wrote to his brother Robert: "I should be very sorry to have Clinton recalled through any national resentment against him, because as fertile as that country is in the production of blockheads, I think they cannot easily send us a greater blunderbuss, unless peradventure it should please his majesty himself to do us the honour of a visit" (letter of Dec. 17, quoted in Sedgwick, Memoir, pp. 369 f.).
outlined a plan he had formed for thwarting the attempt and possibly capturing or killing the perpetrators. His plan was to circulate a false report as to the date when his father was expected and then to lie in wait armed for the appearance of the conspirators. In replying from Raritan his father thanked him for the warning, stating, however, that he had already learned of the plot through the confession of one Allen. The governor announced his intention of remaining at Raritan and expressed the belief that his son's plot might succeed, but warned him to have a sufficient force inside the house to prevent the possibility of plunder by the band of conspirators. 54

William, Jr., carried out his plan, spreading the report that his father would return from the session of the legislature on the 22nd. 55 According to a contemporary account which appeared in the New Jersey Gazette, the scheme met with at least partial success. The conspirators appeared about two hours after midnight on the night they were expected and were fired upon, but escaped by fleeing into the woods. The person who was suspected of having been their leader, however, was captured the following morning and committed to jail in Morristown. 56

The following year witnessed a recurrence of these plots and rumors of plots against the liberty or life of New Jersey's war governor. On June 30, 1780, Elias Dayton wrote to Livingston from Chatham: "I am sorry to have it in my power to assure your Excellency that one night this week nine fellows crossed over from Staten Island to Amboy for the purpose of takaing [sic] you off ... ." 57 Later in


55 Probably June, for although this incident was not reported in the N. J. Gazette until July 28, yet the last sitting had come to a close on June 12.


57 Ledyard Collection, William Livingston Papers, Vol. II.
the summer one Ensign Moody, another New Jersey loyalist who had accepted a commission from the British, was captured by a party of the New York State Levies under the command of Captain Jonathan Lawrence, Jr., and there were found on his person the following orders, which indicate that the capture of Governor Livingston was still a prime object of the British although assassination was expressly forbidden, if, indeed, it had ever been condoned by officers of the regular British army, which is extremely doubtful.

TO ENSIGN MOODY,
First Battalion New-Jersey Volunteers.
Head-quarters, New-York, May 10th, 1780.

Sir,

You are hereby directed and authorized to proceed, without loss of time, with a small detachment into the Jerseys, by the most convenient route, in order to carry off the person of Governor Livingston, or any other acting in public stations whom you may fall in with in the course of your march, or any persons whom you may meet with, and whom it may be necessary to secure for your own security and that of the party under your command.

Should you succeed in taking Governor Livingston, you are to treat him according to his station, as far as lies in your power, nor are you upon any account to offer any violence to his person. You will use your endeavours to get possession of his papers, which you will take care of, and upon your return deliver at head-quarters.

By order of his Excellency, Lieutenant-general Knyphausen,
Geo. Beckwith,
Aid-de-camp.

I do certify the above to be a true copy from the original.
J. Lawrence, Jun.
Capt. N. Y. State Levies.

In the New Jersey Journal of August 2, 1780, appeared a report concerning a party other than that headed by Moody, but possessed of a similar purpose, though designs more bloody than those revealed in the orders to Moody were attributed to it by the account in the partisan patriot paper.

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58 The letter from Capt. Lawrence to Governor Livingston, dated July 22, [1780], announcing the capture of Moody the day previous, lies ibid., Vol. II.

It is reported that another party was sent from Staten-Island last week for the express purpose of assassinating his Excellency our Governor. Ought not such bloody measures to be retaliated upon the enemy? 60

Even the holiday season, a date by which active military operations of the regular forces were generally suspended for the winter, was marred by these distressing rumors. On December 26, 1780, the governor received a letter from one John Dennis, warning him that seven men had recently come into the state with the intention of capturing him and were still lurking there. 61

In the spring of the next year there was the usual crop of rumors of this sort. On April 11, 1781, Livingston himself wrote to Joseph Reed, warning the latter that he had received information that four parties had been sent out by the enemy to assassinate respectively General Washington, Governor Clinton, Joseph Reed, and Governor Livingston. 62 Ensign Moody, captured the year previous, had effected his escape and was in the summer of 1781 again engaged on his dangerous mission of attempting to capture rebel leaders, which prompted Governor Livingston on August 3 of this year to issue the following proclamation.

Whereas it has been represented to me that the persons herein after mentioned have been guilty of atrocious [sic] offences, and have committed divers robberies, thefts and other felonies in this state:—I have therefore thought fit . . . . to issue this proclamation, hereby promising the rewards herein mentioned to any person or persons who shall apprehend and secure in any gaol of this state, any or either of the following persons or offenders,

60 Reprinted in N. J. Arch., 2 ser., IV, 553.

61 Letter from Brunswick in Ledyard Collection, William Livingston Papers, Vol. III.

62 Letter from Trenton in N. Y. Hist. Soc., Joseph Reed Papers, Vol. VI, No. 166. George Clinton was the patriot governor of the State of New York, and is not to be confused with Sir Henry Clinton, the British commander. Joseph Reed was president of the Supreme Executive Council of Pennsylvania, the nearest approach to governor which the peculiar constitution of that state permitted.
to wit, Caleb Sweesy, James O'Harra, John Moody, and Gilbert Gyberson, the sum of Two Hundred Dollars of the bills of credit issued on the faith of this state.

In derision of this attempt of the New Jersey governor to effect his capture by setting a price on his head, Moody subsequently published in Rivington's Royal Gazette in New York the following satirical imitation of Livingston's proclamation.

Whereas a certain William Livingston, late an Attorney-at-Law, and now a lawless usurper and incorrigible rebel, stands convicted in the minds of all honest men, as well as in his own conscience, of many atrocious crimes and offences against God and the king, and among many other treasonable practices, has lately... published a seditious advertisement in a rebel newspaper, offering a reward, of what he calls two hundred State dollars, to an assassin who shall take and deliver me... into the power of him, the said William Livingston,

I do therefore hereby promise to pay the sum of two hundred guineas, true money, to the person or persons who shall bring the said William Livingston alive into New York... so that he may be duly lodged in the provost, till the approaching extinction of the rebellion, then to be brought to trial for his numerous crimes and offences aforesaid. In the mean time, if his whole person cannot be brought in, half the sum above specified will be paid for his EARS and NOSE, which are too well known, and too remarkable to be mistaken.

63 According to a subsequent proclamation, dated Oct. 9, 1781, this name was inserted by mistake and should have been William Gyberson (N. J. Arch., 2 ser., V, 307).

64 Ibid., p. 283.

65 It may be pointed out here that the loyalists held Governor Livingston largely responsible, because of his vitriolic attacks upon Tories in his speeches and writings (cf. infra, pp. 305ff) for the harsh treatment which they had received at the hands of the patriots. Cf. note LXXI, by E. F. De Lancey, the editor of the Hist. of N. Y., by the Tory, Thomas Jones (I, p. 783): "The bitter message of Governor William Livingston, of the 28th of May, 1777, urging severe treatment of the loyal men of New Jersey, and the confiscation of their property, and the violent hostility of his articles in the newspapers of New Jersey, Pennsylvania, under noms-de-plume, a violent hostility continued even after the war, not only excited the cruelties perpetrated against them... but led to similar cruel retaliations." In evaluating such a statement it must be borne in mind, of course, that the author of the comment just quoted, Mr. De Lancey, was a descendant of the family which had been the bitterest opponent of the Livingston faction in New York politics before the Revolution, and which, moreover, had espoused the British cause at the outbreak of the latter struggle.

66 A jibe at the depreciated currency of the State of New Jersey (cf. infra, pp. 297ff.).

Observe, however, that his life must not be attempted, because that would be to follow his example of exciting the villanous [sic] practice of assassination, and because his death at present, would defraud Jack Ketch of a future perquisite.68

Moody's success, however, was no greater than that of the previous year, and his activities ended in even greater tragedy for himself, for on November 13, 1781, Richard Peters wrote to Governor Livingston from the War Office in Philadelphia: "We have the Honour to enclose Copies of the Confessions of John Moody & Lawrence convicted of being Spies in this City. The former is executed."69 The fate of Moody does not seem to have become generally known at once, for in December of this year Livingston was still receiving letters warning him of Moody's plan to assassinate him.70

The surrender of Cornwallis in the fall of 1781 had, however, virtually ended the war, and rumors concerning attempts on the governor's life seem to have ceased for the most part by the end of this year although a letter written as late as October 24, 1782, contains information that those loyalists in New York City who had formerly been residents of New Jersey, exasperated at the proposal in that state of laws to prevent their return to their former homes, had formed a plot to murder Governor Livingston.71 In acknowledging receipt of this letter, which Colonel David Humphrey had forwarded to Livingston enclosed in one of his own, the governor after thanking

68Reprinted in Frank Moore, Diary of the American Revolution (New York: Chas. T. Evans, 1863), II, 467. This will be cited hereafter as Diary of Am. Rev.

69Ledyard Collection, William Livingston Papers, Vol. VI. This ignominious death was said by Moody's elder brother James to have caused their father to lose his reason (E. A. Jones, The Loyalists of New Jersey [Collections of the N. J. Hist. Soc., X], p. 144.


71James Cogswell to Colonel David Humphrey, ibid, Vol. VII. Governor Livingston himself advocated such legislation (cf. infra, p. 309.)
Humphrey for his solicitude concluded with a sarcastic fling at his enemies which at the same time indicates his innate modesty and total lack of conceit. The testimony of his own words in this case may well be accepted because they are borne out by his actions throughout his life, which never once reveal him as an office-seeker. "But after all," he wrote on this occasion, "the fellows are as great blockheads as they are rascals, for taking so much pains and running any risk to assassinate an old fellow whose place might be supplied by a successor of greater ability and greater energy."

The elevation of Livingston to the office of chief executive of one of the rebellious colonies and his consequent connection with national affairs during the American Revolution not only raised up, however, new enemies to harass and annoy him, but also resulted in the acquisition of new friends. Among the men with whom he became acquainted as a result of his connection with national affairs Livingston seems to have been particularly attracted by Henry Laurens, a delegate to the Continental Congress from South Carolina and at one period president of that body.

For this gentleman Livingston developed an especial regard although oddly enough they seem never to have met previously. Their respective official positions, however, the one as president of Congress and the other as governor of the State of New Jersey, necessitated correspondence between them—of a business nature and after a short time Livingston took the initiative in proposing to put their correspondence on a more intimate and less formal basis. To this offer Laurens replied in part as follows.

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73 Laurens was not elected to the Congress until after Livingston had ceased to be a member.
I shall always reflect upon the tender of Gov. Livingston's friendship as one of the very happy events in my life. I will also sedulously endeavour to retain an acquisition, which feels the more valuable as it came unexpected. But alas, sir, what have I, who am neither a scholar nor a wit, to return in exchange for your polite correspondence? Call me one step beyond the composition of a plain letter of business, and I am gravelled. If, after this frank and laconic declaration, your excellency shall be pleased to take me as I am, and to confirm the late proposition, you will find me faithful, ready to embrace occasions for evidencing an esteem which I had entertained for your character, long before the adventitious circumstance of official addresses had drawn me into your excellency's view. Set me down, therefore, if you please, sir, upon the premised conditions, as one of your humble servants, one who rejoices in the opportunity afforded him of signifying his desire to be sincerely attached to you, and in nothing within the sphere of my capacity will your excellency be deceived, or wilfully disappointed by me.\(^74\)

There ensued during Laurens's stay in Congress a steady correspondence between these two, in which they discussed in the same informal manner as though their friendship had been of long standing those questions of the day in which each had a deep interest.\(^75\) Indeed, the fact that their opinions on the chief issues confronting the nation were generally similar seems to have been the sole bond of sympathy between the two men, and the only explanation of this rather extraordinary friendship. In order to avoid creating the impression that he was seeking by his unconventional offer of friendship to ingratiate himself with those in high places, a practice against which he had frequently directed some of the sharpest thrusts of his pen and to which he would most assuredly have scorned to stoop himself, Livingston took pains to impress upon Laurens that his friendship was based on personal grounds and was by no means inspired by that gentleman's position as president of Congress. Thus we find him writing: "I hope you don't think that I lately courted your acquaintance as head of the


\(^75\)Much of it is printed by Sedgwick *ibid.*, chap. viii.
Congress. It was Mr. Laurens the man & the Gentleman & not Mr. Laurens the President upon whose friendship & correspondence I valued & shall always value myself."

This statement is borne out by the fact that Livingston does not seem to have conducted a personal correspondence with any of the other presidents of Congress, except, of course, with his son-in-law, John Jay.

The strong influence which Laurens exerted over Livingston at this time (the more remarkable when we consider the unusual inception and nature of their friendship) is indicated by a letter written by the latter in the fall of 1779. At this time it was being rumored that Laurens was about to resign from Congress. Livingston mentioned this report, expressing the hope that it was not so but pledging the continuance of his own friendship even if the rumor should turn out to be true.

... the Chance is against us in your Successor. And as for poor me, to whom the pleasure and honour of your Correspondence, and my local proximity to you while you continued at Philadelphia was no small inducement to take hold of the helm of the good ship the New Jersey, for another year,—as for poor me, I say, I fear the warm climate of South Carolina will soon cause an evaporation of your recently-contracted friendship; & the wide distance between us, a total Interruption of your Correspondence. But wherever you go, may God bless & preserve you; and be assured Sir, that (while he has any Memory at all) you shall never go out of the memory of

Dear Sir
your Excellencys
most humble Servant
Wil: Livingston.

Whether the warm climate of South Carolina, to which Laurens returned late in 1779, caused an evaporation of his recently contracted friendship, or whether his subsequent long absence from the country and unfortunate experiences abroad caused him to forget his new-found

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77Letter from Trenton, Nov. 9, 1779, N. Y. Pub. Lib., Emmet Collection, No. 782.
friend cannot be determined, but at any rate the total interruption of their correspondence which Livingston had feared appears to have taken place, for there is no record of any extended correspondence between the two men after Laurens's departure from Congress. Thus this somewhat unorthodox friendship seems to have ended as suddenly and as strangely as it had begun.

Of the delegates from New Jersey to the Continental Congress, in addition to Dr. Witherspoon and Elias Boudinot, whom we have already mentioned as among Livingston's friends, Nathaniel Scudder and John Beatty seem to have stood especially high in Livingston's esteem. Concerning the former, Livingston wrote to another of the New Jersey delegates who had just been elected for the first time: 
"I think you cannot attach yourself to a worthier man of our Delegates than Dr. Scudder. . . . . If there is an honest disinterested patriot in the world, I think he deserves the character . . . ."  

Of the latter Livingston wrote: "Make my compliments to Col. Beatty, as honest a member, I believe, as there ever was in the first Congress."  

During the Revolutionary War Livingston, as governor of New Jersey, had considerable contact as well as correspondence with the commander-in-chief, General Washington, and developed not only a great admiration but a real affection for him. When Washington's prestige seemed in danger of being undermined by the insidious machinations of the infamous Conway Cabal, Livingston wrote to him: 
". . . . as for the personal friendship of your humble Servant, if it is worth having at all, you have it upon the solid principles of a full Conviction of your disinterested Patriotism; and will continue


to have it, while that Conviction continues to exist, all the
Devils in hell, and all the envious intriguers upon Earth, not-
withstanding."\(^8\)\(^0\) Again, when General Charles Lee was attempting
to make trouble for his superior after the unfortunate affair at
Monmouth, we find Livingston writing to the former: "... . I should
be extremely unhappy in having reason to believe what is frequently
... . reported of you, that you endeavoured to lessen the estimation
in which General Washington is held by the most virtuous citizens
of America; and which estimation, not, Sir, from a blind attachment
to men of high rank, nor from any self-interested motive whatsoever,
but from a full conviction of his great personal merit and publick
importance, I deem it my duty to my country to use my utmost influence
to support."\(^8\)\(^1\)

This high regard in which he held General Washington was
translated by Livingston into poetry on one occasion and published
in the New Jersey Gazette under the nom de plume "Hortentius". In
this tribute, after invoking the muse of poetry so long neglected
by him to warm again his bosom with poetic flame, and after proceeding
thereupon to celebrate the heroic deeds of the great leader, Livingston
concludes by peering into the future in a truly prophetic vein.
This portion of the poem may fitly be presented here as a fair
sample of Livingston's more serious poetry and also because of the
interest which attaches to it on account of the almost uncanny
accuracy with which the author portrayed the future life and services
of his hero.

\(^8\)\(^0\)Letter from Trenton, Mar. 2, 1778, Lib. of Cong., Washington Papers.

\(^8\)\(^1\)Letter from [New] Brunswick, Jan. 16, 1779, Lib. of Cong.,
Force Transcripts, Misc. Letters, J-P.
The arduous task absolvin'd, the truncheon broke;
Of future glory, liberty and peace
The strong foundations laid, methinks I see
The god-like Hero gracefully retire,
And (blood-stained MARS for fair POMONA chang'd)
His rural seat regain: His rural seat
Fresh blooming at his visitation, smiles;
And in expressive silence speaks her joy.
There, recollecting oft thy past exploits,
(Feast of the soul ne'er cloying appetite)
And still assiduous for the public-weal;
(Incumbent duty ne'er effac'd) amidst
Sequester'd haunts, and in the calm of life,
Methinks I see thee, SOLON-like, design
The future grandeur of confederate States
High tow'ring; or for legislation met,
Adjust in senate what thou sav'd in war.

The future apotheosis of the Father of His Country is also forecast
by the poet. Alluding to the time when the general must pass from
this earth, he continues:

... and then heavens all-ruling sire
Shall introduce thee to thy glad compeers,
The HAMPDENs, SIDNEYS, Freedom's genuine sons!
And BRUTUS' venerable shade, high rais'd
On thrones erected in the taste of heav'n,
Distinguish'd thrones for patriot demi-gods,
(Who for their country's weal or toiled, or bled,)
And one reserv'd for thee: ... .

The poem concludes, as indeed we might expect of one from the pen
of Livingston, especially at such a time, with a glorification of
the poet's favorite concept—liberty.

... . There envy's shafts
Nor tyrants e'er intrude, nor slavery clanks
Her galling chain; but star-crown'd LIBERTY
Resplendent goddess! everlasting reigns.82

That this high esteem in which Livingston held the commander-in-chief was reciprocated at least to a considerable degree by

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82 From the N. J. Gazette, April 1, 1778, reprinted in N. J. Arch., 2 ser., II, 135 ff.; a portion of this poem is reprinted in Sedgwick, Memoir, p. 269. It is interesting to note that Livingston submitted these verses before publication to the poet Francis Hopkinson: "I also beg the favour of you to correct the Verses I send you on General Washington, & return them with your Amendment as soon as possible. I know you to be a good hand without flattery, & you cannot pretend to the wane of Life" (letter of Mar. 19, 1778, in Mass. Hist. Soc., Livingston Papers, Vol. II [Sedgwick Copy]).
Washington seems evident from the following, which he wrote in a letter to the governor in which he had discussed with great frankness the troublesome militia question. "I have taken the liberty to communicate my sentiments on this subject with great freedom to your Excellency, as it appears to me a matter of extreme importance; and as I have the most entire confidence in your candour and friendship."  

General Washington's regard for the Livingstons was not, moreover, confined to the governor himself. During the time when Washington's headquarters were in northern New Jersey, where Mrs. Washington was frequently with him, the ladies of Governor Livingston's family were frequent and welcome visitors. The affection which the general formed for the governor's daughters is indicated by the fact that on two separate occasions we find him paying tribute to them by sending them a lock of his hair, the recipient on one occasion being Kitty and on the other Sarah Jay on the eve of her departure for Europe with her husband.  

The unfortunate condition into which the finances of his own state and of the country as a whole degenerated during the war was a matter of concern to Livingston not only in his official capacity as governor but also as an individual. With the steady depreciation of the currency his salary as governor, small even at the beginning, became woefully inadequate. The original salary had been fixed at £600 in addition to the perquisites of his office, which it was estimated would yield an additional £400, but which

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84. Washington to Catharine Livingston, Valley Forge, Mar. 18, 1778, quoted in part in Livingston, Livingstons of Livingston Manor, p. 473; for the incident concerning Sarah see Monaghan, John Jay, p. 125.

85. For a discussion of his attitude on the financial situation as a public problem see infra, pp. 194 ff.
seem invariably to have fallen far short of that amount.\textsuperscript{86} The following year the salary was increased to £1000 and maintained at that figure for the year 1778-1779. Inasmuch as the depreciation of the currency was by 1779, however, increasing with almost unbelievable rapidity, an additional £1000 was voted on June 8 of that year. Livingston wrote to his wife at this juncture:

The Assembly have raised my salary to £2000 to commence from last October & augmented the perquisites of the office five fold which will make about 1400 more. After all it is a trifle considering the depreciation of the money but who can augment their generosity?\textsuperscript{87}

Conditions, however, became progressively worse and although the governor's salary for the year 1779-1780 was raised to the royal nominal figure of £8000, later augmented by £300 of "lawful money" (new bills of credit issued by the state to be exchanged for continental currency at the forty-to-one rate fixed by Congress in March, 1780), yet Livingston himself estimated that the whole did not amount actually to more than £300 in specie value, nor with the addition of the perquisites, to more than £400.\textsuperscript{88} Upon assuming the responsibilities of the governorship for the fifth consecutive time in October of 1780, Livingston conditioned his acceptance with the stipulation that whatever nominal amount might be decided upon as the governor's salary for the coming year, that amount should be made good in full value in case the new currency should continue to depreciate as had the old. This was exactly what happened, as Livingston had feared, and in November of 1781,

\textsuperscript{86}For the governor's salary see Acts of the General Assembly of the State of New Jersey for the various sessions. These acts were printed, generally by Isaac Collins, at the close of each session. They will be cited hereafter as Acts of N. J.


\textsuperscript{88}Letter to Josiah Hornblower, Speaker of the New Jersey Assembly, Nov. 1, 1780, \textit{ibid.}, (Sedgwick Copy).
after his election to his sixth term, the governor addressed the Speaker of the Assembly on the subject of the failure of that body to live up to its agreement concerning the salary question. After reviewing the circumstances, he continued: "As I can assure the honorable House that the augmentation of my fortune was never my object in accepting of any office, so neither ought the House to expect that, besides a man's time ... he should also exhaust his private property." When by June of the following year the Assembly had not yet taken steps to satisfy his just demands, the governor addressed another message to them on the subject. In this message he made it plain that he did not consider the Assembly obligated to make up the full value of £1000 of the new money, which had been the nominal salary ultimately fixed upon for the year 1780-1781, but that he did feel that they should make up the difference between £300, which he estimated as the actual specie value of the depreciated currency in which he had been paid, and his salary for the current year, which had been fixed at £650. This second reminder was more effectual, and in his message to the Assembly in December the governor reported that he had received from the Treasury the full amount due him. From this time on the currency became somewhat more stable although still subject throughout the critical period between 1783 and 1789 to depreciation on occasion. The governor, however, did not feel

89 Letter of Nov. 21, 1781, Selections from the Correspondence of the Executive of New Jersey from 1776 to 1786 (Newark, 1848), pp. 294ff.
90 Message of June 18, 1782, Votes of Assembly.
91 Ibid., Dec. 23, 1782.
impelled again to complain about his salary though it remained pitifully small. \(^{92}\)

Besides the fact that his salary was at times during the Revolution insufficient to meet even the bare expenses entailed by his official position, Livingston's personal estate, of course, likewise suffered from the depreciation of the currency. Sedgwick has estimated that it was reduced in this manner of a third of its value before the war. \(^{93}\) Despite this fact, Livingston himself was never willing to protect himself against the depreciation by what he considered an unpatriotic act, considering it his duty both as governor and patriot to observe to the letter the legal tender laws passed in the attempt to maintain depreciated paper currency at parity with gold. In 1779 he wrote to Francis Hopkinson: "I have not a single grain of gold or silver in the world, nor would I by any means purchase it for continental dollars at the difference of one farthing to the exchange." \(^{94}\) Nor when he had become convinced, as he later did, of the undesirability and immorality of such laws, would he take advantage of them for his own personal profit. In 1789 he wrote: "... no acts of Assembly have hitherto been able to reconcile me to cheating according to Law, or convinced me that human Legislators can alter the immutable duties of morality." \(^{95}\)

In addition to the impairment of his estate due to depreciation Livingston also lost valuable land in Vermont during the

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\(^{92}\) For the year 1782-1783 the governor's salary was fixed at £600; the following year it was reduced to £550 and remained at that figure until 1789-1790, the last year of Livingston's incumbency, when it was raised again to £600 (Acts of N. J., for the various sessions).

\(^{93}\) Memoir, p. 440.

\(^{94}\) Quotation from letter of Feb. 7, ibid., pp. 355 f.

Revolution as a result of the refusal of that new-born state to recognize the validity of grants made by New York years before, in spite of the fact that as long ago as 1764 the King in council, attempting to effect a settlement of the long-standing dispute between New York and New Hampshire over the Vermont lands, had held the New York grants valid. The manner in which Livingston suffered this loss furnishes another illustration, reminiscent of his Scottish forbears, of his pertinacious adherence to principle at whatever cost. When the legislature of Vermont was on the point of declaring void all grants made by authorities outside of the state, Livingston was informed that on account of his eminence and his well known ardent patriotism during the Revolution, the legislature could probably be induced to grant him other lands in exchange for those which were about to be confiscated. To this suggestion Livingston is said to have replied with considerable asperity: "No, no! I'll not countenance the robbers." 96

The following gloomy comment on his personal fortune was made to his sister Mrs. Catharine Lawrence during the darkest period of the war.

I am sensibly affected by your saying that you are moneyless, which indeed by the depreciation of my personal Estate & the robbers of Vermont seizing on the best part of my real Estate, is like soon to be my own case. If the war continues much longer, almost the whole family will be reduced to straights [sic] & difficulties, to which we have never been used, & it has often filled me with melancholy reflections that I have so large a family ——— indifferently provided for, & which I shall be obliged to leave so much less than they once had reason to [expect?]. 97

As the fortunes of the colonies improved, however, Livingston was able to view the situation of his own personal affairs with greater

96 Sedgwick, Memoir, p. 363.

optimism. When Brockholst, about to enter upon his study of the
law in the fall of 1782, suggested that he might be able to
borrow some money if his father were short of cash, the latter
in replying indicated his displeasure that Brockholst should have
made such a suggestion. 98 Likewise when Peter Yates, in whose
office Brockholst was to start his apprenticeship, wrote to
Governor Livingston that if necessary, he would be willing to
board Brockholst and await payment at some future time, 99 the
governor replied: "I have as you observe suffered greatly by the
war; but I have some resources which many of my neighbours have
not, & it would be no inconvenience to me to pay the board
annually." 100 That Livingston’s comfortable fortune was not so
irretrievably ruined as he had at one time feared is indicated also
by his reply toward the close of the war to his wife’s suggestion
that they sell Liberty Hall. "As to your opinion about disposing
of our place at Elizabethtown, I cannot think that I am under
any necessity of doing it, because, though I have greatly suffered
by the war, I have a good estate left, if I can but get the time
to put it in order." 101

As we look back upon the ever-present dangers during the
American Revolution to William Livingston himself, to his family,
to his home, and to his fortune, we can scarcely deny that on the
whole he was very fortunate to have gone through those trying years
of storm and stress with no serious bodily harm to himself, with

98 Letters of Brockholst to his father, Sept. 11, and 20, 1782,
in Ledyard Collection, William Livingston Papers, Vol. VII.

99 Letter of Nov. 1, 1782, ibid.

100 Letter of Nov. 9, 1782, in N. Y. Pub. Lib., Emmet Collection,
No. 15112.

the loss of only one member of a rather numerous family, with his home intact, and with his fortune, though seriously impaired, yet still adequate to maintain in reasonable comfort those immediately dependent on him. The strain of these trying years Livingston bore remarkably well when we consider the unusual activity which was required of him and the fact that at the close of the war he was in his sixtieth year. Although as commander of the New Jersey militia at Elizabethtown Point in 1776 he had written, "My ancient coporeal fabric is almost tottering under the fatigue I have lately undergone . . . ."¹⁰² yet three years later he was able to write:

I have been enabled to despatch more business for the two years last past, than ever I did before in double the time, with the advantage of all the strength and vivacity of youth (when yet I did not think myself an indolent man), and that without a moment's bodily indisposition or lassitude, and with an almost uninterrupted flow of spirits; and all this amidst the deprivation of a thousand of those comforts and conveniences which long habit had taught me to consider as the necessaries of life, without being in the least affected with the loss.

This unanticipated fortitude in the face of numerous hardships and unwonted demands upon his strength Livingston with his customary piety, which despite his frequent crusades against the hypocrisy of some forms of man-made religion he retained until the end of his life, attributed to God's gracious assistance. "But it is high time, sir, to apologize for so much egotism, which I assure you nothing could have extorted from me but the strong obligation I feel of recounting, upon all proper occasions, such manifest proofs of the Divine goodness . . . ."¹⁰³

Nevertheless, he was very glad at the end of the war to be able to return once more to his "philosophic solitude" at Liberty Hall. "My return, after so long an absence, gave me an additional relish for

¹⁰² Letter to William Hooper, Aug. 29, quoted ‹‹ibid.››, pp. 199 ff.
¹⁰³ Letter to Chauncey Whittelsey, Jan. 1, 1779, quoted ‹‹ibid.››, pp. 318 ff.
that rural life and noiseless retirement for which I have long had an ardent passion."\textsuperscript{104}

\textsuperscript{104}Letter to William Hooper, Nov. 10, 1783, quoted \textit{ibid.}, pp. 383 f.
CHAPTER IX

HORTENTIOUS TAKES HIS PEN IN HAND

Although maintenance of the public morale was not technically one of Livingston's official duties as chief executive of the State of New Jersey, it was nevertheless one of the important problems with which he had to deal during the Revolution both as an individual patriot and as an official of a state overrun by the enemy during part of the war and never free from sudden incursions on the part of both regular and irregular enemy forces. Inasmuch, too, as there were no official propaganda agencies such as the Committee on Public Information established during the World War, the maintenance of the public morale throughout the country as a whole depended largely upon the efforts of those individual patriots who, like Livingston, were able and willing to devote part of their time and energy to this highly important task. In this respect Livingston did yeoman service. He doubtless had never heard of the term "propaganda technique," a subject upon which recently so much study has been expended, but that he had a practical knowledge of some of the tricks of the trade is evident from the
following letter written to General Washington concerning Lord North's conciliation speech in 1778.

To provide, however, some antidote to prevent meanwhile the operation of his lordship's poison, I have sent Collins 2 a number of letters, as if by different hands, not even excluding the tribe of petticoats, all calculated to caution America against the insidious arts of enemies. This mode of rendering a measure unpopular, I have frequently experienced in my political days to be of surprising efficacy, as the common people collect from it that everybody is against it, and for that reason those who are really for it grow discouraged, from magnifying in their own imagination the strength of their adversaries beyond its true amount.8

One medium through which this maintenance of morale might be accomplished was, of course, the periodical speeches which Governor Livingston addressed to the legislature and which were generally reprinted for popular consumption in the newspapers, at first in those of the neighboring colonies, and later in New Jersey's own newspaper, after its establishment. We cannot reproduce these speeches, inspiring as some of them are. One or two examples must suffice to indicate their nature. Probably the greatest war speech which he made was that delivered to the legislature at Haddonfield, February 28, 1777. After deploring the desolation created in the state by the enemy, he congratulates the legislature on the recent successes of the patriot troops and points out the silver lining for the patriots of the late incursion of the enemy into New Jersey. "It has winnowed the Chaff from the Grain. It has discriminated the temporizing Politician 9 from the persevering Patriot." He expatiates at some length upon the barbarity and rapacity of the enemy. Turning to the situation of Great Britain, he points out the various weaknesses of her government, the many dangers which threaten her from without, and the iniquity of her waging

1 Publisher of the N. J. Gazette (cf. infra, p. 147).
2 Letter of April 27, 1778, in Sedgwick, Memoir, pp. 261 f.
war against her own kin, a sin by which she forfeits all right to
divine support. America, however, must not rely too much on a
kind providence, but must put forth redoubled efforts in its own
defense.

Let us all, therefore, of every Rank and Degree, remember our
plighted Faith and Honour, to maintain the Cause with our
Lives and our Fortunes. Let us inflexibly persevere in pro-
secuting to a happy Period, what has been so gloriously begun,
and hitherto so prosperously conducted. And let those in more
distinguished Stations, use all their Influence and Authority,
to rouse the supine; to animate the irresolute; to confirm the
wavering. And may we, in all our Deliberations and Pro-
ceedings, be influenced and directed by the great Arbiter of
the Fate of Nations, by whom Empires rise and fall; and who
will not always suffer, the Sceptre of the Wicked, to rest on
the Lot of the Righteous; but in due Time avenge an injured
People on their unfeeling Oppressor, and his bloody Instru-
ments.

One more example of Livingston's eloquence in exhorting
his compatriots to persevere with undiminished energy in the cause
upon which they had entered must suffice. Addressing the Assembly
on September 8, 1777, after a summer during which the inhabitants
had been constantly harassed by the operations of both armies, he
spoke as follows:

Let us only persevere with the same Ardour in repelling their
unprovoked Hostilities, and they must ere long relinquish
their desperate Purpose. Let us not therefore be dis-
couraged by a few transient Inconveniences [sic], the endur-
ing of which may be productive of the most permanent Blessings.
In Proportion to the Value of the Prize contended for, ought
to be the Vigour of our Struggle, and the Blood and Treasure
we should be willing to expend in securing it: And what can be
too valuable a Sacrifice for securing that without which
nothing else is of any Value? . . . The Establishment of
Tyranny will surely leave us nothing of which the Effects of
War can divest us. But a resolute Opposition may prevent the
Establishment of Tyranny and secure Freedom to our remotest
Posterity. Appeal to Reason; and she cries aloud, RESIST,
RESIST.

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Votes of Assembly, Feb. 28, 1777. This speech is re-
printed in full in Frank Moore, American Eloquence: a Collection
of Speeches and Addresses by the Most Eminent Orators of America

Votes of Assembly, Sept. 8, 1777.
The making of speeches was not, however, as we have already seen, Livingston's forte, even though they might be considerably more effective when reproduced in print than when poorly delivered. For arousing public opinion Livingston had always considered the columns of the newspapers the most effective medium. Yet New Jersey up to this time had had no newspaper. In this predicament Livingston turned to the newspapers of the neighboring colonies, unable, even though his time must have been quite fully occupied with his multifarious duties as governor, to give up his lifelong habit of wielding his pen in a cause which he was supporting.  

On February 18, 1777, there appeared in Dunlap's Pennsylvania Packet or the General Advertiser a piece from Livingston's pen called "The Impartial Chronicle, or the Infallible Intelligencer; upon the Plan, and after the Manner of, the New-York Mercury." This was a long piece in Livingston's most satirical vein purporting, as indicated by the title, to contain news items similar to those carried in Gaine's New York Mercury.

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5In the N. J. Arch., 2 ser., I, 264-67, is reprinted from the Penna. Evening Post, Jan. 21, 1777, an article signed "An American Whig." It is attributed by the editor in a footnote to Governor Livingston. A careful perusal of it, however, has left me in serious doubt as to Livingston's authorship of the piece, and I have therefore omitted mention of it in the text.

6The New York Gazette and Weekly Mercury was published by Hugh Gaine, who, for a time at the beginning of the Revolution, although attempting to remain impartial, had apparently favored the Whigs, even fleeing from New York with the other Whig printers at the approach of the British, but who returned to the city in November, 1776, became a thorough-going Tory, and continued to print his paper there under the auspices of the British (cf. Paul L. Ford, "Life of Hugh Gaine," Journals of Hugh Gaine, I, 53 ff.). This piece by Livingston is erroneously stated by Allan Nevins to have been in imitation of Rivington's Gazette (Am. States, 1775-1789, p. 304). Rivington's paper was not being published at this time, its publication having been discontinued on Nov. 23, 1776, and not resumed until Oct. 4, 1777 (cf. C. S. Brigham, "Bibliography of American Newspapers, 1690-1820," Proc. Am. Antiq. Soc., N. S., XXVII, 487 ff.). Furthermore, besides the fact that the N. Y. Mercury is mentioned in the title of Livingston's article, he wrote to Washington, Feb. 15, 1777, as follows: "I take the Liberty to inclose you The impartial [sic] Chronicle in ridicule of Gain's [sic] lying Gazette . . . ." (Lib. of Cong., Washington Papers).
Ridicule was ever one of Livingston's most effective weapons. He himself in "A Defence of Ridicule" in the Independent Reflector had claimed much for it as a method of exposing and correcting the follies and foibles of the day; now, to reach the vulnerable spots in the armor of the enemies of America and to keep at a high level the spirits and courage of his co-patriots, he unsheathed again this weapon, in the use of which native ability and long experience had rendered him so expert.

