

8 Robert Lawrence to the Legislature on Martial Law

[Manuscript Collection, 129, New Jersey State Library.]

Because of the exigencies of wartime and the nature of their alleged offenses, persons charged with or suspected of treasonous acts against the state were subject to the authority of both civilian and military officials. Predictably, the confused and conflicting spheres of jurisdiction led to abuse and injustice. For while civil action usually followed prescribed legal procedures, martial law was often imposed without regard for due process and at the whim of a given officer. Throughout the war there were frequent complaints about military personnel, especially militia officers, using their authority to interfere in private matters and employing excessive—and sometimes illegal—means in dealing with Loyalists and political dissenters. Brigadier General David Forman, who was also the principal leader of the Monmouth County Committee of Retaliation, was one of the most notorious offenders (see Doc. 16). It was bad enough that men like Forman misused their power, but the real tragedy was the lack of an effective means for aggrieved citizens to seek redress. That civil liberties and due process of law were casualties of the revolutionary war was well-known to Robert Lawrence, a farmer from Upper Freehold, Monmouth County, who tried in vain to obtain action from three different governmental agencies on the complaint described below.

October the 7th 1777

Worthy Patriots, for such you was Esteemed to be by Your Constituents when they appointed and Authorized you to watch and Guard their Just Rights and Natural Priviledges according to the Directions of our Present Form of Government Commonly called the new Constitution.¹ From Information that I Received that one David Foreman² an Officer in the Millicia with Others in the County of Monmouth had an arbitrary maner Presumed to Banish some Women out of this State into the Enemys lines, Whereupon I apprehend that our new happy Constitution had Received a very Dangerous Wound in its Infancy in the very first Year of its Existance and that Unless a very speedy Remedy was Applied it would Either Languish by its Wound and Dye, Or if it survived it would be so decrept and deformed That it would never be able to Support itself. This Induced me to lay before the Governour and Council of Safety on the 28th day of last August a Remonstrance Wherein I set forth (To the best of my weak Abillity) According to my Information The aforesaid Arbitrary Strech of Power by the said David Foreman and Others, and that my Daughter Mary Leonard the wife of Thomas Leonard³ then and yet a Prisoner at Reding town⁴ in Pensilvania, was one of those Banisht Women. And after I had made some Remarks on this Dangerous Daring Enterprise I Concluded with hoping That they would make as Dilligent an Inquiry into the Matter as they would into the Aproach of the Enemy seeing our Constitution is in Danger on both sides. My Daughter is now Returned from the Enemy and yet a Prisoner, and by Permission of our Chief Justice⁵ got leave to lay her Complaint before the Governor

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and Council, Where I Attended with her last Saturday.⁶ And there to my Great Astonishment I heard Arguments, That I never suspected to come from the Mouths of Freeman much less from those who are chosen Gaurdians to our Freedom. And that was a Justification of the said David Foremans Acting under Martial Law, in his bold Stroke up on the very Existance of our Constitution and Freedom And that under Pretence of General Washingtons Express Order⁷ (Which I am far from believing). But if it is so The General surely never Expected that David [Forman] would do it himself without a Court Martial as he has done without following the rules of Either Martial or Common Law. He has chose to Act against all Christian Laws, and follow the Dictates of some African Tyrant. It is but next Week when all Your Power that your Constituents Intrusted you with, Returns again in Hands of the People,⁸ And I cannot perswade my self that you will Willingly leave our Infant Constitution Languishing and Dying of the aforesaid wound Without some marks of Abhorrence of so Insolent and daring Attempt upon our Lybertys, That has Already Cost us much blood and Treasure to Preserve Which though you have not time to try and let him Answer for himself if any Answer he has Yet it may be done by Resolves, or otherwise That you In Your Wisdom shall think fit to Recommend it to the next Assembly for their most Serious Consideration.⁹ That Ages to Come may look back to the Original of their Freedom and see that the very first Assembly that ever sat upon the new Constitution, Did their utmost Endeavour to Preserve it, and bring those that Violate it to Just Punishment.

