

*New Jersey in Flux: Governor William Livingston in 1777***By Jonathan Mercantini****DOI:** <https://doi.org/10.14713/njs.v9i2.329>

In 1777, New Jersey was the central theater of the American War for Independence. Throughout that year, Governor William Livingston found himself combating loyalists and low morale while also trying to establish an effective governing structure for the state. Livingston would use his considerable administrative and oratorical skills to provide effective leadership during this crucial period of the conflict.

As winter descended on New Jersey late in 1776, the state's newly elected governor was nowhere to be found.¹ A year that had started with considerable promise had turned against the patriot forces in dramatic fashion. The Continental Army had been out maneuvered and out fought, pushed out of New York City, and forced to retreat south and west across the Garden State, hardly stopping until they had crossed into Pennsylvania. While the dramatic victories at Trenton and Princeton served to stem the British tide, the American forces, ensconced at Morristown for the winter, and patriots living in New Jersey, were far from safe. The early days of 1777 held more hope but also more danger for the state and its residents. New Jersey was squarely the central theater of the fighting, and the British were preparing an assault on the patriot capital in Philadelphia.

The situation called for strong and effective leadership. But, the was governor was missing, and given the sentiment of the time in which strong executives were seen as threatening, General Washington, John Hancock (then the president of the Continental Congress), and others seeking to advance the patriot cause in the state solicited the legislature. The New Jersey Assembly,

¹ There are no letters from Washington to Livingston from December 1, 1776 to late January 1777, so it seems quite plausible that Livingston was near the Continental Army, or what remained of it, during this period.

however, was reluctant to take the actions required, which included a strong militia law, obtaining needed and necessary supplies for patriot forces, and combating loyalist influence across the state. Achieving this would require stronger laws, functioning courts, and better morale among those supporting the rebellion.

William Livingston, the first popularly elected governor of New Jersey, returned to the scene in February 1777. Although he had not been the assembly's first choice, his selection would prove to be a prudent one.² Certainly Livingston was a widely known and recognized leader, even if he was a relatively new resident of the state. He had been selected as a delegate to the First and Second Continental Congress. In addition, while he may have been a moderate who continued to hope for reconciliation well into the spring of 1776, he had fully embraced the cause of independence by the time of his election as governor.³ The year 1777 would prove to be a crucial one for the independence movement in New Jersey and America as a whole. Caught between the two capitals, New Jersey found itself squarely in the middle of the conflict, and both sides were eager to control the population, the land, and the resources, which were crucial for the support of these armies. By focusing on Livingston's management of the newly independent state, we can see the challenges that needed to be overcome to successfully prosecute a civil war in the Garden State while also securing the basic infrastructure needed to govern. Chief among these issues was the persistent strength of loyalists and limited patriot militia support, the lack of an effective government structure, and a powerful British Army occupying much of the northern parts of the state.

² There is no documentary evidence from the legislative debates that led to his election. Richard Stockton was the frontrunner, but confusion as to whether or not Stockton would serve had led to Livingston's election in August 1776. James Gigantino, *William Livingston's Revolution* (University of Pennsylvania Press, 2018), 83–85.

³ Gigantino, *William Livingston*, 84.

Using never before published letters and other sources for researching Livingston, focusing on the year 1777, when New Jersey was the central theater of the war, Livingston's leadership and the nature of the conflict comes into focus. Over the second half of 1777, Livingston traveled more than 360 miles all over the state from Sussex County to Haddonfield and back to Central Jersey.⁴ Livingston's extensive correspondence—including some heretofore unpublished and uncollected letters at his home, Liberty Hall, now on Kean University's campus—shows him communicating on military strategy with General George Washington, urging the New Jersey Assembly to support critical measures including appointing new militia officers, passing laws and establishing courts necessary for administering the state, and taking affidavits on New Jersey residents accused of supporting and supplying the British Army.