In this travesty of the New York Mercury several items proclaim with mock seriousness the determination of loyal subjects in other portions of the British empire to support at all costs the efforts of the mother country to subdue the rebellious Americans. One of these asserts that the hope of the Americans of ruining British woolen manufacturers through non-importation is doomed to disappointment. The woolen workers were never more fully employed due to the fact that the inhabitants of Sumatra and Borneo (in the tropics) have expressed their determination to dress only in British woolens during the American rebellion. A letter from Barbados (also in the tropics) to a merchant in London informs the latter that in order to encourage British iron manufacturing, orders will soon be forwarded to him for 10,000 warming pans. An item in the style of advertisements for the recovery of fugitive slaves reads: "Run-a-way from St. James's, an old servant called Common-Sense and Honesty, formerly belonging to his late Majesty George II, and by him imported from Hanover . . . . His present owner, it is said, is very indifferent whether he ever returns or not---"

Under cover of this burlesque imitation of a loyalist newspaper vigorous thrusts are made at the British practice of hiring

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*No. 41, Sept. 6, 1753.*
mercenaries. One news note states that since the heat and cold of America are likely to be fatal to European troops, the British ministry will employ 13,000 Moors to operate from St. Augustine to New Jersey and 4,700 Esquimaux to cover in like manner the territory from the southern limits of New York to New Hampshire. In regard to naval affairs we are informed that since the British navy has been unable to destroy American trade because the American merchant ships persist in taking refuge in narrow rivers and creeks, the British ambassador to Venice has arranged with the doge for the loan of 250 gondolas, the fleet to be commanded by the doge in person.

A slap at the inadequate care of American prisoners by the British is contained in the following: "Compounded and to be sold by Dr. M'K----, a medical preparation that will enable an American prisoner to subsist comfortably and grow fat upon 2 and a half pounds of beef, and 3 pounds of bread per week." The habit of the New York Mercury of exaggerating reports of the forces which are to be sent against the Americans the following year is lampooned by the publication of a long list captioned "List of the Forces with which his Majesty intends to open the next year's campaign in America," and by an item stating that before the next campaign 7,000 axmen will be sent to America to cut down all forests from the coast 800 miles inland.

Numerous news items boast with mock pride of the aid which has been promised to the English king by foreign sovereigns. The king of Danmark has agreed to furnish 4,000 Laplanders, to be employed during the winter. The emperor of Japan will send 12,000 troops via California and will win over the allegiance of the Indians by convincing them that their ancestors came originally from Japan. The emperor of Persia is to send 3,500 Korazon archers, trained in the ancient Parthian manner of fighting by discharging their arrows from their horses as they are galloping off from their
pursuers, "a mode of annoying the enemy which his Majesty's light horse may adopt to great advantage, as the rebels frequently compel them to fight in that attitude, or not at all."

In spite of Livingston's frequent dexterous wielding of the weapon of ridicule his humor was generally maintained on a high plane, considerably above that of many pamphleteers and essayists of that day. On this occasion, however, he permitted himself to employ the coarser type of humor which was the common stock in trade of so many of his contemporaries, although even here his inimitable wit kept his jibes above mere vulgarity. A news note states that to improve the already amicable relations between the king of England and the emperor of India it was moved in council that a match between the latter's daughter and the Prince of Wales be suggested to the king, "but one of the members observing that the Mogul could not, in his opinion, close with the overture unless his Royal Highness submitted to circumcision, the motion was withdrawn." Elsewhere we find an unusual offer of aid to the British king presented by an envoy from the Ottoman court. His master cannot lend soldiers because he himself has recently been engaged in a war with Russia, but the envoy has been instructed to lay before the British monarch an even more alluring offer.

To repair the waste of his Majesty's British subjects in this horrible rebellion, to which the common mode of procreation usually practiced in England was by no means adequate, his august and victorious Sovereign . . . had commissioned him to offer his Majesty to present each member of the two Houses of Parliament, with five Circassian virgins of the most exquisite beauty, and his Majesty himself with a score of the like amiable blooming breeders. It is generally believed that this delicious present, so far as it respects the Lords and Commons, will be gratefully accepted; but as for the latter part, it is whispered about that our most gracious Queen cannot be fully convinced of the necessity of the measure.

The queen seems indeed to have had some ground for feeling as she did concerning this offer, judging from another news note concerning the royal couple.
It was currently reported last week that the King and Queen were both with child; but upon a strict inspection into the matter by a jury of matrons, of which his Grace the Archbishop of Canterbury was foreman, it was found to be true only with respect to her Majesty; and as to our most gracious Sovereign, the detestable falsehood is discovered to have been invented by the more artful, and greedily swallowed by the weaker and more credulous abettors of the American rebellion, who fondly wished his most sacred person pregnant, and undoubtedly with twins, from the malicious hopes of his expiring in childbirth.

This whole hilarious burlesque is brought to a close by a description of the reaction of the American Congress to danger, as it would be reported by Gaine's "lying gazette."

It is now fully ascertained that when the Congress first heard of the British troops taking possession of Brunswick, they were thrown into such consternation in the receptacle of high treason and rebellion, where they were assembled, that John Hancock darted head foremost thro' the door before it could be opened, carrying with him above half a pannel [sic]; and Samuel Adams got out through the top of the chimney, and leapt down from the roof of the State-house; and the whole band of conspirators, without waiting for horses or carriages, ran off a foot to Baltimore, and there immediately embarked on board of a pilot-boat, and have never been heard of since, tho' it is generally supposed they are sailed for France.  

In the New York Journal for September 8, 1777, there appeared from Livingston's pen another piece in a similar vein. This is a poem of 171 lines, entitled "Proclamation," and is a burlesque travesty in what W. L. Stone calls "Hudibrastic verse," of the famous proclamation made the previous summer by the ill-fated General Burgoyne, in which he had called upon the inhabitants to

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*Shades of Livingston's struggle against the establishment of an American episcopate.*

Concerning this article John Jay wrote to his father-in-law: "The 'Impartial Intelligence' does honor to the wit as well as the invention of its author" (letter of Mar. 22, 1777, quoted in Johnston, Corr. of John Jay, I, 122 f.).
submit or suffer dire consequences. The last several lines of this merry parody, satirizing Burgoyne’s threat to let loose his Indian allies upon the rebels, will serve to give the flavor of the whole. The first person represents General Burgoyne.

With the most Christian spirit fir’d,
And by true soldiership inspir’d,
I speak as men do in a passion
To give my speech the more impression,
If any should so harden’d be
As to expect immunity,
Because procul a fulmine,
I will let loose the dogs of Hell,
Ten thousand Indians, who shall yell,
And foam, and tear, and grin, and roar,
And drench their moccasins in gore;
To these I’ll give full scope and play
From Ticonderog to Florida;
They’ll scalp your heads, and kick your shins,
And rip your guts, and flay your skins,
And of your ears be nimble croppers
And make your thumbs tobacco stoppers.
If after all these lovely warnings,
My wishes’ and my bowels’ yearnings,
You shall remain as deaf as adder,
Or grow with hostile rage the madder,
I swear by George and by St. Paul
I will exterminate you all.
Subscrib’d with my manual sign
To test these presents, JOHN BURGOYNE.

The entire poem is reprinted in Frank Moore, Songs and Ballads of the American Revolution (New York: D. Appleton and Co., 1856), pp. 167-175, and also in W. L. Stone, Ballads and Poems Relating to the Burgoyne Campaign (Albany, N. Y.: Joel Munsell’s Sons, 1893), pp. 7-15. Moore attributes the authorship to Francis Hopkinson, but Stone insists it was by Livingston. That the latter is correct is indicated by the fact that a manuscript of the piece is in Vol. II of the Livingston Papers in the Mass. Hist. Soc. Stone asserts that it was first published in the N. Y. Journal for the date given, but the poem as printed there is preceded by the note, "From the PENNSYLVANIA PACKET. To the PRINTER." This would seem to indicate that it was originally published in Pennsylvania. The quotation in the text is from Stone’s edition.

... I have but to give stretch to the Indian forces under my direction — and they amount to thousands — to overtake the hardened enemies of Great Britain and America ... " (Stone, Burgoyne Ballads, p. 283). The full text of Burgoyne’s proclamation, June 23, 1777, is reproduced ibid., App. III.
This dependence, however, upon the newspapers of the neighboring colonies in his word war against the British was not satisfactory to Livingston and in his message to the Assembly on October 11, 1777, he presented the following proposal.

It would be an unnecessary Consumption of Time to enumerate all the Advantages that would redound to the State from having a Weekly News-Paper printed and circulated in it—To facilitate such an Undertaking, it is proposed that the first Paper be circulated as soon as seven hundred Subscribers, whose Punctuality in paying may be relied upon, shall be procured: Or if Government will insure seven hundred Subscribers who shall pay, the Work will be immediately begun; and if at the End of six Months there shall be seven hundred or more Subscribers who will pay punctually, the Claim upon Government to cease. But if the Subscribers fall short of that Number, Government to become a Subscriber so as to make up that Number.\textsuperscript{12}

The matter was referred to a committee of the Assembly, which upon the former's favorable report agreed to the proposals, and on December 5, 1777, the first number of this subsidized newspaper was issued.\textsuperscript{13} How closely Collins's conception of the function in society and of the ethics of the journalistic profession coincided with that of Livingston can be seen by a comparison of the purpose of the Independent Reflector as expressed in the first and eleventh numbers of that paper\textsuperscript{14} with the following excerpt from the original proposals by Collins.

\textsuperscript{12}Votes of Assembly. These proposals had been made by Isaac Collins, a Quaker printer who in 1770 had removed from Philadelphia to Burlington, N. J., and had been the government printer for the colony (I. Thomas, Hist. of Printing in Am., I, 316).


\textsuperscript{14}Cf. supra, pp. 47 ff.
Essays, useful or entertaining Schemes for the Advancement of Trade, Arts and Manufactures, Proposals for Improvements in Agriculture . . . will be inserted with Pleasure and Alacrity. The Interests of Religion and Liberty, he shall ever think it his peculiar Duty to Support; and, at the same Time, to treat with Contempt the intemperate Effusions of factious Zealots, whether religious or political, as Enemies to Virtue and the Pests of Civil Order. With great Care shall he reject every Proposition to make his Paper a Vehicle for the dark Purposes of private Malice, by propagating Calumnies against Individuals, wounding the Peace of Families, and inflaming the Minds of Men with Bitterness & Rancour against one another.  

Of this new vehicle Livingston availed himself immediately and often, contributing a dozen essays under the nom de plume "Hortentius" to the newspaper during the first year of its existence. In many of these ridicule was again the means which he employed to inspirit the patriots and to goad the British and Tories into impotent fury. In Livingston's first essay under the nom de plume "Hortentius" General Burgoyne was again the target of his shafts. That unfortunate gentleman was by this time a prisoner of war, and Livingston couched his essay in the form of proposals to Congress and General Washington for the exchange of the British commander. The essayist had never forgotten the long list of titles which General Burgoyne in his famous proclamation had appended to his name nor the fact that the list had been concluded with three et ceteras. In his proposals for the exchange of this illustrious personage, therefore, "Hortentius" suggests that inasmuch as prisoners of war are generally exchanged not as equal individuals but according to their rank, and since General Burgoyne has "more titles, than any gentleman on this side of the Ganges," the United States should demand in exchange for him the

\[1^5\text{MS "Proposals for printing . . . . The New-Jersey Gazette." These are to be found in the N. Y. Pub. Lib. in the bound file of the newspaper for the first year of its existence. The proposals were also printed at the top of the first page of the opening number.}
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\[1^6\text{Transcripts of these are in the N. Y. Pub. Lib., Moore.}\]
number of men equivalent to the number and importance of Burgoyne's titles. After a consideration of what would be a fair equivalent of one each of these titles the conclusion is reached that General Burgoyne might fittingly be exchanged for "one Esquire, two Majors General, three Colonels of light horse, two Governors, one Member of Congress, the Admiral of our navy, one Commander in Chief in a separate department, and six privates." The latter are to be considered the equivalent of the three et ceteras, and the writer explains: "... I had some thoughts of setting them down for three privates; but then as they are three somethings in General Burgoyne, which must be of twice the value of three anythings in any three privates, I shall only double them, and demand in exchange for these three problematical, enigmatical, hieroglyphical, mystic, necromantic, cabalistical and portentious et ceteras, six privates." 17

Even the sufferings of Washington's soldiers at Valley Forge for want of proper clothing provided Hortensius with an opportunity to take a fling at the county of Bergen, notorious for its Tory sympathies.

I am afraid that while we are employed in furnishing our battalions with cloathin [sic], we forget the county of Bergen, which alone is sufficient amply to provide them with winter waistcoats and breeches, from the redundance and superfluity of certain woolen habits, which are at present applied to no kind of use whatsoever. It is well known that the rural ladies in that part of our State pride themselves in an incredible number of petticoats; which, like house-furniture, are displayed by way of ostentation, for many years before they are decreed to invest the fair bodies of the proprietors. Till that period they are never worn, but neatly piled up on each side of an immense escutioire [sic] ... What I would, therefore, humbly propose to our superiors, is to make prize of those future female habilaments [sic], and, after proper transformation, immediately apply them to screen from the inclemencies of the weather those gallant males, who are now fighting for the liberties of their country. And to clear this measure from every imputation of injustice, I have only to observe, that the generality of the women of that county, having for above a century, worn the breeches; it is highly reasonable that the men should now, and especially upon so important an occasion, make booty of the petticoats. 18


18 Ibid., Dec. 31, 1777, p. 532.
In a brief essay published during the first month of 1778 Hortentius suggested that the British commander General Howe should add to his staff a competent bard to celebrate his exploits. In offering to supply this need, Hortentius directed another keen thrust at the loyalists.

... as I have a nephew, Mr. Printer, of a natural genius for poetry, and at present out of employ, I could wish to introduce him into His Excellency's family for this laudable purpose. It is true he is at present a whig, but I doubt not that which has made everybody else a tory, who really is so, the expectation of personal profit, may also accomplish the conversion of my kinsman.

A month later in an essay entitled "Annotations upon his most gracious Majesty of most gracious Great-Britain's most gracious speech," "Hortentius" with his customary sarcasm commented sentence by sentence upon a recent speech of George III to his parliament. Space will not permit the reproduction of these comments, stinging and barbed with wit though many of them were. The "annotation" on one of the king's sentences must suffice. During the course of his speech that sovereign had promised: "I will always be a faithful guardian of the honour of the crown of Great-Britain." Upon this the comment of "Hortentius" was: "A very proper keeper of what has been lost ever since the 25th of October, 1760, the very day that your Majesty ascended the throne!

When General Tryon of the British forces, replying to a letter from an American general offering him the opportunity to disavow certain barbaric outrages with which he had been charged, stated that he did not hold himself accountable "to any revolted subjects of the King of Great-Britain," and placing the blame for the continuance of the rebellion on the patriot committeemen, promised that, had he sufficient authority, he would burn the house of every one of these gentlemen,

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20 Ibid., Feb. 11, 1778, pp. 50 ff.
and moreover offered twenty dollars each for their capture and concluded by expressing the opinion that they would soon "be torn to pieces by their own countrymen," he exposed himself to a barrage of sarcasm from Governor Livingston's pen just as had General Burgoyne by his famous proclamation with its three et ceteras. Concealing his identity again under the nom de plume "Hortentius," the Jersey governor added to his belt the scalp of another British general who, however skillfully he might wield a sword, could scarcely hope to defend himself successfully against the lance of ridicule levelled at him by one expert in its use and thoroughly experienced in jousts of words. On the question of accountability for acts of barbarity "Hortentius," laying aside for the moment his favorite weapon, remarked in all seriousness: "But let me tell this waspish Gentleman, that for inhumanity every man is accountable to every man." As to the general's use of the phrase "revolted subjects" Hortentius offered him the following significant reminder:

Has he forgot that himself belongs to a nation which revolted from King James, before he had perpetrated a thousandth part of the cruelties and murders that have been committed by King George? And that upon the justice of that revolt is built all the right which King George has to the British throne?

It was, however, General Tryon's statement that if he had the authority, he would burn every committeeman's house which drew the fire of sarcasm and ridicule from "Hortentius".

Well said, General ignipotent and primitival imp of Vesuvius! What pity it is that this little salamander is so unreasonably restricted in the exertions of his burning faculties! Surely had his master a due sense of his peculiar genius for reducing houses and barns to ashes, he would doubtless grant him an exclusive right to commit arson and constitute him . . . Conflagrator General of all America.

On the general's offer of twenty silver dollars for each committeeman captured, "Hortentius" commented in similar vein:

What an ambitious mortal this, to aspire after such a plurality of offices! Not content with being Conflagrator General, he now sets up for Universal Kidnapper, and is to save the nation from perdition by bribing a man's domesticks to deliver him up, whose place, when delivered up, would be instantly filled with another;
the nation remaining exposed to the same perdition; and five
dollars out of pocket by his nonsensical bargain.

As to the committee men's soon being "torn to pieces by their own
countrymen" Hortentius remarked: "Very lavish of your money indeed,
good Master Tryon, to offer twenty dollars for a man who will so
shortly be torn to pieces, without any expense of yours." 21

In an essay published toward the end of 1778 Hortentius
assumed the role of a Tory and discussed with mock seriousness in
satirical vein the advantages of the British form of government over the
American. In the first place, though America is well able to pay the
enormous debt which it has contracted, and moreover intends to do so,
yet it would be unable to borrow further if it should become bankrupt,
whereas Great Britain, though not only incapable of discharging its debt
but entertaining no intention of attempting to, is nevertheless able to
continue borrowing on credit. "Would it not, therefore, have been
infinitely better for us to have remained in subjection to a nation
that can equip the most formidable fleets and armies on credit, and
prosecute endless wars in every quarter of the globe, not only without
any cash of her own, but without the least intention of repaying what
she borrows from others for that purpose?" In the second place, the
American Congress "may in process of time, betray their trust, and
sacrifice our liberties." These things, however, cannot happen in
Great Britain, for there the citizen sells his vote in the first place
and the member eventually elected to parliament in this manner sub-
sequently sells himself to the ministry; "and the matter being thus
understood by both parties, bribery in the representative cannot be
considered as a violation of his duty."

And as to their sacrificing the liberties of the people, it is
manifest from the electors repeatedly chusing [sic] the most
obsequious instruments of administration, that they really intend
them to be thus obsequious; and that, saving to themselves the

21Ibid., Mar. 18, 1778, pp. 121 ff.
precious privilege of calling their king a fool, and his mother a w—re, (a privilege peculiar to Englishmen) the parliament may justly dispose of the remainder of their rights and liberties as they please. And indeed I cannot see how any people can have greater liberty than that of fully resigning all liberty whatsoever. It is therefore evident that the people of England can never be betrayed by parliament, nor wrongfully abridged of their liberty, except only by an express statute against libelling his majesty and his mother, (which, in consideration of the resignation aforesaid) is not likely to be ever passed.

Men of breeding should certainly prefer the British type of government, for under that system they are sure of being appointed to lucrative offices whether they deserve them or not and regardless of the approval or disapproval of the great body of ordinary men, whereas in America they must actually prove themselves men of ability and integrity. Moreover, in America, the salaries of office-holders are small, and "it has been ridiculously imagined that there ought to be no more offices in a state than are absolutely requisite for what these deluded creatures call the benefit of the commonwealth," whereas in England, "whenever the crown was graciously disposed to oblige a gentleman . . . an office was instantly invented for the purpose." In America, too, in order to qualify for office, a man must submit some evidence of being neither an atheist nor a deist, "whereas, in England, and indeed in America, before our unhappy defection, the belief in christianity as a qualification for any office was entirely out of the question; nor did any public personage, or gentleman of fashion, think himself under the least obligation to give any proof, even of his faith in the existence of a Deity, except only that of profanely swearing by his name."  

22A phrase frequently applied to the patriots by the loyalist press.

23In view of Livingston's liberal attitude in most respects, on the subject of religious liberty, this opposition to atheism and deism is interesting. There were definite limits to religious liberty as he conceived it, just as there were definite limits to his conception of political liberty as we have already noted in his remarks concerning the Sons of Liberty (cf. supra, pp.124†).
Finally, gentlemen of the press should easily be able to appreciate the advantages of the British government over the American because in America they "are cruelly restricted to plain truth and decency"; whereas in Britain and within the loyalist lines in America they "are generously permitted to range uncontrolled thro' the boundless fields of imagination, and to exert all the powers of inventive genius in embellishing their publications with the marvellous [sic]; which has ever been deemed a capital beauty in composition, and affects the mind in the most agreeable manner, by its unexpected surprize and novelty."\(^{24}\)

We have dwelt at some length on Livingston's use of ridicule in his word war with the British because, as we have seen, Livingston himself considered it a most effective weapon and because he made greater use of this method of attack in his essays over the signature Hortentius than in any other single series of essays of which he was the author though, to be sure, satire in some form or other, was seldom entirely absent from anything he wrote for publication. That these verbal attacks were successful in accomplishing one of their purposes at least, namely, the irritation and annoyance of the British and loyalists is evident from Livingston's own statement to his friend Laurens: ". . . . my good friends in New-York have faithfully promised to cut my throat for writing, which they seem to resent more than fighting."\(^{25}\) That they elicited replies in kind was only natural. Major (then Captain) Andre, who later met so tragic a fate, in his famous "Dream," read by him at a gathering in New York and later published in Rivington's *Royal Gazette*, described the summoning before the "infernal judges" of the underworld of several notable

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rebels, among whom was the governor of New Jersey.

The black soul of Livingston, which was 'fit for treason, sacrilege, and spoil,' and polluted with every species of murder and iniquity, was condemned to howl in the body of a wolf; and I beheld, with surprise, that he retained the same gaunt, hollow, and ferocious appearance, and that his tongue still continued to be red with gore. Just at this time, Mercury touched me with his wand, and thereby bestowed an insight into futurity, when I saw this very wolf hung up at the door of his fold, by a shepherd whose innocent flock had been from time to time thinned by the murdering jaws of this savage animal. 26

Jonathan Odell, the Tory poet, in a somewhat similar scene called Livingston before him for sentence.

Whence and what art thou, execrable form,
Rough as a bear, and roaring as a storm?
Ay, now I know thee,—Livingston art thou,—
Gall in thy heart and malice on thy brow;
Coward, yet cruel; zealous, yet profanest;
Havoc and spoil and ruin are thy gain!
Go! glut like Death, thy vast unhide-bound maw,
Remorseless, swallow liberty and law;
At one enormous stroke a nation slay,
But thou, thyself, shall perish with thy prey. 27

Besides attacks of this sort Livingston's lampooning of his opponents led them to dub him with various uncomplimentary and sarcastic titles. He was, for instance, spoken of as "the Usurper of the Government of New-Jersey," 28 "the invisible Governor" 29 and "Mob Governor." 30 In addition to these Sedgwick lists the following which were applied at various times to the New Jersey chief executive: "Spurious Governor," "Mock Governor," "Don Quixote of the Jersies," "Itinerant

26 Moore, Diary of Am. Rev., II, 123.
29 Royal Gazette, April 21, 1779, ibid., III, 263.
Dey of New-Jersey," "Despot-in-Chief in and over the rising State of New-Jersey, Extraordinary Chancellor of the same," "Knight of the most honourable Order of Starvation, and Chief of the Independents." Inasmuch as Rivington's Royal Gazette took the lead in these attacks upon him as well as upon other outstanding patriots (attacks which, however, in Livingston's case it must be admitted he himself had provoked by the sharp thrusts of his own pen), the Jersey governor is reported to have written: "If Rivington is taken, I must have one of his ears; Governor Clinton is entitled to the other; and General Washington, if he pleases, may take his head." Another thrust at this Tory journalist is contained in a letter written in 1779 to Joshua Wallace: "If I could send you any news, I should do it with pleasure; and to make it, you know, is the prerogative of Mr. Rivington."

Whether the essays of Hortentius were as effective in keeping up the spirits of the patriotic inhabitants of Livingston's own state as their author hoped cannot with any certainty be ascertained. It is certain, however, that some of the members

31 Memoir, p. 247.
32 Quoted ibid.
33 Letter of Nov. 9, ibid., pp. 338 f.
34 Sedgwick (ibid., pp. 248 f.) claims much for them. "These essays . . . were at the time of great value. They contributed to infuse into the Americans a just idea of their own strength, and to create the conviction, that any ultimate success on the part of Great Britain was impossible. Combining eloquent appeals to the patriotism of the colonists, with the most scoffing ridicule of the menaces and denunciations of the British, they by turns enlisted every feeling which can arm the breasts of individuals or nations against vacillation or fear." With Sedgwick's praise of their literary quality M. C. Tyler agrees (The Literary History of the American Revolution [New York and London: G. P. Putnam's Sons, 1897], II, 19).
of the legislature did not look with favor upon this practice of scribbling for the newspapers on the part of their governor. As a consequence Livingston ceased for a time to contribute to the *New Jersey Gazette*, although he contributed two articles in 1779 to the new *United States Magazine*, edited by Hugh Brackenridge. In the *New Jersey Gazette* of October 27 of this year there was printed a viciously satirical attack on the governor, although Livingston's name was not actually used. This caused an estrangement for some time between Livingston and

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35 In a letter to Isaac Collins, the printer, Feb. 22, 1779, Livingston says: "With respect to the late silence of Hortentius, would you believe that among the weighty charges exhibited against me at the joint meeting to prevent my re-election as Governor one was that I had published pieces in your paper under the signature of Hortentius [?]" (Mass. Hist. Soc., Livingston Papers, Vol. III [Sedgwick Copy]).

36 An article signed Caius in the *N. J. Gazette*, Mar. 10, 1779, reprinted in *N. J. Arch.*, 2 ser., III, 123-27, is attributed in a footnote by the editor to William Livingston. I am not convinced, however, that this article was written by him.

37 Richardson, *Early Am. Mags.*, pp. 196 ff. The two articles by Livingston were an essay on the currency situation in the issue for March, and a poem, entitled "A Morning Hymn," in the June issue.
Isaac Collins, the printer. 38

Not only did Governor Livingston pour forth his own essays in support of the patriot cause and in derogation of the British, but he was also reported by the New York Tories to have gathered together from the French and other foreign newspapers and to have had distributed as broadsides for the encouragement of the Whigs later in the war scraps of information concerning the unrest in Ireland. 39

One argument which he used in the early period of the war

38[1] In the Ledyard Collection, William Livingston Papers, Vol. IV, is a letter from Collins to Livingston dated Mar. 6, 1781, which reads in part as follows: "The Time was... When I felt myself obliged as a Citizen by your Friendship and Acquaintance; when I flattered myself that I had your entire Approbation and good Wishes in my Profession; and when, as Publisher of the New-Jersey Gazette, I could not but be highly sensible of the Advantages it derived from your Encouragement, Attention and Support. An unfortunate Publication in this Paper, which, through the eager and excessive Resentment of some, drew after it Consequences, much against my Inclination, gave a very different Appearance, to Things. I apprehend this to be the Cause of the Alteration of Conduct which has taken Place, as I cannot otherwise account for it.—By the advice of Friends, in whose Candor and good Sense I have Confidence, and conscious of the best Intentions, I am led to make use of this Means to do away every Cause of Estrangement and Disgust." He goes on to deny knowledge of the motives of the writer of the piece in question, and asserts that no injury was intended on his part. A reconciliation was apparently effected eventually, for after the conclusion of the war Governor Livingston again became a regular contributor to the paper, and when in 1788 Collins was soliciting subscriptions for an edition of the Bible which he proposed to print, Livingston furnished him with a testimonial, which was printed in the Brunswick Gazette, Nov. 4. Even during the period of estrangement, however, Livingston contributed three essays on the currency question under the nom de plume "Scipio," which appeared in the New Jersey Gazette, Oct. 25 and Nov. 1, 1780, and April 25, 1781.

to encourage his compatriots was the improbability of Great Britain's getting any further foreign aid. In an essay in the New Jersey Gazette, December 24, 1777, he points out that every spring America is threatened with destruction through the aid of some new foreign force, but that this new aid never materializes. He then shows that it is to the interest of most of the other nations of Europe to see America dismembered from Great Britain.  

Against the attempt to keep up the morale by raising too high the hopes of a French alliance after the defeat of General Burgoyne by the patriots Governor Livingston felt it necessary to issue warning. Addressing the Assembly on February 16, 1778, he said:

Whatever Expectations we may have of a Rupture between Great-Britain and France, which is doubtless highly probable, it is surely not the Part of wise men to depend upon uncertain Contingencies. We ought, under God, to rely solely upon ourselves and our own Resources; and act as though we had no Expectations of foreign Succours; because we may, for any Thing that can be known to the Contrary, be disappointed, how rational and well-founded soever such Expectations may at present appear.

The very next day he wrote to Lord Stirling, painting in still more vivid colors the pernicious effects of over-confidence in this direction, and indicating his own lack of faith in the French.

I am so tired with the Intelligence that a war between great Britain & France is inevitable, that I have sometimes wished the very word inevitable expunged from our Language. I suspect this Intelligence is repeated by our Ambassadors to make us believe they are doing something, and by others to keep up the spirits of the People. But tho' it may be of use to animate the timid, it may be as prejudicial in another respect, I mean by producing an ill founded security, and relaxing our exertions from a false dependence upon foreign succours. For my part I have very little confidence in the Court of Versailles.

\[4023\] Reprinted in N. J. Arch., 2 ser., I, 521 f.

\[4124\] Votes of Assembly.

Once the French alliance had become an established fact, however, a new danger to the maintenance of morale appeared. This was the insidious peace propaganda disseminated by the British during the year 1778. In combating this new menace, Governor Livingston played a vigorous role, to the assumption of which he was urged by no less a personage than Washington himself, who had a nicer appreciation of the value of the New Jersey governor's pen to the patriot cause than was evinced later in the year, as we have seen, by the governor's own legislature. In the spring of 1778 the general addressed Livingston as follows.

Head-quarters, 22d of April, 1778.

Dear Sir,

Enclosed I transmit you a Philadelphia paper, containing the draught of two bills introduced into Parliament by Lord North, and his speech upon the occasion. . . . You will see their aim is, under offers of peace, to divide and disunite us, and unless their views are early investigated and exposed in a striking manner, and in various shapes by able pens, I fear they will be but too successful, and that they will give a very unhappy, if not a ruinous cast, to our affairs. It appears to me, that we have every possible motive to urge us to exertion.

. . . . There are many important concessions in the speech, and which I hope will be improved to our advantage. If your leisure will possibly permit, I should be happy that the whole should be discussed by your pen.

I am, dear sir,
With great esteem, &c.
Go. Washington

As to the proper treatment of the various British proclamations and broadsides which were issued, Livingston

43Quoted in Sedgwick, Memoir, pp. 278 f.
himself set the example. One of these documents he is said to have returned to General Tryon, desiring him to make use of the paper.\textsuperscript{44} Livingston himself reports that with one of the proclamations he intended to embellish a kite for his grandson,\textsuperscript{45} and in one of his essays in the \textit{New Jersey Gazette} he says of the manifesto issued by the British commissioners on October 3: "I shall therefore paste it up over my chimney-piece, but in all probability topsyturvy, (a ridiculous exhibition, you will say, of the \textit{Lion} and \textit{Unicorn}, but very emblematical, say I, of the affairs of Great-Britain) that if I am hang'd at last, my descendants may know it was thro' sheer love of hanging, by refusing so gracious and unmerited a pardon upon sincere repentence ...."\textsuperscript{46}

In opposing what he considered the insidious effect of the British peace proposals, Governor Livingston was untiring. Even as early as the winter of 1777, in his great speech to the legislature on February 28 he had sounded a warning against the swallowing of this poison.

The Proclamations to ensnare the timid and credulous, are beyond Expression disingenuous and tantalizing. In a gilded Pill, they conceal real Poison. They add Insult to Injury. After repeated Intimations of Commissioners to treat with America, we are presented, instead of the peaceful Olive-Branch, with the devouring Sword. Instead of being visited by Pleni-potentiaries to being Matters to an Accommodation; we are invaded

\textsuperscript{44}Stokes, \textit{Icon. of Man. Is.}, V, 1065.

\textsuperscript{45}Letter to Laurens, Oct. 9, 1778, quoted in Sedgwick, \textit{Memoir}, pp. 308 f.

\textsuperscript{46}Oct. 21, 1778, reprinted in \textit{N. J. Arch.}, 2 ser., II, 485 f.
with an Army, in their Opinion, able to subdue us; and upon discovering their Error, the Terms propounded amount to this, 'If you will submit without Resistance, we are content to take your Property, and spare your Lives; and then (the Consummation of Arrogance!) we will graciously pardon you, for having hitherto defended both.'

Now in the spring of 1778, when the peace drive of the British government was launched in real earnest, following the speech of Lord North in Parliament on February 17, Livingston again stepped forth to stem with his pen the progress of this propaganda. In an essay in the New Jersey Gazette for May 6, after discussing the proposed bills and picking out and commenting upon in his customary satirical manner what he terms "a baker's dozen of palpable deviations from the truth" in Lord North's speech, he concludes with the following judgment on the whole British move for peace.

But the artifice is too visible to deceive any man of common discernment. It is plainly intended to lull us into security. Britain apprehends a war with France, and wants all her forces for her own domestic defence... Her disposition to treat at all, arises from her inability to prosecute the war. She would listen to no accommodation while she thought herself able to subdue us... But how can we treat with her while she claims the exercising of the right of taxing us, since rather than acknowledge this right we have revolted from her? And shall we negotiate [sic] with her still claiming it, and that after finding that she despairs of enforcing it by the sword? God forbid.

Discussing this question of the British peace offers in a letter to Henry Laurens, President of Congress, Livingston not only indicates what he considers the only proper basis on which peace proposals can be considered but also shows how thoroughly he has by this time become attached to the idea of independence in spite of his doubts concerning it in 1776.

I cannot but think that Congress, as well as we little folks, in speaking on this subject, do not appear to be fully possessed of the idea of our independence. We talk and reason as though Great Britain still had some claim upon us. Should we not laugh at any other nation that presumed to pass bills

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47/28 Votes of Assembly.
concerning their right of imposing duties upon us, or regulating our commerce? And have they any more business with us than the Emperor of Morocco? But our affection for the English, from whom we are descended! And why not for the same reason give up our liberties to the Elector of Saxony, as the Saxons are our more primitive ancestors? Let them first withdraw their troops, and think themselves happy if we do not follow them to London—and let us take care to have such an army in the field, as to enable us to talk properly, and to treat with dignity. They will and must come to it, if we insist upon it. 2149

The maintenance and encouragement of public piety may be considered another phase of Governor Livingston's struggle to preserve at a high pitch the morale of the patriots. This, we have seen, had always been a favorite theme with him, and no time seemed more appropriate for its exposition than the periods of depression and discouragement to which the patriot cause was so frequently subject. In his reply to the address of the Assembly not long after his inauguration as governor in 1776 he linked the desirability of a pious gratitude for past evidences of divine favor and a reasonable reliance on future aid from the same source with the necessity of the Americans' exerting themselves to the utmost at the same time in their own behalf. "Let us therefore inflexibly persevere in exerting our most strenuous Efforts, in an humble and rational Dependance [sic] on the great Governor of the World." 26 46 Again, in his great war speech of February, 1777, he queried: "For who can doubt the interposition of the SUPREMELY JUST, in Favour of a People forced to occur to Arms, in Defence of every Thing dear and precious; against a Nation deaf to our Complaints; rejoicing in our Misery; wantonly aggravating our Oppressions; determined to divide our Substance; and by Fire and

4121 Letter of May 7, 1778, quoted in Sedgwick, Memoir, pp. 286 ff.
5028 Votes of Assembly, Oct. 5.
Sword to compel us into Submission?" Besides his public utterances of this sort, the following excerpt from a letter of an unfriendly contemporary illustrates the reputation which Governor Livingston bore as an advocate of piety in the army.

The late orders [forbidding card playing in the army] given by the head rebel [Washington] at Morristown is a greater illustration of this Yankee piety than any yet come out. . . . . However easily he may bait old Witherspoon, Billy Livingston, Jacky Jay, and some of the other pious ones, who are hanging on the rear of his moral forces; when the time comes, he'll find he can't "fool the Lord" with pretended piety or Presbyterian general orders.

Keeping up the morale of the populace at home was, however, only half of the propaganda problem. It was also necessary to stir up an active sympathy for the cause of the American colonists among the nations of Europe, and to this task also Livingston addressed himself. Through no direct efforts of his own some of his utterances exerted some influence in this direction in France and Spain. Writing to James Warren from Passy, France, in 1778, John Adams said:

The Resolutions of Congress upon the Conciliatory Bills, the Address to the People the Ratification of the Treaty, the Answer to the Commissioners, the President's Letter, the Message of Governor Livingston and the Letter of Mr. Drayton are read here with an Avidity that would surprise you. It is not one of the least Misfortunes of Great Britain, that she has to contend with so much Eloquence.

