

IV THE DIE IS CAST

2. On March 18, "Essex" wrote to "D. C." of the "strong party too near the Throne" that was "opposing the general good of the nation, to the great danger of the King, the Protestant succession and interest, and even the very existence, of the empire as such" by invading "the rights of mankind in every part of the empire." "In this view of things," he concluded, "no wonder if we should esteem those Traitors to the King who are using their utmost efforts to undermine his throne, by destroying its basis, the Constitution. Hence, Loyalty itself justifies us in opposing such men and such measures. This view justifies all the military preparations now making in America. The stronger we are in these, the safer is the Empire. We mean to act only on the defensive. We ought by no means to strike the first blow, nor to provoke those who would. This is certainly a great point to carry against those who call us Rebels, and would make us so, if they could. I know you will strictly adhere to the wise directions of our loyal Congress, according to which, while you encourage the doubtful and instruct the ignorant, you will punish the guilty and thereby greatly oblige your humble Friend." *New-York Journal; or, the General Advertiser*, April 6, 1775.

3. A Pharisee, a doctor of the law, who urged caution and moderation when the irate Sanhedrin (high Jewish tribunal) sought to slay the apostles for their forthright testimony to Christ. Acts 5:33-40.

4. At an election on March 16, 1775, sponsored by the Committee of Sixty, residents of New York City voted by a margin of 825-163 to send delegates to the Second Continental Congress.

5. In late February the Elizabethtown Committee of Observation launched an investigation of the illegal landing of cargo from the ship *Beulah* while anchored off Sandy Hook. Subsequently, the offenders, New York City Quaker merchants John and Robert Murray, confessed their misdeeds to the New York committee and were pardoned.

10 Chief Justice Frederick Smyth to the Middlesex County Grand Jury

[Frederick Smyth Papers, American Philosophical Society Library.]

In contrast to John Hatton, Jr., (see Doc. 8), Chief Justice Frederick Smyth was less concerned about the specific actions and arguments of the popular front than about the long-range implications of disrespect for government and disregard for laws. After a routine charge to the Middlesex County Grand Jury, Smyth delivered a lengthy disquisition on the subject of law and order. His remarks constitute a classic statement of political conservatism; in his mind, respect for government and the rule of law were the cornerstones of civilized society. Pointing out the crucial distinction between liberty and license,

NEW JERSEY IN THE AMERICAN REVOLUTION

Smyth expressed fears that the excesses of the extralegal political organizations would lead not to redress of grievances and reconciliation but to either chaos or tyranny. Whatever his conclusions about the legitimacy of the protest movement, Smyth spoke for all politically conscious Jerseymen who wondered how far one could go in challenging royal authority before the contest became a matter of rebellion instead of resistance.

April 4, 1775

Gentlemen of this Grand Jury.

.... I might now Gentlemen dismiss you from the Bar and leave you to your own Consultations; but I am persuaded I should disappoint your expectations, if at this public Meeting, I should pass unnoticed some late transactions in this and the Neighbouring Provinces, which must have excited the most alarming apprehensions in the minds of every Friend of Government, every Man who has the real happiness and Welfare of his Country at heart.

I address myself to you Gentlemen as a Body of Men of whom I have an opinion for integrity and understanding and as Persons of weight and Authority in this County, whose conduct may influence numbers, whose sentiments may be adopted by your Neighbours, and whose example will I trust be much more prevelant than the dictates of noisy forward declaimers in the pretended cause of Liberty.

Believe me, Gentlemen I have no other motive for delivering my sentiments to you on the subject of our present unhappy Commotions and dissensions than to discharge the duty I owe to my Station in this Province, to inculcate the necessity of obedience to Government on the principles of our excellent Constitution, an unfeigned Zeal for the authority of established Law, and a hearty desire to Contribute my endeavours to promote unanimity, order, harmony and Peace among all ranks of People.

Having premised thus much, I hope, Gentlemen, the freedom with which I shall deliver my opinion will not be ill taken, even tho' I should oppose the general popular bent and current of the People; for if People unhappily misguided and bewildered are hastening towards a precipice, they ought surely to be thankful to anyone who will hang out lights to save them from destruction.