Leading a war-ravaged state was not, however, the career he had intended when he had retired from his legal practice in New York City and moved to the then-rural splendor of Elizabethtown, where he had purchased over 180 acres and built a "modest mansion" in the early 1770s. Livingston's retirement was short-lived, as he was elected to the First Continental Congress in 1774, shortly after the marriage of his youngest daughter, Sarah, to another delegate, John Jay.

Livingston's wife, Susannah French, had been born and raised in New Jersey and Livingston fully embraced his new adopted state. For the next 14 years, Livingston would serve as the center of New Jersey's political establishment and government. Although those who served with him stated that he was a poor speaker, Livingston was perhaps the preeminent American propagandist of the revolutionary era. While he would remain committed to the idea of a republic, Livingston's core philosophy was a pragmatism that infused his service as governor with an emphasis on achieving what he believed necessary to secure the political and economic future of

⁴ I remain grateful for the help of Millburn High School student Dean Ah Now who worked on this mapping project.

the newly independent state.⁵ In dealing with his opponents in state politics or at national conventions, Livingston regularly demonstrated an ability to make the case for his positions while accepting compromises that he found necessary in order to advance these ends.

Livingston served in both the First and Second Continental Congress, though he departed Philadelphia before the vote on the Declaration of Independence. William Livingston was not in support of independence at first, largely due to his belief that the colonies lacked proper preparation for a war with Great Britain. Both in Congress and at home, the tide was turning toward independence in spring 1776. In June 1776, New Jersey's Provincial Congress elected a new slate of delegates to the Continental Congress, and Livingston was recalled to lead the militia. At the time of his recall, Livingston was the only New Jersey delegate in Philadelphia, and thus controlled the colony's vote. As Jim Gigantino (a leading scholar of New Jersey in the Revolutionary Era and the author of the most recent Livingston biography) demonstrates, Livingston was uncomfortable with the radical politics that had come to dominate New Jersey's Third Provincial Congress and which he saw as dangerously leveling.⁶ Despite his misgivings, once independence had been declared, Livingston threw himself wholeheartedly into the patriot cause. He cannot be accused of ever demonstrating second thoughts or anything other than a full commitment to independence.

Instead, Livingston returned to the northern part of the state to serve as brigadier general of the New Jersey Militia, a title with which he was increasingly uncomfortable. Despite lacking confidence in himself as a military commander, Brigadier General William Livingston succeeded in his brief tenure because of his excellent political instincts. In the summer of 1776, the primary tasks at hand were shoring up the state's defenses and lobbying for more support for the New

⁵ Caleb Dagnall, "Statehood and Sovereignty: A Case Study of William Livingston from *Philosophe* to *Federalist*," *New Jersey Studies* 5, no. 1 (2019), <https://doi.org/10.14713/NewJerseys.v5i1.153>.

⁶ Gigantino, *William Livingston*: 66–69.

Jersey troops. These were challenges for which Livingston was well suited.⁷ Livingston was elected governor of New Jersey in August of 1776, a position he eagerly accepted and for which he was better suited. Although the state legislature intended the office of governor to be only a weak executive office, the demands of leading the state through a civil war, as well as the limitations of the state assembly, would combine to enlarge Livingston's authority during the war years and beyond.⁸

The governance needs in New Jersey, as in the other newly independent states, were varied and unprecedented. With strong British and Hessian forces occupying much of the state, New Jersey was in a state of civil war because the population was divided between loyalties to their king or to a new and far from fully established government. While the promise of independence might have been appealing to some, the prospect of securing that independence was far from assured. Moreover, many others did not want to sever the tie with Great Britain.⁹

Livingston was creating a state government essentially from scratch. First and foremost, he had to overcome the state legislature and the constitution that body had drafted and adopted in 1776. Like the other constitutions of the newly independent states, these governments, coming as they did in response to a rebellion against a king perceived as too powerful, strengthened the legislature at the expense of the executive.¹⁰ Of course, as most political theorists had long accepted, an emergency required a strong, unitary executive. In early 1777, Livingston set about doing that. By winning approval for an executive committee comprised of a few key members of the legislature, Livingston took advantage of the lack of executive functions elsewhere and

⁷ Gigantino, *William Livingston*, 77, 81, 84–85.