From Spain Brockholst, Governor Livingston's son, who had accompanied John Jay abroad as his secretary, wrote in 1781 as follows.

Parts of your Letters have been sent to the Prime Minister, & by his Order inserted in the Spanish Gazette. They have dispelled some unfavorable Impressions which People too lazy to think & to combine circumstances. . . . had imbibed of our

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\[5/25\] Ibid., Feb. 28.


Situation, & have been of real Service to us in more ways than one. 86 54

It was not in these countries, however, but in Holland that Livingston consciously endeavored to spread propaganda favorable to the American cause. The opportunity presented itself through his acquaintance with Colonel Dirok, a young Dutchman who had taken service in the American army, and who in 1778 returned for a time to his native country. To Colonel Dirok Livingston entrusted a letter to the Baron van der Capellen, an influential member of the States-General in Holland, to whom Livingston's attention had been drawn by a spirited speech on the subject of liberty made by the baron in that body. The correspondence begun in this informal manner continued until the end of the war. 89 55 Since Livingston understood Dutch, the baron wrote to him in that language, 88 56 Livingston's letters, however, are in English. Space will not permit us to enter into a detailed consideration of this correspondence, nor is it necessary, for the ideas which Livingston expressed therein are the same that he expressed in this country,

44 86 Letter of April 29 in Ledyard Collection, William Livingston Papers, Vol. V.

51 87 At least seven letters passed between the two, three from Livingston and four from van der Capellen. These are reprinted by H. W. de Beaufort (ed.), in Brieven van en aan Joan Derck van der Capellen van de Poll (Werken Uitgegeven door het Historisch Genootschap, Gevestigd te Utrecht, nieuwere reeks, XXVII). This will be cited hereafter as Brieven van der Capellen.

52 85 Van der Capellen opens his first letter, dated July 16, 1779, to Livingston as follows: "Understanding by Colo Diricks that the Dutch language is familiar to your Excellency, I take the liberty of addressing your Excellency in it" (translation in Trumbull Papers, Part III [Coll. Mass Hist. Soc., 7 ser., II], pp. 468 ff.). Governor Trumbull of Connecticut also engaged in correspondence with van der Capellen at this time, and it was at the baron's request that Livingston translated and forwarded to Trumbull a copy of this letter. The original in Dutch and a manuscript copy of the translation of part of it are in the Ledyard Collection, William Livingston Papers, Vol. I. The Trumbull Papers will be cited hereafter simply as Trumbull Papers, Part III.
although, of course, in describing to the baron the situation of the American people and the causes of the war he gave an account as favorable as possible to the Americans and under-emphasized, when he felt obligated to mention them, their mistakes and reverses. The baron, in his first letter to Governor Livingston, dated July 16, 1779, indicated that the credit of Great Britain was beginning to sag in Holland. "We begin to think more seriously about that of America; and for this reason, now is the proper time to commence a negotiation. . . . I am of opinion. . . . that the Congress would do well to send hither a person of distinction and prudence to transact their affairs." Livingston immediately translated as much of this letter as he thought necessary and forwarded it to Congress. He later claimed credit for being chiefly instrumental in this manner in the appointment of Henry Laurens as a commissioner to negotiate a loan with the Netherlands. The chief credit for this, however, should go to Colonel Dirck and Governor Trumbull.

There is, however, ample evidence to indicate that Livingston's correspondence with Baron van der Capellen had considerable

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57, 89 Trumbull Papers, Part III, p. 472.


59, 91 Letter to van der Capellen, Mar. 25, 1780, in Brieven van der Capellen, p. 214: "Your letter I immediately translated, and transmitted the English copy to Congress, which was received with great satisfaction. I believe it was the principal cause of Mr. Laurens' . . . being appointed to negotiate [sic] a loan in Holland."

60, 92 Journals of Cont. Cong., XV, 1180, Oct. 15, 1779: "On Lt. Col. Derick's letter, and the papers communicated by Governor Trumbull, your Committee report, That it appears a loan may be obtained in Holland and they recommend to Congress to authorize and instruct a proper person to negotiate that business on behalf of these States." Furthermore, Livingston's letter to Congress is dated Dec. 6, whereas Laurens had been appointed Nov. 1 (Ibid., p. 1232).
influence in Holland and was of great value to the American cause. The baron caused Livingston's first letter, together with one from Governor Trumbull, to be printed, and he reported as one of the immediate results the offer of one of his kinsmen to subscribe sixteen thousand gilders to an American loan. 61 Washington wrote to Livingston: "We are all in your debt for what you have done for us in Holland." 62 Samuel Huntington, the President of Congress at that time, wrote to Governor Trumbull: "By late letters I have received from Amsterdam it is abundantly evident that your Excellencies [sic] correspondence, as also that of Governor Livingston, with Baron V. D. Capellen, hath enlighten'd and undeceived many people in Holland, and produced many friends and favourable sentiments with respect to the cause in which we are engaged." 63

Here we must draw the curtain upon Livingston in the role of propagandist and purveyor of public information, a role for which he was eminently fitted, possessing as he did in high degree the special abilities which it required. We must now turn to an examination of the manner in which he performed his official duties as governor during a long and trying war of the state which during a considerable portion of that war was the battleground of the opposing forces and which throughout was endangered by the presence of the enemy in New York City. These duties and the successful handling of the various problems which constantly presented themselves to the chief executive of a war-torn state required abilities of a quite different sort from those which had made Livingston so successful on the whole as a propagandist.

CHAPTER X

PROBLEMS OF A WAR GOVERNOR

Besides the problem of influencing public opinion at home and abroad there were, of course, constantly demanding attention various administrative problems incident to carrying on government during a long war. Under the circumstances these problems were chiefly of a military or semi-military nature. We shall not be able here to go into the details of Livingston's administration of the government during this period, but we may examine briefly his general attitude toward some of the more important of this type of problem. That he felt the need of the existence of a stronger executive power than he was vested with is evident from his recommendation to the Assembly of the creation of a Council of Safety with certain powers which he specified.¹ Nor was the first act which the legislature on March 15, 1777, passed for this purpose² satisfactory, for among Livingston's papers is the manuscript, partly in his own hand and dated June, 1777, of an act for further strengthening this as well as another act.³ Subsequent acts of the legislature

¹Message of Mar. 11, 1777, Votes of Assembly. Committees of Safety had from time to time been appointed by the Provincial Congress, but these, of course, had ceased to exist with the inauguration of the new government.

²Acts of N. J., 1 sess., p. 42.

extending the life of the Council of Safety added amendments intended to strengthen the Council, which we may safely assume to have been due in part at least to Governor Livingston's influence.

The securing a satisfactory militia law for the state was one of the most discouraging problems with which as governor Livingston had to deal. As early as September 24, 1776, he called the attention of the Assembly to the inadequacies of the existing law and suggested that another more suitable one be passed in its place. On November 9, however, he wrote General Washington that although a good militia bill had been passed by the Council, it had been defeated in the Assembly. On January 24, 1777, he renewed his plea to the Assembly for an adequate law and on February 3 laid before them a letter from Washington on the subject, in which the latter complained of the pernicious effects of the existing law and requested particularly such a law as would compel men capable of bearing arms to serve instead of being permitted to pay a fine in lieu of service. This was also Livingston's own view; in a letter to Major General Putnam he went at length into the arguments against allowing a money composition in lieu of service. In February, in desperation at the inaction of the legislature, he called out the militia on his own authority, intending, in so doing, to admit of no composition.

I did it by virtue of the fundamental Principles of the Constitution, by which the Commander in Chief must, in case of an actual Invasion, have authority to compel every person capable of bearing Arms to assist in repelling it. In this View of the Matter, as I was not regulated by any particular Law; so I intended to admit of no Composition . . . .

On March 3 he wrote Washington in despair that he was unable to

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4 Votes of Assembly.


6 Votes of Assembly.


8 Ibid.
make the Assembly appreciate the importance of an effectual militia law. 9

The Assembly finally sent up to the Council a militia bill, but it was one which failed to correct the most flagrant defects of the former law, and on March 7 Governor Livingston sent them a message pointing this out and recommending again in the most importunate manner the passage of a really effective measure. "By effectual, I mean the Exaction of personal Service, or the Delinquents [sic] finding another able-bodied Man in his Room . . . ." 10

His thorough disgust with the measure framed by the Assembly is expressed in a letter to his son-in-law John Jay: "Our Assembly, after having spent as much time in framing a Militia Bill, as Alexander would have required to subdue Persia, will at last make such a ridiculous Business of it, as not to oblige a single man to turn out who can only bring him to consume three gallons of spirits in Toddy per Annum less than he does at present." 11 The Assembly's bill was passed, 12 however, and Livingston wrote Washington that his only consolation was "that I was not remiss in the strongest Recommendations to construct it in such manner as should have effectually answered the Purposes intended." 13

In September of this year Governor Livingston again recommended the strengthening of the law, 14 and two supplements

9 Ibid.
10 Votes of Assembly.
13 Letter of April 4, 1777, Lib. of Cong., Washington Papers.
14 Message to Assembly, Sept. 8, 1777, Votes of Assembly.
were subsequently passed, in addition to a supplement already passed the previous June.\textsuperscript{15} None of these, however, corrected the essential defects and resulted only in confusion, so that in February, 1778, the governor advised the condensing of these laws into a single code.\textsuperscript{16} This was done on April 14,\textsuperscript{17} but it was later found necessary to pass supplements to this act also.\textsuperscript{18} These acts all retained, however, the practice of permitting pecuniary composition in lieu of service, which Governor Livingston had so vigorously condemned. That he considered the law still inadequate is evident from his message to the Assembly on May 20, 1780, in which he once again recommended the revising of the militia laws with a view to strengthening them;\textsuperscript{19} that this was likewise still the opinion of officers of the Continental Army is indicated by a letter from General von Steuben to Governor Livingston in June of this year.\textsuperscript{20} Finally, on January 8, 1781, a third entirely new militia law was passed, which, while still permitting pecuniary composition, greatly raised the fines for non-service and might, therefore, have proved effective.\textsuperscript{21} By this time, however, active warfare in the North was almost over.

Even in administrative problems with which he had no direct connection Livingston undertook, when he felt conditions

\textsuperscript{15} Acts of N. J., 1 sess., pp. 66, 98; 2 sess., p. 23.
\textsuperscript{16} Message to Assembly, Feb. 16, 1778, \textit{Votes of Assembly}.
\textsuperscript{17} Acts of N. J., 2 sess., p. 42.
\textsuperscript{18} Ibid., 3 sess., p. 113; 4 sess., p. 66.
\textsuperscript{19} \textit{Votes of Assembly}.
\textsuperscript{20} Letter of June 20, 1780, in Ledyard Collection, William Livingston Papers, Vol. II.
\textsuperscript{21} Acts of N. J., 5 sess., p. 39.
warranted it, to interfere. On Christmas Day in the year 1777 he wrote to the president of Congress, enclosing a detailed report of the wretched conditions he had found existing in the Continental hospitals in the state. "Without a Reformation of the reigning abuses, we shall probably lose more of our Soldiers secundum Artem, than by the havoc of War." For this interference in a matter outside the scope of his authority, he offered the following excuse: "If I should need any farther Apology, I must plead Humanity . . . ." 22 That he also interested himself in the correction of abuses in the commissary and quartermaster's departments appears from others of his letters to the president of Congress. 23 The zeal of the reformer had not died out with advancing age.

The procuring of clothing for the New Jersey troops became a serious administrative problem in the fall of 1777. On this question Governor Livingston addressed two messages to the Assembly, advocating finally the impressment of surplus clothing, especially from the disaffected, who could not be induced to make voluntary contributions. 24 An act providing for the manufacture of clothing and the impressment of surplus blankets was passed November 25. 25

On one occasion Livingston's wit aided in averting a threatened mutiny. In the year 1780 the Irish soldiers among

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23 Letters of Mar. 5, 1778, and Oct. 29, 1779, ibid., folios 333 and 475.

24 Messages of Sept 22 and Nov. 6, Votes of Assembly; cf. also letter to Washington, Nov. 5, 1777, Lib. of Cong., Washington Papers.

25 Acts of N. J., 2 sess., p. 3.
the American troops at Morristown threatened to go home on
St. Patrick's Day. Washington arranged a sort of pageant for
the day around the theme of "The Independence of Ireland."

To explain the whole, amuse the discontented, and while
away the Day, Governor Livingston's Mercuries, purporting
that 70,000 Men were in Arms, under the Duke of Leinster,
and Lord Shannon, were scattered thro' the Camp. The simple
hearted Teagues . . . forgot their Sufferings, and dropped
their Complaints, and seemed perfectly happy for the
Moment . . . . 26

Livingston, however, approved of the use of stern measures to
suppress mutiny when necessary. Relative to the mutiny early
in 1781 of a body of New Jersey troops, he wrote to Washington:
"As lenity is, upon some occasions, truly politic, severity is
upon others, absolutely indispensible, and probably from the
success of the Pennsylvania mutineers, the fever of revolt
would soon have become epidemical, had not the sharpest remedy
been applied to check the contagion." Yet he also expressed
in the same letter his conviction that the best way to deal
with the problem of mutiny was to remove just grounds of
complaint, such as the detention of soldiers beyond their period
of enlistment. 27

Just as he believed in the severe punishment of soldiers
when merited, so too he believed in the reward of praise for them
when due. Feeling that the New Jersey militia had been slighted
by the passage in Congress in September, 1778, of a resolution
commending the patriotic exertions of the Rhode Island militia in
the campaign there under General Sullivan and the failure of Congress

26 N. Y. Gazette and Weekly Mercury, April 24, 1780,
reprinted in N. J. Arch., 2 ser., IV, 322.

to take note in any way of what Livingston felt had been more patriotic exertions on the part of the New Jersey militia, he sent a letter to Laurens, then president of Congress, in which, pretending to relate a dream, he set forth this charge. 184

The problem of finance and currency was, of course, one of the most troublesome of all the problems of the Revolution. Livingston appreciated the necessity of heavy taxation if the war was to be carried on successfully. On September 8, 1777, he addressed the Assembly as follows:

As our Proportion of the heavy Debt which will inevitably be occasioned . . . will be severely felt unless seasonably discharged, I would most earnestly importune you not to suffer this Session to pass without sinking Part of it by Tax. Those who are for postponing this interesting Affair to a distant Period, are not aware of the extensive Mischief that will attend so fatal a Measure. 185

The Assembly, however, failed to heed the warning and adjourned without attending to this "interesting affair." In 1778 the Assembly got around to passing a tax law for raising one hundred thousand pounds, 30 but Livingston considered this still woefully inadequate. "The advocates for a large taxation could not carry one above £100,000. Thus have we made ourselves an object of derision to the present age and of malediction to the next." 31

Letter of Sept. 17, 1778, quoted in Sedgwick, Memoir, pp. 305 ff. Laurens published this dream over the signature, "An Old Man," with some amendments of his own in the Pennsylvania Packet, Oct. 3 (Laurens to Livingston, Oct. 1, in Burnett, Letters of Mem. of Cont. Cong., III, 435 f.; also p. 436 n. 2). This tactful maneuver seems to have soothed Livingston's ruffled feelings (Livingston to Laurens, Oct. 9, quoted in Sedgwick, Memoir, pp. 308 f.).

Votes of Assembly.


When, however, in the spring of 1779, the Assembly passed a bill providing for the raising by taxation of a million pounds, Livingston voiced his approval. "...I must give our Assembly one huzza for having voted a tax of a round million, not of dollars, sir, but fair honest pounds of twenty shillings to the pound."

With regard to the issuance of paper money we should expect to find Livingston a hard money man, inasmuch as he was a man of considerable wealth and, generally speaking, a creditor rather than a debtor. Patriotism, however, seems to have led him to support the inflationary policy of Congress. He considered unpatriotic the efforts of creditors to avoid being paid in the depreciated currency, and in the fall of 1777 recommended the passage of a law to correct this practice. "To frustrate such iniquitous Subterfuges, (the malignant Design of which is sufficiently evident) I would recommend an Act to enable every Obligor or Debtor, whose Creditor is removed out of the State, or cannot be found in it, or who refuses to receive the Debt when tendered, to pay the same into the Treasury for his Use, and to be thereupon discharged from the Sum so paid, and all the Interest thereafter accruing." In February of the following year he repeated this recommendation.

In October, 1779, the legislature finally enacted a law of this nature as a supplement to the legal tender law of 1776.

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This act finally became law on June 10 (Acts of N. J., 3 sess., p. 70).

Letter to Anthony Bleecker, May 1, quoted in Sedgwick, Memoir, p. 322.

Message to Assembly, Sept. 8, Votes of Assembly.

Ibid.

Message to Assembly, Feb. 16, 1778. Ibid.

Acts of N. J., 3 sess., p. 130.
Another practice connected with the depreciation of the currency which he deprecated was that of receiving and passing at a greater value than that of the Continental currency bills of credit of New Jersey and the neighboring states issued while they had still been colonies of Great Britain. "Perhaps of all the Schemes concerted by the Enemies of America to embarrass her Measures and promote the ruthless Machinations of Britain, none is more fatally calculated to effect her Destruction." He therefore recommended the calling in of all this old money and the exchanging of it for Continental bills.\textsuperscript{37} It was almost two years later, however, before the legislature passed such an act.\textsuperscript{38}

In the spring of 1779 Governor Livingston contributed to the \textit{United States Magazine} under the nom de plume "Hortentius" an article in defense of the paper Continental currency.\textsuperscript{39} This was in reply to a previous article in the same magazine, entitled, "The Representation and Remonstrance of Hard Money, Addressed to the People of America." This latter article was in a very light vein, and Livingston replied in kind, taking up point by point the virtues claimed for "Hard Money," showing them to be false, and concluding by enumerating the real virtue of "Continental Currency": "... even General Washington himself, has not been more instrumental in bringing our public affairs to their present happy-glorious crisis."

Livingston, however, had no adequate understanding of the intricacies of public finance nor of the economic laws governing the depreciation of paper money issued without proper provision.

\textsuperscript{37} \textit{Message to Assembly, Nov. 8, 1778, Votes of Assembly.}
\textsuperscript{38} \textit{Acts of N. J., 3 sess., p. 69.}
\textsuperscript{39} \textit{"The Answer of Continental Currency to the Representation and Remonstrance of Hard Money, Also Addressed to the People of America," March, 1779.}
for its redemption. He persisted in regarding depreciation as due entirely to the unpatriotic spirit of the people. In 1779, writing to Governor Trumbull, he expressed himself in favor of the proposals to fix prices, then being advocated as a cure for depreciation, and indicated his belief that this measure would aid in having the desired effect. "I hope the States will adopt the limitation of prices, and be in a condition to pay the taxes of this year at the day. ... I am full persuaded that we can, with proper diligence & execution, turn the tide of depreciation notwithstanding its present impetuosity." Trumbull in his reply exhibited a much surer grasp of the situation, pointing out the defect of price regulation and insisting upon the necessity rather of regulation of the paper currency.

In the fall of 1780, under the nom de plume "Scipio," Livingston wrote two essays for the New Jersey Gazette on the currency question, which showed a better understanding of the financial situation as it had then developed. He pointed out the mistake which New Jersey had made in not raising taxes to the point where it could have redeemed its quota of the Continental currency during the time it was receiving cash and currency for its supplies to the Continental army. Due to the new policy adopted by Congress that opportunity was now gone because New Jersey was now forced to furnish supplies to the army in return for certificates. These certificates, however, could not be used in the payment of debts.

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40 Letter dated December (Trumbull Papers, Part III), pp. 466 ff.

41 Letter of Jan. 27, 1780, Ledyard Collection, William Livingston Papers, Vol. I: "The Limitation of Prices I particularly view as a temporary Expedient only, which in its Operation always has, & I believe always will plunge us deeper in the Distress we wish to be extricated from — I rather think some measures to regulate our paper Currency... would be more eligible, & which in my Idea would apply itself more to the Root of the Disorder than any temporizing Medium yet tried."

41N.J. Gazette, Oct. 25, 1780.
and taxes, and there was much complaint on the part of the people on this account. For this problem Livingston offered a solution. "I come now to consider the case of the certificates; and here I have already observed, that the state is considerably indebted to the continent, if then we could take on us the debts due from the continent to individuals, and get credited for the amount with Congress, we should thereby not only pay off our present debt to them, but stand considerably in advance, for which we should be entitled to interest." To redeem then the Continental debt thus taken over by the state, Livingston proposed that the debts owed by inhabitants of the state, a large part of which were owed to the state itself, should be made payable in certificates, and that the certificates which still remained after this transaction should be sunk by an issue of bills of credit on the same security as during the French and Indian War. If the certificates were reduced to their proper value, this would not result in an over-expansion of the currency, and the annual amount necessary to redeem ultimately the bills of credit, Livingston calculated, would be only fifteen thousand pounds, much less than had been necessary at the close of the last war and easily to be supported by the credit of the state. 189 4/3

He defended Congress against the imputation of a breach of public faith by its adoption in March, 1780, of the forty to one measure for the redemption of the paper money it had issued.

I know much has been said against this measure as being a breach of public faith, and have often heard persons rail against Congress for having broken faith with the people. I confess my idea has always been that Congress were the representatives of the people, and therefore that the Congress and the People were the same, and that acts of the one were the acts of the other, consequently that to say the Congress

Ibid., Nov. 1, 1780.
had broke faith with the people, was, in other words, to say that the people had broke faith with themselves, . . . which is absurd.

The shoe, he goes on to show, is really on the other foot. The people, after having solemnly pledged themselves in the beginning of the war to support Congress in every measure, have failed to support its financial program, and have thus broken faith with Congress.

In this same essay Livingston pointed out how New Jersey had made the immediate depreciation of its own newly issued money inevitable by unnecessarily tying it up with Continental currency at forty to one. New Jersey had delayed for some time issuing money under the new regulations of Congress, and by the time they did authorize a new issue the actual rate of exchange was already sixty instead of forty to one. Yet the legislature, "with a mistaken view of adhering strictly to the resolution of Congress," had fixed the exchange between the new money and the Continental at forty to one, and yet by the same law had declared the new equal to gold and silver. This, he pointed out, was a contradiction with one inevitable result: "Accordingly the new is by common consent, as well as by law, fixed at forty times the value of the continental: . . . ." To correct this situation he proposed that the law be amended, separating the new emission from the Continental currency and setting its value in specie alone.

Sixteen days after his essay appeared this action was taken by the legislature. By the same act the governor and Council were authorized to fix the rate of exchange for Continental currency in the state and provision was made for the subsequent changing of the rate by

\[\text{Ibid.}\]
\[\text{Ibid.}\]
the same authority from time to time thereafter. 142

Apparently this separation of the New Jersey money from dependence on the Continental served its purpose for a while, but soon depreciation set in again. This was especially noticeable when Jersey money was offered in Philadelphia, a fact which Livingston attributed, no doubt correctly, to the failure of Pennsylvania to alter the legal rate of exchange. In despair Livingston, as "Scipio," threw himself in truly Quixotic manner against the steadily grinding windmill of an inexorable economic law, the peculiar force of which he still failed to appreciate, calling loudly upon his people to follow him in the mad charge.

And what have we to do with Pennsylvania? Is not our money our own? Will they redeem it for us? . . . If not, for justice sake, let us look to ourselves, let us rouze from this lethargy, and make our money what it ought to be, by keeping up the exchange equal to gold and silver. 143 147

Although it is evident that he still felt that it was possible to prevent depreciation by appealing to the patriotism of the people, yet he had by this time given up all faith in tender laws and no longer advocated them as he had done earlier in the war. 144 148 From

**Acts of N. J., 5 sess., p. 5.** Eventually an act furnishing a table of depreciation by months from Jan., 1777, was passed (ibid., p. 102). This was superseded on Dec. 25, 1781, by another act providing a similar table by days from Sept. 1, 1777, to May 1, 1781 (ibid., 6 sess., p. 29).

**N. J. Gazette, April 25, 1781.**

**Catherine Livingston to her father, June 8, [1781] (Ledyard Collection, William Livingston Papers, Vol. V):** "I suppose you know Mr. Morris has accepted the appointment of Congress, it gives him great pleasure to hear you are opposed to the tender laws, without the repeal of which he expects to be of little service."

That this was the general sentiment of the state by this time is evident from the fact that in June an act passed declaring the state bills of credit no longer legal tender (Acts of N. J., 5 sess., p. 83). Continental bills had in January been declared legal tender only at the current rate of exchange (ibid., p. 31).
this time on, in fact, as we shall see in the next chapter, Livingston became more and more firmly attached to a hard money policy.

Another of the serious problems with which as chief executive of the state Governor Livingston had to deal was that of preventing the intercourse and trade with the enemy which was practised not only by Tories and neutrals but also by some who called themselves patriots. Women were frequently employed for this purpose because of the greater indulgence likely to be shown them by those whose duty it was to prevent this traffic. Governor Livingston early expressed himself against this traffic and against allowing any special favors to the female sex in this direction.

For my part I am utterly against this kind of communication between this State and New-York... The sex are mistresses of infinite craft and subtlety, and I never heard or read of a great politician who did not employ petticoats to accomplish his designs. Certain it is that the greatest politician on record, I mean the devil, applied himself to a female agent to involve mankind in sin and ruin.

Writing to General Joseph Reed in 1778 concerning the case of a Mrs. Yard, who had succeeded in interesting some members of Congress in her attempt to recover a cargo of goods which she claimed to be her own property but which had been confiscated by a New Jersey officer on its way from New York to her home, Livingston again expressed his distrust of the sex in this regard. He does not doubt but that her friends in Congress believe her innocent; "but I also believe that Adam was deceived by Eve, and that Delilah got the better of Sampson. . . . I cannot help expressing my apprehensions that the restitution of the Cargo to Mrs. Yard will be attended with very mischievous consequences."

Numerous proclamations on the subject by the governor and

laws passed by the legislature were alike unavailing in stamping out entirely this nefarious intercourse. Because of the abuses to which passes when granted were subject, Governor Livingston early in the war made it a standing rule of conduct for himself to refuse all such requests except under the most pressing emergency. How well he kept to this resolve is evident from the incident previously related when his daughter Susanna in 1779 desiring to procure passes for some of her cousins in New York who wished to pay her a visit, wrote to Alexander Hamilton requesting him to use his influence with General Washington instead of applying to her father. Hamilton on this occasion, however, as we have seen, proved to be no Samson. On this question of intercourse with the enemy Livingston and Washington were in entire accord, and both exerted their utmost efforts to break it up. Washington despaired of accomplishing this, however, unless the states provided capital punishment for the offense. "It is in vain to expect that pernicious and growing traffic will ever be stopped, until the States pass laws against it, making the penalty death." In his reply Livingston evinced his approval of such a course. "I heartily concur with you in sentiment that it ought to be made capital . . . . I should think that if any crime in the world deserved death, next to that of murder, it must be that of supplying an enemy in time

51 Letter to Mrs. Mary Martin, Feb. 10, 1778, in Mass. Hist. Soc., Livingston Papers, Vol. II (Sedgwick Copy): "I have experienced so much mischief to the Country from this kind of Intercourse that I have long since resolved to grant no such Papers."

52 Letter of Mar. 14, 1779, ibid. (original): "You may perhaps be not unacquainted, that the Governor has laid himself under a rule (from which he has never swerved, except in a very few instances and those of the most pressing nature) to prevent any Communication between the Inhabitants of our Lines and those of our bad Neighbours."

53 Cf. supra, p. 184, n. 47.

54 Letter to Livingston, Jan. 12, 1782, Ledyard Collection, William Livingston Papers, Vol. VIII.
of war, with the means of facilitating their continuing such war against one's own country."

On the subject of the decision in the famous case of Holmes vs. Walton in 1780, which, by declaring unconstitutional one of the laws of the state directed against this traffic, rendered its prevention temporarily still more difficult, Livingston does not seem to have expressed himself directly. Austin Scott, however, quotes from a message of the governor to the Assembly on June 7, 1782, a passage suggesting further legislation on the seizure of goods concerned in this traffic. This passage, he believes, indicates that Governor Livingston had accepted this principle of judicial review in spite of the setback which it had administered to the solution of a problem which he regarded as one of the most important and difficult with which he had to deal.

Although we have found Livingston progressive and liberal in many respects, it is not surprising in view of his quick temper and strong passions to find him advocating the application of the Mosaic law in the treatment of British prisoners.

The complaisance with which we treat the British prisoners, considering how they treat us when in captivity, of which you justly complain, is what the Congress can never answer to their constituents, however palliated with the specious name of humanity. It is thus that we shall at last be humanized out of our liberties. Their country, their honour, the spirits of those myriads who have fallen a sacrifice to the severity of their treatment by the enemy, and their own solemn oath, call upon that august assembly to retaliate without further procrastination.

In his attitude toward the Tories Governor Livingston showed for the most part the same unrelenting spirit of retaliation.


Letter to daughter Catherine, Aug. 9, 1779, quoted in Sedgwick, Memoir, pp. 337 f.
The Tory problem was in New Jersey particularly serious. One authority estimates that one of every six inhabitants of the state was an unrecanting Loyalist, and another shows that many of them came from the best and most influential families. In his message to the Assembly on February 19, 1777, Livingston recommended the passage of a law confiscating the estates of those Tories who had left the state. In his great war speech nine days later he essayed both persuasion and threats. He expatiated at some length on the impossibility of the Tories' profiting by remaining loyal to Great Britain. Where could any fund be found to recompense them? The major part of even any such inadequate fund as might be raised for the purpose would be appropriated by the grafting ministers in England and their henchmen. "Instead of Gratuities and Promotion, these unhappy Accomplices in their Tyranny, would meet with supercilious Looks, and cold Disdain; and, after tedious Attendance, be finally told by their haughty Masters, that they indeed approved of the Treason, but despised the Traitor." Turning from this attempt to dissuade the Tories by an appeal to reason and to self-interest, he thunders forth in the conclusion of his speech a dire threat of harsh treatment for those Loyalists who fail to see the error of their ways. "Let us be peculiarly assiduous in bringing to condign Punishment, those detestable Parracides [sic], who have been openly active against their native Country."

In May of the spring of 1777 the governor apparently de-
ailed to try the effect of a more magnanimous policy. Stating that in his belief a majority of those who had given aid to the enemy already regretted their treason and would welcome the opportunity to be received back into the ranks of the patriots, and because "it would reflect Honour on the Community to extend Mercy with the one Hand, while it brandished the Sword of Justice in the other," he recommended the passage of a general act of amnesty for all those who should take advantage of it within a certain time. At the same time, however, he advocated the immediate seizure and conversion into cash of the personal estates of all such persons, to be kept for their use if they returned to the patriot fold but to be turned over to the state if they failed to do so.\footnote{127} Such an act of amnesty was passed by the legislature June 5.\footnote{128}

This appears, however, to have been the last gesture of forgiveness on the part of Livingston toward the Tories. In October, writing in commiseration to Washington on the latter's difficulties with the Tories, he said: "In my Department, I have infinite Trouble with them. A Tory is an incorrigible Animal: And nothing but the Extinction of Life, will extinguish his Malevolence against Liberty."\footnote{129} In an essay in the \textit{New Jersey Gazette} early the next year he expressed his conviction that the sole reason why so many had remained Tory in their sympathies was the expectation of personal profit.\footnote{130} In April of this year he deprecated the lenient policy toward the Tories which had been

followed and expressed his disgust at the delay of the legislature
in acting upon his recommendation of a year ago concerning the
confiscation of Tory property.

The tory race who have increased under our nurture, that is
to say our lenient measures, are now triumphant and much more
dangerous than the British Troops. Alas my dear Sir, instead
of rearing our heads as heretofore like the stout oak, we flag
like a parcel of bullrushes — We want Spirit & Activity — Four
sessions to compleat [sic] an Act for confiscating tory pro-

erty. 162.4

Of the resolution adopted by Congress on April 23, 1778,
recommending that the states offer pardon to all Tories returning
to allegiance to the states by June 10, 163.4 Livingston thoroughly
disapproved. Writing to President Laurens, he stated that the
more patriotic Whigs would think it extremely hard to be asked to
grant all the immunities of their happy constitution, which they
had risked their lives to defend, to those very ones who had sought
to destroy it. "And as to our heartily forgiving them, I think
that will rather require a double portion of the grace of God, than
be effected by a thousand resolves of Congress." 164.7 Half of his
message to the Assembly on May 29 was devoted to exposing the im-
policy of this resolution.

As both political Pardon and Punishment ought to be regulated
by political Considerations, and must derive their Expedience
or Impropropriety from their salutary or pernicious Influence
upon the Community, I cannot conceive what Advantages are pro-
based by inviting to the Embraces of their Country, a set of
Beings, from which any Country, I should imagine, would esteem
it a capital Part of its Felicity to remain forever at the
remotest Distance.

That he was more than ever convinced, too, of the total degeneracy
of Tories and the impossibility of reclaiming any of them is evident
from the concluding portion of this section of his message.

162.4 Letter to Col. Scudder, April 9, in Mass. Hist. Soc.,
Livingston Papers, Vol. II (Sedgwick Copy).

163.4 Journals of Cont. Cong., X, 381 f.

164.7 Letter of May 7, quoted in Sedgwick, Memoir, pp. 286 ff.
Whence it is probable that a real Tory is by any human means absolutely inconvertible, having so entirely extinguished all the primitive Virtue and Patriotism natural to Men, as not to leave a single Spark to rekindle the original Flame. It is indeed against all Probability that Men arrived at the highest possible pitch of Degeneracy, the preferring of Tyranny to a free Government, should, except by a Miracle of Omnipotence, be ever capable of one single virtuous Impression.

By 1781 his opinion on this head had suffered no change. He wrote to John Matthews, a delegate in Congress from South Carolina: "There ought, sir, no tory to be suffered to exist in America." When, in the spring of 1782, Tory exiles began filtering back into New Jersey, Governor Livingston again addressed the Assembly, recommending the passage of a law to prevent this practice.

It is derogatory to the Honour and Dignity of this State to suffer such Miscreants, who come with the mark of Tory-ism as Cain did with that of Murder, converting New-Jersey into another Land of Nod, and making it the shameful Asylum for every self-banished, self-convicted Traitor in the Union, who has the Impudence to take Shelter amongst us.

By 1783, however, he seems to have accepted the necessity of this, for we find him, writing to John Jay in France, placing the opposition to the return of the Tories in the mouths of others. "The Whigs in this State are however extremely opposed to admitting the refugees amongst us & I am apprehensive of some difficulty on that account."

Toward neutrals in general Livingston's attitude was hardly more charitable. In his memorable address to the legislature in February, 1777, he spoke of "The skulking Neutral, who, leaving to others the Heat and Burden of the Day, means in the final Result, to reap the Fruits of that Victory, for which he

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Votes of Assembly.


Votes of Assembly, June 3, 1782.

will not contend. In a message to the Assembly in May of the following year he again adverted to them in the most uncomplimentary terms, and recommended an act for dealing with them.

I hope, Gentlemen, it will engage your seasonable Consideration what Measures ought to be adopted respecting those...who seem resolved to the very End of the Quarrel to maintain a Kind of shameful and most disingenuous Neutrality, hoping by not avowedly espousing either Side, but occasionally and indirectly abetting both, to secure to themselves a favourable Reception with the prevailing Party. Such political Hypocrites ought, by a general Test, to be dragged from their lurking Holes, ferreted out of their Duplicity and Refuge of Lies.

Toward the Quakers, however, of whom New Jersey had many, his zeal for religious toleration led him to adopt a more magnanimous policy, at least in the earlier phases of the war. Early in 1777 he wrote to Major General Putnam: "As for the People called Quakers, they cannot be compelled to fight without violating those conscientious scruples which they have always professed as a people. But I hope they are, in other respects valuable Subjects, and will give Government no Trouble." A year later he called the attention of the legislature to the fact that there were many who could not, on account of religious scruples, take the oath which had been prescribed and asked: "...can it be consistent with sound Policy, or the generous Spirit of our Constitution, to debar an honest Man, for a religious Scruple, from the Privileges of Society?...?" He then recommended that the legislature authorize magistrates to dispense with that part of the oath which was offensive to Quakers. Such action was taken by the legislature.

\[Votes of Assembly, Feb. 28.\]
\[Ibid., May 29, 1778.\]
\[Letter of Feb. 13, in Lib. of Cong., Washington Papers.\]
\[Votes of Assembly, May 29, 1778.\]
the following fall.  

Toward the end of the war, however, Livingston seems to have lost patience even with the Quakers. A letter to him in 1782 from Samuel Allinson indicates that the governor had charged them "with duplicity, inconsistency, and with not only departing from their antient [sic] Principles & Conduct respecting War, but of being favorers & parties on the part of Gr. Br.; and with both secretly and openly 'lending them more powerful aid than any Weapons of War or actual military service'."

