

The Constitution of 1776

WILLIAM LIVINGSTON (November 1723–July 25, 1790) was a son of Philip Livingston, second lord of Livingston Manor in the colony of New York, and Catrina Van Brugh. William spent his childhood in Albany. He graduated from Yale College in 1741 and began to study law under the supervision of James Alexander and William Smith, Sr. Although he was a Presbyterian, in 1747 William married Susannah French of New Brunswick at the Dutch church in Acquackanonk. Their marriage produced thirteen children, several of whom died young.

A man of broad intellectual interests, William Livingston not only learned the intricacies of the law but also grounded himself thoroughly in the arts, philosophy, and American education. As a member of the powerful Livingston family he was able to use his natural talent and his kinship with New York's elite to assume a major role in the cultural and social life of the colony.

By 1770 William Livingston had made an imprint on the politics of New York, partly because of his writings in the political and religious controversy over the role of the Anglican church in America. Livingston was a polemicist best known for

his pungent prose in the *Independent Reflector* and in such essays as "Primitive Whig" and "Watch Tower." In politics he usually functioned as a manager; he became titular leader of a trio that also included John Morin Scott and William Smith, Jr., in protracted battles with the De Lancey family and its lieutenants. From 1758 to 1768 the "New York Triumvirate" controlled the New York Assembly.

On April 13, 1772, Livingston severed his ties with the province of New York and moved to Elizabethtown, New Jersey. His reasons for removing to New Jersey and withdrawing from the New York political scene are not fully known, but he had often stated his desire to enjoy a "solitary and philosophic retreat" eventually. The growing competition among New York lawyers and the economic dislocations caused by Anglo-American frictions cut into Livingston's legal practice. Whatever the reason, he decided to devote himself to the quiet enjoyment of his family, friends, and books at Elizabethtown.

The relocation of the Livingston family proceeded gradually. Formerly he had spent a good deal of time in Eliz-

abesthtown attending court, inspecting his crops, and dealing with local merchants and craftsmen. His home, Liberty Hall, modeled after the mansions of several of his former New York City associates, was completed by April 1774.

Livingston's reputation for articulate leadership and his connection with many powerful and wealthy New Jersey families assured that he would not fall into obscurity. Livingston may have gained a temporary life of rural contentment, but he did not retreat to obscurity when he moved to New Jersey. His interest in Presbyterianism was recognized when he was appointed a trustee of the College of New Jersey in 1768 and when the student newspaper, the *American Whig*, was named in his honor.

The dumping of tea in Boston harbor and the passage of the Intolerable Acts provided the impetus to launch Livingston into a position of political leadership in New Jersey. The sympathy for the liberties of American colonials that he had expressed over the previous decade makes it reasonable to assume that he gave passive, rather than reluctant support to American resistance. In June 1774 the people of Elizabethtown called on Livingston to articulate their grievances at county and provincial committee meetings. He was selected as a delegate to the First Continental Congress in Philadelphia, where he was involved chiefly in committee work, and he expressed few personal views in the debate over the appropriate response to British oppression. However, he cemented working relationships and political bonds with fellow delegates and with New Jersey's key revolutionary figures in the Provincial Congress and the new Continental army. Reelected to the Second Continental Congress, Livingston took his seat in May 1775, but early in June 1776 he left the Congress to assume his responsibilities as brigadier general of the New Jersey militia—before he could sign the Declaration of Independence.

With his headquarters at Elizabethtown, Livingston commanded all militia

stationed in North Jersey, from Bergen south to Amboy. When ten thousand British and Hessian soldiers landed on Staten Island on July 2, confusion and chaos set in. Inadequate field supplies, a shortage of arms and ammunition, and insufficient cash to meet these needs increased the problem of New Jersey's defense and sorely tested Livingston's leadership. Although he professed discomfort in the field and lack of military experience, his unending activity to maintain a degree of military effectiveness indicated that he was beginning to master his complex responsibilities. He was also beginning to grasp the need for the kinds of coordination and communication he would use with skill in the future.

Livingston's appointment as governor on August 31 by the joint meeting of the two houses of the legislature opened a new and radically different phase in his career. Accorded little power by the state constitution of July 2, 1776, the governorship might well have deteriorated to the status of a benign figurehead handling routine matters. Despite his efforts to seize the initiative and to achieve limited, attainable goals, such as enabling legislation to improve the militia's pay and provisioning, his pleas were heard only politely and acted on rarely.