⁸ See Gordon S. Wood, *The Creation of the American Republic, 1776–1787*, 133–138 on the weakness of governors and executives relative to assemblies in the newly constructed state governments.

⁹ Maxine Lurie's *Taking Sides in Revolutionary New Jersey* expertly analyzes the breakdown of patriots and tories in New Jersey.

¹⁰ Wood, *Creation of the American Republic*, 158.

empowered himself and the executive committee to take the necessary actions to secure the state and advance the patriot cause. This largely set the tone for Livingston's leadership as governor during the war years.

A review of the correspondence between the assembly and the governor in the winter of 1776–1777 shows that basic decisions, rules, laws, and customs had to be constructed. The first task, for a state partially occupied by a foreign army, was to enlist troops and pay, clothe, and feed them. George Washington highlighted some of these challenges when he wrote to the New Jersey legislature calling for them to pass a law, “laying a very severe penalty upon those who harbor or who fail to give information against deserters,” and calling for justices of the peace, military officers, and other officials to be especially watchful and apprehend any persons who left the army without discharge. For Washington, who was trying to construct a professional army, this was essential to order and discipline. For the residents of New Jersey, however, welcoming home their sons, brothers, and neighbors who had left the oft-defeated army was only reasonable.¹¹ The challenge of how to deal with deserters and British Army and tory militia enlistees, while strengthening the state militia and deploying forces to Washington's Continental Army, would be a major focus for Governor Livingston during the next several years.

Livingston restarted the bureaucracy of the state's independent government by giving what is perhaps best described as a “pep talk” to the assembly. Having had first made a name for himself as a propagandist, Livingston was no novice in terms of publishing pieces that expressed his political opinions. One such example is the *Independent Reflector*, a weekly journal founded by William Livingston, William Smith Jr., and John Morin Scott, that began publication on November 30, 1752. All three men provided essays that challenged the political, religious, and educational

¹¹ Washington to the Legislature of New Jersey, 31 January 1777. *Correspondence of the New Jersey Executive, 1776–1786*, 23–24.

history of New York, and the journal was considered a “Repository of Ancient and Modern Fugitive, Prose, and Poetical.”¹² Eighteenth-century British political publications of *Cato’s Letters* were extremely influential to Livingston in which republican principles instilled by the British monarch were questioned and religious liberty was advocated. Livingston, like other political writers, often utilized the pseudonym “Cato” in his propaganda pieces.¹³

He put all his literary skills to use in an address to the assembly on February 25, 1777. Livingston amplified the actions that loyalists had taken against the patriots over the past several months. While he may have been slow to embrace independence the previous year, his message here was unequivocal. He proclaimed the efforts of those patriots, whether under arms or supporting the cause through other means, to be “SUPREMELY JUST.” He concluded his address: “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 to draw from his hole the skulking Neutral, who leaving to Others the Heat and the Burden of the day, means in the Final Result, to reap the fruits of that Victory for which he will not contend. Let us be peculiarly assiduous in bringing to Punishment, those detestable Parricides who have been openly active against their native Country.”¹⁴

To an extent, the New Jersey legislature found Livingston to be a useful foil. His demands for militia service and economic sacrifice were often opposed by the legislature who were especially protective of their local constituents. With legislators elected annually under the state’s

¹² William Livingston, *The Independent Reflector, Or Weekly Essays on Sundry Subjects More Particularly Adapted to the Province of New York*, Milton Klein ed., (Belknap Press, 1963). See also Bernard Bailyn, *The Origins of American Politics* (Alfred A. Knopf, 1968, Vintage Edition 1970), 128–130.