Let us now examine for a moment what was Livingston's conception of the new government which, as its first chief executive, he was administering. That he regarded a public office as a public trust and himself as the servant of the people is evident from his reply to the address of the Council shortly after his inauguration in the fall of 1776. "As every Office is only honourable in Proportion to the public Good it enables the Person sustaining it to do, and the Officer himself in Proportion to the Good he actually does, I can assure you that the Reflection of having prompted the true Interest of this State, to the extent of my Wishes and of your Expectation, will afford me more solid Satisfaction than can result from any external Splendor, or the most illustrious Titles." The government of the state Livingston regarded as truly republican and a government of laws rather than of men. To Major-General Robertson of the British army he wrote:

You have distinguished me by a title which I have neither authority nor ambition to assume, I know of no man, sir, who

77 Letter of Mar. 8, in Ledyard Coll. A. Livingston Papers, Vol. VIII. Allinson's letter goes on at length to defend the Quakers against these charges.
78 Journal of the Proceedings of the Legislative-Council of the State of New-Jersey, Sept. 28. This will be cited hereafter as Journal of Council.
bears sway in this state. It is our peculiar felicity, and
our superiority over the tyrannical system we have discarded,
that we are not swayed by men—In New-Jersey, sir, the laws
alone bear sway.175 77

Again in an essay in the New Jersey Gazette he expounded this
principle of republicanism on which the government of the state
was founded.

... this descendant of Vulcan [General Tryon]... these agents [committee-men] the wicked instruments of the
continued calamities of this country. But pray, Sir, who
appointed, and who continues these Committee-men? Have they
assumed their office; or were they elected by the people? or
would the people continue them in office, unless they acted
agreeable to their sentiments?178 80

To his republican principles Livingston remained true
throughout the war in spite of the inconvenience and inefficiency
resulting from the undue restriction of his own power as chief
executive, which the authors of the constitution in their over-
zealous republicanism had written into that instrument.179 78 In 1778
he wrote to Washington complaining of the frequent failure of Con-
gress and the War Office to adopt in time the proper measures
necessary to meet an emergency and their habit on such occasions
of calling upon the executives of the states to take steps con-
trary to the constitutions under which they governed in order to
remedy the situation. "But Gentlemen do not consider what an
unreasonable burden they impose on the civil department, when, in
republican States, founded in Liberty, and in which the People,
being just emerged from tyranny, are extremely jealous of the

79 Postscript to letter of Jan. 7, 1778, N. J. Gazette,
80 Mar. 18, 1778, reprinted in ibid., 2 ser., II, 121 ff
81 The only exception to this steadfast adherence to the
letter of the written constitution seems to have been his assump-
tion early in the war of the power to call out the militia without
permitting a pecuniary composition in lieu of service (cf. supra,
p. 291).
least violation of their rights, they make those kinds of requisitions." At times Livingston seems even to have leaned backwards in his desire to avoid any appearance of a usurpation of power. Replying to Sir Guy Carleton's request in the spring of 1782 that he intervene in behalf of some British prisoners who were threatened with execution in the state of New Jersey, he asserted that the executive of the state had no authority to discharge any prisoner from the custody of the law, nor could he interfere with the operation of local laws. This tendency is even more evident in his reply to General Steuben's request that the state allow him the privilege of the preemption of the confiscated farm of a Tory in the state of New Jersey. Livingston pointed out that commissioners to sell such properties at auction had been appointed in every county and dwelt upon the difficulty of making exceptions. "You know, Sir, the nature of our democratical Governments. You know the jealousy of Republicans." Livingston was opposed to any undue exercise of power on the part of the military as opposed to the civil authorities. In the beginning of the war, however, he seems to have recognized that extraordinary emergencies justified extraordinary measures on the part of the former. Writing to Washington in the fall of

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\[84\] Letter of June 25, ibid., Force Transcripts, Misc.

\[85\] Letters, C. H.

\[86\] Letter of Nov. 7, 1783, in N. Y. Hist. Soc., Steuben Papers, Vol. X. That Livingston's extreme republicanism in this case seemed somewhat strained to the honest general is evident from his reply, in which, despite numerous errors in spelling, one cannot fail to sense the sarcasm: "Several states have made me Grants of Lands in the most Generous manner. And neither the Democratical Principles nor the Jalousie of Republican, have been an Obstacle to honor me with a particular mark of Affection. But as the apprehensions of Jalousie or other Claims for a Similar Prerogative stands in my way— I withdraw willingly my application" (letter of Nov. 17, 1783, ibid., Vol. XII).
1776 regarding the removal of grain from the coast in expectation of a British attack, he asserted that while he as a civil officer could not take any arbitrary steps toward the accomplishment of this, he hoped that the magistrates would connive as far as possible at any necessary steps taken by the military authorities in this regard. For the most part, however, he showed a jealous solicitude lest the military authority in the heat of the conflict should be allowed to trespass on the civil. Especially did he deprecate the violation of private property on the part of the state militia under the guise of patriotism. In a message to the Assembly on February 3, 1777, he vigorously condemned this practice, and two days later issued a proclamation ordering the militia "to desist from the future from all such depredations and violence." He commended General Pulaski for "the caution he uses to avoid any encroachment on the civil department." In 1778 he replied to the president of Congress, which had requested him to enforce the strict observance of the embargo on provisions, that he would use his utmost efforts but that with the present military force at his disposal it would be impossible "without having recourse to measures which I could not be warranted in commanding our Militia to adopt." In a letter to Washington in 1780, although he agreed in general with the former's disapproval of the practice on the part of the soldiers of appealing to the civil

88 Notes of Assembly.
authorities for redress on the ground of being detained beyond the terms of their enlistment, yet he pointed out that under certain circumstances a judge might be bound to take cognizance of the case, "and grant the same relief to a soldier forcibly kept beyond his Engagement as in the Case of the false Imprisonment of any other Subject; no Soldier losing by his inlisting in the service his antecedent Rights as a Citizen, and particularly not that of a juridical Inquiry into the Legality of any restraint on personal Liberty." In this same year he wrote to Congress concerning the case of one John Hopper, an inhabitant of the state, whose barn had been burned by the British in an attack upon some Continental troops, which he had allowed to be quartered there. Livingston demanded indemnification from the national treasury for Hopper and went on to say: "I therefore hope that if no recompense is to be obtained, I may be honoured with the result of their [Congress's] Deliberations, in order that the Subjects of this State may therefore seriously consider whether the most exalted idea of Patriotism requires them to consent to the destruction of their property for accommodating the Troops, without Indemnification."

As a good republican Livingston, of course, disapproved of anything resembling dictatorship. Here again, however, he appreciated that under a special emergency even a free people might be justified in temporarily investing some outstanding leader with dictatorial power. When such power was conferred on Washington by Congress at the close of 1776, Livingston wrote to the latter:

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"I heartily congratulate my Country that they have seen the necessity of the Measures. I could only wish that it had been done a month ago." 92 When a convention of New York and the New England states at Hartford late in 1780 proposed again to invest the commander in chief with extraordinary powers, this time in connection with the procuring of supplies from the states, Livingston wrote to Dr. Witherspoon:

... I cannot but admit with you the dangerous power thereby recommended to be conferred on the Commander in Chief; ... I must however acknowledge that rather than run the hazard of being finally subjugated by Britain for want of those supplies which the States are able to furnish but which they will probably not furnish without compulsion and admitting they could not otherwise be compelled, I would in imitation of a People as fond of Liberty as we can be supposed to be, vote for a Dictator & in that case I should prefer no man on the Continent before him to whom I verily believe a kind Providence directed us in our choice of a Generalissimo. 93

Let us examine a moment Livingston's opinion of Congress and his conception of the proper policy to be pursued there by the New Jersey delegates. In spite of his earlier predilection for New England, he felt that the interests of New Jersey were more intimately tied up with those of the other middle states and in 1778 advised John Fell, just elected for the first time a delegate from New Jersey to Congress, to cultivate the friendship of the delegates from those states rather than to throw New Jersey into the arms of New England or Virginia, as had previously been done. 94 In this same letter he speaks of the party spirit which had existed in Congress at the time he was a member. This spirit of factionalism he continued to deplore throughout the war. When Congress became embroiled in the bitter Deane-Lee embroglio,

Livingston wrote, apropos of a discussion of the possibility of getting aid from the Dutch: "Congress may greatly avail themselves of some facts which I shall suggest to them from my illustrious correspondent [Baron van der Capellen], but then they must mind their business, and not enter into parties about the Deanes, the Lees, the Paines, and the devil knows what!" 95 Likewise when the possibility of forcing Dr. Franklin's retirement from his post abroad was being discussed in Congress, Livingston wrote to Dr. Witherspoon: "I hope . . . . that no party spirit will be suffered on that occasion to sway the Deliberations of those who have the Direction of that matter." 96 Generally speaking, his letters show no very high regard for the body which controlled the destinies of the land. Writing to Washington in 1779 he speaks of "the Reformers in Philadelphia" and adds parenthetically "whom but for the laudable motive that impels them we should be obliged to call a mob." 97 He approved of the decision of Congress to publish its journals weekly and advocated as additional steps to bolster the waning popularity of that body the maintenance of open doors and the removal of the capital from Philadelphia with its Tory influences. 98

For the Articles of Confederation Governor Livingston was an ardent advocate, but he believed that the question of the western lands should be settled before ratification. Writing to Henry Laurens in July, 1778, he promises to use his utmost endeavors to secure ratification of the confederacy, "for which

95 Letter to Henry Remsen, Nov. 29, 1779, quoted in Sedgwick, Memoir, pp. 342 f.
97 Letter of May 27, ibid.
98 Letter to Henry Laurens, April 23, 1779, ibid.
I [have] long been exceedingly anxious." He adds, however, the following qualification: "... but I sincerely hope that this State will never ratify it, till Congress is explicit in doing us that Justice respecting the common Lands, which I think no man of common Sense, or the least acquainted with human Nature would trust to the future Deliberations of any body of Men... a considerable part of which must necessarily be gainers by a contrary determination." In a similar vein he expressed himself to the Assembly two months later. In spite of the governor's opinion, however, and its own similar representation to Congress, read in that body on June 25, the legislature, in the interest of greater unity and "in firm Reliance that the Candour and Justice of the several States will, in due Time, remove, as far as possible, the Inequality which now subsists," on November 20 instructed its delegates in Congress to vote for ratification.

True to his life-long principle of complete religious freedom Livingston deprecated the suggestion that any sort of religious test should have been a part of the Articles.

... to have made the 'law of the eternal God, as contained in the sacred Scriptures, of the Old and New Testament, the supreme law of the United States,' would, I conceive, have laid the foundation of endless altercation and dispute, as the very first question that would have arisen upon that article would be, whether we were bound by the ceremonial as well as the moral law, delivered by Moses to the people of Israel. Should we confine ourselves to the law of God, as contained in the Scriptures of the New Testament (which is undoubtedly obligatory upon all Christians), there would still have been endless disputes about the construction of the of these laws. Shall the meaning be ascertained by every individual

100 Votes of Assembly, Sept. 14, 1778.
102 Acts of N. J., 3 sess., p. 3.
for himself, or by public authority? If the first, all human laws respecting the subject are merely nugatory; if the latter, government must assume the detestable power of Henry the Eighth and enforce their own interpretations with pains and penalties.103

As a result of his activities and the official position which he had held throughout the war Livingston had become more of a national figure. But his eminence was not due to political activity alone, and even the stress and confusion of this period, when military and political affairs engrossed the attention of the nation's leading men to such a considerable degree, failed to prevent suitable recognition of his position among the leaders in the cultural and intellectual life of the country. At the first annual election of the American Philosophical Society on January 5, 1781, at which Franklin was elected president, Livingston was chosen one of the two-year councillors.104 On January 30 of the succeeding year he was elected a member of the American Academy of Arts and Sciences. In a letter notifying the new member of the honor conferred upon him the corresponding secretary of the organization wrote: "I am persuaded, Sir, that the Fellows of the Academy were happy, in having this opportunity of manifesting their esteem of a Gentleman, who has distinguished himself, not only by his love of letters and acquaintance with science, but also by his warm attachment to his country, and his unremitted exertions to secure its liberty and independence."105

The approach of peace raised new problems. One of these was the increasing aversion to the payment of taxes, a tendency


105Joseph Willard to William Livingston, Feb. 9, 1782, ibid., Vol. VIII.
which Livingston roundly condemned. ". . . many strong pro-
essional Whigs now openly show what I have long suspected them
of, that they love their money better than their liberty by their
scandalous aversion to pay the necessary taxes."\textsuperscript{106} Another
problem which began to demand greater attention as the war drew
to a close was that of the proper method of dealing with the army.
Livingston had as early as 1778 expressed himself against the
proposal of half pay for life to the officers.

It is a very pernicious precedent in republican states; will
load us with an immense debt, and render the pensioners them-
selves in a great measure useless to their country. If they
must have a compensation, I think they had better have a sum
certain to enable them to enter into business, and become
serviceable to the community.\textsuperscript{107}

The soundness of Livingston's judgment on this question has been
borne out by the subsequent history of his country. That he was
not, however, without a sense of gratitude to the army is evident
from a letter to Washington in 1783. "After closing the war so
gloriously, I hope we shall not be deficient either in Justice or
Gratitude to those who have been so particularly instrumental in
obtaining an honourable peace, as the American Army."\textsuperscript{108}

The statesmanlike manner in which Livingston faced the
difficult period which he foresaw would in all probability be
ushered in with the final establishment of peace is best illustrated
by a quotation from his message to the Assembly on May 19, 1783,
where he pointed out the narrow road of duty which must be followed
if the American people were to enjoy the full benefit of the liberty
which they had won.

\textsuperscript{106}Letter to John Jay, May 21, 1783, in Johnston, \textit{Corr. of
John Jay}, III, 46 f.

\textsuperscript{107}Letter to Henry Laurens, April 27, quoted in Sedgwick,
\textit{Memoir}, pp. 279 ff.

\textsuperscript{108}Letter of April 18, in Lib. of Cong., \textit{Washington Papers}.
... let us not flatter ourselves that because the War is over, our Difficulties are at an End. ... Perhaps at no particular Moment during our whole Conflict with Great-Britain has there been a greater Necessity than at the present Juncture of Unanimity, Vigilance [sic] and Exertion ... Let us now shew ourselves worthy of the inestimable Blessings of Freedom by an inflexible Attachment to publick Faith and national Honour. Let us establish our Character as a Sovereign State on the only durable Basis of impartial and universal Justice; for whatever plausible Sophistry the artful may contrive, or the avaricious be ready from self-interested Motives to adopt, we may depend upon it, that the Observation of the wise Man will, through all Ages, be found an uncontrovertible Truth, that Righteousness exalteth a Nation, but that Sin (of which Injustice is one of the most aggravated) is the Reproach of any People.109

Before facing with Governor Livingston the difficulties of the new era against which he so wisely cautioned the people of his state, we may appropriately record a few tributes paid during this period to the character of New Jersey's war governor. In describing the heroism at the height of the war of the people of New Jersey the Chevalier de Fleury wrote in 1779: "Their Governor Lewingston[sic] is a Roman. The republicans call him Brutus, and the royalists, the American Nero."110 As the war drew to its close, Ezra Stiles, then president of Yale College wrote to Livingston: "While the present Revolution hath made Shipwreck of many Characters, which set out well in Life, it gives us Pleasure to rejoice [sic] in the Firmness of your Excellency's Character, and the singular Glory with which it will transmit itself to all American Ages."111

109 Votes of Assembly.
CHAPTER XI
CHAOS AND THE CONSTITUTION

As Governor Livingston had pointed out at the close of the war, peace was to bring not only independence but also the continuation of old problems and the appearance of new. Among these problems that having to do with finances continued in the new era, as it had during the war itself, to loom large. The public debt was great, and no proper provision for its payment had been made. The sullying effect on the honor of the nation which the failure to meet this obligation would have, could scarcely fail to be appreciated by any citizen with even the slightest breadth of view, and to Livingston it was perfectly clear. As "Scipio" he wrote: "Mortifying indeed would be the reflection . . . . that, after so successful a war with one of the most powerful nations in Europe, we should suffer the glory of America to be tarnished by our ingratitude or injustice . . . ." Particularly did he plead for justice in this connection to the army and to "those patriotick [sic] creditors in the civil line, who opened their purses at a most perilous crisis of the contest, in full confidence of our national honour, and without whose pecuniary aid we had probably this moment groaned under the galling yoke of British bondage."¹

The only possible method of meeting the huge debts of both the states and the national government was through taxation, and yet the people were vociferously objecting to the application of this very necessary remedy. The objections raised to the payment of taxes

¹N. J. Gazette, May 24, 1784.
Livingston regarded as specious. Why, he asks, are the people unable to pay? Simply because of the regrettable spirit of extravagance which has arisen among all classes. The merchant, when he has purchased goods on credit, acts as if he had already paid cash for them or else would never be called upon to pay for them at all, and proceeds to employ a French dancing master for his daughters and indulge in other unnecessary extravagances. The farmer refuses to sell at a reasonable price but holds his produce in expectation of a rise in the market, putting off the tax collector with the "difficulty of the times." When he is finally forced to sell, instead of putting aside a portion of the proceeds with which to meet his taxes, he hires himself off to Philadelphia or New York with his whole family and dissipates his entire receipts in purchasing "gewgaws and trifles" for his wife and daughters and expensive riding horses for his sons. The laborer demands treble the wages to which he is entitled and then works only two days a week, employing the remainder of the time in wasting his earnings "in some dram-shop, or at a horse-race, or cock-pit, or nine-pin alley." If employers talk of buying negroes to cultivate their farms, these same laborers prate about the sin of keeping slaves; if employers threaten to import foreign white labor, the laborers insist that this "would distress the poor of America by lowering their wages," and condemn as enemies to their country all who would countenance such a policy.²

²Ibid. This may seem to be a typically capitalistic attitude toward labor. The fact, however, that Livingston condemned also the farmer and the merchant in much the same terms is sufficient indication that he was not prompted by class prejudice but was sincerely attacking the evil of extravagance itself. We have already noted his aversion to extravagance even among the wealthy (cf. supra, p. 97).
under the nom de plume "Primitive Whig."

Americans, and Whig-Americans, and Americans who promised to stand by Congress and General Washington with their lives and fortunes in opposing the meditated tyranny of Britain, now grumbling about paying the taxes, which that opposition indispensably occasioned! Ingrates!

He then characterized the merchant, the farmer, and the laborer in much the same manner as he had two years before, again emphasizing the extravagant luxuries in which each class was indulging.3

A contribution which Livingston made during his discussions of the question of taxation, which is especially interesting in view of the action of certain modern totalitarian states in this direction, was his suggestion that a double tax be laid on bachelors.

The principal source of riches in every well-policied community, consists in the number of its inhabitants. . . . And what can be more reasonable than that those who so greatly contribute as the married, to the publick [sic] prosperity, strength and opulence, by increasing the number of citizens, should be favoured in point of taxes; and that the alleviated quantum should be laid upon those who cannot pretend to render their country the like essential and most important services?4

The position and demands of the debtor class was one of the most difficult phases of the general financial problem of the period of the Confederation in most of the states. Various expedients for the relief of debtors were constantly being suggested. As in other states, so in New Jersey some of these were enacted into laws.5 Livingston early expressed himself against such laws. As "Scipio" in the New Jersey Gazette of March 2, 1784, he stated that while bankruptcy laws were justifiable as applied to merchants because of

3Ibid., Jan. 9, 1786.
4"Scipio," ibid., Mar. 16, 1784. Even Hitler or Mussolini could scarcely have expressed more pitifully the philosophy of this point of view. It would be interesting to know how Livingston would have reconciled this with his advocacy of a large degree of individual liberty. He seems to have made no attempt to do so. Since his ideas were never set forth as a unified whole, we must expect to find inconsistencies of this sort.
5E. g., acts of June 13, 1783 and June 1, 1786 (Acts of N. J.: 7 sess., p. 70; 10 sess., p. 331).
the great risks from forces without their control which they incurred, and because a large part of their business had to be conducted on credit, yet such laws should not be applied to other classes unless an "act of God" could be proved to have been responsible for their unfortunate situation, which was generally not the case.

...where one man has been reduced to poverty, by... the act of God, ... twenty at least have broke, either by their want of industry, or their want of economy. And shall the lazy and the lavish meet with greater protection from the laws than the diligent and frugal?

To the relief by law of the innocently unfortunate Livingston had no objection, but "no fraudulent debtor ought to be screened from the terrors of a gaol." Against ex post facto laws of this sort he was particularly outspoken. "Is it the office of Assemblies to give one man's property to another?. . . . Or is the Legislature to represent only a parcel of fraudulent debtors to the exclusion and ruin of all honest creditors?" Thereupon he carries to its reductio ad absurdum the line of reasoning which supported such laws.

Might not the same law which says that the man who owes me a hundred pounds, shall not pay me because it doth not suit his circumstances, say with equal justice that he shall have a hundred pounds of my money, because it better suits his circumstances to have it than mine to keep it?. . . . In either case, the encroachment upon the property of the innocent man is the same?. . . .

On this point, then, we find Livingston definitely allied with his own social class. There is, indeed, no hint of any radicalism here.

One of the chief nostrums, however, of the debtor class then, as always, was inflation. The demand for further issues of paper money steadily rose until by the year 1786 it had become a tide which in many states threatened to sweep everything before it. The Assembly of New Jersey during the year 1785 and the first part of 1786 was deluged with petitions praying for a further emission. In January of 1786 Livingston took the field in defense of a hard money policy

6 Votes of Assembly, passim.
under the disguise of a "Primitive Whig." Alluding to the failure to pay taxes and to reduce the public debt as a national disgrace, he continues:

But I lately saw . . . a design to perpetuate our national disgrace by prevailing upon our legislature to enable . . . him that has been a great rogue during the lawful tender of depreciated continental currency, to be a still greater rogue than ever he was. To enable . . . every one in distress, and every one who is in debt, and every one who is discontented, to defraud his neighbour according to law.

He then adverts to the petitions, and expresses the hope that the legislature will not "facilitate the future perdition of human souls, by again tempting mankind to sport with conscience and damnation, agreeably to acts of assembly." 7

The evils of such an inflationary policy were pointed out and discussed by Livingston in this and in subsequent essays. It would result in driving hard money out of circulation. " . . . those who have it [hard money] would be blockheads. . . . to send it forth into this breathing cheating world, as long as any legislature lends weapons to the borrower to defend himself against the honest repayment of the loan." Furthermore, such a policy would be "extremely discouraging to the virtuous and industrious part of society." 8 Again, it would discourage immigration of the proper sort of people. Many foreigners, especially those of middling fortunes, would be attracted to America because of its liberal constitutions and greater freedom and because they could cut a much better figure here where class distinctions do not exist than in their own country. But they are told, especially by the English, with some exaggeration though with only

7 N. J. Gazette, Jan. 9, 1786. This is, of course, a reversal of Livingston's position during the first half of the war, when for patriotic reasons he supported the paper money policy of Congress and advocated tender laws (cf. supra, pp. 297). His present position is obviously more in accord with the interests of his own social class.

8 Ibid.
too much truth, that in America there is no stability for property; that if they should let their money out at interest, they would in all probability never see it again. Consequently, America will be settled instead by schemers and speculators, and by those who are fleeing from taxes and debts. Such a class will not only fail to pay taxes here or fight for their country but will also create trouble by attempting to take away the land of the Indians without paying for it. Finally, in a sentimentally pathetic letter purporting to have been written by one "Martha Hardlines," Livingston puts forward the now threadbare "widows and orphans" argument, namely, that inflation will seriously impair and perhaps destroy the already paltry incomes of innumerable widows with children to support.

Turning to a consideration of the petitioners themselves, Livingston inquires who and what kind of men they are. They are, he says, "idle spendthrifts, dissipating drones of the community who have felt the sweets, during the legal tender of depreciated paper, of living upon the sweat of their neighbour's brows," and who are now anxious to repeat the process. They are, moreover, "debtors, by their own confession, utterly irretrievable without this iniquitous device." Livingston then goes on to show that the mere issuing of paper money will not relieve them because they will be no better off for having transferred their debt from A to B; it is only the depreciation of the paper money which will reduce their burden of debt, and it is this, therefore, for which the petitioners are really hoping. This is the real reason behind their demands, regardless of how many nominal reasons they put forth. That this is not fully

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9 Ibid., Feb. 6, 1786.
10 Ibid., Feb. 13, 1786.
11 Ibid., Jan. 9, 1786.
apparent to all of those in whose hands rests the decision of the question causes Livingston to pour forth a lamentation.

That any legislature should ever be made the dupes of such unconscionable, prevaricating, double-minded, insidious petitioners! That any legislature should, for their relief, pass acts necessarily tending to annihilate all publick [sic] faith, and all private credit.\textsuperscript{12}

As for the claim that those who oppose the emission of paper money, being creditors and men of property, are acting from self-interest, Livingston readily grants it.

But great is the difference between the self-interest and honesty of these and that of the debtors in question. The interest of the creditor coincides with that of the community. Not so the interest of the debtor. The former desires no more than his own. The latter wants to pocket the property of another. The one, by opposing a further emission of an intended fraudulent medium, labours to restore our national credit. The other, by making it a continual resource for his own convenience, prolongs the disease and inflames the malady. Surely therefore the self-interest of the one is just and laudable; that of the other knavish and infamous.\textsuperscript{13}

Here, indeed, is a truly capitalistic philosophy. The identification of the interest of the capitalist with that of the community or the nation has been used more than once since Livingston's day as a bulwark of the capitalistic system. No leveling here, no distribution of wealth by taking from the few to give to the many. Yet we can scarcely accuse Livingston here of expounding a strictly class philosophy. There can be no doubt that he was a believer in the capitalistic system, but so, too, was practically every one else in his day. Furthermore, the capitalism of his day was a far different thing from that of a century later; it bore, indeed, in comparison with that of the later date, the relation of an ant to an elephant. Moreover, viewing the situation from the vantage point of our historical perspective, we know that Livingston was right from a purely statesmanlike point of view in opposing the further issue of paper money.

\textsuperscript{12}Ibid., Jan. 16, 1786.

\textsuperscript{13}Ibid.
and his record affords us no reason to doubt that he was sincerely interested in the welfare of his state and was acting for what he considered its best interests. Finally, he himself denied that he had any personal interest in the matter. "As to personal interest in the matter, I have none. I have already been cheated out of all the money I had, by those who could pacify their consciences by what they called, taking the benefit of the law."\(^{14}\)

The inflation tide was, however, becoming irresistible. After February 13, 1786, the "Primitive Whig" ceased to offer opposition in the columns of the New Jersey Gazette. On March 3 a bill providing for the emission of one hundred thousand pounds in bills of credit passed the Assembly.\(^{15}\) On March 15 it was defeated by the Council by a vote of 8 to 5.\(^{16}\) Excitement was running high. Governor Livingston was hanged in effigy, and the members of the Assembly and Council who opposed the measure were threatened with defeat in the next election.\(^{17}\) Nevertheless, the Council once more ventured to defeat on March 23 a second bill passed by the Assembly the previous day, though this time by a vote of only 7 to 6, one member having

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\(^{14}\) Ibid., Feb. 6, 1786. Under the circumstances we should be more than ordinarily cautious, about attaching too great weight to a statement of this sort. It was certainly an exaggeration. There is ample evidence, however, in Livingston's correspondence that his losses due to depreciation had been great. Sedgwick estimates that his fortune had been reduced in this manner to a third of its previous value (Memoir, p. 440). There is also more than one indication that he made no attempt himself to avoid being paid in depreciated currency but that, on the other hand, he never availed himself of the same opportunity. Cf., e.g., a letter of Jan. 19, 1789, from him to his daughter Susan concerning a private transaction between them: ". . . . when I come to the final settlement of the bond, I mean to allow you all the present difference between New-York paper currency & hard money. . . . as no Acts of Assembly have hitherto been able to reconcile me to cheating according to Law, or convinced me that human Legislatures can alter the immutable duties of morality" (Mass. Hist. Soc., Livingston Papers, Vol. IV).

\(^{15}\) Votes of Assembly.

\(^{16}\) Journal of Council.

\(^{17}\) Otto to Vergennes, Mar. 17, 1786, in N. Y. Pub. Lib., Bancroft
already succumbed to popular pressure.\textsuperscript{18} The sitting ended on the following day. The pressure from below, however, was evidently too great, and the legislature was summoned to a special session in May by Speaker Van Cleve, whose duty it was, as stated in the constitution,\textsuperscript{19} to issue such calls. Livingston's attitude toward the question at this time is clearly indicated in his reply to the Speaker's summons. He, too, was obviously feeling the tremendous pressure of public opinion, and although unwilling to surrender, he seems to have been ready to accept a compromise.

\ldots I would see all such popularity as must be acquired at the horrid expense of sacrificing one's conscience, and the national honour, and the public faith, and our federal obligations, and the ultimate and real interest of this State to—the devil. But if we should prove to be so publicly virtuous as first to comply with the requisitions of Congress, as far as with our utmost exertions we are able, and then emit such a sum of paper currency as would not prove inconsistent with that compliance, and upon such a fund for its redemption as afforded a reasonable prospect of its maintaining its credit, and not enable every knave to defraud his neighbour; I think the petitioners for paper money ought to be gratified, and that such a measure would really relieve many honest people in distress, who ought undoubtedly to be relieved, as far as can be effected without injury to the commonwealth.\textsuperscript{20}

The legislature met on May 17, and the Council yielded, a bill for emitting one hundred thousand pounds becoming law on May 26. The bills issued by authority of this act were, of course, declared to

\footnotesize{Transcripts: "La monie due papier \ldots a occasionné dans cet état de grande division. Le Gouverneur qui s'y était opposé a été penda en effigie et l'on croit que tous les membres qui ont été défavorables à cette mesure ne seront pas réélus aux prochaines élections."}

\footnotesize{\textsuperscript{18}Votes of Assembly; Journal of Council.}

\footnotesize{\textsuperscript{19}Art. V.}

\footnotesize{\textsuperscript{20}Letter of May 5, 1786, in Sedgwick, Memoir, pp. 397 f.}
be legal tender.  

Brissot de Warville, traveling through New Jersey in 1788, was astounded because the state, although essentially in the position of a creditor by virtue of the abundance of produce which it furnished to both Philadelphia and New York, should nevertheless employ a resource proper only for a debtor. He questioned the son of Governor Livingston, William, Jr., in whose company he was at the moment, on this point, and the latter's explanation was as follows.

At the close of the ruinous war that we have experienced, the greater part of our citizens were burdened with debts. They saw in this paper money the means of extricating themselves, and they had influence enough with their representatives to force them to create it.

Brissot, however, pointed out that the evil would fall at length upon the authors of it, and asked why the legal tender act was not therefore repealed. To this young Livingston replied:

A strong interest opposes it . . . of stock-jobbers and speculators. They wish to prolong this miserable game, in which they are sure to be winners, though the ruin of their country should be the consequence. We expect relief only from the new constitution, which takes away from the States the power of making paper money.  

Up to the time of his death Governor Livingston himself continued to feel the effect of the depreciated paper currency in his own personal dealings and never ceased to grumble about it. The discount which was imposed on New Jersey paper money when offered in payment of debts in New York led him to set up in that city a separate fund drawn together from debts due him in that state, which he kept solely for use in paying for purchases which he made from .

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21 Acts of N. J., 10 sess., p. 293.

22 Brissot, New Travels, pp. 147 f. It is very likely that young Livingston's views on this subject were essentially those of his father. He was at the time thirty-four years old, had served an apprenticeship of five years in the study of law, and in 1780 had been duly certified to his father, the governor, as qualified to obtain a license (cf. supra, p. 179).
time to time in New York.\textsuperscript{23} On March 23, 1790, he wrote to John Jay in New York relative to this same situation: "... considering how much your speculators and the rotten part of our own Legislature play the Devil with our paper currency, it is exceedingly prejudicial to an honest man to purchase anything from you with what we call money, & you call a merchantable commodity which is daily fluctuating in value; & the amount of that fluctuation at your own arbitrary disposal."\textsuperscript{24}

The commercial policy which New Jersey should pursue was the other most important economic problem of this period. Hemmed in between the rising commercial cities of Philadelphia on the one side and New York City on the other, both of which erected tariff barriers against it, and unable to attract foreign commerce in any considerable amount to its own ports, the little state lay indeed between the devil and the deep sea. Unfortunately Livingston has left no sufficiently extended comments on this situation to enable us to form a clear idea of the policy which he favored in this connection. The policy which the state followed was a two-fold one: first, it attempted by establishing free ports of its own to build up a direct foreign trade; secondly, it attempted to escape from the economic domination of its powerful neighbors by advocating a stronger control over commerce on the part of the federal government. In


\textsuperscript{24} Monaghan, "Unpub. \textit{Corr. of Wm. Livingston and John Jay}," \textit{Proc. N. J. Hist. Soc.}, LII, 162. The editor of these letters in a note queries: "Is this not approximately what Mr. Alfred E. Smith has described as the 'baloney dollar' and what modern economists term the 'commodity dollar'?" I do not believe it is; the purpose of the commodity dollar, as I understand it, is to keep the purchasing power of the dollar relatively constant, which was certainly not true of the paper money referred to by Livingston.
neither attempt, however, was it successful until the inauguration of
the new government in 1789 ushered in a new era.25

Let us turn now to the political subjects during this period
upon which Livingston expressed himself. As "Scipio" in the New
Jersey Gazette of May 3, 1784, he indicated his conception of re-
presentation as it existed in New Jersey and the relation of the
legislator to his constituents. Just as he had, when accepting the
office of governor for the first time, expressed his sense of his
own responsibility, as chief executive, to the people,26 so now he
pointed out the similar responsibility to the people on the part of
the legislators.

... they are in some sense, ... the servants of the people.
By undertaking the trust, they become responsible for the due
execution of it. If they wilfully betray it, their constituents
will call them to account. If they commit involuntary errors,
their constituents have at least a right to point them out, in
order to caution both them and others against the like mistakes
in future. As they represent the whole community, they repre-
sent every individual elector in it, as a component part of the
totality of their representation. Every individual therefore
has a right to submit his sentiments respecting their conduct
to his fellow-electors, his brother-citizens, in order to bring
it under general consideration; and by that means, if really
prejudicial to the society, to final amendment.

Against the usurping by the legislature of judicial functions
Livingston expressed himself in connection with the case of Samuel
Tucker. This gentleman early in the war had lost a considerable sum
of the public money together with valuable papers, which had been
entrusted to him as a member of the Convention. His defense had
been that the money and papers had been stolen from him by the enemy.
The Assembly had conducted an inquiry, the result of which had been
to absolve Tucker of all blame. In a message to the Assembly on
September 8, 1777, Governor Livingston had reviewed the history of
the case, including the inquiry conducted by the Assembly. "But....

25 For a treatment of this question see W. C. Hunter, The
Commercial Policy of New Jersey under the Confederation, 1783-1789
26 Cf. supra, p. 311.
the Question still remains to be decided by a constitutional Tribunal, which is either a Court of Law, or in a Course of Equity, according to the Nature and Circumstances of the Case." He therefore urged the Assembly to direct a prosecution for the purpose.\(^{27}\) No further action was taken during the war, but on February 24, 1784, Governor Livingston, writing as "Scipio" in the *New Jersey Gazette*, returned to the attack, the occasion being presented by the refusal of the Assembly for the second time to concur in a resolution of the Council ordering a prosecution. Tucker, who was still a member of the Assembly, answered in the *Gazette* for March 2, calling upon "Scipio" to divulge his real name. This Livingston naturally refused to do, but continued under his nom de plume to wage a paper warfare with his adversary, devoting several essays to the subject. He insisted that the only proper means by which Tucker could clear his name was through acquittal by a jury in a legal trial, and denied the right of the Assembly to pass judgment in the case.\(^{28}\) The influence of Tucker in the Assembly was apparently strong, however, and no further action seems to have been taken.

Another judicial function exercised by the legislature of which Livingston disapproved was the granting of divorces. In an allegorical essay, entitled "Strictures of Lilliput," in which the New Jersey legislature appears as the senate of Lilliput, he wrote: "Why then . . . did the senate of Lilliput thus wriggle themselves into the judicial department, upon which, if they had it not, they ought immediately to have conferred the power of divorcing; in order

\(^{27}\) *Votes of Assembly.*

\(^{28}\) The additional essays on this subject were those signed "Scipio" in the *N. J. Gazette* for the following dates: Mar. 30, April 13, 20, 26, May 3, and Aug. 23, 1784.
that every man and every woman might have a trial by jury. 29

In this same essay the passing by the legislature of ex post facto laws cancelling debts (the laws for the relief of insolvent debtors) was adduced as another instance of the usurping by the legislature of judicial functions and was roundly denounced as an unwarrantable extension of their powers. "They actually did it by arrogating to themselves the judicial department, when they were only entrusted with the legislative." 30

The frequent failure of the duly elected delegates to Congress from New Jersey to remain in attendance in that body, resulting sometimes in a lack of proper representation of the state on critical occasions, was commented upon with asperity by Governor Livingston. "It has always appeared to me an inscrutable mystery, how men of honour can reconcile it to themselves, voluntarily to accept of a public trust, and be indifferent whether they execute it or not, or at least to suffer themselves to be impeded in the discharge of it by such of their own private affairs as they must needs have known, before they accepted the office, would occur." 31

One of the chief defects of the New Jersey constitution of 1776 was the failure to afford a sufficient degree of independence to the judiciary. By Article XII the term of judges of the Supreme Court, who were appointed by the legislature, was fixed at seven years and that of inferior judges at five years, although they were eligible for reappointment. Furthermore, it had been the practice of the legislature to appropriate annually the salaries of the judicial

29 American Museum, May 1791, IX, 242 f. This will be cited hereafter as Am. Mus. The evil here referred to was one of the serious defects of the constitution of 1776, and was frequently commented upon by critics (cf. Erdman, N. J. Const. of 1776, p. 129).