In Answer to the Gentlemen of the Councils Argument to Defend David Foreman under his Pretence of Martial Law I answer If he had Acted by that Law Which he had not He ought first to Proclaim it That the People Might Know By What Law they are Governed. (As I told those Gentlemen last Saturday; and now I have further to say That the Common Law must Rule and be the Guide of Government Untill such Proclamation is made which is Never done but in the Greatest Extremity and Even in such times but Seldom, For it is Abhored by the English Constitution Because it Renders the Millitary Independant of and Superior to the Civil Power and is one of the Articles complained of against the Administration of the Present King of great Britain by the thirteen United States. See Your own Votes and Proceedings page 83.¹⁰ See also in page 56 the Joint Opinion of General Washin[g]ton and our Governor Concerning the State of the Milliti[a] in Contradiction to David Foremans Preten[ce] of the Generals Orders.¹¹

ROBERT LAWRENCE

1. See Sec. VII, Doc. 6.
2. David Forman, brigadier general in the state militia and leader of the Monmouth County Committee of Retaliation. See Sec. XI, Doc. 17, note 2.
3. Thomas Leonard (1715-?), wealthy Freehold farmer and former sheriff, joined the New Jersey Volunteers (Loyalist), served two years in a prisoner of war camp, suffered confiscation of his property in 1779, and subsequently took up exile in Nova Scotia after the war.
4. Reading, Pennsylvania, site of a major prisoner of war camp.
5. Robert Morris, who was chief justice of New Jersey from 1777-1779 (see Doc. 9).

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6. According to the minutes of the Council of Safety, Mary Leonard, who "was sent over to New York Sometime ago by order of Brigdr. Genl. Foreman and, hath lately returned to this State," appeared on October 4 complaining of "indisposition" and requesting "that she may be permitted to tarry in Monmouth Co. until she be reinstated in her health, and that she be suffered to pass to Easton, to see her Husband, and from thence to return to the said Co. there to abide." The councilmen agreed that she "be permitted to pass to Easton, or to any other place in which her Husband may be fixed; and to remain with him; and that she go thither without delay." *Minutes of the Council of Safety of the State of New Jersey* (Jersey City, 1872), p. 141.

7. On December 31, 1776, General Washington issued a proclamation which called upon the militia to rally and to assist in driving the enemy out of New Jersey; the intent was for the militia to engage in military, not political activities.

8. The occasion of the first general election to be held in the state under the constitution of 1776.

9. The assembly received Lawrence's petition on October 7 and ordered a second reading; two days later it was voted to defer consideration of the complaint until the next session. On November 7 the memorial was referred to the standing Committee of Grievances where it was apparently tabled. *Votes and Proceedings, September 3, 1777-October 11, 1777* (Trenton, 1779), pp. 193, 197; *Votes and Proceedings, October 28, 1777-October 8, 1778* (Trenton, 1779), pp. 11, 13.

10. On January 31, 1777, John Hancock, president of the Continental Congress, sent a copy of the Declaration of Independence to the several state legislatures requesting that they incorporate the text into their journals; the New Jersey assembly did so on February 17. On page eighty-three of the *Votes and Proceedings, August 27, 1776-June 7, 1777* (Burlington, 1777), there is the charge against George III that "he has affected to render the Military independent of and superior to the Civil Power."

11. On February 3, 1777, Governor William Livingston read into the record of the lower house a letter he had received from General George Washington on January 24. Writing from Morristown, Washington urged the passage of a law which would effectively regulate the militia and, among other things, prevent the troops from plundering and abusing civilians. Adequate legislation was not forthcoming.

9 Robert Morris to Gouverneur Morris

[Morris Family Papers, Alexander Library, Rutgers University.]

Not all Jersey Whigs believed that force and intimidation were always the