¹³ Bailyn, *The Origins of American Politics*, 55. Bailyn specifically mentions Livingston and his use of the title “The Independent Reflector.”

¹⁴ Livingston to Assembly, February 25, 1777, https://www.NewJerseystatelib.org/wp-content/uploads/slic_files/imported/NEW_JERSEY_Information/Digital_Collections/NEW_JERSEYInTheAmericanRevolution1763-1783/11.5.pdf

1776 constitution, it was feared that requiring militia duty would greatly disrupt everyday life and lead to their electoral defeat. Time and again in 1776, when the patriot forces endured a series of defeats, local militias failed to turn out. Ultimately, the legislature would grant the governor additional power, enabling individual officials to place blame on Livingston for unpopular, though militarily necessary, laws to support the war effort.¹⁵

While Livingston was busy trying to rally and lead the New Jersey Assembly, he was also communicating to the population in general about goals and needs for the war. A gifted satirist, arguably the most accomplished of the revolutionary era, Livingston used his rhetorical skills to good effect in support of the patriot cause in New Jersey.

His first effort appears to have been a piece entitled “The Impartial Chronicle,” a rejoinder to the loyalist paper the *New York Mercury and Weekly Gazette*. Livingston outlined a series of ridiculous claims satirizing those supporting the crown including 500 elephants from the emperor of Indostan and 4,000 Laplanders from the king of Denmark for a winter campaign. Livingston enclosed a copy of his piece to George Washington who replied to him that Livingston’s piece “afforded me real pleasure.”¹⁶

As historian Robert Parkinson notes in his analysis, the satirical list of proxy enemies being recruited by the king was designed to inspire pro-independence readers. At the same time, it aimed to minimize the very real threat of the larger and more powerful British forces that would be brought to bear in the colonies.¹⁷ Parkinson’s central argument is that patriot leaders, among them Livingston, stoked fears of Americans by playing up the use, or even the potential use, of Black

¹⁵ Gigantino, *William Livingston*, 99–100, 106.

¹⁶ Nicole Skalenko, unpublished thesis, “William Livingston’s Revolutionary War Propaganda,” <https://sites.google.com/kean.edu/williamlivingstonsworld/enter-william-livingstons-world/william-livingstons-revolutionary-war-propaganda?authuser=0>. See also Washington to Livingston, 22 February 1777, Papers of George Washington, Founders Online.

¹⁷ Robert Parkinson, *The Common Cause: Creating Race and Nation in the American Revolution*, (OIEAHC, University of North Carolina Press, 2016), 324–326.

and native forces to quell the rebellion. He notes that while Livingston personally expressed his opposition to slavery, he did rely on racially driven appeals in several of his propaganda pieces.

Like Washington and others, Livingston further recognized the need for a patriot newspaper to counteract the propaganda of several loyalist papers in New York and Pennsylvania. Livingston succeeded in working with the Quaker printer Isaac Collins, who, with support from the New Jersey Assembly, launched the *New Jersey Gazette* in December 1777. Collins would be ejected from the Society of Friends for publishing the paper, as many Quakers saw that act as tantamount to taking up arms.¹⁸ Livingston contributed many essays and other information to Collins, both under his title as governor and a number of pseudonyms including Hortentious, Belinda, and Cato. Livingston used Collins's paper as an opportunity to counter arguments in the loyalist press regarding the war effort, the state of the armies, and the support for the patriot cause. The *New Jersey Gazette* would stand as an important news source for the entirety of the conflict. Livingston's effort in this regard reinforces the enormous challenges of governing a state in the midst of a civil war. He used every means at his disposal for advancing the patriot cause and he astutely recognized the need to reach a variety of audiences. In this way, Livingston embodied the cliché that "the pen is mightier than the sword." It was for Livingston.