31 Letter to John Beatty, Feb. 9, 1784, in Sedgwick, Memoir, pp. 385 f.
officers of the state. Dependent thus on the legislature for their original appointment, for their continuance in office after the expiration of their comparatively short terms, and for their salaries, they could scarcely be expected to exercise that independence of judgment which English peoples have been accustomed to regard as the sine qua non of a sound judiciary. Alluding only briefly to the question of tenure of office, Livingston, as "Scipio" in the New Jersey Gazette of June 14, 1784, addressed himself to pointing out the desirability of having the judges' salaries fixed and coextensive with their term of office. Reminding his readers that the refusal of Great Britain to provide independent judges had been one of the chief causes of complaint by the colonists, he showed that a judge whose salary could be changed annually at the whim of the legislature would have difficulty maintaining his independence and that able men could be induced only with great reluctance to accept such a position. Yet the independence of the judges, especially those of the Supreme Court, was most necessary.

Are not the lives, the liberties, the property, the peace and security of the citizens of this state, intimately concerned in the decisions of the Supreme Court? And ought not a tribunal of such extensive jurisdiction to be wholly independent?

Valuable though such criticism was, it was practically unheeded by the legislature. At the time of Governor Livingston's death judges' salaries were still being fixed annually.32

The undesirable character of many of the justices of the peace in the state, and the carelessness of the legislature in appointing such men to this office were also scored by Livingston.

32 That a move to correct this situation, however, was at least initiated before Livingston's death, is apparent from the fact that there appears on the Assembly's calendar of unfinished business under date of May 20, 1790, "An act to render more permanent the salaries allowed to the justices of the Supreme Court" (Votes of Assembly). Nothing came of it, the old system continuing throughout the life of the constitution (Erdman, N. J. Const. of 1776, pp. 123 ff).
I have seen justices of the peace, who were a mere burlesque upon all magistracy. Justices illiterate—justices partial—justices groggy—justices courting popularity, in order, to be chosen assemblymen—and justices encouraging litigiousness. But I have not seen any joint-meeting sufficiently cautious against appointing such men, justices of the peace. 33

Another reform in the administration of justice advocated by Livingston during this period met with greater success than his suggestion regarding the salaries of Supreme Court judges. In a message to the Assembly on November 13, 1789, he called attention to the fact that the existing method of examining witnesses in the Court of Chancery possessed two serious defects. In the first place, because of the fact that all evidence presented was required to be in writing, the expense was very great on account of the number of copies which had to be made. In the second place, there was much less likelihood of arriving at the truth by an examination of written evidence than by oral examination of the witnesses themselves. In the latter case, Livingston maintained, the countenance and demeanor of a witness indicated a great deal as to his veracity. Furthermore, cross-examination in the presence of both parties would afford still further opportunity of arriving at the truth. The governor advocated, therefore, the abandonment of the existing practice and the substitution of the practice which obtained in the Court of Admiralty of examining witnesses in open court in the presence of both parties and having the substance of the testimony taken down in writing by a court officer. 34 An act incorporating these suggestions was deferred in June, 1790, to the next sitting of the legislature 35 and was finally passed in November, four months after Governor Livingston's death. 36

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34 Votes of Assembly.

35 Ibid., June 10, 1790
The inauguration of the new federal government in 1789 resulted in a rush of political place-seekers for the new offices thus created. Of this importunate office seeking Livingston expressed his disapprobation in a letter to his son-in-law John Jay. "... between my natural inclination to oblige a friend of good character & due abilities & my opinion of the impropriety of soliciting for offices, I do not know anything that has more perplexed & embarrassed me than that of returning a civil answer to the applicants without giving them any assurance of adding my little weight to their applications." 37

As governor of the state of New Jersey Livingston was more concerned with strictly political affairs than he had been as a free-lance essayist in the colony of New York. He still found time, however, to turn his attention occasionally to social problems. As "Scipio" in the New Jersey Gazette of March 23, 1784, he devoted an entire essay to an attack on the taverns in the state. By taverns in this case he meant what we should call saloons. 38 Against them he leveled three charges, the first of which was the excessive number of such places. "... one can scarcely, in many parts of the state, travel three miles without seeing the road contaminated with a dramshop." His second criticism was the scandalous

37 Letter of Jan. 28, 1790, in Monaghan, "Unpub. Corr. of Wm. Livingston and John Jay," Proc. N. J. Hist. Soc., LIII, 159 f. Livingston had never been an office seeker himself. His attitude on the subject is well expressed in a letter written Feb. 5, 1785, to Charles Stewart, declining the nomination as a commissioner for the erection of the Federal buildings (quoted in Sedgwick, Memoir, pp. 388 f.): "I shall never refuse to serve my country in any department for which I think myself qualified.... At the same time I shall always... make it a point of conscience not to accept of any appointment which I cannot execute with honour to myself, and justice to the commonwealth. The one proposed I know that I cannot."

38 It is interesting to note, however, that the word tavern has recently again come into use to some extent to denote a shop which dispenses hard liquor.
manner in which these taverns were kept. "... most of them have neither provision for man, nor provender for horse. ... They have, however, abundant store of bad gin and hautgoust rum." In the third place, Livingston accused the keepers of the better places of reaping undue profits. "Those who keep them in a better and more decent style... are guilty of the most execrable extortion." There have been rates established for their regulation, but they are not enforced. 39 The justices of the peace, Livingston points out, have been charged with the granting of licenses and the regulation of the number of taverns, but judging from the result, have not paid much attention to their duty in this respect. He implies, in fact, that many licenses have been granted for the sake of the fee involved and advocates the abolition of all such fees and the fixing of an annual stipend for justices of the peace. 40

The decline of the unselfish patriotism which had marked the early stages of the war and the reversion to a philosophy of narrow selfishness, the moral laxity engendered by the casting off of all restraint, and the insistence upon liberty approaching even to license (phenomena which seem to follow in the wake of every such catastrophe) did not escape Livingston's censorious pen.

How melancholy the prospect, to see so many of us utterly inattentive to the interest of our country; and without a single thought about the common weal, totally absorbed in projects to advance our private emolument! O mores!

Is not our independence, which has cost us so much blood and treasure, worth preserving?

Instead of having our souls inflamed with gratitude unremitted and inextinguishable to our Almighty Protector, for his ineffable loving kindness and tender mercies, in delivering us from the

39 The applicability of these comments, written a hundred and fifty years ago, to modern conditions in many states makes one wonder just how valid is a belief in a law of progress in history.

40 Cf. Livingston's comment on the character of many justices of the peace in his state, supra, p. 337
profound abyss of our public distress — to live in open violation of his sacred laws; and by our immoralities to insult the omnipotent and benevolent Author of our deliverance! O mores! mores!

To turn liberty into licentiousness; to recoil at all subordination, and treat with less reverence and respect the officers of government and magistrates of our own choice and appointment, than we did, under the dominion of Egypt, the ministerial tools of Pharaoh's kingly construction, who were sent among us rather to fleece, than to feed this remote corner of the royal sheepfold. . . .

Closing with an oratorical peroration, as was so frequently his wont when fully roused, he addressed the people with the same impassioned vigor which he had displayed more than thirty years before upon his first appearance as a reformer of the public mores.

For heaven's sake, my dear countrymen, let us deport ourselves, like citizens of a commonwealth founded upon the principles of liberty, by our virtue and patriotism — and by virtue and patriotism only to be supported and perpetuated. Let us not stifle that patriotic flame which so powerfully animated, vivified, and invigorated our breasts at our first embarkation on that ocean of tempests, which HE that walketh upon the wings of the wind, was pleased with a let there be liberty, to speak into so glorious a calm.

Slavery was another important social problem in which Livingston interested himself at this time. The separation from Great Britain, whose illiberal policy on this question during the colonial era had rendered ineffective all previous attempts toward the mitigation of the evil, enabled the new states to inaugurate that humanitarian policy toward the unfortunate victims of the institution which almost everywhere public opinion demanded. The importation of slaves was the first phase of the problem to be successfully attacked, and within little more than a decade after the Declaration of Independence this traffic had been effectively checked, if not abolished, in most of the states. Emancipation made slower progress, but by 1785 three New England states had effected it, and in the other

41 This is a reference, of course, to the government of the American colonies under George III.

northern states the movement toward it was steadily progressing. As early as 1778 Livingston had in a message to the Assembly advocated manumission but had been persuaded to withdraw the message on the ground that the times were too critical to permit a consideration of the question at that time. In the letter to Samuel Allinson, the Quaker, in which he related the above incident, he indicated, however, his intention to persevere. "But I am determined, as far as my influence extends, to push the matter till it is effected, being convinced that the practice is utterly inconsistent with the principles of Christianity and humanity, and in Americans, who have almost idolized liberty, peculiarly odious and disgraceful."

The confiscation by the state at the end of the war of slaves who had been the property of Tories whose estates had been seized Livingston regarded as a long step backward. Writing concerning it to James Pemberton some years later he said: "This was giving a greater sanction to legitimate the abominable practice than any thing that could be adduced for its support under the old government . . . ."

After the war the movement for the abolition of the slave trade and the emancipation of the slaves themselves, which we have noted above was sweeping the country, found its expression in New Jersey in the presentation late in 1785 of a petition from a great number of the inhabitants of the state, requesting legislation to prevent the importation of slaves and to secure the gradual manumission of those already in the state. Early the next year the

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45 Letter of Dec. 21, 1788, ibid., pp. 401 ff.
legislature responded by passing an act levying fines upon those bringing slaves into the state and rendering manumission easier than had formerly been the case. The fine was especially heavy in the case of negroes imported into the country since 1776.\textsuperscript{47} Cooley, quoting from the preamble to the act, calls attention, too, to the fact that this is the first instance in New Jersey legislation on the subject where there is legal recognition of the ethical side of the question.\textsuperscript{48} In 1788 there was enacted a supplement to this law, making still more difficult the importation of slaves and prohibiting also their exportation without their own consent; it also provided for the compulsory education of slaves and the equal administration of justice to negroes in criminal courts.\textsuperscript{49} In securing this legislation we can safely assume that Governor Livingston took an active part, although because of the fact that during this period his messages to the Assembly were generally not printed at large in the minutes it is difficult to determine just how much pressure he brought to bear.

His keen interest in the question at the time and his desire to do all in his power to further the movement is clearly indicated in a letter which he wrote on June 26, 1786, to the New York Society for Promoting the Manumission of Slaves.\textsuperscript{50}

\textit{...I would most ardently wish to become a member of it; and provided I can succeed in this my wish,...I can safely promise them that neither my tongue, nor my pen, nor purse shall be wanting to promote the abolition of what to me appears so inconsistent with humanity and Christianity, and so inevitably perpetuating of an indelible blot, with all the nations of Europe, upon the character of those who have so strongly asserted the unalienable rights of mankind.\textsuperscript{50}...May the great and the}

\textsuperscript{47} Acts of N. J., 10 sess., p. 242.

\textsuperscript{48} Johns Hopkins Studies, XIV, 428.

\textsuperscript{49} Acts of N. J., 13 sess., p. 488.

\textsuperscript{50} Title of the society as cited in Nevins, Am. States, 1775-1789, p. 449.
equal Father of the human race, who has expressly declared his abhorrence of oppression, and that he is no respecter of persons, succeed a design so laudably calculated to undo the heavy burdens, to let the oppressed go free, and to break every yoke. 51

In the following year he set the example by manumitting his own two slaves, a negro woman and her son, both born in his family in a state of slavery. 52

In 1788 Livingston lent his aid to a new literary undertaking. In the previous year Matthew Carey had founded the American Museum, a magazine devoted chiefly to the reprinting of American writings considered worthy of preservation, although the editor seems later to have decided to accept some original pieces as well. 53 Livingston not only furnished a testimonial, which Carey used along with others of a similar nature for advertising purposes, but also promised to contribute, and subsequently sent in a considerable number of essays, some of which had appeared in print previously, but others of which seem to have appeared for the first time in the Museum. 54

51 Quoted in Sedgwick, Memoir, pp. 399 f.
53 Richardson, Early Am. Mags., pp. 314 f.
54 Richardson (ibid.) seems to imply that it was not until
In 1788, in recognition of his interest and achievements in cultural and intellectual pursuits as well as of his accomplishments in the political field, his Alma Mater bestowed upon Governor Livingston the honorary degree of Doctor of Laws. To appreciate fully, however, the broad catholicity of his interests, we must note at the same time another honor bestowed upon him three years previously when he was made an honorary member of the Philadelphia Society for the Promotion of Agriculture, being one of the first inhabitants of New Jersey to receive this distinction. This was a fitting recognition of the life-long interest he had displayed in this field of endeavor.

1789, when Carey invited Belknap to contribute monthly a few pages, that the editor modified his plan so as to permit the inclusion of occasional original pieces. That this change in policy probably occurred earlier, however, is indicated by the testimonial furnished by Livingston, which was published in the Pennsylvania Gazette, Aug. 20, 1788, in which he says: "Nor will the present generation reap an inconsiderable benefit from those original pieces, that are calculated to diffuse political, agricultural and philosophical knowledge." Of eighteen contributions by Livingston which appeared in the American Museum between September, 1788, and November, 1791, twelve were published after his death. Seven of the eighteen had appeared previously in one form or another, but the others I have not seen in print bearing a date previous to that of their publication in the Museum and believe that many, if not all, of these were pieces which had not previously been printed. Internal evidence in many of them leaves no doubt that they were written during the period of the Confederation. They may have been written by Livingston during the last two years of his life especially for Carey's magazine. The fact, however, that most, if not all, of the essays which I believe had not been printed previously, appeared after Livingston's death would seem to indicate that they had probably been written from time to time over a somewhat longer period and, though never offered for publication at the time, had been gathered together and submitted to Carey by Governor Livingston's heirs soon after his death.

Cf. letter of Nov. 17 from President Stiles, quoted in Sedgwick, Memoir, p. 431.


Cf. supra, pp. 172 ff.
In this same year, 1785, Livingston was nominated to succeed John Adams as Minister Plenipotentiary at The Hague. Having heard of the probability of such action, Livingston wrote on March 21 to Charles Stewart, the New Jersey delegate in Congress who later made the nomination, indicating his appreciation of the honor and his preference for the court of the United Netherlands over all the courts in Europe but setting forth at the same time several cogent reasons why he should not be able to accept such an appointment. Perhaps this letter was never sent; at any rate, the nomination was subsequently made in Congress on June 23 by Stewart, and Livingston was duly elected on that date. On June 25 he wrote to Charles Thomson, Secretary of Congress, declining the nomination for substantially the same reasons as had appeared in the letter of March 21. The chief of these were, first, that on account of his advancing age he did not feel qualified to perform adequately the functions of such an important post; secondly, "that the early and unremitted confidence wherewith I have been honoured by New Jersey, disinclines me to give room, by leaving my present station, for suspicions of a want of equal constancy on my part; especially as the place in question would be more flattering to ambition, and more alluring to another passion not uncommon to men in years, than the one I now hold."

Livingston shared the general gloom which pervaded the country upon the eve of the summoning of the Constitutional Convention. On


Journals of Cont. Cong., XXVIII, 474.

Cf. his attitude in declining another federal post during this same year (supra, p. 338, n. 37).

Livingston is referring here to the passion for financial gain. This letter is in the Lib. of Cong., Papers of Cont. Cong., No. 68, folio 649.
December 22, 1786, he wrote to Houston, a former delegate from New Jersey to Congress: "I hope I am neither enthusiastic nor superstitious, but I have strange forebodings of calamitous times, and that those times are not very remote." On February 17, 1787, he wrote in a similar vein to Elijah Clarke.

I am really more distressed by the posture of our public affairs, than I ever was by the most gloomy appearances during the late war.

Our situation, sir, is truly deplorable, and without a speedy alteration of measures, I doubt whether you and I shall survive the existence of that liberty for which we have so strenuously contended.

The calling of the Constitutional Convention must have met with Governor Livingston's thorough approval. The paucity of his correspondence for this period which has come down to us makes it impossible to quote his sentiments in this regard, but the unfortunate commercial situation of New Jersey, our knowledge of his attitude on the serious financial problems of the day, and the satisfaction with which he viewed the result of the Convention's proceedings leaves no room to doubt that he heartily concurred in this epoch-making step. On November 23, 1786, the New Jersey legislature appointed David Brearley, William C. Houston, William Paterson, and John Neilson delegates to the proposed convention. On May 13, 1787, Neilson was dropped and Abraham Clark and Governor Livingston were added to the delegation. On June 5 another delegate was added in the person of Jonathan Dayton.

The Convention was scheduled to open on May 14, and actually

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6\,85 Quoted in Sedgwick, Memoir, p. 402.

6\,86 Ibid., p. 403.

6\,87 Cf. infra, pp. 351, 353 ff.

got under way on the 25th. Livingston, however, did not take
his seat until June 5. From this time on, with the exception
of an absence for a single day on June 23 and for a more extended
period from July 3 to 19, he seems to have been in constant
attendance until the end. Impressions of Governor Livingston's
caracter at this stage of his career, recorded by some who
observed him at Philadelphia during this epoch-marking convention,
may not be inappropriate at this point. William Pierce, a fellow
debate, has left us his impression.

Governor Livingston is confessedly a Man of the first rate
talents, but he appears to me rather to indulge a sportiveness
of wit, than a strength of thinking. He is however equal to
anything, from the extensiveness of his education and genius.
His writings teem with satyr [sic] and a neatness of style.
But he is no Orator, and seems little acquainted with the
guiles of policy. He is about 60 years old, and remarkably
healthy.

Observers of the French government on the scene reported to their
government their impressions of the New Jersey governor as follows.

William Livingston, Esq., governor since the beginning of
the Revolution, very well-informed, steadfast, patriotic,
preferring the public good to his own popularity and having
often risked his position in order to prevent the legislature
from passing bad laws. Although he does not cease to find
fault with the people, he is always re-elected, since even
his enemies agree that he is one of the most able and most
virtuous men of the continent.

66Ibid., I, 3.
67Ibid., p. 115.
68Ibid., III, 588.
69Ibid., II, 90.
70"William Livingston, Esq., Gouverneur depuis le commencement
de la révolution, très instruit, ferme, patriote, préférant le bien
public à sa popularité et ayant souvent exposé sa place pour empêcher
la legislature de passer de mauvaises lois. Quoi qu'il ne cesse de
fronder le peuple, il est toujours réélu, puisque même ses ennemis
conviennent qu'il est un des hommes les plus habiles et les plus
 vertueux du continent" (ibid., II, 235).
Governor Livingston does not seem, however, to have taken a very active part in the debates. There is no record of his having spoken on the floor of the Convention except to report from the committees to which he was appointed. James Madison, answering in 1831 Södgwick's request for information on the part played by Livingston in the Convention, wrote as follows.

Mr. Livingston did not take his seat in the Convention until some progress had been made in the task committed to it, and he did not take an active part in its debates; but he was placed on important Committees, where it may be presumed he had an agency and a due influence. He was personally unknown to many, perhaps most of the members, but there was a predisposition in all to manifest the respect due to the celebrity of his name.

He then goes on to state that Livingston must be presumed to have agreed in general with Paterson's New Jersey or small state plan, but that his exact position with regard to the various issues raised could not be accurately determined in the absence of definite statements on Livingston's part.\(^7\)

The important committees on which Madison speaks of Livingston's serving were only two in number, but he seems to have acted as chairman of both inasmuch as he presented the committee's report in each case. On August 19 he was appointed a member of a committee of one from each state to consider the question of the assumption by the federal government of the debts of the various

\(^7\) Letter of Feb. 12, ibid., p. 496.
states. Later on the same day the question of federal control over state militia was also turned over to this committee. On August 21 this committee reported in favor of the assumption of state debts and of permitting the federal government "to make laws for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States," at the same time reserving to the states the appointment of officers. In view of Livingston's consistent advocacy throughout the period of the confederation of a sound money policy, and recalling also his difficulties with the militia during the Revolutionary War and his sentiments expressed at that time on this question, we may assume that he agreed with the report which he presented from this committee.

On August 22 Livingston was again appointed to a committee of one from each state, this time to consider several clauses of the seventh article of the draft of a constitution which had been reported on August 6 to the Convention by the committee of detail. The clauses in question treated of the power of the federal government in regard to the importation of slaves, navigation acts, and direct taxation. On August 24 this committee reported, advising that the original clauses regarding the slave trade, which had prohibited the federal government from interfering with it, should be changed so as to prohibit interference only until 1800, permitting in the meantime the levying of an import duty on slaves equal to the average of duties on other imports. This attempt to restrict the

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7275Ibid., II, 322.

7374Ibid., pp. 323 f.

7475Ibid., p. 352.

7576Ibid., p. 366.

7677Ibid., p. 176.

7778Ibid., p. 183.
traffic in negroes Livingston must have supported although he would no doubt have gone much further in this direction had it been possible. The original clause prohibiting the passage of any navigation act except by a two-thirds vote in each branch of the legislature the committee recommended be stricken out. This, too, very likely had Livingston's approval, for it was New Jersey's policy, we recall, to grant to the federal government as much power as possible over commerce, and the elimination of this restriction would make it possible for such laws to be passed by a simple majority in each house. Finally, the committee advised that the clause which prohibited the federal government from laying any direct tax except in proportion to population be allowed to stand.\textsuperscript{79} With this Livingston probably also agreed inasmuch as the New Jersey delegation had voted against Gerry's motion to have direct taxes levied by the federal government according to the representation of each state in Congress until such time as a census should be taken.\textsuperscript{80}

On September 13 Livingston was appointed to a third committee, though one by no means as important as those just mentioned. In view of our knowledge of his views on the extravagant habits of the times, however, it is interesting to note that this committee was appointed to consider the grant to the federal government of the power to pass sumptuary legislation. It is to be regretted, therefore, that the committee never reported.\textsuperscript{81}

Although it is difficult to determine from Governor Livingston's record in the Convention itself his personal views on many issues of broad significance which were there raised, we have fortunately another source from which we can gain an accurate impression

\textsuperscript{79} The committees report appears \textit{ibid.}, p. 396.
\textsuperscript{80} \textit{Ibid.}, I, 603.
\textsuperscript{81} \textit{Ibid.}, II, 607; also n. *.
of his ideas on many of these broader issues. In 1787, after the close of the Constitutional Convention, Livingston published a pamphlet of fifty-six pages, entitled Observations on Government, Including Some Animadversions on Mr. Adams's Defence of the Constitutions of Government of the United States of America; and on Mr. De Lolme's Constitution of England. 81 Although not an extended work, this is the nearest approach to a comprehensive treatment of what he considered an ideal form of government which Livingston has left us. We shall postpone to the following chapter, therefore, an analysis of certain portions of this pamphlet, but we may consider here the direct references to the federal constitution which it contains as well as the chief points in Livingston's attempt to refute the arguments put forward by John Adams and De Lolme in their respective works.

Livingston expressed himself as well satisfied, on the whole, with the federal constitution which had just been presented to the people for ratification.

The plan that has been submitted to our consideration by the late Convention, surpasses my most sanguine expectation. When we consider the multiplicity of jarring interests, which mutual concession alone could reconcile, it really becomes matter of astonishment that a system of legislation could have been effected in which so few imperfections are to be found. 82

That there were a "few imperfections," in the instrument, however, he appreciated, and he offered several amendments, an examination of which will reveal the nature of his criticisms. In the first place, he did not approve of so strong an executive as the Constitution had provided in the person of the president. While he appreciated that the executive


82 Observations on Govt., p. 53.
must possess sufficient power to preserve his own independence, yet he felt that the power which the Constitution had bestowed on the president was more than was necessary for that purpose. At the same time he felt that the president, holding office for a comparatively short term and therefore certain to be influenced by public opinion, could not be depended upon to offer effective opposition to a bad measure if it should happen to have popular support. To correct these disadvantages he proposed to lodge the veto power in a council of revision to be composed of the president, the chief justice of the Supreme Court, and a superintendent of finance. "From the nature of the offices of Chief Justice and Superintendent of Finance, a greater degree of permanency may be given to them, without danger to liberty..." 83 Livingston proposed, therefore, that they be appointed by the president and hold office during good behavior. These two officers, too, should have the sole power of appointment of all subordinates in their respective departments. "These circumstances will render the possessors so totally independent of all popular influence, that they may be safely relied on, should an opposition to Congress be at any time necessary." Such an arrangement would have the added advantage of better protecting the judicial department. "By giving the revision altogether to a President, the judicial is left unprotected; and for want of technical legal knowledge, the laws may be destitute of uniformity and consistency." 84 The superintendent of finance, too, could furnish valuable professional advice to Congress. 85

83 Livingston's proposed amendments with his reasons for offering them may be found ibid., pp. 54-56.

84 This would seem to indicate that Livingston did not envisage the process of judicial review.

85 Except for the provisions as to tenure of office and a share in the veto power, Livingston's conceptions of the functions of a superintendent of finance seem to coincide fairly closely with those exercised by the Secretary of the Treasury when that office was established.
On the other hand, Livingston believed that the president alone should have the right to choose his own advisers. The fact that it would be the duty of the Senate to sit as judges in case of impeachment of the president rendered it improper, he felt, for that body to pass upon the choice by the president of his aids. One of his amendments, therefore, would withdraw from the Senate this power.

Finally, he would have an auditor-general, to be chosen by the House of Representatives and continuing in office during their pleasure. It should be the duty of this officer to inspect the accounts of the superintendent of finance, and the purpose of the proposed method of his appointment and tenure of office was to guard against collusion between him and the latter officer. 86

Summarizing Livingston's proposed amendments, we may say that they sought in general a wider distribution of and more effective check upon the executive power on the one hand and a further brake upon the popular will on the other, a middle of the road policy which he had throughout his life advocated and practised with a considerable degree of consistency. 87

Despite these criticisms Livingston, as already indicated, approved of the Constitution as a whole and was an ardent advocate for its ratification.

86 The purpose of this office would seem to be quite similar to that of the office of comptroller-general eventually established by Congress over a century and a quarter later.

87 Cf., e. g., on the one hand, his opposition in the colony of New York to Colden's attempts to extend the power of the executive, and his own meticulous care as governor of New Jersey not to overstep the bounds of his constitutional authority; on the other, his disapproval of the Sons of Liberty in New York and his opposition in New Jersey to the popular demand for what he considered unsound financial measures.
The man who can deliberately go about to oppose the adoption of this plan, must evidently be actuated by sinister motives; for admitting it to be much more faulty than it really is, can we form any reasonable hope of obtaining a better? What a glorious spectacle would the adoption of this constitution exhibit?  

Such action he viewed as a golden opportunity to prove to the world the possibility of the existence of a free democratic republic.

"...we should probably have the honor of teaching mankind this important, this interesting lesson, THAT MAN IS ACTUALLY CAPABLE OF GOVERNING HIMSELF, and not (thro' the imbecility of his nature) 'unavoidably' necessitated to resign himself to the guidance of one or more masters."  

It must then have been a great satisfaction to the aging governor when a special convention of the state of New Jersey on December 18, 1787, after sitting for only one week, voted unanimously to ratify the constitution which had been submitted, being the third state to take such action.

As indicated by its complete title, the Observations on Government was in part a refutation of certain of the arguments put forward in two other books, John Adams's Defence of the Constitutions and De Lolme's Constitution of England. Let us glance for a moment at the chief points made by Livingston against these two authors. Adams, in the first volume of his work, which was the only one which had appeared previous to the publication of Livingston's pamphlet,  

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89 Observations on Govt., p. 53.

90 Ibid.

91 Minutes of the Convention of the State of New-Jersey, Holden at Trenton, the 11th day of December, 1787 (Trenton, 1788).


93 It was published in London early in 1787. The two succeeding volumes were not published until the following year (Works of
had rung the changes upon the thesis that the success of any government depended upon the equal distribution of power between three orders, the one, the few, and the many, or, in other words, the perfect blending into one of three distinct types of government, monarchy, aristocracy, and democracy. De Lolme, writing previously to Adams, had attempted to show that such a balance had been effected in the government of England.

Such a balance, Livingston asserted, is impossible of attainment. "To think of securing liberty, and giving permanency to government, by an operation so delicate in its nature as the nicest adjustment of independent and opposing powers, on the pivot of a balance, is surely a most chimerical attempt." Even if such a balance could be momentarily attained, however, it would be short-lived. "So fluctuating is the tide of human affairs, that in an instant the scales would be jostled out of place; one side or other would inevitably preponderate; the heaviest side would soon become sensible of its superiority, and never be at rest until it had acquired the whole weight of power, or until it was stopped in its career by some violent convulsion in the state, by which a new adjustment of the balance might be brought about." Even in the very conception itself of a similitude between the powers of government and a scale there is, asserted Livingston, a fallacy. "Good government requires constant activity; but to be suspended in equilibrio, is to be in a state of total inaction."

John Adams, IV, 275 f.). The first volume is reprinted ibid., pp. 369-538. It should be borne in mind that Adams's book was a defense of the constitutions of the various states and not of the federal constitution, which, indeed, had not been devised at the time of the publication of his first volume.

\[\text{ibid.}, pp. 29.\]

\[\text{ibid.}, pp. 27 f. It is interesting to note, however, that Livingston himself had once defended the principle of balance in the British government while he was still a British subject (cf. supra, p. 113).}\]

\[\text{ibid.}, p. 29.\]
As for De Lolme's defense of the retention of the king in the English government as simply a recognition of the fact that in all governments power tends eventually to become concentrated in fewer and fewer hands and eventually in those of a single leader, Livingston points out that this was not true during the great days of the Roman Republic. De Lolme's further claim that this concentration of power in the hands of the king has had the advantage of preventing others from seeking it Livingston answers by pointing to the Wars of the Roses, the Puritan Revolution, and the uprisings of the Pretender. The English king, concludes Livingston, has more power than it is necessary to vest in the executive, but if we are to have the same orders and balances as the English government, as Mr. Adams seems to think desirable, we must then set up some one with as much power as the English king, which would be delegating a dangerous degree of power.\footnote{Ibid., pp. 9 ff.}

As to the argument of both Adams and De Lolme that aristocracy must be balanced by a powerful executive on the one hand and the people on the other, Livingston points out that while this may have been true in the Old World, yet in America there is no aristocracy nor is any likely to arise, and therefore this same necessity of balancing three orders does not exist.\footnote{Ibid., pp. 25 ff.} On this thesis of the inevitability of the continuance in America of economic and social equality, thus making easy the preservation of a political democracy, Livingston spends some time, and we must examine his arguments with some care as they indicate clearly the failure of at least one member of the Constitutional Convention to envisage the rise of the industrial society which has since developed and leave no doubt that in Livingston's mind the constitution which he helped to frame was
written for a society which was and would continue to be essentially an agrarian society. If the same can be shown to have been true of a majority of the members of the convention, as in all likelihood it was, no stronger argument, it would seem, could be presented to support the necessity of making radical alterations in an instrument so constructed in order to adapt it to the exigencies of a society far different and far more complex than that contemplated by its authors. Those very authors of the instrument, accustomed as they were to making changes in governments which they considered defective in meeting the needs of their own society, would very likely be among the first to advocate new changes to meet new conditions were they alive today.

Let us resume now our analysis of the society which Livingston saw projecting itself into the future in the United States. We have, said he, no orders or sharply differentiated classes, nor is it likely that any should ever arise. "It can never be brought about in any way, unless by an immense accumulation of wealth in the hands of a few people; but this is an exceeding improbable event; . . . ."\footnote{\textit{Ibid.}, p. 46. The italics are mine. The arguments on this subject of equality are all to be found on this and the subsequent two or three pages.} Several reasons are advanced by Livingston in support of the improbability of such an event. In the first place, the laws of the United States are favorable to the distribution of land rather than to its concentration in a few hands, and the prevailing temper of the people favors the continuance of this system of comparatively small holdings. Thus will be effectually prevented the growth of a landed gentry. "It is by commerce only then that overgrown estates could probably be acquired; but where there can be no monopolies, where there are no peculiar privileges in favor
of any particular place or set of men, where the communication both with foreigners and with one state with another, is everywhere so easy and practicable, there is little danger to be apprehended from this source of wealth being confined to a few places, or to a few persons: in all probability it will be diffused everywhere. But granting that a merchant might by some means or other amass an immense fortune, "would it not be next to a miracle that the heap should descend undiminished to the third or fourth generation [?]: the chance, I should suppose, would be a thousand to one." Admitting again, however, that such a fortune could be transmitted undiminished, what good would it do the family in whose possession it was? "The prejudices of the people would be most violently opposed to him; the spirit of equality is so deeply rooted amongst us, so strongly impressed on the minds of the people, that it would probably require ages to eradicate it."

As for factors other than wealth which might conceivably operate to produce an aristocracy, there is again practically no

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The italics again are mine. It is evident here that Livingston failed to appreciate the great possibilities of the tariff in this direction.

Observations on Govt., pp. 46 f.

Ibid., p. 47.

Ibid. Here again is evident Livingston's failure to forecast accurately: his overemphasis on the attachment of the people to the abstract theory of equality and on the force of public opinion which would operate in its behalf. There can be no doubt, too, that he failed to take into account the effect which the immigration of millions long accustomed to inequality would have. On this subject it is interesting to compare, however, the following words of President Franklin D. Roosevelt, taken from his message to Congress on June 19, 1935, reprinted in the Chicago Daily News of the same date: "The transmission from generation to generation of vast fortunes by will, inheritance or gift is not consistent with the ideals and sentiments of the American people." Perhaps we are, after all, heading back toward early American ideals.
chance of any such eventuality. Family can have no influence.
"... the door to promotion stands open so wide, that no man of abilities, integrity, and activity, can be kept out long; let his family be ever so low, he must make his way good in despite of all opposition."

As to abilities, they are merely personal, and cannot be transmitted to posterity.

Mankind are much nearer upon a level in this respect than is generally apprehended. It is knowledge, application, and industry, that form the principal distinction between the generality of men; --- these qualifications are manifestly personal.

Looking back upon these arguments, we cannot but appreciate how completely Livingston failed to foresee those great accumulations of capital and monopolies of resources which have become the problems of the twentieth century and how little he realized that the constitution which he helped to fabricate would be expected to furnish a solution to such problems.

Let us return now to a consideration of the features of the government of England which Livingston felt were worth retaining. In his opinion the two principles of greatest value which the American states had inherited from Great Britain were representative government and trial by jury. Both of these institutions, he pointed out, had been retained and the former had even been improved upon.

In concluding his observations Livingston, like Adams, defended the governments of the United States as the best yet devised, though he based the claim on somewhat different grounds. The chief reasons put forward by Livingston for their superiority to other governments were as follows. In the first place, whereas other

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103 Observations on Govt., p. 49.
104 Ibid.
105 Ibid., pp. 33, 52.
governments were largely accidental in their origin, the governments of the United States were based on original compacts, represented by written constitutions. In the second place, the perfect equality (of which we have already spoken) which existed in them gave them a superiority over other states. Finally, the provisions for frequent elections and the admirable checks for controlling the legislature contained in the constitutions of the various states rendered them closer to ideal democracies than any governments known to history.

... all power whatever is vested in, and immediately derived from, the people only; the rulers are their deputies merely, and at certain short periods are removable by them: nay, the very government itself is a creature formed by themselves, and may, whenever they think it necessary, be at any time new modelled. The governments in these States are in fact nothing more than social compacts entered into for the mutual advantage of the individuals of whom the society is composed.

Inasmuch as his Observations on Government was, with the possible exception of a few essays published in the American Museum which may have been written during the last two years of his life, the last of Livingston's contributions to the thought of the period during which he lived, it may be of value at this point to attempt to reconstruct from his various writings the social philosophy of this man who, though not outstanding as an original philosopher, had nevertheless exerted considerable influence on the thought of his age and whose ideas may therefore justly be considered representative of those of the more liberal among the founding fathers.

106 Ibid., p. 40.
107 Ibid., pp. 46 ff.
108 Ibid., p. 50. This passage shows quite clearly that Livingston had no dread of making changes in a government once established. This inference is further strengthened when we recall the many instances when he had expressed impatience with the veneration of a custom or tradition simply because it had been long established.
109 Cf. supra, p. 343, n. 54.
CHAPTER XII

THE SOCIAL PHILOSOPHY OF A FOUNDING FATHER: POLITICAL IDEAS

We have followed Livingston through an active and varied career and have examined his ideas on the many problems with which he was confronted and on the numerous issues which arose during his life. Our attempt to construct from the more general expressions with which he frequently prefaced his remarks on specific problems and from the comparatively few essays which he devoted entirely to the discussion of broad philosophical principles a more or less synthetic social philosophy will because of the nature of the material necessarily be sketchy and incomplete; yet on a considerable number of important questions Livingston has left us quite definite statements of the general principles on which his actions were based.