We all know full well the source and occasion of the present unhappy Commotions and dissensions in the Colonies; we know also what lamentable effects a spirit of defiance and violence has already produced in one Province;¹ and indeed so black a Cloud at present hangs over the Colonies in general that it is time for every wise and cautious Man seriously to Consider how best to shelter himself before the Storm breaks out.

This Province for many years past, even in times of public Commotions and disturbance, has been distinguished for the quiet, orderly and regular behaviour of its inhabitants, and might have been thus laudably distinguished to this Day, but for the extraordinary Zeal and industry which has been shown of late by too many amongst us in what is called the common cause of Liberty, and the Freedom of their Country. So true is the remark that People are often led by the mere sound of Names without fixing any Ideas, at least any adequate or proper Ideas, to such Names or sounds. Thus for instance with the cry of American Liberty—the common cause of Liberty ringing in our Ears, We have been invited to battle, bloodshed and

IV THE DIE IS CAST

destruction. The Cause of public Liberty must have a place in a System of Politics, and so must the common cause of humanity in a System of Morals. But wise and good Men know that it is perfectly consistent with our regard to the public cause of liberty, as well as the public cause of humanity, to regard ourselves, our families, our properties, and our Domestic comforts and that violent and illegal Measures even in the most necessary struggles for Liberty can never be justified till all legal and moderate ones have failed.

Think not however, Gentlemen, that I have a wish to damp that ardor for legal Liberty so Natural and so becoming the Character of British Subjects, or that I am desirous to divert your Minds from a Concern for and attention to the common rights of your fellow Subjects as Members of Society; but let this Concern and attention be well founded, let them be founded in reason and cool reflection. Every individual hath an interest in the public tranquility, which once destroyed all private rights will sink and be absorbed; and if Liberty and the Common rights of the Subject are really the objects in view, let it be remembered that Liberty is never more in danger than when it vergeth into Licenciousness—Liberty must ever be founded in Law, and protected by it.

I doubt, Gentlemen, this word *Liberty* so much talked of, and at this Time thought to be so much in danger, is not properly understood even by those who pretend to be the warmest advocates for it. The Idea I conceive we ought to have of real legal Constitutional Liberty, is, that it consisteth in the enjoyment of our lives, our persons and our properties in security; to be free Masters of ourselves and our possessions, as far as the known Laws of our Country will admit; to be liable to no punishment, no confinement, no loss, but what those Laws subject us to! This I take to be a description of a free People, this the degree of Liberty which by the British Constitution is the Birthright of every subject of that Constitution.

If we then as British Subjects may Claim and are justly intitled to these invaluable Priviledges, he is the true Patriot, he is the Real Friend of Liberty, who shall attentively Watch and carefully point out every attempt to abridge or violate any of these known and established rights, tho' the attempt should be made under the specious pretence of acquiring New Priviledges or Strengthening and conforming those we now possess.

Allow me therefore Gentlemen to express my fears that the Town and County Meetings held of late in the Provinces,² so far from being productive of the good effects pretended by some, and so eagerly expected by others, will in the event become most dangerous expedients, and be fatal precedents, if not timely checked, to overturn the Rights and priviledges of the People and totally destroy the Peace of the Community; for I consider these Meetings, with the Election of Committees, whilst the Power and Authority of such Committees remain undefined by Law, to be a most dangerous popular encroachment upon the established Constitution.

Some degree of good order and decorum may perhaps have hitherto been observed in these public Meetings in this Province; but when we consider the Language and sentiments held forth at some of those Meetings in other Governments, when we consider the progress of human passions inflamed in a popular cause, uncontrolled by Power or unawed by Authority, is it to be expected that there will always, if ever be found coolness and moderation enough at such Meetings to resolve, that, hitherto will we go and no farther? I think Gentlemen I have sufficient ground for my apprehensions from what we know have been the