While not the focus of this essay, another vital piece of business was regulating and regularizing the economy. The war effort, of course, required supplies of men and basic materials. But the depredations of the war, plus the economic opportunities generated by the war, led to calls for price controls, standardized labor rates, the elimination of monopolies, and the regulation of

¹⁸ Skalenko, "Revolutionary War Propaganda," 12.

paper money, all in the name of the war effort.¹⁹ Price controls would be passed by the assembly in December 1777 and published in the December 31 issue of the *New Jersey Gazette*.

By spring 1777, with patriot forces able to assert greater control in parts of the state, the governor's correspondence was filled with requests for instructions on dealing with "traitors" who had sided with the British in the winter of 1776–1777, only to try and return home as the British pulled back closer to New York. From the perspective of Governor Livingston and his militia commanders, traitors included those who had sided with the enemy's forces, traded goods and services with them, provided intelligence and information to the British, and especially sought to recruit more troops in New Jersey.

Dealing with these matters underscores the idea that the war period in New Jersey was a "civil war." In order to prosecute those who had turned against the state, and also in the name of asserting order, courts were reestablished in the various counties. Here we can see Livingston at work to re-create the government infrastructure necessary to return a semblance of order. Livingston drew upon his experience as a lawyer, politician, and father throughout his service as governor. He alternated between cajoling and demanding action of political and military leaders as well as civilians, all while traversing the state, which was essentially without a designated capital at the time; the capital was wherever Governor Livingston happened to be.

Significantly, Livingston did succeed in getting the legislature to approve the creation of a "Committee of Safety" to serve essentially as an executive committee of the legislature. This body, handpicked by Livingston for their support of him and the patriot cause, enabled the governor to act more quickly and forcefully than would the full assembly. While this centralized power into the governor's hands, opposite of the hopes and goals of the state's 1776 constitution under which

¹⁹ Minutes of the Commissioners Appointed to regulate Prices, March 31, 1777. Correspondence of the Executive, 36–44.

Livingston was elected, it was deemed necessary especially given the various British strongholds, the expectation of additional forays, and the need for swift response. For most of 1777, the governor and the Council of Safety, which Livingston chaired, ran the state. As Jim Gigantino argued in his recent biography of Livingston, his key role was of a “wartime bureaucrat.”²⁰ Although Maya Jasanoff states that New Jersey’s creation of a Committee of Safety came only after the Battle of Saratoga in October 1777, it was actually created much earlier. Therefore, while she notes that many states adopted stronger antiloyalist measures only toward the end of 1777 and in 1778, New Jersey, under Livingston’s leadership, had been doing so since the beginning of that year.²¹

Livingston was especially aggressive with regard to the punishment of “traitors,” New Jerseyans who had sided with the British. The issue of loyalists and loyalism in New Jersey was a regular concern for Livingston and patriots throughout the state. While there is no way to fully count their numbers, estimates range around 20–30 percent of the state’s population. Maxine Lurie notes that New Jersey had more loyalists than other areas and provided a disproportionately higher number of those who served in loyalist militias.²² This may be because the fighting was on their doorstep. Certainly, Lord Howe was pleased by the number of New Jerseyans who took a loyalty oath to the crown during the invasion in fall 1776, and loyalist militia and residents willing to support loyalist efforts remained considerable for the duration of the conflict.

Stiff punishments were to be meted out to those who traded with the enemy; the families of loyalists were sent to British lines, typically New York City, and deserters were given a choice of enlistment in the Continental forces or death. These policies would be codified into law when,

²⁰ Gigantino, 5–6 and 106–107.

²¹ Maya Jasanoff, *Liberty’s Exiles* (Vintage Books, 2012), 40–41.

²² Maxine Lurie, *Taking Sides in Revolutionary New Jersey: Caught in the Crossfire* (Rutgers University Press: 2022), 132.

in June 1777, Livingston secured an Act for Free and General Pardon, which enabled those who had sided with the loyalists to take an oath of loyalty to New Jersey or else their property would be confiscated. After August 1, those who were captured on their way to cross into the British lines were to be executed unless they agreed to serve in the Continental Army.²³

Implementation of this policy is best seen following the capture of a large group of loyalists from western New Jersey (chiefly Hunterdon County) and eastern Pennsylvania who were captured in central New Jersey while headed to the British outpost on Staten Island to enlist in the king's service in the summer of 1777. These men were confined at the Morristown jail. Livingston wrote to George Washington, outlining his plan for dealing with these men, consistent with the Pardon Act and his own sense that loyalists needed to be dealt with harshly.