In his conception of the origin and purpose of the state Livingston, like most of the other political thinkers of his day in America, adhered closely to the principles expounded by John Locke.

Man is by nature a gregarious animal. Interest urges him, with an impulse almost irresistible, to associate with his kind; and reason and experience convinces him how necessary society is to his welfare. . . . . But thro' the influence of passion, and not always comprehending that "true self-love, and social, are the same," he is often induced to violate the natural rights of his companions: Hence the necessity of civil government.¹

But the government established as a result of this necessity "beyond question owes its origin to common consent." Mankind were undoubtedly all born free and were "naturally too proud and too fond of power, to submit to the control [sic] of another, without a proper

¹Observations on Gov't., p. 7. In Livingston's library at the time of his death were three volumes of Locke's Works as well as a one volume abridgment of his essays (Mass. Hist. Soc., Livingston Papers, Vol. IX). 

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Continuation of Footnote 1, p. 361

This essay was very generally attributed to William Livingston when it was published in 1787. His authorship was neither admitted nor denied by him before he died in 1799, but it was very generally attributed to Governor Livingston by most knowledgeable people of the time and by bibliographers and outstanding historians throughout the nineteenth century. However, in the first quarter of the present century Archibald Douglas Trumbull wrote a book entitled *John Stevens: an American Record*, concerning the founder and the founding of what ultimately became the famous Stevens Institute of Technology in Hoboken, New Jersey. The book was sponsored by the American Society of Mechanical Engineers, and the first edition was published by the Century Company in 1928. In this book the author claimed that the "farmer of New Jersey" mentioned in the title was not Governor Livingston but Colonel John Stevens, Jr., a younger member of the Stevens clan (which was then quite numerous), who was only thirty-seven at the time *Observations* must have been written.

Trumbull's biography contains little evidence of being a scholarly work, and he admits that *Observations*, in whatever repository it might have been found, was always attributed to Governor Livingston. Yet he did present some evidence that, "if true, gives considerable support to his claim, such as the fact that "a copy [of *Observations*] found in Thomas Jefferson's papers bears Jefferson's own note (proof lacking) 'Written by John Stevens,' and the fact that 'part of the first draft [of *Observations*] is among the colonel's [Stevens's] papers.'" In regard to this, it may be pointed out that Colonel Stevens was notorious for copying long passages of writings that he liked. On the basis chiefly of these two bits of evidence Trumbull concluded that "the true authorship cannot be a matter of any doubt." Actually there still was plenty of doubt. Practically all of the well bibliographers and outstanding historians continued to regard Governor Livingston as the author of *Observations on Government*. Finally, however, Trumbull got some
scholarly support when Professor Richard P. McCormick in a long critical footnote in his *Experiment in Independence: New Jersey in the Critical Period, 1781-89* Rutgers University Press, 1950, not only supported Trumbull's claim but went all the way by stating that "there is conclusive proof that the author of *Observations on Government* was actually John Stevens, Jr., . . . ." He then discusses some of the evidence, occasionally in a manner which, in my opinion, does not conform strictly to the standards of good historical scholarship.

But little is to be gained by nit-picking at the efforts of one's opponents, especially since, in this case, it is unnecessary. Even if we admit that there is some valid doubt about Livingston's actual authorship of *Observations on Government* (a problem which I had to face when I wrote my original thesis many years ago), it really doesn't make any difference because, since practically everyone attributed it to him at the time and since he never denied authorship during the three years that he lived beyond its publication, it seems perfectly logical to believe that *Observations* reflected pretty well his own views. I feel certain that Governor Livingston would not have permitted views with which he disagreed to continue to be attributed to him. Since he did, I have regarded the views expressed in *Observations* as at least acceptable to Livingston and have included them (unless they differed markedly from views on the same subject expressed by Livingston elsewhere) and have felt entirely justified in including them in my discussion of Livingston's political philosophy.
consideration for parting with their native liberty." Mankind must, then, have had a very good reason for parting with their primitive freedom. This reason Livingston explains as follows.

It is therefore unreasonable to imagine they had less in View than a Remedy for the Inconveniences that sprang from a State of Nature, in which the Weak were a perpetual Prey to the Powerful, who were under no other Restraint from violating the Possessions of their Neighbours, than the Dictates of Reason, which were seldom sufficiently regarded. It was therefore to avoid those Inconveniences that they entered into Society.

In other words, as he expressed it later, "It was for the superior advantages of civil society to the lawless and predatory state of nature, that men consented to abridge their primitive freedom, and submit to the restraints of political institutions."

Government was, however, according to Livingston's conception, but a necessary evil. "Government, at best, is a Burden, tho' a necessary one. Had Man been wise from his Creation, he would always have been free." The introduction of sin into the world made government necessary "to protect the weak from the violence of the strong." Mankind was forced to strike a bargain. "We surrender a part of our liberty to secure the remainder. ..." Not only was government, however, to protect life and liberty, but it was also to protect property. "Mankind ... submitted themselves to the Restrictions of Society, the better to defend their Lives and Liberty, and to ascertain their Property, for which alone Government was instituted." Again, discussing the necessity for instituting

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2"Remarks on the Origin of Government and on Religious Liberty," Am. Mus., IV, 492. The title of this essay will hereafter be cited simply as "Remarks on Origin of Govt."

3Independent Reflector, p. 143.


5Independent Reflector, p. 135.


7Independent Reflector, p. 148.
government, Livingston says: "Hence it became requisite to fix a common standard of right, for adjusting all disputes about property . . . ."\(^8\) Government, moreover, was instituted for the good of all the people. "Communities were formed not for the Advantage of one Man, but for the Good of the whole Body . . . ."\(^9\) Since this is so, governments must be such as are consistent with the promotion of the common welfare.\(^10\) Livingston has left us a definition of government which sums up admirably his conception of it. "It is an human Establishment, depending upon the free Consent of Mankind, whereby one or more Individuals are elevated above the Rest, and clothed [sic] by them with their united Power, which is to be exercised in an invariable Pursuit of the Welfare of the Community, and in compelling the Practice of Justice, and prohibiting the Contrary."\(^11\)

Drawing together as we have, in an attempt to present an integrated picture of Livingston's ideas on government, statements made by him at widely separated periods, we find what at first glance appear to be somewhat contradictory opinions, as indeed we should expect when we consider that these statements were made under the most varied circumstances. Livingston was ever given to exaggeration and under the stress of an immediate emergency expressed his views in a more extreme form than he would probably have done had he been discussing the subject in a detached and objective manner in an atmosphere of "philosophic solitude." Thus

\(^8\) "Remarks on Origin of Govt.," Am. Mus., IV, 492.
\(^9\) Independent Reflector, p. 132.
\(^10\) Ibid., p. 133.
\(^11\) Ibid., p. 157.
when alarmed at the threatened encroachments of prerogative, he tended to push to extremes the doctrine that government was instituted for the common welfare, for the good of all the people; on the other hand, when annoyed at what he considered the licentiousness of the mob, he emphasized unduly the doctrine that one of the chief functions of government is the protection of property. If we make allowances, then, for a certain amount of exaggeration due to the stress of the immediate circumstances under which he was writing, these two purposes of government set forth by him at various times may be regarded as complementary rather than contradictory, especially when we recall that he considered that in America a practical economic equality existed.

Sovereignty, Livingston held, resided in the people. In distinction to John Adams's comparison of government to a nicely balanced scale, Livingston compared it rather to a jack. The weight which moves the jack, or, in other words, the origin of power, he said, is the people; the jack itself represents the machinery of government.¹² We must pause here a moment to consider what Livingston meant by the term "people." He had spoken often of "the people," and had written much in defense of their rights, even going so far in his essay entitled "Touch Not Mine Anointed," in the "Sentinel" column in 1765, as to denominate them the "darlings of Providence."¹³ It seems quite certain, however, that what he

¹²Observations on Govt., p. 32.
¹³No. 26, N. Y. Gazette, July 18, 1765.
meant by "the people" was that portion of the people which in that
day enjoyed the franchise, that is to say, generally speaking, the
propertied classes. One indication that this was so is the fact
that among all the reforms which he advocated throughout his life
he never suggested the extension of the franchise. Such an omis-
sion is significant when we recall his reforming zeal and the wide
field over which he roamed in his numerous essays.

Of the various possible forms of government Livingston
was least attracted by absolute monarchy. His innate attachment
to freedom and his impatience at restraint could not brook such
a system. Its philosophical basis he ridiculed. The magistrate,
like government itself, was set up for the good of the people, to
administer laws for the common welfare. "Hence the absurdity of
supposing princes and rulers supernaturally invested with sover-
eignty, and born to live in uninterrupted luxury and voluptuous-
ness, and their subjects destined by providence to toil and sweat
for their particular emolument."14 Nor does the Bible, according
to Livingston, furnish any justification for absolute monarchy.
"The scriptures: ... abominate the impious doctrine of subjecting
millions to the arbitrary will of one. ... Hence the inspired
writers represent liberty in the most amiable light; and draw
slavery in colours hideous and detestable."15 The existence of
absolute monarchy in so many portions of the globe in spite of the
absence of any rational or divine basis for it Livingston explained
as due simply to an inordinate lust for power on the part of the
princes. "Utterly unmindful of their origin, and forgetting the

14 "Remarks on Origin of Govt.," Am. Mus., IV, 492.
15 "Sentinel," No. 21, N.Y. Gazette, July 18, 1765.
intent of their investiture, those exalted worms of the dust have arrogated to themselves powers which were never bestowed; and ungratefully abused the authority really transferred to them for the happiness of their subjects, to their ruin and misery.\textsuperscript{16} That such a policy is a mistaken one, even from the point of view of the despot, is Livingston's contention.

Lawless Power, is a Power over Slaves, and void of every Thing sublime and generous. Obedience by Compulsion, is the Obedience of Vassals, who without Compulsion would disobey. The Affection of the People is the only Source of a cheerful \textsuperscript{sic} and rational Obedience; and such Obedience is the brightest Jewel in the Royal Diadem.\textsuperscript{17}

Again, on another occasion, he queries: "Is there more Honour, or real Glory, in governing those, who... are mere necessary Agents, than in ruling a Nation, warm with the Spirit of Liberty, and blest with the Power of acting freely...?\textsuperscript{18} The lot of the people under such a system he portraits in the darkest hue... ". . . . where the People have voluntarily resigned their natural Liberty, without any Restriction, as in \underline{absolute} Monarchies; they must be content to fall a Prey to the brutal Passions of their Sovereign, whenever he thinks fit to resemble Satan, under the character of the Lord's Anointed.\textsuperscript{19}

For a properly limited monarchy, however, Livingston had, prior to the Revolution, the highest praise.

When one considers the Difference between an absolute, and a limited Monarchy, it seems unaccountable, that any Person in his Senses, should prefer the former to the latter... . . . In \underline{limited} Monarchies, the Pride and Ambition of Princes, and their natural Lust for Dominion, are check'd and restrained.\textsuperscript{20}

\textsuperscript{16}"Remarks on Origin of Govt.," \textit{Am. Mus.}, IV, 492.

\textsuperscript{17}\underline{Independent Reflector}, p. 16.

\textsuperscript{18}\underline{Ibid.}, p. 155.

\textsuperscript{19}\underline{Ibid.}, p. 13.

\textsuperscript{20}\underline{Ibid.}
The condition of the people in such a state, too, he contrasted very favorably with that of the subjects in a despotic state. "The Subjects of a free State, have something open and generous in their Carriage; something of Grandeur and Sublimity in their Appearance, resulting from their Freedom and Independence, that is never to be met with in those dreary Abodes, where the embittering Circumstance of a precarious Property, mars the relish of every Gratification; and damps the most magnanimous Spirits."\textsuperscript{21} Such a properly limited monarchy Livingston considered the government of England under George II. "How signal is our Happiness, in being blessed with a Prince, form'd for the Friend of the Nation, and the Defender of the Liberties of Europe!" Hereupon he launched upon an extended panegyric of the reigning sovereign, concluding with patriotic fervor, "Long, oh long may he still adorn the Throne of his Ancestors!\textsuperscript{22}

After the Declaration of Independence, as we have seen, Livingston became an ardent republican. For pure democracies, however, he had almost as little regard as for absolute monarchies, considering such a form of government not only highly impracticable but dangerous. Throughout his life he placed little faith in the undirected judgment of the mob. In 1756 he wrote: "The people are ever ready to be bewitched, cheated, and enslaved, by a powerful, crafty seducer: and what is worse, ever ready to sacrifice whoever would disabuse and release them."\textsuperscript{23} Thirty-one years later he expressed himself in a similar vein. "The people are constantly duped by artful and designing men; they are instruments ever ready

\textsuperscript{21}\textit{Ibid.}, p. 14.

\textsuperscript{22}\textit{Ibid.}, p. 16.

to be converted to the worst of purposes: this fatal evil has, and ever will, render the establishment of a perfect democracy, a thing impracticable."\(^{24}\) Again he stated: "The people ever have been, and ever will be unfit to retain the exercise of power in their own hands . . . .\(^{25}\) It is obvious then that Livingston would limit democracy. The consideration of just what limitations he would approve we shall, however, postpone until we take up the discussion of his ideal form of government.

To any connection between church and state Livingston was consistently and vigorously opposed. On this point he expressed himself more frequently and more vigorously perhaps than on any other political question. In 1753 he wrote:

... among the many Instances of the Abuse of Government, there is none more immediately destructive of the natural Rights of Mankind, than the Interposition of the secular Arm in Matters purely religious. ... Exterior Force may compel the Man to act in Opposition to his Judgment, but can never gain the Mind's Assent to the fitness of an Action, which is contradictory to the Dictates of its own Judgment, be it wrongly or rightly informed. ... The Absurdity of a Religion, supported and enforced by the Terrors of the Law, is too apparent to need much farther Display.\(^{26}\)

Fifteen years later he wrote: "... civil authority can never be intrusted to the clergy with safety to the people."\(^{27}\) Again in the same series of essays we find: "An establishment cannot

\(^{24}\)Observations on Govt., p. 34.

\(^{25}\)Ibid., p. 36. We have stated that by the term "people" Livingston meant only the enfranchised classes (supra, pp. 344 f.). There is no reason to regard his use of the term in this and the immediately preceding quotations in any different light. Even the enfranchised "people" as a mass, Livingston believed, were not capable of exercising their power in such a way as to obtain the best results without the guidance and direction of the few among them who were qualified to act as leaders.

\(^{26}\)Independent Reflector, pp. 147 f.

bind men's consciences; it can only regulate their actions." 28

At a still later period he speaks again of the evil effects of an alliance between church and state, particularly in monarchies, with especial bitterness.

But of all their [the kings'] machinations to give stability to despotism, their combination with the clergy has proved the most efficacious and destructive: for ecclesiastics having generally the keeping of men's consciences, were found the best calculated to reconcile their devotees to servitude, and to, I know not what, blasphemous ideas of the divine right of royal roguery; while kings, to increase their influence, and enable them the more successfully to propagate this political heresy, found it for their interest to enrich them with revenues, and raise them to dignities almost rivaling the splendor of potentates. Hence the motley [sic] junction of kingcraft and priestcraft, (the most fatal engine ever invented by satan for promoting human wretchedness) usually called the alliance between church and state, but in reality a most atrocious conspiracy between two public robbers, for sharing between them the plunder of nations; and for that purpose mutually supporting, and supported by, each other. 29

We have already noted how closely Livingston adhered to his principles in this regard in the college and episcopal

28 Ibid., No. 60, May 1, 1769.
29 "Remarks on Origin of Govt.," Am. Mus., IV, 492 f.
controversies and in his deprecation of the suggestion that a religious clause should have been inserted in the Articles of Confederation.\textsuperscript{30}

Though he opposed so vigorously any official connection between church and state, yet he was a consistent advocate of public piety. The punishment of individuals for their sins might be reserved for the next world; "but national Sins, can only be punished in this World . . . ." That nations were so punished was Livingston's firm belief. "That the suprem [sic] Being will punish or exalt a People, agreeable to their Manners, is a natural Inference, from the Belief, that he regulates the Affairs of the Universe, with invariable Rectitude, and impartial Equity." Thus it behooved a nation to conduct itself righteously. Moreover, on various occasions God might interpose to produce particular events, yet "without any visible Alteration in the general Laws established in the material World." For this reason the offering up of public prayers in times of national danger was in Livingston's opinion a

\textsuperscript{30}\textit{Supra}, pp.318 ff.
very necessary step and one not to be evaded with impunity. 31 In accordance with these views we have found him preaching national righteousness and advocating the offering up of such prayers during both the French and Indian War and the American Revolution.

The exact amount of power which a government should be permitted to exercise Livingston never defined. He seems, however, to have favored a weak rather than a strong government. This we should expect from his frequent insistence upon the rights of the individual. It is borne out by his statement already quoted, "Government, at best, is a Burden, tho' a necessary one," 32 by his strict construction of his own powers as governor of New Jersey, and by his suggested amendments to the Constitution, which provided in part for a reduction of the power of the president. Yet in times of emergency he was willing to have the government exercise great power. We have seen that he approved the dictatorial powers conferred by Congress upon Washington at a critical period of the Revolution. We have seen, too, that he advocated a militia law which would compel men to serve without allowing them to buy themselves off, and we have likewise seen him suggesting the impressment of clothing for troops in time of war. Regarding the latter measure he wrote to Washington: "How the Doctrine of drafting will be relished by our legislators I cannot determine, but sure I am, that come to it we must." 33 Yet the Revolutionary War brought out clearly, too, Livingston's opposition to any trespassing by the military upon the civil authority.

Let us turn now to an examination of what Livingston considered an ideal form of government. Previous to the beginning of the Revolutionary agitation he considered the British government

32 Independent Reflector, p. 133.
33 Letter of Nov. 5, 1777, Lib. of Cong., Washington Papers.
as the best in principle. We have already noted his praise during this period of limited monarchy and of George II as the ideal ruler under such a system. At approximately the same time he stated in another essay, relative to the question of what was the best form of government, that "a Compound of Monarchy, Aristocracy and Democracy, such as is the English Constitution, is infinitely the best." The Revolution, however, drove all admiration for even limited monarchy from his mind, and in his Observations on Government, it will be recalled, he refuted De Lolme's arguments in favor of the necessity of having a king. On the other hand, we have seen that he disapproved of a pure democracy even if such a thing were feasible. Thus he turned to a restricted democracy, or representative government, as the ideal to be achieved. Such a system, he pointed out, leaves the ultimate control in the hands of the people, but avoids the dangers of mob rule. This principle of representative government he regarded as one of the two most important political institutions which America had inherited from England.

He did not feel, however, as Adams did, that the success of a government depended on the careful balancing of power between the one, the few, and the many, which obtained in the British government according, at least, to the current conception in America. The necessity for such a balance had in Livingston's opinion disappeared when the American colonies had established their independence because, as he had pointed out, there were no "orders," there

34 Independent Reflector, p. 133. This view, with its emphasis on the mingling of the three types of government, is substantially that which John Adams continued to hold after the Revolution and which he expressed in his Defence of the Constitutions (cf. supra, p. 355). Livingston had, however, by that time changed his views on the subject, as we have seen.

35 Observations on Govt., p. 37.

36 Ibid., p. 52.
was no aristocracy in America. If, then, ultimate sovereignty rested in the people, and if among the people essential equality existed, then in the government the supreme power should be vested in the legislature, the elected representatives of the people. 37 "All government necessarily requires a supreme authority lodged somewhere, to superintend and direct the operations of every other part: now, this office belongs exclusively to the legislature." 38 

Yet Livingston appreciated, too, the danger of legislative supremacy and the necessity for some effective checks on its power. He had no supreme faith in mere majorities. Even as a leader of the popular party in the colony of New York, he had written: "Surely Truth is not to be measured by a Majority of Voices." 39 A single house of representatives, he realized, was subject to the same dangers as a pure democracy; as one check, therefore, he would have a bicameral legislature. 40 He also approved of having legislative proceedings open to the public and had at one time expressed a rather extravagant regard for the salutary effect which such a rule (which did not obtain at the time he wrote) would have on legislatures. 41 Still further checks than these, however, he felt were requisite.

... as prejudices always prevail, more or less, in all popular governments, it is necessary that a check be placed some where in the hands of a power, not immediately dependent on the breath of the people, in order to stem the torrent, and prevent the mischiefs which blind passions and rancorous prejudices might otherwise occasion. The executive and judicial powers should of course then be vested, with this check or controul [sic] on the legislature; and that they may be enabled fully to effect this beneficial purpose, they should be rendered as independent as possible. 42

37 We must bear in mind again here that Livingston's conception of the people included only the then enfranchised classes, a relatively small proportion of the whole (cf. supra, pp. 349). 38 Observations on Govt., p. 29. 39 "Watch-Tower," No. 43, N. Y. Mercury, Sept. 15, 1755. 40 Observations on Govt., p. 39. 41 "Am. Whig," No. 59, Parker's N. Y. Gazette, April 24, 1769.
The security of the liberties of a people, he maintained, depended on the proper delegation of power among these various parts of the government. But (and here again we see his preference for a weak government), "the several component parts of government should be so distributed that no one man, or body of men, should possess a larger share thereof than what is absolutely necessary for the administration of government." 43

Livingston's ideal government, then, was one of checks but not of balances. The latter principle, for which Adams argued so strenuously, and which indeed has proved to be one of the essential principles of the government of the United States as it has developed under the Constitution which Livingston himself helped to construct, he regarded as undesirable and impossible of attainment. Discussing Adams's argument in favor of a balance of powers, he wrote as follows.

Equilibrium implies an equality of opposing weights or powers. The legislative power, as I have just proved, is supreme; but the executive, in order to produce an equipoise or balance, must be equal to it; and therefore must be supreme also. Here are then two supreme independent powers in one government; which is to the full as absurd as to suppose the soul actuated by two independent wills. 44

In summary, we may say that Livingston's ideal government would be a representative democracy, governed by a bicameral legislature in which should be vested the supreme power of the state, at the head of which should stand a comparatively weak executive, who, together with the judiciary, 45 should be granted a minimum

44 Ibid., pp. 29 f.
45 We have already noted that Livingston quite certainly failed to envisage the principle of judicial review (cf. supra, p. 352, n. 84).
of control over the legislature, sufficient only to prevent the latter's running away with itself. The nearest approach to such an ideal democracy, he believed, was to be found in the governments of the various American states.\textsuperscript{46}

Inasmuch as Livingston proved himself throughout his life such an ardent defender of liberty in practice, we may expect to find him exhibiting a high regard for the abstraction itself, and indeed he did. Early in his career he wrote the following in its praise.

Liberty gives an inexpressible Charm to all our Enjoyments. It imparts a Relish to the most indifferent Pleasure, and renders the highest Gratification the more consummately delightful. It is the Refinement of Life; it soothes [sic] and alleviates our Toils; smooths the rugged Brow of Adversity, and endears and enhances every Acquisition.\textsuperscript{47}

A dozen years later he wrote: "Let us prize our liberty civil and sacred, as a jewel of inestimable value."\textsuperscript{48}

But how far, we may ask, did Livingston conceive this liberty to extend? This he answers for us in one of his early essays. Subjects, he says, may claim an absolute liberty to pursue their happiness in their own way provided their actions are not injurious to society.\textsuperscript{49} Yet he appreciated that there were proper limits to liberty. "...I am...far from encouraging a Spirit of unbounded Licentiousness in the People..."\textsuperscript{50}

Again he said, "...licentiousness, or an unruly desire in any man to do as seems good in his own eyes, is unfriendly to liberty..."\textsuperscript{51} We have seen, too, that he censured what he considered

\textsuperscript{46}Cf. supra, pp. 359 ff.

\textsuperscript{47}Independent Reflector, p. 14.

\textsuperscript{48}Sentinel," No. 21, N. Y. Gazette, July 18, 1765.

\textsuperscript{49}Independent Reflector, p. 157.

\textsuperscript{50}Ibid., p. 134.

\textsuperscript{51}"Am. Whig," No. 46, Parker's N. Y. Gazette, Jan. 23, 1769.
the unbridled license which made its appearance as an aftermath of the Revolutionary War. In a vague way he attempted the difficult task of defining the bounds of liberty. "Let us be content with that Portion of our natural Liberty, which we thought proper to retain at the original Formation of the Community, neither incroaching [sic] on the Prerogative of the civil Magistrate, nor suffering our indisputable Rights to be invaded." We shall obtain more light on this question in our discussion later of Livingston's ideas on the right of revolution.

The right of suffrage he regarded as one of the chief supports of liberty. "The Freedom and Independency of Elections, is one of the chief Bulwarks of British Liberty. . . ." Unless this right is properly and judiciously exercised, however, it ceases to be a protection. ", . . . without a voluntary and unbiass'd Choice of our Representatives, we are governed by Laws enacted without our Consent. . . ." Only too infrequently, he realized, is such an unbiased and voluntary choice made. "And how seldom are the Qualifications of the Candidates considered by the Electors?" For the still more reprehensible practice of selling one's vote he had only the severest condemnation. "Scorn to give up your Liberty for Scraps and Offals, for Wine and Brandy; and despise the Men, who, by artful Infusions, and insidious Harangues, offer to warp or debilitate your Judgement." At another time he outlined the duty of the individual elector.

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52 Cf. supra, p. 339.
54 Ibid., pp. 127 f.
55 Ibid., p. 129.
... every sincere Lover of his Country, will ... give his Voice for his Representatives, in the most conscientious Manner. He will consider, that his own Liberty, and that of Posterity, is greatly concerned in that solemn Transaction. He will divest himself of all Prejudice and Party Views, and consult the Prosperity of his native Country. ... He will not be bribed by Promises, nor intimidated by Threats, but coolly consult the Dictates of impartial Reason, and the public Welfare.56

As might be expected in one who placed so high a value on liberty, and in one furthermore who had imbibed so thoroughly the principles of John Locke, Livingston defended vigorously the right of revolution. The following passage is typically Lockean in its philosophy. Speaking of limited monarchs, he said:

If they violate their Oath, and sap the fundamental Constitution of the State, the People have a Right to resist them; because by that Means they put themselves in the Condition of private Persons, and act with unauthoritative Power: For such is all the Power they can have, inconsistent with, or in Opposition to the Laws. Hence they are to be considered, as in a State of Nature, to have broke the original Compact, abdicated their Thrones, and introduced a Necessity of repelling Force by Force.57

In a later essay, entitled "Of Passive-Obedience and Non-Resistance,"58 he elaborated still further this doctrine. The duty of allegiance, frequently urged in support of the doctrine of non-resistance, does not detract in any way, he asserts, from the right of revolution. Allegiance is due only to a king who observes the established laws and customs. A king who fails in this his duty ceases to be king and absolves the subject of his duty of allegiance. "Our Allegiance therefore being only our legal Duty, has nothing to do with illegal Force." Although resistance under any circumstances may be considered in one sense unlawful, yet in another and more fundamental sense it may under certain circumstances be not only


58It is worthy of note that this essay, one of the Independent Reflector series, was originally published as early as Aug. 16, 1753. Like Jonathan Mayhew, then, Livingston was one of the first to establish the philosophical basis of the American Revolution and to enunciate the doctrines which later became the common intellectual property of every patriot.
moral justification but actually legal. For in the event of a subversion of the constitution by the ruler, the defense by the people of their lives and property is a privilege of nature, not an "Act of Jurisdiction." Though the people have granted to their ruler a certain political power for their own security, "they retain a natural Right of reassuming that political Power, whenever it is employed in their Destruction." As already indicated, when the ruler acts in violation of the laws, he becomes in a legal sense a private person. "To resist in such a Case, is not resisting his Authority, but Force illegal and unauthoritative." Thus those who resist under such circumstances cannot be regarded as attacking the constitution, but must rather be considered as "plainly defending it, against the powerless, unauthoritative and illegal Attempts of the Superior."59

On the other hand, the right of revolution, like liberty itself, is subject to limitation. "...as no government is or can be perfect in its plan, ...resistance is unlawful; unless all things considered, there is a moral certainty of thereby promoting the happiness of the community."60 On another occasion Livingston portrays the danger incurred in an ill-considered exercise of the right of revolution. "But let us still remember, that as the Magistrate is clothed [sic] with Power for the Security of the Subject, the People cannot strip him of his Authority, without reducing themselves to their original Independency, the most joyless uncomfortable State in which human Nature can possibly exist."61

59 Independent Reflector, pp. 151 ff.
61 Independent Reflector, p. 134.
Turning now to a consideration of Livingston’s conception of the magistrate and his functions, we find that in his view the magistrate like government itself was erected for the good of the people and to administer the laws which they had fashioned for their own security. In his own words: "...to repel every unreasonable Attempt upon his [man’s] Person or Fortune; Magistrates were appointed, and invested with the total Power of all the Constituents, subject to the Rules and Regulations agreed upon by the original Compact, for the Good of the Community, and the Ease and Tranquility of the People under their Government." 62 The power of the magistrate must therefore be exercised for the common welfare. "What is the true, the reasonable purpose and use of power, but the good of men?" 63 Since this is so, the exercise of the magistrate’s power must be closely restricted to this purpose.

Nothing, therefore, but what is injurious to the Society, or some particular Member of it, can be the proper Object of civil Punishment; because nothing else falls within the Design of forming the Society. For this, and this only, was the Magistrate invested with his Power, over the Persons who submitted themselves to him. 64

Even what power is granted to the magistrate will, however, be susceptible of abuse. No constitution "can be so restrictive upon the Ruler, as to deprive him of all Power of oppressing the People." This presents something of a dilemma. "Deprive the Ruler of this discretionary Power, you destroy the Government; grant it to him, and your Liberties are at best precarious." For the solution of this difficulty Livingston lays down the rule that "a People should be careful of yielding too much of their original Power, even to the most just Ruler, and always retain the Privilege of degrading

62 Ibid., p. 143.
64 Independent Reflector, p. 144.
him whenever he acts in Contradiction to the Design of his Institution.\footnote{Ibid., p. 133.} This statement illustrates likewise his conception of the magistrate's complete responsibility to the people for his actions.

It is the duty of a magistrate to prepare himself for his task by a careful study of the past as well as of the present.

Livingston has left us a succinct description of his conception of the nature of such preparation.

Examples alone can never teach the Magistrate the Rules of true Government, nor lay open to him the Basis upon which a well-regulated Community should be founded. \ldots He must carry his Inquiries much higher, view Government in its first Rise, trace Communities back to their Original, and acquaint himself with the formal Reasons of Society. \ldots Would he grow wise by Example, he must view Facts not only as having happened; he must investigate the Causes whence they sprung, discover the Motives upon which former Rulers have acted, the Passions and Vices to which they were subject, and the Principles of Virtue whereby they were influenced. \ldots should we suppose him to be influenced solely by Observation of the Event of Things, Without adverting to their Causes, he must be continually liable to err, even when he most imagines himself right.\footnote{Ibid., pp. 131 f.}

On the other hand, no man, simply because he finds himself in the office of chief magistrate, can be expected to divest himself thereupon of the ordinary human passions. Nor would this, even if possible, be necessary or even desirable.

He should neither be dispassionate, nor disinterested, but should make his Passions and Interest center in the Happiness of his People: Let him soar upon the Wings of Ambition, but let the State mount with him the Summit of real Grandeur: Is his Courage matchless and undaunted, it should be exercised with Wisdom in the Defence of his Country: Is he armed with Power, let it be exerted in executing Vengeance against the Enemies of the State: Is his Nature generous and benevolent; it should deluge down Favours and Blessings upon his Subjects.\footnote{Ibid., p. 134.}
their guard Livingston pointed out. "Alas, how greatly exposed! surrounded as they are, by subtle and interested men; while the virtuous and modest, retire with commiseration and sorrow, because they abhor flattery; and will not ensnare." 68 Against the prostitution of public addresses to purposes of false flattery, too, he inveighed, and issued a warning to magistrates in general not to suffer themselves to be deluded by such cant. "A Man is often celebrated for Actions, he never performed; and extolled for Virtues, which he never possessed. . . . . the best and the worst are accosted in the same high Strains of nauseous Adulation." 69

For the selfish and designing politician, moreover, whose only motive in seeking office was personal gain at the expense of the people, Livingston had only the bitterest scorn. "Dead to every sense of humanity must the man be, who thinks the ruin of a numerous people but just sufficient to inflate him in plenty and profusion." 70 Neither did he consider popularity alone a proof of a man's capacity or qualifications for leadership.

The common Run of the Species, seldom examine Things with Attention. They take all upon Trust; and follow their leaders with an implicit Faith. Let but a crafty and designing Impostor, employ a Herd of Sycophants, to blazon his Reputation, and trumpet his Fame, and 'tis odds, if he prove not more successful and popular, than the real Patriot, who confides in his own Innocence, and contents himself with doing Good, for the Sake of Goodness. 71

The practice of bestowing offices for purely partisan purposes, too, met with Livingston's severe censure, and the danger to the state of such a course he indicated clearly.

68 "Watch-Tower," No. 42, N. Y. Mercury, Sept. 6, 1755.
69 Ibid., No. 17, Mar. 17, 1755.
70 "Sentinel," No. 28, N. Y. Gazette, Aug. 29, 1765.
It is in vain to reason with one, who is paid for discarding Reason, and whose Livelihood depends upon his Blindness. Give but a Person of this turn, a Post, or a Salary, for continuing in the wrong, and it is impossible to induce him to be in the right.\(^{72}\)

To office seeking in general we have already noted that he was opposed.\(^{73}\) He seems to have felt that the office should seek the man, and not the man the office. Upon this principle he himself had always acted. That he was likewise opposed to nepotism is evident from a letter written to his son William during the Revolutionary War in which, speaking of a temporary post which was available in Morris County, the Governor informed his son that he would have appointed him except that he did not want to lay himself open to censure.\(^{74}\)

We have noted Livingston's disapproval of the demagogue and the sycophant in politics. Of the scholar in politics he also disapproved. Speaking of such a man he said:

He is something of a scholar, but... in that usefulllest of all sciences, the knowledge of mankind, he is a mere novitiate: without the latter, your Lordship knows that other acquisitions are comparatively of small account, in the management of public business. To be only learned, is frequently to be vain, ostentatious, and obstinate.\(^{75}\)

A knowledge of human nature, then, he regarded as the sine qua non of the successful politician, as, indeed, it has ever proved to be. Another quality which he believed desirable and useful, especially for those in legislative assemblies, was a certain Chesterfieldian politeness. In 1789 he wrote to Dr. Samuel Dick, who had just declined a nomination as a representative of the state of New Jersey in Congress: "I had a particular reason to wish you

\(^{72}\)Ibid.

\(^{73}\)Cf. supra, p. 338


to stand as a candidate: . . . because: . . . though we have had many in Congress, who in other respects were possessed of such qualifications as men in that station ought to be endowed with, a great part of them have been totally destitute of that knowledge of mankind, and that certain politeness, which Lord Chesterfield calls attention, without which the greatest talents in other things will never make a man influential in such assemblies."

Livingston never lived to see the development of great political parties. The political groups which he had known in the colony of New York had been rather factions than parties in the modern interpretation of the term. The divisions, too, in Congress during the Revolution and the period of the Confederation had been of a similar nature. Such factional divisions seldom contributed anything constructive to the science of government, but were, on the other hand, chiefly obstructive. Under these circumstances it can be no matter of surprise to us to find Livingston consistently deploring the existence of what he calls "party spirit."

From the moment that Men give themselves wholly up to a Party, they abandon their Reason, and are led Captive by their Passions. The Cause they espouse, presents such bewitching Charms, as dazzle the Judgment; and the Side they oppose, such imaginary Deformity, that no Opposition appears too violent; nor any Arts to blacken and ruin it, incapable of a specious Varnish. They follow their Leaders with an implicit Faith, and precisely obey the Word of Command without Hesitation. Tho' perhaps they originally embark'd in the Cause with a View to the public Welfare; the calm Deliberations of Reason are imperceptibly fermented into Passion; and their Zeal for the common Good, gradually extinguished by the predominating Fervor of Faction: A disinterested Love for their Country, is succeeded by an intemperate Ardor; which naturally swells into a political Enthusiasm; and from that, easy is the Transition to perfect Frenzy."

What, moreover, is the lot of the true patriot in politics who

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77 Independent Reflector, p. 51.
refuses to be influenced by mere party consideration? "Slander is the never-failing portion of every man, who, in the conduct of public affairs, is inflexible to party, and obstinately adheres to the dictates of his conscience."78

Yet Livingston was not without an appreciation of the value of an opposition in government.