In the midst of the military crisis when the state was invaded in the fall of 1776, Livingston first grasped the latent power of his designation as commander in chief of the state militia. He began to move on his own to coordinate the defense of New Jersey. Thus he filled both an executive and military void, but his efforts could not halt the British and Hessian advance through Newark, Elizabethtown, New Brunswick, and Princeton. Confusion, panic, destruction, military atrocities and anarchy accompanied the assault. Livingston himself disappeared from the scene from mid-December 1776 to mid-January 1777. Despite the military successes at Trenton and Princeton, the civil establishment was so badly disrupted in December 1776 that New Jersey's state and local governments had to be totally

reconstructed only months after their initial establishment. When Livingston met with the New Jersey Legislature in late January 1777, the most urgent items on the agenda included a revival of the courts and the regeneration of New Jersey Continental and militia forces.

Livingston's efforts to persuade the legislature and citizenry of the urgent issues of civil reconstruction and support for the war effort went beyond legislative messages. For the first time he appealed directly to the people. With "The Impartial Chronicle," written in February 1777, he entered his satiric talent into the Whig cause. Mixing wry and bawdy humor with lofty republican rhetoric and employing vivid characterizations of British atrocities, he attempted to galvanize the people for war and rid the state of every "sculking Neutral."

Despite his energy in supporting the militia, Livingston cautiously remained within the limits of his statutory and constitutional powers. His unremitting efforts to exercise leadership in correcting the inequities of militia legislation were finally rewarded with the passage of a crucial revised statute in March 1777. Although the act was no more than a qualified response to Livingston's pleas for increased executive powers to call out the militia and enact harsher penalties for military delinquents, it became the first instance in which the legislative branch delegated powers to the executive, a transfer of authority based on clear military necessity.

Livingston pressed the legislature on March 11, 1777, for an act creating a mixed executive body empowered to contend with military or civil emergencies, a breakdown in local justice, and threats from the Loyalists. The legislature responded with uncharacteristic dispatch, and on March 15 it created the New Jersey Council of Safety. With Livingston as its president, the council moved quickly to fill the void of civil order produced by local justices who had been unwilling to take or administer oaths of allegiance. The Council of Safety thus began the

interminable process of issuing arrest orders, interrogating witnesses on the activities of suspected Loyalists, remanding many disaffected in jail and, in general, using the situation to demonstrate that the state government was functioning once again. Livingston, vitriolic in his hatred of Loyalism, grasped the opportunity that widespread disaffection provided to reassert his executive power as head of the council.

Loyalism remained Livingston's biggest problem, and he continued to confront it successfully when, in June 1777, he encouraged legislation that offered clemency to Loyalists who took oaths of allegiance but threatened the confiscation of the personal property of those who did not. Armed with a legislative act to capture Loyalists in order to compel the British to release American political prisoners, Livingston directed the raid of Bergen County that resulted in the capture of numerous Tories.

With the establishment of the *New-Jersey Gazette* in December 1777, Livingston initiated a year-long effort to provide a valuable patriotic commentary on the events of the day. Through numerous pseudonymous essays under such names as "Cato," "De Lisle," "Hortentius," and others, Livingston supported the American army's efforts to fight effectively and addressed the need for responsible legislators. He poked fun at the blustering British generals who could capture cities but could not suppress the rebellion and defeat the American army permanently. The people of New Jersey and the Continental army in Pennsylvania came to rely on the wit, moralizing, and patriotism of the poetry and prose of the governor of New Jersey in his various disguises.

The British reaction to Livingston's barbs was a tribute to their success. His severe treatment of the Loyalists and the barrage of pro-American propaganda he launched in the *New-Jersey Gazette* helped make him infamous among the British generals and the Loyalists. As early as 1778, plots to kidnap or as-

sassinate him were undertaken, but all failed. In the fall of 1779, when the British raided New Brunswick, he barely escaped capture. These numerous plots and more frequent rumors of British retaliation compelled Livingston to continue his peregrinations through the state. He was rarely able to visit his wife and family, and his letters are filled with a yearning for a return of peace and security. Lack of clothing, constant travel, and the necessity of scattering his official papers to insure their safety were only some of his problems as an executive on horseback.

By 1780 the unremitting demands for men to serve in the Continental army and militia units, the taxes to pay the state debts to fight the war, the lack of normal trade with the city of New York, the flight of both debtors and creditors to enemy lines, and the depreciation of currency were all major problems. Livingston attempted to stem the flow of illicit trade to New York and halt the communication and traffic of suspected Loyalists to and from the New Jersey coastline and New York City. He examined the petitions of numerous widows or wives of Tories, anxious creditors, and British citizens seeking to return to their homeland. He granted few passes, exhibiting singular adherence to principle and law above sympathy, expediency and privilege. Several times he denied passports to his sisters and other relatives lest he seem to honor kinship over merit.