James Moody, a British Lieutenant, was among the men sent into New Jersey and Pennsylvania to recruit loyalists. He soon received orders to join the army with the men they had enlisted, or could enlist:

In consequence of these instructions, they set out with about 100 Loyalists (not more than that number, from the change of prospects, were then to be prevailed upon to leave their own country: or. if it had been otherwise, the time was too scanty, being not more than 48 hours, to collect them together, which, it must be obvious, was to be done only with great caution and secrecy), on a march of upwards of 70 miles, through a well inhabited part of the province. The rebels pursued them: and, after several skirmishes, at length came upon them in such force, near Perth-Amboy. that they were obliged to give way and disperse.²⁴

More than 60 of the party were taken prisoners: 8 only, besides Moody, got within the British lines.²⁵ These prisoners, after being confined in Morristown jail, were tried for what was called high treason. Moody added in a note at the bottom of the page:

²³ Acts of the General Assembly of the State of New-Jersey. At a Session begun at Princeton on the 27th Day of August, 1776, and continued by Adjournments till the 11th of October 1777. 12 May–7 June 1777 sess., 62–65, (1777).

²⁴ James Moody, "The Narrative of Lieutenant James Moody," *Acadiensis* 1, no.2 (Spring 1972): 76.

²⁵ Moody would continue to confound Livingston and others for the duration of the war. He intercepted dispatches from George Washington on three occasions and managed to escape West Point even after being captured. Lurie, *Taking Sides*, 153–154.

Was not the taking arms against the King, at least as high Treason as the fighting against their new formed self-created states? Yet our generals suffered these Executions of the Loyalists to go on: without ever attempting to put a stop to them by threatening to Retaliate, nay they would not permit the Associated Loyalists to save their Friends, by threatening to execute any of those Rebels, whom these Loyalists had taken prisoners and whom they then held in their own Custody.²⁶

Livingston wrote to George Washington a few weeks later, informing him, “There is a considerable Number of State Prisoners, (I suppose seventy odd) who were taken on their way to join the Enemy on Staten Island, now confined in Morris Jail, the greater part of whom will be convicted of high Treason. As sound Policy will require the Execution of the Ring-leaders; so Humanity and Mercy will interpose in behalf of the more ignorant and deluded.” Livingston continued,

The latter being the Character of the Majority, I presume they will be pardoned on Condition of their enlisting in our Army, if your Excellency has no Objection against admitting them. As I am convinced that they embarked in the Cause of the Enemy from no real Prejudice against ours, but from the delusive and splendid Promises of artful recruiting officers, which they are now persuaded were altogether villainous, I presume they will not upon that account, be the more prone to desert; but probably in order to efface the Ignominy of their former Conduct, & to demonstrate their Gratitude for the Clemency shewn them, be the more studious of manifesting greater Fidelity to the Cause of America.²⁷

A petition by several loyalist prisoners from the summer of 1777 cited harsh living conditions in the Morristown jail, including limited access to water and the prevalence of disease in the unhealthy environment. They wrote that as many as 50 people occupied a space of 18 square feet, but conditions seemingly had improved by the fall, according to these same prisoners.²⁸

²⁶ James Moody, “The Narrative of Lieutenant James Moody,” 76.

²⁷ Livingston to Washington, Nov. 5, 1777, <https://founders.archives.gov/documents/Washington/03-12-02-0123>.