It must after all be allowed, that a long and uninterrupted Calm in a Government divided into separate Branches, for a Check on each other, is often presumptive, that all Things do not go well. . . . To infer, therefore, that the Liberties of the People are safe and undanger'd, because there are no political Contests, is illogical and fallacious. Such a Tranquility [sic] may be the Result of a Confederacy in Guilt, and an Agreement between the Rulers to advance their private Interest, at the Expence of the People.79

Let us proceed now to an examination of Livingston's ideas on law and justice. As we have already indicated, he adhered to the typically Lockean conception of a fundamental natural law superior to all man-made law. In addition to this, however (appeal to which was after all a last resort and usually fraught with considerable danger to those who attempted it), he entertained a high regard for a definite constitution as the embodiment of the essential fundamental law upon which any particular government should be based. That he had a clear and correct understanding of the distinction between a constitution and government itself is evident from the following definition which he gave of it. "The constitution of a State . . . . is that original compact entered into by every individual of a society, whereby a certain form of government is chalked out and established unalterably, except by the people themselves: thus by a constitution then, when applied to civil society, we do not mean government itself, but the manner of its formation and existence." Such a

78 Ibid., p. xvii.
79 Ibid., pp. 53 f.
constitution or original compact, he said, "is a support to liberty,
so great, so powerful, that this alone would compensate for a thou-
sand little defects in the construction of a government."80

Previous to the Revolution Livingston had frequently ex-
pressed his admiration for the British constitution. A single
example will suffice to illustrate the tenor of such expressions:
"...such is the Nature of our excellent Constitution, that
amidst all the Prerogatives of the Crown, which are great and
splendid, the Liberty of the Subject, is secure and inviolable."81
Subsequent to the struggle against the mother country, however,
he regarded the written constitutions of the American states as
superior to the British constitution because the development of
the latter had been, after all, more or less accidental, whereas
the American constitutions, said Livingston, were really original
compacts.82

The superiority of English common law to Roman civil law
is pointed out in one of the Independent Reflector essays.83 On
special categories of laws, too, Livingston occasionally expressed
opinions. Bankruptcy laws, we have already noted, he felt should
be applicable in general only to merchants.84 We have likewise
noted his opinion of the absurdity of the British libel law, which
permitted complete freedom of speech regarding another's character
but rendered liable the author of any written statement, however
true, which could in any manner be considered derogatory.85 He

80Observations on Govt., pp. 44 f.
82Observations on Govt., p. 40.
83Pp. 112 f. This essay was probably written by William
Smith, Jr., but there is no reason to doubt that it reflected
Livingston's views also.
84Supra, pp. 324 f.
85Supra, p. 116.
later contrasted favorably with this solecism the American libel laws which prohibited the printing of only false defamatory statements.86

On the power of the courts to declare acts of the legislature unconstitutional Livingston never expressed himself directly. We have observed, however, that he seems to have acquiesced in the decision of the court in the famous precedent-establishing case of Holmes vs. Walton.87 On the other hand, we have pointed out, too, that he probably never appreciated fully the doctrine of judicial review for which this case furnished one of the earliest precedents.88 That he approved, nevertheless, of an independent judiciary, has also been clearly established.89

The "Watch-Tower," number six, outlined the characteristics desirable in a judge.90 In the first place, an eminent knowledge of the law is, of course, indispensable. Second, in order to avoid being ensnared by crafty advocates, "quick Parts, or a ready Conception, is a Talent singularly advantageous to a Person in this Office." Impartiality and integrity are, in the third place, obvious requisites. "... it is ... the Duty of all public Judges, to keep themselves at the remotest Distance from civil and religious Broils." Finally, a judge should be a gentleman and possessed of a dignified mien.

Even the proper qualifications of the lowly justice of the peace Livingston did not neglect to indicate. Among these he placed

86Scipio" in the N. J. Gazette, Mar. 30, 1784.
87Supra, pp. 305. This inference is further strengthened by a statement in his essay entitled "Strictures of Lilliput" (Am. Mus., IX, 242), where, speaking of the senate of Lilliput, which in the allegory represents the New Jersey legislature, he says: "They made property triable by six men; which was not a trial by jury ... ." There seems little doubt that this refers to the law which was declared void by the court in the case in point.
88Supra, p. 352, n. 84.
89Supra, pp. 336.
90N. Y. Mercury, Dec. 30, 1754. This essay, too, was probably written by William Smith, but may safely be taken as expressing also Livingston's ideas on the subject.
a strong conscience, a competent education, and impartiality. Furthermore, such a magistrate ought to have at least "a general Idea of the Laws of his Country, and a more particular Acquaintance with those relating to his own Office." Still more important, however, were two other qualities: "Without Resolution and Intrepidity, all other Qualifications will be of little Avail."  

Against certain evils connected with the administration of justice Livingston from time to time directed his censure. The "pettifogging" lawyer he described as one of the most mischievous pests of society.

His Characteristics are, Ignorance, Artifice and Chicane: He hunts for Employment [sic], and foments Disputes: To encompass his Aims, he stoops to the lowest Offices, and wades thro' the thickest Dirt of Extortion, Injustice and Corruption ... .

We have noted elsewhere Livingston's censure of the delays in the chancery courts as well as his disapproval of the multiplicity of oaths required in courts of law.  

For trial by jury he had the highest regard, considering it "the most impregnable Fortress of our civil Rights." Among its signal advantages he counted the requirement that trials must be held in the vicinity where the event, the facts of which were to be ascertained by the jury, had occurred, thus insuring acquaintance on the part of the jurymen with the characters of the witnesses. Another advantage was the presence of the judge at the time of the giving of the evidence and the availability therefore to the jury of his expert advice on points of law and on the weighing

91 Independent Reflector, pp. 168 f.  
92 Ibid., p. 139.  
93 Supra, p. 95.  
of the evidence. A still greater advantage was the practice of having the evidence given orally before the jury, which Livingston considered far more desirable than the presentation of written evidence. "... of all imaginable ways to come at the true knowledge of matters of fact, that of examining the witnesses *viva voce*, promises the greatest success." This is true because "there is something in the very manner of a witness's delivering his testimony"... "that has great weight with every reasonable man present at the examination." By an examination in open court, too, the witness has time and opportunity to explain himself. Furthermore, there is less likelihood of false testimony because "a witness will depose in a corner, what he dares not to assert in the face of the court, and the presence of his neighbours."  

Finally, a supreme merit of trial by jury is the fact that under this system the sword of justice "is intrusted in the hands of no man or body of men, one moment longer than is necessary; when the occasion no longer exists it is again locked up, and no one knows who next shall wield it." Even in the absence of political liberty trial by jury, Livingston felt, could be relied upon to continue to preserve civil liberty. "Indeed, so admirably is this mode of trial contrived for the security of all ranks and conditions of men, that whilst it continues without innovation, it will be almost impossible to infringe upon civil liberty, even tho' the State itself may have lost her political liberty."  

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76 Observations on Govt., p. 38.  
77 Ibid., p. 39. Livingston considered this one of the two most valuable institutions which America had inherited from England, the other being, as we have already seen, representative government (ibid., p. 52).
In spite, however, of his glowing praise of the principle, Livingston appreciated that like all things human the institution was not perfect and that in actual practice certain evils had crept in. For the improvement of the system, therefore, he offered several suggestions. First, the unseconderd deposition of a single witness should not be accepted as establishing a fact; rather should the concurrent testimony of several witnesses be required. Secondly, "great weight is to be given to the integrity of the witness." In other words, the testimony of various witnesses of varying degrees of integrity should not be accepted at face value and given the same weight. Thirdly, "some regard ought also to be had to the capacity of the witnesses." In the fourth place, "the consistency or repugnancy of the several parts of a man's testimony, augment or diminish his credibility." Due attention, therefore, should be paid to this. Again, "when a witness appears forward in answering every question in favour of one party, and averse to declare any thing advantageous [sic] to the other, it ought to invalidate his testimony in proportion to such promptness or reluctance." Finally, "if the jury are desirous of doing full and equal justice, let them sternly and equally [sic] endeavour to divest themselves of that bias [sic], and partiality, of which we have such frequent examples, to the great scandal of religion, and the intolerable perversion of justice." 

In concluding our analysis of Livingston's political ideas let us examine his attitude toward nationalism and his opinions on international questions so far as he expressed any. Having ever been throughout his own life, a zealous partisan in one cause or

88 Livingston does not tell us, however, how such promptness or reluctance is to be measured accurately.

another, he quite naturally placed great emphasis on patriotism. One of the Independent Reflector essays was devoted solely to the subject of patriotism. In it we find the patriot defined at considerable length. The following will give the essence of the whole.

He is a Patriot who prefers the Happiness of the Whole, to his own private Advantage; who, when properly called upon, is ready to rise up in its Defence, and with a manly Fortitude, shield it from Danger. . . . he is a true Patriot whose Love for the Public is not extinguished, either by their Insensibility or Ingratitude; but goes on with unwearied Benevolence in every public-spirited Attempt.

Love of country must take precedence over love of family or friends. Passive patriotism, however, is not enough; nor must one wait to be called upon. "... whoever . . . . neglects to advance the common Weal, when it is in his Power, is not only a bad Citizen, but a real Enemy to his Country, in Proportion to the Value and Consequence of his neglected Service." The reward of patriots Livingston, writing at a later date, indicated as follows: "They are sure of the testimony of a good conscience while living; and when removed from this scene of action, to have their memories revered by posterity, which never fails to do justice to merit, and passes . . . . an impartial and incorruptible sentence on human actions."

How ardent a patriot Livingston proved himself to be during the American Revolution we have already seen. His sensitive pride in the national honor is evidenced by his criticism of the people, frequently voiced during the period of the Confederation, for their unwillingness to discharge the public debt. In a quainter manner

100 No. 23. This essay was probably not written by Livingston himself, but as chief editor he must have approved the views expressed therein.

101 Independent Reflector, p. 93.
102 Ibid., p. 92.
103 "Sentinel," No. 9, N. Y. Gazette, April 18, 1765.
104 Cf. supra, pp. 322 ff.
it is indicated in a letter which he wrote to Thomas Jefferson, introducing to him a young man who was going to Europe for the purpose of soliciting funds for Columbia College in New York. "In this capacity I do not recommend him to your notice; because my feelings as an American, are really hurt by our turning mendicants in Europe, where I think our national glory must be greatly obscured by our appearing in so disadvantageous an attitude." 106

On the question as to whether in the case of war between the two, an immigrant owed allegiance to his native country or to that in which he had subsequently settled Livingston expressed himself quite definitely.

The place of our Birth is meerly [sic] fortuitous. 107 Nor have I any Idea of a man's having a native & adopted Country, & playing Bo peep between both so as to assist neither in case of a rupture betwixt them. A man's native Country continues to be his Country till he settles in another. It is then that his adopted Country becomes his proper Country in every political sense & that his native Country ceases to remain his Country in any civil sense. 108

For diplomats he believed long experience in public affairs to be the best qualification. Writing in 1780 to Dr. Witherspoon, he objected to two of the candidates suggested as envoys to France on the ground of their youth. "It is not in Books nor Genius nor any thing else but long experience in the ways of men to acquaint us with the Duplicity of the human heart and much less with the infinite doublings and subterfuges which the policy and finesse of Courts have superadded to its natural deceitfulness." 109


As might be expected of so thorough a patriot as was Livingston, he was a firm believer in preparedness. "Proudly to under-value the Power of an Enemy, is one of the most dangerous Evils that can possibly befall a Nation: Seeing that it not only prevents them from making even the necessary Preparations for War, but gives their Foes an Opportunity of perpetrating their Schemes with more Security, and consequently with the greater Prospect of Success." Taxation for such a purpose he considered necessary and unobjectionable. "... why should we repine at Taxes so necessary to our Preservation?" Livingston, indeed, was not too proud to fight. He was willing to lay aside the pen for the sword. "The Welfare of one's Country is not only worth Writing for: It is worth contending for." As we have seen, he himself had ever been ready to do either, as the occasion required.

In concluding our study of Livingston's political ideas, it may be of value to attempt to place him in relation to other contemporary political thinkers. For this purpose we shall select John Adams and Thomas Jefferson as the exponents of the two most widely differing philosophies of political democracy in America. With both of these men Livingston held views in common. Like Adams he had much admiration for the British constitution, especially before the Revolution, and even after that struggle he considered it surpassed only by the constitutions of some of the American states. Like Adams, too, he entertained a distrust of unlimited democracy, and felt a certain fear of the tyranny of the majority, although his feeling in this regard does not seem to have been as strong as Adams's. Both men considered the people extremely susceptible to flattery and inordinately addicted to

109 Ibid., No. 33, July 7, 1755.
luxury and extravagance. As a result of such defects a simple
democracy would be exposed to constant tumults and disorders, and
was therefore impracticable. Consequently a good government must
provide for some effective limitation on the direct action of the
people. Thus far Adams's and Livingston's views coincided in all
essential respects. Livingston, however, did not share Adams's
apparent partiality during the period of the Confederation to a
limited monarchy as the most desirable form of government. Nor
did he share in any similar degree Adams's belief in the essential
inequality of men. He certainly did not accept the latter's con-
tention that birth and wealth furnished two of the most important
criteria for distinguishing a natural aristocracy. Nor did he, like Adams, regard a hereditary aristocracy as a valuable component
part of any society, and consider it desirable therefore that the
existence of an aristocracy should in some definite way be recog-
nized by government. Likewise it is safe to assert that he dis-
sented from Adams's belief in long terms of office for the executive
officers of government on the ground that these officers were
essentially in the position of the defenders of the liberties of
the people, for he did not hold, as did Adams, that a strong execut-
ive must hold the balance between the aristocracy and the people.
We have seen, in fact, that he rejected entirely Adams's theory of
the balance of powers.

From certain of Jefferson's views, too, Livingston dissented.
He did not, for instance, believe that a state of nature might be
preferable to organized society. Again, he did not share in any-
thing approaching a like degree Jefferson's supreme confidence in
the self-governing ability of the people and his faith that they
could safely be relied upon to choose, on the whole, the best men
to govern them. On the other hand, many of his views were essentially
similar to those of Jefferson. Like the latter he distrusted
government more than he did the people and adhered in general to the maxim, "the less government the better." Like Jefferson, too, he preferred democratic simplicity and economy to pomp and ceremony in government. He had the same high regard as Jefferson for the institution of trial by jury. Like the latter he believed firmly in the subordination of the military to the civil authority. He believed, too, in Jefferson's natural aristocracy of virtue and talent as opposed to one founded on birth and wealth, and he held with Jefferson that from this natural aristocracy should be chosen the rulers in a democracy. Finally, both regarded economic conditions in America as being ideally suited to the growth of a strong political democracy.

On the whole, Livingston seems in his political thinking to have been closer to Jefferson's extremely democratic point of view than to Adams's more conservative attitude. If we regard Jefferson as representing the left and Adams the right in their views on government, Livingston's place then would seem to be somewhere between the center and the Jeffersonian left rather than on the Adams side of the center.
CHAPTER XIII

THE SOCIAL PHILOSOPHY OF A FOUNDING FATHER: SOCIAL AND ECONOMIC IDEAS

We have seen that William Livingston's political philosophy was essentially democratic. Let us now examine his social and economic ideas and determine how far his democratic tendencies in politics carried over into these fields. In the first place, then, we may consider his ideas on social equality. Slavery in any form he abominated; his writings abound in expressions of his detestation of human bondage, as we have already noted in examining his ideas on liberty. His opposition to the continuance of negro slavery and his activities in behalf of its abolition, including his setting of the example by the emancipation of his own two slaves have likewise been related in a previous chapter.¹

The status of women Livingston never discussed in any comprehensive manner. He appears to have felt, however, that at least within the family they should be accorded equal treatment with the male sex. This is evident from a letter which he wrote to a suitor for the hand of one of his daughters, in which he stated: "... it has always been my purpose to leave my daughters equal with my sons, unless particular reasons should oblige me to deviate from a distribution which I think most agreeable to natural Justice ... ."² He deprecated, too, the existence of a double moral standard and believed that in cases of violation of the marital bond women

¹Supra, pp. 340 ff.

should be accorded equal justice with men. In his allegorical "Strictures of Lilliput" he denounces the senate of Lilliput, which in the allegory represents the legislature of New Jersey, for failure to accord such equal justice. "They did, in several instances, divorce a wife from her husband for the adultery of the former: 'but being themselves men, and thence probably partial to their own sex, I do not remember,' says my author, "a single instance, of their repudiating a husband from his wife, for the like flagitious violation of the matrimonial compact."\(^4\)

This is probably the furthest extent, however, to which Livingston would have gone in according to women social or economic equality. It is inconceivable to imagine him approving such equality outside of family relationships. He adhered closely, indeed, to the prevailing conception of the day that woman's place was in the home. He denounced the greater freedom which, with the general loosening of the bonds of convention in the period following the Revolution, women were assuming at that time. Like many commentators, especially those of an older generation, upon contemporary customs, he viewed with alarm the new departures and tended to hark back to the "good old days." So in an essay entitled "Our Grand-Mothers" he lauded the wives and mothers of a former generation and contrasted unfavourably with them those of the current period. Speaking of the former, he wrote:

They were strangers to dissipation; nor were they constantly abroad. Their own habitation was their delight; and the rearing their offspring, their greatest pleasure. . . . . they enjoyed happiness in their chimney corners, while their de- luded grand-daughters seek for it in vain, amidst the tumult of the world.\(^5\)

\(^3\)Livingston pretends to quote here the imaginary historian of Lilliput.

\(^4\)Am. Mus., IX, 240.

\(^5\)Ibid., p. 143.
As for the Indians Livingston plainly regarded them as an inferior race, yet he advocated fair treatment of them. We have already seen that in 1765 he deprecated the use of force against them and advised rather diplomacy.⁶ At a later period he wrote as follows concerning them.

The Indians, tho' cruel in war . . . are generally honest men. I wish the whites were as honest. They part with their lands for a trifling consideration. Let us rather pay them that consideration out of policy than provoke the elevation of their tomahawks against the heads of our citizens. Rather let us pay it from principle than unjustly possess ourselves of what is theirs.⁷

In his own personal social relations Livingston seems to have been very much of a democrat. He appears to have had no taste for stylish clothes but to have dressed plainly and simply. We have already noted John Adams's description of him as "a plain man" with "nothing elegant or genteel about him."⁸ In his sermon at the funeral of Governor Livingston the Reverend Alexander Macwhorter said of him: "He was remarkable from his youth for plainness and simplicity in his dress and manners. The splendor of equipage, pomp, and show, as he never assumed it himself, so neither did he much admire it in others . . . ."⁹ That he was averse

⁶Supra, pp. 116 ff.
⁷"Primitive Whig" in N. J. Gazette, Feb. 6, 1786.
⁸Supra, p. 103.
⁹"Character of His Excellency, William Livingston, Esquire, L.L.D., late Governor of the State of New-Jersey; extracted from the Sermon delivered in the Presbyterian Church, at Elizabeth-Town, July 27, 1790, at the Interment of his Remains, by the Rev. Alexander Macwhorter, D.D., Minister of the first Presbyterian Church in Newark, in said State," The Christian's, Scholar's and Farmer's Magazine, II, 353. Funeral sermons are, of course, generally unduly eulogistic, but in this case there seems to be no reason to question the statement quoted, as it is in agreement with other evidence.
himself to assuming the splendor of pomp and show is borne out by a letter written while he was governor of New Jersey to Dr. John Rodgers, in which he said: "Your letter, sir, pleases me much more for being written in the familiar style of friend and friend, than it would have done had it been replete with Excellencies from beginning to end, with the applicable superaddition of all the titles that ever were used or invented within the whole circuit of the German empire."10 His equal distaste for affectation in others is evident from a reply to one who had requested a favor of him. Asserting that the petitioner had no need to offer apologies for asking so small a favor, Livingston went on to say,"but after your long residence so near S James's I suppose you will require at least half a Century to restore you to plain Dealing, the honest Simplicity of your Ancestors, and the true [Sincerity?] of a Christian Man."11 During the time, too, when New York was still a loyal British colony and when the presence of the British officers stationed there was the most prized adornment of any social gathering, Livingston seems to have exhibited a dislike for their company, rarely inviting them to his home and preferring rather the society of his own townspeople.12

His opposition, however, to aristocratic tendencies and the assumption of superior airs was not confined to his personal correspondence and conduct. We have already beheld him in his second appearance in print attacking pride of wealth and position.13 "Strange! but true it is," he said on this occasion, "...that

11 Letter of Aug. 25, 1787, in Lib. of Cong., Personal Papers, Miscellaneous. The name of the addressee is missing.
12 Sedgwick, Memoir, pp.153 f.
13 Supra, pp. 34 ff.
there is something so mean and disagreeable in Pride, that every one who beholds it, must dislike it; and yet I know not how it is, but some People mistake even this for a Virtue, affect it themselves, and are at Pains to instil it into their Children." Because it illustrates so clearly his contempt for that special form of pride based on wealth, we take the liberty of quoting again a passage which we previously quoted upon our first mention of this essay. "A Person puff'd up with Pride, and disdaining all around him, when he is evidently not superiour to the rest of Mankind in one single good Qualification, and yet conceits himself so from the Contemplation of his Riches, is a Spectacle generally abhorr'd by man and always odious to God, who makes no Difference between the Monarch and the Beggar; but considers the universal Race of Men as his Children and Family . . . ."14

For the pride of the "neuveau riche" Livingston had even greater scorn.

For when persons meanly descended happen to be beyond merit exalted to affluence and riches, & by the height of their Elevation grow giddy and imperious, it is proper to point at the baseness of their pedigree to humble and abash them! . . . Am I inflated with towering thoughts of my recent elevation & dispise [sic] & insult all around me, "thy grandfater was a fisherman" may reduce me to reason, to good manners, & decency. If poverty is not in itself infamous, neither is wealth, adventitious wealth in itself honourable.

For such men Livingston foretold a miserable end.

Like the owl, they do well enough in the night of adversity, but the Sunshine of prosperous fortune blinds and distracts them. . . . . Prosperity makes them wanton; their wantonness grows into pride & their pride hastens their ruin.15

Of other forms of pride he wrote in number forty-three of the Independent Reflector, which was entitled "The Vanity of Birth


and Titles; with the Absurdity of Claiming Respect without Merit."

Our Births are our Ancestors, but our Merit is our own. Great-
ness of Soul resides not in the Trappings of State, nor hath
the least Connection with Names and Pedigree. ... A wise
Man will admire Goodness, wherever he finds it. Whether it
be cloathed [sic] in Rags, or attir'd in Ermine, it attracts
his Esteem, and commands Veneration.

There is, perhaps, not a more dangerous Error, than to believe
that we are bound to reverence Men for the Offices they sustain,
without any Regard to their virtuous Qualities, or useful
Actions . . . . 16

The separation from British aristocratic influences and
their baneful effect upon the social democracy of America Living-
ston considered one of the benefits accruing from the Revolution.
As "Hortentius" in the New Jersey Gazette he wrote on this subject
in the highly satirical vein which he so often and effectively
employed.

We have irretrievably lost, by our fatal revolt, another im-
portant advantage, I mean the late useful and uninterrupted
influx of the British gallantry, and all the politeness of the
Court of London. While we received our governors and other
principal officers immediately from the fountain-head of high
life and polish'd manners, it was impossible for us to degener-
ate into our primitive clownishness and rusticity. But these
being now unfortunately excluded, we shall gradually reimmerse
into plain hospitality, and downright honest sincerity; than
which nothing can be more insipid to a man of breeding and
politesse.17

That he considered the society which existed in the American states
after the Revolution socially democratic we have already seen: there
was no nobility; birth was no bar to preferment; and the accumula-
tion of great wealth he considered extremely unlikely, if not im-
possible.18

Let us turn now from social equality to social liberty.
As an ardent champion of liberty in all forms Livingston, of course,

16 Independent Reflector, pp. 172 f.
17 Issue of Sept. 9, 1778, reprinted in N. J. Arch., 2 ser.,
II, 419.
18 Cf. supra, pp. 357 f.
expressed himself frequently and in no hesitating terms on the
question of liberty in its social forms. Dearer to his heart
than any other cause, as we have seen, was religious liberty. To
any form of compulsion of the individual on religious questions
he was violently opposed.

... of all the Power in the World, none is so dangerous as
Power in Matters religious, and lodged in the hands of Bigots.
... He who fancies himself fighting the Battles of the Lord,
while he injures and oppresses his Neighbour, will never want
a Pretence for exerting his Severities against those, who
stand not so high in the Favour of Heaven. A religious Tyrant,
is, of all the Tyrants in the World, the most untameable and
sanguinary: He punishes you for your own Good; pains your Body,
for the Health of your Soul; and breaks your Head, to illuminate
your Mind: And who can blame a Man so indulgently severe, and
exercising all his seeming Rigour out of real Mercy, and
Lenity? 19

Such methods Livingston did not consider conducive to the spread
of real religion. "The Truth is, Religion is not to be propagated
by Violence: It was not originally established by Persecution, nor
will Persecution ever be the proper Means of defending it." 20

The efforts of the organized clergy of various denominations
to confine to their own narrow interpretation of religion the views
of their parishioners on this subject he reproved with equal
vehemence. "Visionary Monks turn plain Devotion into a solemn
Farce, and make the ignorant Multitude proud of their Bondage, and
exulting in their Infamy." 21 For the clergyman to demand the respect
and reverence of his fellow men simply by virtue of his office
Livingston regarded as absurd.

To challenge my Esteem on Account of his Dress, when himself
is a Dunce or a Libertine, (which two Distinctions comprehend
above half of the Cloth) is desiring me to commit downright
Idolatry. I cannot reverse the Order of Nature, and discern

19 "Watch-Tower," No. 18, Mar. 24, 1755.
20 Independent Reflector, p. 145.
21 Ibid., p. 15.
The creeds and systems devised by the clergy to perpetuate orthodoxy he ridiculed. The very word "orthodoxy" he abhorred. "I believe that the Word Orthodoxy, is a hard, equivocal, priestly Term, that has caused the Effusion of more Blood than all the Roman Emperors put together." The layman, he asserted, is not permitted to entertain any religious conviction until it has been drawn up in the form of a creed by some council or convocation. Immediately this has been done, however, the belief so promulgated is assumed to be superior simply by virtue of having been thus authorized to any other belief which the layman may extract for himself from the words of the Bible. Individual thinking on religious matters is discouraged if not expressly prohibited, for such thinking might lead to unorthodox views. "Besides, was every Individual to follow his particular Humour in Matters of Faith, it might create as many different Opinions as there were Men; and then, small indeed would be the Revenue of the Clergy, for every particular Man could not maintain a Priest of his own." But primitive religion, Livingston points out, was not burdened with creeds and doctrines. It was simple and easy to understand. What need, then, for the countless volumes which have been written to explain what is so simple? "And yet, what Creeds! what Systems! what Schemes, utterly incompatible and subversive, of each other! what voluminous Treatises of learned Absurdity, and scholastic Gibberish!"
The result of

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22 Ibid., pp. 137 f.
23 Ibid., p. 187.
24 Ibid., p. 186. From this we see that Livingston suspected the clergy of an economic motive, among others, in their insistence on orthodoxy. Cf. also the following: "I believe, that some of the Priesthood greatly impose on the Credulity of the Vulgar, and that by this Craft they get their Wealth." (Ibid., p. 188).
25 Ibid., p. 123.
these efforts of the clergy to introduce uniformity and insist on conformity he set forth in an essay entitled, "Primitive CHRISTIANITY Short and Intelligible, Modern CHRISTIANITY Voluminous and Incomprehensible." The only result has been to confuse the true seeker after truth. "Where shall he find the Religion of CHRIST amidst all this priestly Fustian, and ecclesiastical Trumpery?" The confusion to which Christianity has been thus reduced by those who claim to be its apostles inspires Livingston in concluding this essay in denunciation of the clergy to utter the following impassioned lamentation.

O merciful JESUS! how is thy amiable Religion adulterated by those who pretend to be thy Ambassadors! How is thy benevolent Revelation barbariz'd and perverted, and the lovely Simplicity of thy Gospel encumbered with Absurdities that deface its Beauty, and obscure its native Lustre! 26

All attempts, then, to coerce the individual in his religious beliefs Livingston condemned. "I believe, that our Faith like our stomachs, may be overcharged, especially if we are prohibited to chew what we are commanded to swallow." 27 Complete freedom in such matters should be guaranteed. "... provided he hurt no Man, every Subject has a Right to be protected in the Exercise of the Liberty of thinking about Religion, as he judges proper, as well as of acting in Conformity thereto." 28 Such freedom he considered a constitutional right of the individual. "Can the most indubitable constitutional rights be more indubitable than the natural right of every man to choose [sic] his own religion, and to worship his maker in the manner he thinks most acceptable

26 Ibid., p. 126.
27 Ibid., p. 187.
28 Ibid., p. 144.
to him. 29 Furthermore, it is not sufficient for the civil magistrate simply to abstain from persecuting citizens for their religious beliefs; "he should also prevent their persecuting each other." 30 A further safeguard of religious freedom he believed to be the existence of a multiplicity of denominations. ". . . . the Variety of Sects in the Nation, are a Guard against the Tyranny and Usurpation of one over another." 31

Freedom of thought Livingston defended not only in religious matters but in general. ". . . . the civil Power hath no Jurisdiction over the Sentiments or Opinions of the Subject, till such Opinions break out into Actions prejudicial to the Community, and then it is not the Opinion, but the Action that is the Object of the Punishment." 32 Again we find him stating: "The Advancement of Learning depends upon the free Exercise of Thought; it is therefore absurd to suppose, that it should thrive under a Government that makes it Treason even for a Man to think." 33

As one who so frequently used the press to criticize customs and policies of which he disapproved as well as to chastise with cutting sarcasm those who opposed him, Livingston was quite naturally a staunch defender of its freedom. In both the Independent Reflector and the "Watch-Tower" column, for the editorship of both of which he was chiefly responsible, essays defending the freedom of the press appeared. 34 It seems quite probable that neither essay

29 "Am. Whig," No. 59, April 24, 1769.
31 Ibid., p. 187.
32 Ibid., p. 144.
33 Ibid., p. 149. These doctrines of one of "the fathers" might well be heeded by some of our modern legislators who spend their time investigating radical thought in our colleges and universities.
34 Independent Reflector, No. 40; "Watch-Tower," No. 10, N. Y. Mercury, Jan. 27, 1755.
was written by Livingston himself although he may be assumed to have shared the opinions therein expressed. Since, however, he later expressed himself on the same subject as "Scipio" in the New Jersey Gazette, let us turn to what are with certainty his own words to ascertain the value which he placed on this phase of liberty.

The Liberty of the Press has ever been esteemed by all free nations as their grand bulwark against the abuse of office, the oppression of men in power, and publick peculation and publick mismanagement of every sort. . . . . The press hath always been found a most excellent instrument for this purpose. It is the easiest channel that can be contrived, through which to communicate to the people the danger to which they are exposed; to shew them that they are, and how they are, imposed upon by those who betray their confidence; and by these means to unite them in removing the grievance, and procuring themselves justice. This channel of communication having ever been found so salutary to liberty, and so formidable to public corruption, has been the constant darling of the virtuous, and the perpetual dread of the wicked.35

Despite his conception of the importance of freedom of the press, however, here, as in the political field, Livingston seems to have distinguished liberty from license, if we may accept as expressing also his ideas the words of his colleague William Smith, Jr., who probably wrote the essay in the Independent Reflector entitled "Of the Use, Abuse, and Liberty of the Press." Here we find a diatribe against those who "sap the Constitution, disturb the public Tranquility, and ruin the State," pleading meanwhile the right to exercise such liberty under the freedom of the press. To such men the answer must be: "... the Liberty of the Press, is always to be restricted from becoming a Prejudice to the public Weal."36 Furthermore, in a letter to General Charles Lee, Livingston indicated his opinion that the printer, as well as the actual author of libelous statements, should be held accountable.37

That equality in the administration of justice was one of Livingston's ideals seems a fair inference although we must depend here chiefly on the negative evidence, that he never advocated special privileges for any class in this respect. On the positive side, however, we have already noted that he advocated equal treatment for women in the granting of divorces. The general principle which he laid down for the meting out of punishment we have also noted. "Nothing . . . . but what is injurious to the Society, or some particular Member of it, can be the proper Object of civil Punishment . . . ."  

As a strict individualist and a staunch defender of individual rights and liberties, Livingston would probably not have condoned any very extreme form of social control. We have seen him, for instance, fulminating against any attempts to enforce conformity in religion. On the other hand, that he was not unalterably opposed to any regulation is evident from his proposal that the number of dram-shops in the state of New Jersey be limited, and from his advocacy in the colony of New York of a law requiring the licensing of physicians. Likewise his proposal to tax bachelors, a type of being which he denominated as "that useless, barren, singular woman-hating eccentric [sic] oddity of this cur terraqueous globe," betrays a desire to enforce upon them conformity to certain social standards which he considered desirable. That his purpose in this proposal was social as well as economic is indicated by his severe condemnation of celibacy. "A man who is

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38 Supra, pp. 375 ff.
39 Independent ReFlector, p. 144.
40 Supra, pp. 338 ff.
41 Supra, p. 109.
determined not to marry, and consequently to disobey the first
and great command, shews an eventual resolution, as far as in
him lies, to extinguish the whole human race." He appreciated,
of course, that bachelors could find ways without marrying of
avoiding the imputation of fostering race suicide, but such pract-
tices he considered even more reprehensible. 42

We have discussed Livingston's ideas on the relation of
church and state and on religious freedom. Let us now seek to
determine what were his ideas on religion itself. As might be
expected of such a vigorous advocate of toleration, he was non-
sectarian in his outlook upon religion. He was, to be sure, a
member himself of the Presbyterian denomination, but he consist-
tently denied an attachment to any particular sect, even going so
far in the preface of the Independent Reflector as to deny any
attachment to Presbyterianism at a time when the evidence seems
to indicate that he was already a member of the Presbyterian Church
in New York City. 43 No sect, he believed, had a greater claim on
God's favor than any other. "... it is a natural presumption
... that none of the various forms for which mankind contend
with such destructive and unchristian zeal, have any other jus
divinum for their foundation than the dictates of sound reason ...
... " 44 Furthermore, adherence to any sect was unnecessary. "I
believe, that a Man may be a good Christian, though he be of no
Sect in Christendom." 45 Moreover, failure to espouse a particular

42 "Scipio" in N. J. Gazette, Mar. 16, 1784. On the pro-
posal to tax bachelors, cf. supra, p. 324.
43 P. xxv. Cf. supra, p. 49, n. 53; 1 Sa. p. 32, n. 4
faith would in no way impair one's chances of ultimate salvation. "I believe, that he who feareth God and worketh Righteousness, will be accepted of him, even tho' he refuse to worship any Man, or order of Men, into the Bargain." Religion contrived by man for the sake of wealth and power is far different from the pure religion revealed by God. "The honest Simplicity and Spirituality of the One, is an eternal Satire upon the antio Mimicky [sic], and idolatrous Trumpery of the Other." For himself Livingston eschewed all such religion, preferring rather to risk the appellation of atheist. "If a person cannot be a Christian without believing, what the great author of Christianity never thought proper to make a part of it, I am content to live without the character, chusing [sic] rather, with a set of sound principles and a good heart, to pass almost for anything . . . ." Elaborate ceremonialism in religion, as indeed in all other human activities, Livingston particularly abhorred. "I believe, that Riches, Ornaments and Ceremonies, were assumed by Churches for the same Reason that Garments were invented by our first Parents." Such outward show he refused to regard as real religion. "I believe, that Religion doth not consist in black Coats, or black Cassocks, in Hats ros'd or unros'd, in Bands or Surplices, in cant Phrases or demure Looks, but in loving God and keeping his Commandments." Toward any organized clergy, particularly of a hierarchial order, he had always evinced, as we have already seen on more than

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46 Ibid.
47 Ibid., p. 22.
48 Ibid., p. iii.
49 Ibid., p. 187.
50 Ibid.
one occasion, a bitter hostility. One further example will serve to illustrate the extreme bitterness, bordering indeed on vindictiveness, which characterized his attacks on them. "I believe, that where one Clergyman enters into Orders for the Abolition of the Kingdom of Darkness, being moved thereunto by the Holy Ghost, there are fifty who assume the Gown by the Instigation of Mammon, and to alloy the Insurrection of their Stomachs."51 Yet he considered the clergy as performing a useful function and stated: "I have the highest Respect for the Function of a Clergyman."52 Nor did he condemn them without exception. "There is not a more lovely Character in Nature, than that of a good Clergyman."53 Furthermore, after the Revolution, when there was no longer any danger of the establishment of a hierarchical clergy in America, he even devoted an entire essay to a plea for the better support of the clergy, advocating not only larger but fixed salaries for them, by virtue of which they might be enabled to enjoy at least a moderate degree of independence.54

One who had so frequently attacked the clergy, however, and who moreover held such extreme views for the times on the question of religious freedom might be suspected of deistical leanings. At times, indeed, Livingston's writings do seem to have such a flavor. In an essay entitled "Of Credulity," for instance, he flays the credulous. Credulity he defines as "a Belief of the Truth of a Fact or Proposition unsupported by rational Evidence." Infidelity, in the sense of incredulity, is "the Disbelief of the Truth of a

51 Ibid., p. 188.
52 Ibid., p. 137.
53 Ibid., p. 136.
Fact or Proposition supported by rational Evidence." The actual truth or falsity of what the credulous believe is of little moment because they accept both true and false without proper proof.