transactions of Committees in other Colonies—and indeed History sufficiently evinceth that it is of the most dangerous consequence so far to give way to popular clamors, as to make the least breach in the Constitution thro' which Million[s] of abuses and encroachments will certainly in Time force their Way. It is a great excellency of our Constitution that the Duty and Authority of every officer of the Government is nearly if not absolutely ascertained by established Law. But the mischief to be dreaded from popular Meetings or Assemblies of the People assuming Power over their fellow Subjects, be what will the occasion or pretence for the exercise of such Power, is, that when once they have begun the exertion of such Power they never set down quietly with a certain share of Power, or propose to declare what share of Power is their due, or to what extent it shall operate, 'till by degrees tho' perhaps under the pretence of preserving Liberty, absolute Power Tyranny and Arbitrary sway is introduced and established, and manifold instances may be produced to show that a Tyranny of the People has been the worst and most fatal of Tyranny. Therefore Gentlemen whatever New Plans or popular devices may at this time be struck out by Committees or others under the specious pretence of extending enlarging or securing your Liberties, if they shall be found in their operation really to infringe the legal established Constitutional rights of the Subject, the good People of this Province ought not to be bound by such devices. And surely, Gentlemen, you will not suffer yourselves to be so far captivated with the Novelty of these Devices, as to assist, by your approbation of them, in overturning a Constitution, under which you and your forefathers have lived in all the security and happiness which Men can reasonably expect to enjoy in Society. Beware Gentlemen, lest whilst you are contriving every Mode of Opposition to what is called a System of Tyranny three thousand Miles distant, you do not by your conduct give countenance to a real Tyranny and Arbitrary Power at your own Doors.

Perhaps it may be thought that tho' some irregularities may have been committed in this and other Provinces through the influence of Committees, they are not of such a nature as to Warrant this alarming Language. Believe me Gentlemen my apprehensions are more for your sakes than my own—you have much more at Stake in the present Conflict than I have but these are times when every Man ought to speak out freely and deliver his sentiments. We are now in boisterous Weather—certain Persons seem to have a desire to seize the helm, of whose skill and designs I have some doubts; and if the Vessel is among Rocks and sands, the voice of a Passenger, or even the meanest of the Crew, who in the hour of danger can give good advice ought to be attended to. For my Part, I know no other rule to go by, than the Laws of the Land and the Principles of the Constitution; and if they are trampled upon and overturned, mischiefs of the worst kind must necessarily follow. Let us then bring the Conduct and proceedings of Committees in general to this Test, and see if we have any ground for apprehension by their continuance. I speak of Committees in general; for tho' perhaps those in this Province have not yet gone into such excesses as in other Governments, yet as they have all the same Authority for their proceedings, it must depend upon their own will and pleasure how far they will proceed, or where they shall Choose to stop.

I will not recount any of their proceedings, but content myself with asking a few plain questions, the answer[s] to which will demonstrate whether they ought to be approved of by me, or countenanced and supported by you, and the good People of this Province. Has any one been deprived of any rational enjoyment of his life thro'

IV THE DIE IS CAST

the influence of Committees? Has any Mans person been insulted or abused thro' the influence of Committees? Has any Man been deprived of his Property? Has any Man been punished? Has any Man been confined thro' the influence of Committees? Has the Liberty of Speech or the Liberty of the Press been restrained thro' the influence of Committees? In short have they enjoined the People what is not by Law enjoined or prohibited the People what is not by Law prohibited? But after all for what purpose are Committees now kept up? That they are not absolutely necessary even in a Political point of view, is apparent, for it is well known that many Towns, I believe some Counties,³ in this Province are without them, and find their affairs go full as well. If they are to be considered, or if they consider themselves, as public Censors of the Manners and behavior of the People; let it be known that you Gentlemen, as Grand Jurors, are the only Censors of the Manners and Morals of the People known in the Law. And to this Censorial Office you are called by the Constitution, but the authority Usurped by Committees is a perfect Stranger to the Law and the Constitution.

I observed before, Gentlemen, that we all know the occasion of our present unhappiness in the Colonies. The cause generally assigned is the cause of Liberty. I wish in the end it may not become a struggle with our Parent state for Power.