²⁸ “Tory Prisoners describe Conditions in the Morris County Jail,” https://www.njstatelib.org/wp-content/uploads/slic_files/imported/NJ_Information/Digital_Collections/NJInTheAmericanRevolution1763-1783/8.5.pdf

Livingston updated Washington a month later, writing, “Of the Prisoners condemned at Morris for attempting to join the Enemy, 23 are pardoned on Condition of inlisting during the War—9 reprieved till the 2nd of January next and two to be executed tomorrow.”²⁹

Over the course of the next month, Livingston received numerous appeals from the family and neighbors of the captured men. These followed the same general pattern of acknowledging that the person had been engaging in conduct against the state, but that they had done so only because they had been led astray by others, sometimes, but not always, named in the petition. As the wife and mother of Cornelius Bogart wrote, “are sorry to say they have nothing to offer in mitigation if his offense, yet permit us to say we can not but have some flattering hopes that a Pardon may be obtained under the consideration that mercy has an unbounded limit...” they continued, “we beg leave to offer to his Excellency and the Honourable Council the [] sorrow of an affectionate wife, the future grief of a Tender Infant and the tears of an Ancient Mother.”³⁰ These petitions, and Livingston’s response to them, seem consistent with the common practice at the time. As his letter to Washington at the start of November indicates, he had already decided on a course of action.

With regard to the men who were pardoned, on condition of enlisting in the Continental Army, Livingston’s presumption was wrong as many of these men did in fact desert, and most of them returned to British military service. This was confirmed by James Moody’s narrative. Moody recounted that these men were “reprieved on condition of their serving in the rebel army. The love of life prevailed. They enlisted: but so strong was their love of loyalty at the same time. that, three

²⁹ Livingston to Washington, Dec 1, 1777, <https://founders.archives.gov/documents/Washington/03-12-02-0452>.

³⁰ “Petition of Catherine Bogart and Mary Westfall for the Pardon of Cornelius Bogart,” 17 November 1777, New Jersey State Archives.

or four excepted, who died under the hands of their captors, they all very soon after, made their escape to the British army.”³¹ Those that did desert had their property confiscated.

John Mee and James Iliff were two loyalists who were singled out because they possessed commissions from the British Army empowering them to recruit and enlist men into what was to be known as the Fifth New Jersey Volunteers. Having been captured, they were subject to the death penalty for high treason.

A letter from New Jersey Chief Justice Robert Morris to Livingston stated that Iliff “was armed and one of the officers commanding Company. Gave directions to form and fire if the militia should advance upon them. He was described as one of the leaders of the recruitment effort in Hunterdon County and had engaged a man to assassinate Richard Stevens and Moore Furman”³² for a reward of 1–200 pounds. Jonathan Palmer had been employed by the patriot leaders and it seems he was responsible for the information that led to the capture of these loyalists, though multiple efforts were made to discredit his testimony.³³

The wife of John Mee went so far as to visit the governor’s daughter, Susannah, to ask her to intercede on her husband’s behalf. Susannah did write her father with the details of their conversation. Mee’s wife pledged that her husband would comply with any terms of a pardon or have the sentence commuted to spend the rest of the war in prison. In the trial, Mee was revealed to be a former British soldier who had deserted but then rejoined his company. He was alleged to have been at the head of the company and given the order to fire upon the militia as it advanced upon them. Mee had previously taken an oath of loyalty to the Council of Safety and been released. Being captured in the British service meant he was in violation of that oath.

³¹ James Moody, “The Narrative of Lieutenant James Moody,” 76.

³² See <https://www.state.nj.us/state/archives/guides/pfurm001.pdf>

³³ “Petition of James Illif to Governor William Livingston and Legislative Council Requesting Mercy, November 1777,” New Jersey State Archives.

The other man, James Iliff, submitted two petitions to Governor Livingston. In his first, which is more in keeping with those of other men, though written by himself instead of loved ones, Iliff acknowledged his guilt to the crime of treason, stating that he “has been an Enemy to my Country but a far greater one to myself and my unfortunate and numerous family.” He asked for mercy for the sake of his wife and five children.³⁴ This was a seemingly standard mercy request.