"Thus to the credulous, everything they believe is really false since they believe on insufficient evidence." To this sort of belief incredulity, or as Livingston prefers to call it, infidelity is preferable because while the incredulous err in disbelieving the truth, yet the credulous err in believing a great number of errors and furthermore cannot recognize the truth even if they should find it. 55

Yet Livingston was assuredly no deist. In an essay entitled "Deism," in the New Jersey Gazette of June 12, 1786, he turned the full force of his satire against the deists, ridiculing the leading exponents of the school, among them Voltaire and Rousseau, and denouncing as "blockheads" all who accepted such doctrines. The essay is couched in the form of a series of queries, of which the following are examples.

Did you ever see a man who insisted that the bare light of nature was sufficient (and revelation consequently unnecessary) to conduct us at present in the path of duty, and everlasting happiness hereafter; and in the same breath confessing, that, notwithstanding this light, ..., a very great part of the world, that has no other guide, is this moment involved in pagan superstition, and the grossest idolatry?

... Have you ever seen a man, who, unable to prove, by the light of reason, the immortality of the soul; ..., and able, by revelation, which hath brought immortality to light, to prove his eternal duration; and yet scorning by revelation to prove it?

... Have you ever seen such a man, sir? Why then you have seen a—blockhead. 56

Thus we see that Livingston believed in a revealed rather than a purely rationalistic religion. We have, too, as further evidence

55 Independent Reflector, p. 190.

of this, his statement: "It is . . . to REVELATION alone, that we are indebted for the Discovery of the Soul's eternal and conscious Existence." 57 Finally, the Reverend Macwhorter in his funeral sermon said of Livingston:

His religion partook not in the least of any deistic complexion . . . His declaration to me, in one of my visits to him in his last illness, was, "The free and glorious mercies of God revealed in the gospel plan of salvation by the meritorious atonement of Christ are all my salvation and all my hope. Upon the virtue of Christ's satisfaction I rest my soul. On this foundation I resign myself to God — am reconciled to death, and hope for a glorious resurrection." 58

Yet Livingston's religion was not a religion of faith alone, but of faith and works. In his "Observations on the Support of the Clergy," he wrote: "I wish they [the clergy] would insist more than they do, upon the necessity of good works . . . ." Nor could he conceive of any separation of morality from religion. " . . . I want the clergy to convince their flocks . . . . that no man's religion survives his morals — and that a knave, who cheats his neighbour, whenever he has an opportunity, let him make what pretensions to piety he will, and say his prayers as often as he pleases, will, without repentance and amendment of life, be — eternally lost." 59

On the question of freedom of the will he held that man in his originally perfect state must as a rational creature be presumed to have had a certain freedom of action. Nor would this freedom of choice have been restricted by his subordination to his omnipotent Maker. "For tho' the laws of his Reason, or the Will of his Creator . . . . inhibit him the Practice of Evil; yet while he is considered as a rational Agent, his Will must be allowed to

57 Independent Reflector, p. 199.
58 Christian's, Scholer's and Farmer's Mag., II, 333.
59 Am. Mus., VIII, 256.
have an independent Right of determining itself, upon a Supposition that he will always choose [sic] to do good, as the proper Means to secure his ultimate Happiness." When, however, because of his degeneracy, man showed a tendency frequently to choose the evil instead of the good, he himself established civil society as a means of preventing the individual so far as possible from exercising his freedom of choice in this perverse direction.60

On original sin and the fall of man Livingston held somewhat novel and unorthodox views. Man's present degeneracy he explained upon a hypothesis of the pre-existence of the soul. God, whose works are all harmonious and complete, cannot be held to have created man in his present imperfect state. Furthermore, "To pretend that we are punished for the Transgression of a federal Head whom we did not elect, and fell by an Agent whom we did not delegate . . . . is a Doctrine easier swallowed than digested." Other customary explanations are equally absurd.

A State of Pre-Existence seems therefore the most probable Method of accounting for our present Degeneracy, and vindicating the divine Conduct, by supposing the actual Defection and Lapse of every Individual. Upon this Supposition, our Proclivity to Evil, and the Misery of Infants, without any Crime committed in the Body, is clearly accountable, and the divine Providence eternally vindicated.61

In the immortality of the soul Livingston was a firm believer. He devoted an essay in the Independent Reflector to a discussion of this subject.62 Of the fact that the soul is immortal there are, he points out, many indications, such as its love of existence and its capacity for improvement. The apparent frequent triumph of vice and sin, too, upon this earth presupposes a future

60 Independent Reflector, pp. 156 f.
61 Ibid., pp. 198 f.
62 No. 49.
state where a more equitable retribution will obtain. But none of these is sufficient to prove the point, and it is upon revelation, therefore, as indicated above, that Livingston rests his conviction of the soul's immortality. "It is therefore to REVELATION alone, that we are indebted for the Discovery of the Soul's eternal and conscious Existence."

That in this future state to which the soul proceeded after departing from this world our acts committed in this world would receive their due reward and punishment was likewise his firm conviction. "The Reward or Punishment of personal Obedience, or Transgression, is, indeed, reserved to a future Retribution: And hence the frequent Triumphs of Vice, and Abasement of Virtue, on this probationary Scene." 63

On questions more purely related to manners and morals we have seen in his advocacy of equal treatment for men and women in cases of divorce his disapproval of a double moral standard for the sexes. In his adverse comments on bachelorhood we have found him condemning celibacy on the one hand and illicit sexual relations on the other. We have noted, too, in other connections his strictures on pride, his democratic preference for simplicity and plainness, and his denunciation of extravagance and display. Closely related to the latter attitude was his condemnation of the aping of foreign styles, and his plea for the use of the humble homespun. 

"... alas! alas! the unextinguishable rage for foreign finery!"

The English, he points out, have always aped French styles, and through them the latter have always found their way to America. Since the alliance with France in the Revolution, that country has been able to export its finery directly to America, instead of

having to rely upon the English to introduce in the latter country
every change of style conceived in France.

But why should we ape either of them? . . . . Why throw away
clothes not half worn and very decent, merely to buy others of
a different form? . . . . It is monstrous extravagance. . . . .
Let us make homespun.64

Another evidence of his distaste for luxury and "high life" in any
form is his opposition to the theater as illustrated in the anecdote
previously related when he refused to permit his family to attend the
performances of a troop of comedians in New York City.65 A similar
sentiment was expressed by Livingston in advice to his daughter Sally
as she was about to embark with her husband John Jay on his mission
to Europe during the American Revolution. "And pray my dear Child,
[sic] suffer not the Gaities and Amusements of the world, & the particular
Avocations of what is called high life, to banish from your mind an
habitual sense of an all-present Deity, or to interrupt you in
paying him the homage you owe Him."66

On the subject of education, Livingston expressed himself
at some length. The true purpose of education is, he held, to
render men more valuable members of society. Mere book learning
which did not have this effect he regarded as "a specious Kind

64 Am. Mus., X, 17 f.
65 Supra, p. 183.
of Ignorance." For the pure scholar, detached from the world of affairs, he had no use. "This, therefore, I will venture to lay down for a capital Maxim, that unless the Education we propose, be calculated to render our Youth better Members of Society, and useful to the Public in Proportion to its Expence, we had better be without it."68 The effects of education, too, are widespread, and affect for good or ill the whole community. "They will appear on the Bench, at the Bar, in the Pulpit, and in the Senate, and unavoidably affect our civil and religious Principles."67 This being the case, education should be controlled by the public as a whole.

... Societies have an indisputable Right to direct the Education of their youthful Members. ... If ... it belongs to any to Inspect the Education of Youth, it is the proper Business of the Public, with whose Happiness their future Conduct in Life is inseparably connected, and by whose Laws their relative Actions will be governed.68

Like the modern psychologist he appreciated the extreme plasticity of the youthful mind and the great importance, therefore, of early training.

A Youthful Mind is susceptible of almost any Impression. Like the ductile Wax, it receives the Image of the Seal without the least Resistance. ... The Principles or Doctrines implanted in the Minds of Youth, grow up and gather Strength with them. In Time they take deep Root, pass from the Memory and Understanding to the Heart, and at length become a second Nature, which it is almost impossible to change.

Since this is so, the greatest caution must be exercised in the teaching of youth.69

Livingston, however, was no advocate of dogmatism or undue indoctrination. As might be expected from his attachment to liberty

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66 Independent Reflector, p. 68.
67 Ibid.
68 Ibid., p. 79.
69 Ibid., pp. 68 f.
in other forms, he was a firm believer in academic freedom, at least within certain wide limits. Free access to books and freedom of discussion should be permitted in colleges. "As a Person who resolves to hear but one Side of a Controversy, can never be said to be seeking for Truth; so no Student can make an advantagous Progress in Knowledge, when he is not freely indulged ... both in Conversation and Reading." Particularly did he decry the teaching in a college of the tenets of any particular religion. "The Danger of imposing Systems of Faith and religious Professions, on raw and unexperienced Youth, is too evident to need much mention." Yet, despite his opposition to rank indoctrination, he felt that youth should not be left entirely without a guide. He believed it possible to find a golden mean. "There is a just Medium between prejudicing the Understandings of Youth, by dogmatical Impositions, and leaving their tender and unexperienced Minds entirely without a Guide."

The more definite practical proposals made in the Independent Reflector regarding the establishment of a system of public lower schools and Livingston's conception of a college supported and controlled by the state as the only proper form of higher education have been previously discussed.

Even the subject of child training in the home Livingston did not neglect. Here we find his views decidedly more conservative than those on public education. In a satirical essay entitled "The Child Trained Up for the Gallows" he deplored the practice of many

\(70^{70}\) "Watch-Tower," No. 52, N. Y. Mercury, Nov. 17, 1755.
\(71^{71}\) Ibid., No. 50, Nov. 3, 1755.
\(72^{72}\) Ibid.
\(73^{73}\) Supra, pp. 96, 92 ff.
parents of bringing up their children in idleness without preparing them for any trade. Other undesirable practices to which he adverted in this essay were the habit of allowing children to play on the Sabbath instead of compelling them to attend public worship, and the failure to provide proper religious instruction even in the home. Relative to the failure of the parent to perform his duty to the child in the latter respect, he offered the following satirical advice.

As to catechising him, it is an old fashioned, puritannical, useless formality. Never heed it — give him full scope in vice and immorality, according to the pious counsel of the deists, lest his mind be unhappily biassed by the influence of a religious education.\footnote{ Livingston was a much older man when this essay was written than when he wrote the essays opposing religious instruction in schools. There is no reason, however, to see any inconsistency here, or to believe that his ideas on this subject changed with advancing age. Public education and private home training are quite distinct. Livingston was personally a man of considerable piety throughout his life, and of the fact that he was a strict disciplinarian in the home there are ample indications, among them the anecdote above related concerning his opposition to the theater. Moreover, he was distinctly conservative in his private life.}

Especially did he deprecate the practice of some parents of allowing and in some cases even encouraging a child to steal fruit from the orchards of their wealthier neighbors.\footnote{ Livingston had quite likely been a sufferer himself from this sort of laxness on the part of neighboring parents.}

"This will greatly smooth his way to more extensive, and more profitable robberies." Children brought in the manner above outlined are, Livingston concluded, inevitably headed for the gallows.\footnote{Am. Mus., IX, 72 f.} Let us turn now to a consideration of Livingston's economic ideas. Here we shall have to rely to some extent on indirect evidence and inference. We have seen that he considered at the time he wrote his Observations on Government that, on the whole, economic as well as social equality existed in the United States,
and from his remarks on the subject we can draw no other conclusion but that he looked with approval upon the existence of such equality. From the same source we discover that he considered land and commerce the chief sources of wealth in America, but that wealth derived from either of these sources would tend to distribute itself. Large land holdings, because of the nature of the laws and the temper of the people, would continue to be broken up into smaller and smaller units. Commerce, too, "has a natural tendency to diffuse wealth." In proof of this he pointed to the breaking up in England as a result of the growth of commerce of the immense baronies established by William the Conqueror. Here again the only inference which can be drawn from the tone of Livingston's discussion is that he approved this wide diffusion of wealth. Yet he was no "leveler," in the sense of one who seeks through legislative action to bring about an equal redistribution of wealth, for in his allegorical "Strictures of Lilliput" he speaks with scorn of the senate of that imaginary country (which we recall represented in the allegory the legislature of New Jersey) because "it devised every expedient to reduce men of property to a level with those who had none."

On the other hand, he did have a "share the wealth" program, which he expounded in an "Address to the Rich." In this essay he held that individuals of great wealth (of whom, it could not be denied, there were a considerable number in America even in that day) owed a certain obligation to society to share their wealth. However, Charity was the sole method by which he proposed this should be

77 Cf. supra, pp. 35 ff; also Observations on Govt., pp. 46 ff.
7778 Ibid., p. 48.
58 Ibid., IX, 249.
done. But charity was not to be dependent on the mere whim of the donor. The poor had a right to such largess. "They ask, they have a right to ask—nay a right to demand what you, by expending in luxury, fraudulently withhold from them." Great wealth he considered a public trust.

For all that you possess is not at your own partial disposal. ... You are stewards under the Supreme Governor of the universe. ... Use part of it you may, for the necessary purposes of life; part for reasonable conveniences; may even a part for innocent diversions. But to dissipate the whole in folly and vanity, in extravagant pomp and the pride of sumptuous living, without giving to the poor their portion, you have no right.

Nor did he neglect to mention the advantages of charity to the dispensers. It would not only bring them more real happiness than sumptuous living, but would render their names "precious to posterity." Furthermore, such a policy would be their most effective insurance against the vagaries of fate. "By such your beneficence, you will be more effectually secured against the accidents of the world, in the affection and friendship of your fellow men, than by amassing the most immense treasures." Finally, charity as a virtue would stand them in good stead in the next world.\(^{31}\) Moral suasion, however, seems to be the sole form of pressure which Livingston would have exerted to enforce charity. There is no indication that he envisaged or would have approved the coercion of the individual in this respect by the state.

Just as he favored a wide distribution of property in other forms, so, too, Livingston disapproved of primogeniture and the entailing of property in land on this principle. "No man in this quarter of the globe can have any reasonable inducement to leave his estate to one child in exclusion to all the rest of his children."\(^{32}\)

\(^{31}\)Ibid., X, 211 ff.

\(^{32}\)Observations on Govt., p. 48. Livingston, being himself a younger son in a family which had followed this practice, might be expected for this reason to have opposed such a system. There is no reason, however, for believing that he was on this question influenced chiefly by personal considerations, as his attitude here is consistent with his general philosophy of economic equality.
The laws of the American states which discouraged such a practice he seems to have approved.

Although in theory then he apparently favored small holdings and wide distribution in the ownership of land, yet in practice, like so many other of the leading patriots of that day who preached a democratic philosophy, he seems to have speculated heavily in western lands. His personal papers disclose the fact that at his death, in addition to his land holdings in various parts of New Jersey, he held several thousand acres in various patents in the Mohawk Valley section of New York. 83 In the face of this evidence we can scarcely acquit him of indulging in the land grabbing which was so rife among the leading men of the period and which was one of the chief obstacles to the wide distribution of land ownership which he approved in theory.

On the question of the Indians' original title to the soil Livingston has left us a definite statement of his views. Their title he believed was a valid one. Discussing this question, he wrote as follows.

The heaven is the Lord's; but the earth hath he given to the children of men. That part of the earth now in question, belongs to that part of the children of men [the Indians]. They were there, when we came here. Possession, say the lawyers, is eleven points of the law. At any rate, it is a good title against intruders, who pretend to no other but their intrusion. But an honest man will not desire to wrest from them their possessions by force. 84

On the subject of immigration, we have already noted that during the colonial period Livingston disapproved of the importation into the colonies of felons and of mendicants who could not be expected to become anything but a burden upon the community into which they were sent. 85 That he did not, however, oppose merely

84 "Primitive Whig" in N. J. Gazette, Feb. 8, 1786. Cf. Livingston's own action on this principle (supra, p. 100).
85 Supra, p. 96.
on the grounds of their poverty the acceptance of able-bodied and industrious immigrants is evident from this statement on the same occasion: "The Importation of indigent Foreigners, into this Infant Country, either for supplying us with domestic Servants, or our Improvement in Handicrafts and Husbandry, is a Matter, which, in my Opinion should always meet with due Encouragement . . . ."86

With regard to foreign trade Livingston did not favor unnecessary imports while the United States was still a debtor nation. On this subject he wrote to the Baron van der Capellen at the end of the Revolutionary War: "After all, Sir, I think myself too patriotic to encourage the importation of foreign luxuries, especially during our present national poverty and our heavy debt, both foreign and domestic; nor can I bear to see any of our cash transmitted to Europe and Asia, in quest of delicacies to tickle the palate, while I am accosted by a soldier with a wooden leg and a lost arm, who has a just demand of pay upon Congress, for his essential services in delivering his country from the late meditated tyranny."87 Although, had Livingston lived to see the formation of parties under the new government, he would probably have become a Jeffersonian Democrat, in most respects, like the rest of the Livingston family, it is quite possible, in view of the above, that he would have lent his support to Hamilton's tariff scheme for the protection of American manufactures, at least in the beginning.

Turning to financial questions, we have already seen that, except during the first half of the American Revolution, when for patriotic reasons Livingston supported a paper money policy, he was a consistent advocate of a hard money policy. We have likewise noted

86 Independent Reflector, p. 18.
87 Quoted from letter of Nov. 18, 1783, in Sedgwick, Memoir, p. 381.
that he opposed legislation unduly favoring debtors at the expense of creditors and that he consistently urged taxation as the most proper fiscal policy of the state for raising money. The payment of taxes he regarded as one of the necessary sacrifices which society demands of the individual. "Indeed it cannot admit of any doubt, that men living in a social state, and having, by the laws of the society of which they are members, their lives and property secured against those assaults and invasions to which they are exposed in a state of nature, must consent to contribute a part of their substance, for the better security of the remainder, towards the support of those who are more immediately appointed for the above salutary purposes." 

Let us now examine the principles upon which he felt taxation should be based. In the first place, he put forth as early as 1752 the doctrine of "no taxation without representation." "It is a standing Maxim of English Liberty, 'that no Man shall be taxed, but with his own Consent.'" In the second place, since taxes can be levied only with consent, they must be regarded therefore as the voluntary gifts of the people and can properly be applied only to such purposes as the people approve.

It follows, therefore, that the Legislature is bound to raise and dispose of the public Monies, in the manner intended by the Community. Nor can any Government be supposed faithfully to discharge their Trust, in the Disposition of the Sums arising from Taxes, contrary to the Design with which the Subject submitted himself to them. 

In the third place, taxation should be proportional to the amount of a man's wealth and property. The poor should not be taxed equally

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88Cf. the discussions of these questions in Chaps. X and XI.

89"Scipio" in N. J. Gazette, May 24, 1784.

90Independent Reflector, p. 5. This is an additional proof of our contention, already stated (cf. supra, p. 377, n. 58), that Livingston was among the earliest to establish the philosophical foundation of the American Revolution.

91Ibid.
with the rich. One of the chief purposes of government, which is supported by taxation, is the protection of property. "Whence the Absurdity, of making the Man of little or no Property, contribute equally to the public Charge with the most opulent Possessor." 92

Yet Livingston did not, like some others, regard inflation and the depreciation of the currency as a proper means of accomplishing this equitable distribution of taxation. Benjamin Franklin had defended paper money during the Revolution on this ground.

... he wrote that depreciation operated as "a gradual tax" upon the people; "their business has been done and paid for by the paper money, and every man has paid his share of the tax according to the time he retained any of the money ... and to the depreciation during that time. Thus it has proved a tax on money ... and it has fallen more equally than many other taxes, as those people paid most who, being richest, had most money passing through their hands." 93

John Adams likewise, writing to the Baron van der Capellen in 1781, had defended the depreciation of the Continental currency on the grounds of its operation as a tax, although he admitted it was an unequal tax "and therefore causes what your friend, G. Livingston, justly calls perplexity." It bore most heavily, however, said Adams, on the officers of government, since they constituted the chief class living on fixed incomes. "This you see is an ease and relief to the people at large." 94 Livingston, on the other hand, even during the first part of the Revolution when he had supported the issue of paper money by Congress, had deplored and struggled against its depreciation, as we have seen, regarding such depreciation as an unmitigated evil.

92 Ibid., p. 11.


94 Letter of Jan. 21, in Brieven van der Capellen, p. 50. The G. before Livingston stands for Governor, as indicated in a note.
We have likewise noted his consistent opposition to inflation of the currency after the war. He steadily regarded such a policy as simply a device "to enable . . . . every one in distress, and every one who is in debt, and every one who is discontented, to defraud his neighbour according to law." 95

As a final guiding principle in taxation Livingston gives us the following.

It is an unalterable Rule of Prudence and good Policy, that the Expences of raising and collecting a Tax, should bear a moderate and just Proportion to the Tax itself . . . . What Tax can be called a just One, that is attended with more Expence in levying it, than the Tax itself amounts to? 96

With this we conclude our discussion of Livingston's social and economic ideas. As we look back upon them we cannot escape the conclusion that in these fields he was frequently in the forefront of the advanced thinkers of his day. This was especially true on the subjects of religious freedom and education. Here, as on many political questions, his views are remarkably similar to those of Jefferson, and may justly be termed radical for that day. In his attacks on the clergy he seems at times even to approach the radicalism of Thomas Paine, yet a fair examination of his attitude warrants the assertion that even here he was in no wise so extreme as that thorough radical. On social and economic equality and the distribution of wealth Livingston's views must certainly be termed liberal though scarcely radical. In his private religious views, though somewhat unorthodox, he was yet rather conservative.

On other questions, such as those in the field of morals and manners, child training, and the money problem he was perhaps even more conservative. On no important question, however, could he be labeled wholly reactionary. If, then, we attempt the difficult task of placing Livingston in his general stand on social and economic questions in relation to other thinkers of his day, and if for this purpose we employ, as we must, the dangerously indefinite terms conservative, liberal, and radical, we may, on the whole, place him in the foremost ranks of the liberals though some paces removed from the front line trenches of the radicals.
CHAPTER XIV
THE PASSING OF AN AMERICAN WHIG

The conclusion of the American Revolution had afforded Livingston an opportunity once more to return permanently to his beloved Liberty Hall and to resume the enjoyment of that "philosophic solitude" which had been so rudely disturbed by the clash of arms in 1775. Elizabethtown had changed, however; it had suffered, as we have seen, from occupation by both armies during the war. Moreover, old friends had disappeared and many new faces appeared on the village streets. His almost constant absence from his home during the long years of the Revolution caused Livingston to feel upon his return somewhat like a stranger in a strange land. Then, too, among those whom the governor still recognized were many loyalists now returned to their former homes, which could not have failed, so early after the conclusion of a bitter fratricidal strife, to irritate the ardent but testy patriot who for so many years had been roundly denouncing them and who had even advocated legislation to prevent their return to New Jersey.¹ This failure of his homecoming to afford that complete joy which his previous nostalgia had led him fondly to anticipate was expressed in a letter which he wrote early in 1784: "Solitary indeed is Queen Elizabeth’s namesake to me at present, when instead of my quondam agreeable companions, the village now principally consists of unknown, unrecommended strangers, guilty looking tories, and very knavish whigs."²

¹Cf. supra, pp. 305 ff.

²Letter of Feb. 19 to Dr. John Beatty, from which the above is quoted in Sedgwick, Memoir, p. 246.
This feeling of strangeness and longing for "the good old days" must in time have worn off, however, and there can be little doubt that these last years were in many respects among the happiest of his life. To be sure, the state of the nation caused him serious concern. Then, too, there were the disappointments and anxieties caused by some of his children: the waywardness of William, the unfortunate marital adventure of Brookholst, the financial difficulties of the Watkinsses, and the failure of Mary's husband, James Linn, to support her and her children. There was also the failing health of Mrs. Livingston. Finally, there was the shadow cast over Liberty Hall by the mysterious disappearance during the Revolution of young John Lawrence. But Livingston had reached an age when such cares and sorrows can be borne with philosophic fortitude. Moreover, they were balanced by other factors which must have been a source of much satisfaction. There was the high esteem in which he was held by the people of his state as evidenced by their annually re-appointing him to guide the political destinies of the infant commonwealth. There was the happiness he derived from those of his children whose conduct had afforded no cause for censure; "... to console myself for the delinquencies of some, others of my children give me inexpressible pleasure." There was the reunion with his wife, for whom he entertained such a real affection. Finally, there was the leisure to enjoy again his books and his gardening. To be sure, his official duties as governor continued to occupy some of his time, but after the Revolution there were much less exacting and in an agrarian state with a comparatively simple society, such as existed in New Jersey at that time, they could not have interfered very seriously with the pursuit of his favorite avocations.  

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4 Sessions of the legislature rarely took up more than two months in any year during this period.
In view of his frequently expressed preference for a life of complete retirement we might have expected to find Livingston refusing re-election to public office after the war when he could well have done so without the imputation of shirking responsibility in the face of danger. He had, indeed, some thought at first of doing so, but in a letter to his friend William Hooper of North Carolina, written shortly after the conclusion of peace, gave his reasons for continuing to serve his state in an official capacity: "... from the unanimity of the people, which (let politicians say what they please) is flattering to the most unambitious man, to continue me in office; from my own conceit, whether true or false, that several matters would necessarily occur in the first year after the peace which would have such an ultimate [intimate?] connection with many transactions during the war, that an old hand might probably be more serviceable than a new one; and from my still equal strength of constitution to what I had when you first knew me, I have again consented to take hold of our little political helm." In view of the chaotic condition in which public affairs remained in New Jersey, as in the other states, until after the installation of the new federal government in 1789, and in view of Livingston's continuing good health during most of this period, we may assume that the same considerations continued year after year to induce him once more "to take hold of our little political helm," for he died "with his boots on," so to speak, having been re-elected to the governorship for the fourteenth consecutive time on November 2, 1789.

A quaint example of the simple pleasures enjoyed by the aging patriot during this period in the seclusion of his estate at Elizabethtown is presented by an anecdote related by Sedgwick.

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5Letter of Nov. 10, 1783, quoted in Sedgwick, Memoir, pp. 383 f.
"Come with me," he said to his daughter, "come and see how rich I am in real estate—how many houses I own." She followed him into his office, and found the table covered with a quantity of wren-houses, of his own manufacture, and which were afterwards put up around the house, as trophies of his ingenuity.\(^6\)

His life was not entirely bucolic, however, for visits to the Jays in New York City during the winters varied the monotony of the simple life at Liberty Hall.\(^7\)

With the passage of time the bitterness toward the loyalists which Livingston had exhibited during the war gradually disappeared and was superseded by a Christian spirit of forgiveness, at least toward some of those whom Livingston had known before the war. Thus Sedgwick relates that when after the war Dr. Chandler, Livingston's former opponent in the episcopal controversy as well as a loyalist during the Revolution, returned to Elizabethtown "worn down by age and disease, these two antagonists . . . . were in the habit of visiting each other, in the most unembarrassed and cordial manner."\(^8\)

Likewise when Mr. Kempe, a loyalist who had formerly been attorney-general of the province of New York, wrote from London requesting Livingston to secure for him some papers necessary to establish his previous ownership of lands in New Jersey which had been confiscated during the Revolution, the governor collected and forwarded to Kempe the desired papers, refusing even to charge him for the great seal and addressing him at the same time in the following words.

As to my trouble, I pray you not to think of it. There was a period not many years since, when I could not have spared the time; but since your English lads have left us—(I mean those of them who came after the fashion of vi et armis, and in the way of forcible entry, . . . . for as to many others in the civil line, and who then lived among us, and have since been

\(^6\)Ibid., p. 423.


\(^8\)Memoir, pp. 442 f.
obliged to leave us, I really regret their departure from America, — since that time, I say, I have been able to return to my library and rural solitude, which I enjoy with infinitely greater satisfaction than any posts or titles which it is in the power of men to confer upon me: and if I find greater pleasure in any worldly occupation, than I do in books and gardening, it is in serving my friends; and I hope, to a considerable degree, even my enemies too.\textsuperscript{9}

It was a source of great satisfaction to Livingston that he lived to see the national government which he had helped to establish and in which he placed great hope, fairly under way. His faith in the new constitution was so great that in 1788 when its ratification was an accomplished fact but before the government for which it made provision had been set up, he was able to say: "We are now arrived to the auspicious period which, I confess, I have often wished that it might please Heaven to protract my life to see. Thanks to God that I have lived to see it."\textsuperscript{10} Fortunately, however, for his own peace of mind he did not live long enough to see the beginning of the development of that "party spirit" of which he had so frequently expressed his abhorrence and which so disturbed Washington during his second administration.\textsuperscript{11}

In the ceremonies connected with the establishment of the new government Governor Livingston played a minor part. As Washington proceeded on his triumphal tour from his home at Mount Vernon to New York to take the oath of office as the nation's first president, he was met at New Brunswick in New Jersey by the governor and escorted by him from that place to Elizabethtown, the party being met on the

\textsuperscript{9} Letter of Mar. 3, 1787, quoted \textit{ibid.}, pp. 409 ff.

\textsuperscript{10} Message to the New Jersey legislature, Aug. 29, 1788, quoted \textit{ibid.}, p. 421.

\textsuperscript{11} Sedgwick hazards the statement (\textit{ibid.}, p. 422) that, had he lived, Livingston would undoubtedly have been found in the ranks of the Federalist party. A careful study, however, of Livingston's \textit{Observations on Government} (of the existence of which Sedgwick does seem to have been aware) would seem to indicate that he would much more likely have been found eventually, as was the rest of the Livingston family, in the ranks of Jefferson's Democratic-Republican party.
road by a committee of Congress. An elaborate luncheon was served to the whole party at the home of Elias Boudinot in Elizabethtown, after which the president-elect was escorted to Elizabeth-Point, where he took leave of the governor and embarked for the ride up the bay to New York City, where the formal induction ceremonies were to take place.\textsuperscript{12} It is said, too, that Mrs. Washington, on her way in May to New York to join her husband after the inauguration, was entertained overnight at the governor's home, Liberty Hall.\textsuperscript{13}

The establishment of a stable government must have enhanced the value of Livingston's personal estate and have dispelled to a considerable degree the anxiety concerning the future of his children which the depreciation of his estate during the Revolution had caused him. Much of his personal estate, as we have already noted, consisted of land holdings. His personal papers show him to have held at the time of his death about a thousand acres of land in various parts of New Jersey. In addition to this land he held large blocks in various patents in western New York, some of which he had inherited from his father. The exact amount of his holdings in this region was difficult of ascertainment at the time of his death because some were held in partnership with other men, sections of others had been sold before his death, and one section, known as the Batten Hill Tract, had in 1763 been reconveyed to the Indians, as we have previously related.\textsuperscript{14} A schedule of the lands in this region, however, which in 1794 were placed in the hands of an agent to be sold for the estate, shows the total to have exceeded nine


\textsuperscript{13} \textit{Ibid.}, p. 378.

\textsuperscript{14} \textit{Supra}, p. 100.
thousand acres.\textsuperscript{15} From the sale of Livingston's real and personal estate, including Liberty Hall and the various bonds and other evidences of indebtedness which were in his possession at the time of his death, his seven heirs had received by 1810, when the settlement of the estate had been practically completed (although there were still some few tracts of land remaining to be sold), about £2,500 each, the total estate thus representing a value of about £17,500. Though Livingston did not survive the adoption of the federal constitution long enough to be able to foresee the full extent to which his estate would appreciate under its beneficent influence, the knowledge that he would be able to pass on to his children somewhat more of this world's goods than he had at one time expected to be able to do must have been a consolation during the last two or three years of his life.

In the summer of 1789 Livingston was saddened by the death of his wife, who had been an invalid for some years previous to this time.\textsuperscript{16} The loss of this congenial life-long companion, expected though it must have been, was a severe blow to the aging governor and cast a gloom over his life which was not dispelled during the brief time that he survived her. The loneliness which he experienced after this bereavement is pathetically evident in his letters written during the succeeding months. To John Jay he wrote early the following year from Elizabethtown: "We are so solitary here, & have so little inclination to seek society beyond our own walls, that nothing could be more agreeable to my Children & myself who have not forgot Mrs. Livingston's seperation [sic] from us (and I hope never will totally forget it) than to be visited

\textsuperscript{15}The papers relating to Livingston's estate are in the Mass. Hist. Soc., Livingston Papers, Vol. IX.

\textsuperscript{16}She died on July 17 (Sedgwick, Memoir, p. 433).
by our relatives & connections in N. York . . . "17 Again in the spring of the same year he replied to Jay's promise to visit his father-in-law and to bring with him the governor's favorite grandson Peter Augustus: "The sooner the better, for you have no adequate idea of our solitary condition, & how greatly the company of our friends brightens the gloom of that solitude, which without that temporary & transient lustre, would in a little time reduce us to a perfect Monastery."18 He strove bravely, however, to bear his bereavement with Christian fortitude. Writing a letter of condolence to his daughter Catharine on the recent death of her husband, Matthew Ridley, and mentioning at the same time the similar sorrow which the death of a wife and mother the previous summer had caused both to himself and to her, he continued: "... I also hope that in remembering them, we may remember them to our spiritual benefit, I mean so as not to murmur against the dispensations of Providence, but to be resigned to, & acquiesce in, the will of heaven . . . ."19

Livingston's own health failed rapidly after the death of his wife. In 1788, the year previous to her death, while attempting to mount a stagecoach at Princeton, he had suffered a severe fall, which seems permanently to have impaired his health.20 In the winter following the death of Mrs. Livingston he wrote to Jay: "... I am so confined to the house by the Rheumatism as not to have been in Town for these three weeks ... ."21 In June his last illness, which

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proved to be dropsy, seized him. Dr. Bard was called from New York to attend him and Dr. James Jay, an elder brother of John, seems also to have been in attendance at least part of the time. The malady was a painful one, but the governor bore his suffering with a patience which he had not always displayed in the fullness of health. A description of his last days has been left by one who was present.

The more I reflect on the patience and fortitude with which he supported his last illness, the more I am astonished at it; he never uttered a complaining word: the most he ever said, was, 'I can't hold it long if I do not get relief.' When they would tell him how much better he looked, 'A strange misunderstanding between the looks and the feelings,' he would say: "...

In this last great trial Livingston found comfort in the religion to which he had unwaveringly adhered throughout his life. "... he often said 'God's will be done!' and would tell me, I had done all I could; I must leave the event to Providence." The Reverend Alexander Macwhorter, who preached the funeral sermon over Livingston's body, attributed to him the following words spoken during this last ordeal.

The free and glorious mercies of God revealed in the gospel plan of salvation by the meritorious atonement of Christ are all my salvation and all my hope. Upon the virtue of Christ's satisfaction I rest my soul. On this foundation I resign myself to God—am reconciled to death, and hope for a glorious resurrection.

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22 Sedgwick, Memoir, p. 435.
24 Extract quoted by Sedgwick from a letter, neither the writer nor the date of which is given (Memoir, pp. 435 f.). Internal evidence seems to indicate that it was written by one of the doctors who attended him.
25 Ibid.
The end came about an hour before midnight on the evening of Sunday, July 25, 1790. His passing was peaceful. There left him some time before his death a cough which had caused him such discomfort as to render it impossible previously for him to lie down, obliging him to sit night and day in an easy chair, and he was then able with great relief to lie in bed. The last moments have been described by an eye witness. "... I asked him if he was in much pain; he answered, 'No, none at all.' Whenever we asked how he felt, the answer was 'Weak, very weak.'"

The funeral services were held on Tuesday, the 27th, the Reverend Alexander Macwhorter of the First Presbyterian Church in Newark preaching the sermon. A military and civic procession with much pomp and ceremony, of which it is safe to say the recipient of the honor would not himself have approved, then accompanied the body to the place of interment in the graveyard of the Presbyterian church in Elizabethtown. Thus passed a true American liberal, a life-long champion of freedom, who yet never confused liberty with license and who had himself throughout a long career successfully clung to the middle of the road between rock-ribbed conservatism on the one hand and the dangerous shoals of radicalism on the other. No epitaph better commemorates his life and death than the concluding lines of his own poem

**Philosophic Solitude:**

Inexorable death should smile, for I,
Who know to live, would never fear to die.

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28 Sedgwick, *Memoir*, p. 436. This extract is from the same letter, probably by one of the attending physicians, as those quoted above.

29 *N. J. Journal*, July 28, 1790. According to Sedgwick the governor's remains were during the winter following his death removed by his son Brockholst to his own vault in New York (*Memoir*, p. 437).
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