Much, perhaps too much has been said on the subject of the Legislative Authority claimed by the Parliament of Great Britain over the Colonies. Much, perhaps too much also hath been said and done to stimulate the People against this claim. I shall content myself with only observing that exasperated as the Colonies at present seem to be against the British Parliament, we all know the Parliament, as the Supreme Legislature of the State, has been in the exercise of the Power of making Laws to bind the Colonies from time to time, almost ever since the settlement of the Colonies and with which the Colonies have constantly acquiesced till of late years. And indeed it cannot be disputed but that in every Government there must be a supreme and absolute Power, which Supreme Power is above every Soul contained in the same society or Government; that the Supreme Power in every Government and Nation is the Legislative Power of making and altering those Laws of it, by which every Man is to be bound, and to which he is to yield Obedience; and that by our Constitution this Supreme and absolute Power is lodged in Parliament.

Time was, Gentlemen, when the Colonies knew, felt and acknowledged their best security in the Power of Parliament. Parliament in the Political Constitution, like the Heart in the Natural Body, has from Time to Time transmitted spirit and vigor to every part of the Body Politic, whereby the whole structure of the British Government of which these Colonies must be considered a Part, has been Nourished, invigorated and supported. And the Colonies, firmly united with Great Britain, are then Members of a Constitution the envy of the World, are parts of a State composed of the freest, bravest and greatest People under the Sun. These considerations, one would think, should dispel all Murmurs, Jealousies and discontents in the Colonies, and instead of harbouring the most distant thought of a seperation from Great Britain, the principal grievance which the Colonies ought to lament is, that their distant local situation from Britain makes renders it inconvenient for them to participate in a share of the Supreme Government. This circumstance may have occasioned Measures to be taken, of which the Colonies may have cause to complain; but their Complaints have been fully Stated and will be heard. Instead therefore of keeping up a spirit of Clamor, murmur and discontent, I might add downright

NEW JERSEY IN THE AMERICAN REVOLUTION

defiance, avowed resistance and open violence, every friend of his country, every friend to Peace order and good Government will ardently wish that some prudent measure of accommodation, worthy a grateful and loyal People, may be proposed worthy the dignity and wisdom of our Parent State to attend to. Then may we hope that every black Cloud which now hangs over the Colonies, will be dispersed; that past Offences will be no more remembered, but joy be seen in every face, content be felt in every heart; that the Sceptre of Great Britain will continue to be held over the Colonies for their protection and security, and not like a Rod of Correction for the Punishment of Offences; that the Inhabitants of the Colonies convinced of their happiness as subjects of a Monarch whose Gracious Language to his People is, that he has, that he can have no interest separate from the Interest of his subjects, will therefore vie with each other in every testimony of active Loyalty where it is so justly due. I will conclude Gentlemen with my fervent Wish that all the subjects of the Dominion, convinced of the necessity of an happy union, May be of one heart and one mind to contribute to the Support of our Excellent Constitution, and that it may long, very long, continue, the uninterrupted source of good Government, good Laws, Liberty, Peace and Plenty to all without distinction, who are intitled to the Blessings of that Constitution.

1. The "Coercive Acts" directed toward Massachusetts, which were passed by Parliament in the spring of 1774 as a result of the Boston Tea Party.
2. The popular meetings called to endorse the action of the Continental Congress and implement the Association during the winter of 1774-1775.
3. Ten county committees were operative by April 1775; there is no evidence of such organizations in Bergen, Cape May, and Sussex Counties.

11 Elias Boudinot to the Morris County Committee

[Edwin A. Ely Collection, New Jersey Historical Society. The manuscript is a rough draft; I have incorporated interlinear and marginal additions and revisions into the text as was the author's intent. The document is not signed, but is in Elias Boudinot's hand.]

In the spring of 1775 Elias Boudinot, Elizabethtown lawyer, stood among the leaders of opposition to Great Britain in New Jersey. A strong Whig, a wealthy and respected member of his community, and the possessor of a prudent political sense, Boudinot played an important role in shaping the course of the resistance movement. It was in part because Boudinot and the other popular leaders were not radicals and were willing to counsel moderation that