The fatigue of seven years of warfare finally ended in March 1783 with the news of the signing of a preliminary peace treaty on January 20, 1783. Livingston issued a proclamation on April 16 and read it before a large gathering in Trenton. On April 23, before he set out for his farm at Elizabethtown, the committee for the inhabitants of Trenton formally thanked the governor for his service to the state. They remarked: "We recollect, with pleasure and veneration, that when the helm of state was committed to your hands, at an early period of the revolution, you accepted, with firmness, the perilous station; and when the storm en-

creased and raged with the greatest violence, we have seen you persevering in the face of every danger and discouragement, till we happily arrived at the haven of Peace, Liberty, and Independence."

The return to his farm was, at most, a part-time respite from the ongoing business of state. Livingston's personal estate had been depleted by the war. He still had two unmarried daughters who would require support. The farm had fallen into disuse, and the gardens and fields needed work.

In 1785 Livingston was recognized for his long relationship with the United Provinces (the Netherlands) when the New Jersey delegation at the Continental Congress pressed for his nomination as ambassador to that country. On March 21 Livingston unofficially declined the post, citing old age. He succinctly summarized his deeply felt commitment to his role as chief executive: "The great Confidence they reposed in me at their first appointment of a Governor, when I was only known to them by general Report . . . from another Province," he wrote, "their long continuing me in that office, without any Interest . . . and that often unani- mously, and always in the use of competitors, by a very great majority, and that notwithstanding the many disagreeable Truths I have told them respecting their Conduct, as to public faith and integrity." He formally declined the appointment on June 25, 1785. Although he accepted a position as a New Jersey delegate to the Constitutional Convention of 1787, age and ill health severely circumscribed his contributions.

The last two years of Livingston's life were difficult. The first federal election that he supervised resulted in a dispute over the closing of the polls. The rise of factions and parties in the state embroiled him in controversy, and in 1789 he had to testify before a congressional committee. That year, his wife died, and his letters reflect his depression over the loss of a partner of over forty years. A fall from a carriage rendered him inactive for months, and in May 1790 his daughter

reported him failing. On July 25, 1790, in his fourteenth term as governor of the state of New Jersey, he died in Elizabethtown. He had been the chief executive through war and peace. His standards of personal conduct and his ability to realize the power of his office have since been rarely matched.

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WILLIAM PATERSON (December 24, 1745–September 9, 1806) was born in Ireland. His family emigrated to America in 1747 and soon settled in Princeton. William, his two younger brothers, and a sister spent their childhood doing chores around their father's store, across from the College of New Jersey (later Princeton University). Because the family's business and real-estate investments were profitable, William could attend the college and, after his graduation in 1763, study law under Richard Stockton. He was admitted to the bar in 1769, and he spent the next years trying to establish a prac-

tice in Hunterdon and Somerset counties.

In his college studies and the influential friends he made as founder of the Philosophic Society at Princeton, Paterson saw possible avenues to higher social status. But he enjoyed his first real recognition in 1775, when he was chosen to represent Somerset County in the first Provincial Congress. He was reelected to the second Provincial Congress, and he attended all but one session of this revolutionary legislature, serving as its official secretary. During the Revolution he was a member of the legislative council (1776–77) and the Council of Safety (1777–78). He served as attorney general (1776–83), prosecuting the Loyalists and maintaining law and order during a time of political and social chaos. By the time he retired to private life at the end of the war, Paterson had established a secure niche in the leadership elite, and his estate overlooking the Raritan River—the confiscated property of Loyalist attorney Bernardus La Grange, bought from the state—reflected his new social status. Cornelia Bell, whom he married in 1779, bore him three children, but in 1783 she and a daughter died. Two years later Paterson married Euphemia White, a close friend of Cornelia's, who helped him raise his son, William Bell Paterson, and his daughter, Cornelia, later the wife of New York Congressman Stephen Van Rensselaer.

Paterson moved his family from the Raritan farm to New Brunswick and for the next few years lived comfortably on his legal business. In 1787 he was chosen to lead New Jersey's delegation to the Constitutional Convention. Paterson played a significant role at the convention, where he is best remembered for the New Jersey Plan, which he proposed as an alternative to the Virginia Plan favored by the larger states. Because of his unshakable arguments in defense of equal representation for all the states and his adroit procedural strategy as the debate over the Great Compromise reached its climax, Paterson deserves the title, "Father of the Senate." Appropriately,