After he had been sentenced to death, Lieutenant Iliff submitted a second petition to the governor and council. In this he more fully outlined his service in the British Army and took issue with at least one of the charges against him, that of the assassination of Richard Stevens, which Iliff fervently denied, blaming another man, Palmer, for his murder. He then went on to explain his service to the crown, stating “from the prejudices in which he was educated and the strong presuppositions he had imbibed of the necessary dependence of the Colonies on the parent State and Essential to the supply of their Various wants and high Ideas he an Entertained of the Power of Great Britain to compel their subordination, he was led by the solicitations of others,” to join the British service. He requested parole or exchange, consistent with the conduct of Sir William Howe, the British commander in North America.³⁵

Despite these appeals, the state supreme court carried out the sentence of death. Livingston was in Princeton in early December and thus was not present himself at the hanging. “Two, whose names were Iliff and Mee were actually executed.”³⁶ Their executions, and the respite provided to nine other prisoners, were also reported in the *New Jersey Gazette* of December 10, 1777.³⁷

³⁴ “Petition of James Iliff to William Livingston and Legislative Council Requesting Mercy,” October 1777, New Jersey State Archives.

³⁵ “Petition of James Iliff to Governor William Livingston and Legislative Council Requesting Mercy, 22 November 1777,” New Jersey State Archives.

³⁶ James Moody, “The Narrative of Lieutenant James Moody,” 76.

³⁷ A recent essay giving examples of executions on both sides does not mention Iliff and Mee. Louis Arthur Norton, “Justice, Deterrence, and Fitful Revenge During the Revolutionary War,” *Journal of the American Revolution* (August 18, 2022), <https://allthingsliberty.com/2022/08/justice-deterrence-and-fitful-revenge-during-the-revolutionary-war/>.

A loyalist then living in Morristown wrote to Sir Henry Clinton regarding the execution of Iliff: “During his confinement and at the place of Execution he behaved with Great Calmness and fortitude, Declaring that He had Acted from a principle of Duty to His King and Enjyoy’d the Satisfaction of an Approving Conscience in his last moments.”³⁸

For the nine men who were granted a one month stay of execution, they were given a constant reminder of the fate that awaited them. “The Corps(e) of ILIFF & MEE were drawn on a Sled from under the Gallows & thrown Into the Room in which Dr. FORMAN & his companions are confined in Irons. And the Gallows was placed before their prison window.”³⁹

A close exploration of William Livingston’s leadership as governor in New Jersey in 1777 highlights several key themes. First and foremost, the War for Independence in New Jersey was most clearly a civil war, with efforts to recruit militia and military forces on both sides. Some men took advantage of these opportunities and others tried to avoid military service, offering allegiance to whichever side they happened to be dealing with in their neighborhood at the time but without a real commitment to either. The nature of the conflict led Livingston to conclude that strong actions were necessary. Finding men guilty of high treason, punishable by death, was not the norm, but Livingston deemed it necessary to send a strong message and he did so. At the same time he agreed to mercy—if enlistment in the Continental Army could be considered a mercy—for the lesser recruits.

While dealing with loyalism of varying degrees, Livingston was able to lead the state of New Jersey during the critical year of 1777. His effectiveness at maintaining a level of control

³⁸ Letter from Peter Dubois to Sir Henry Clinton, 3 December 1777, <http://www.royalprovincial.com/military/rhist/njv/njvexec.htm>.

³⁹ Dubois to Clinton, 3 December 1777.

over a divided population, partially occupied by a powerful opposing army, proved to be essential and effective. This leadership, at the height of a civil war, was never easy, but it was necessary.

His actions in many ways belied the seemingly moderate intellectual that Livingston had established as his public persona. While control of the Garden State may have been in flux, Governor Livingston was not. He held himself to a higher standard, cautious to seem impartial and not demanding sacrifices of others that he was not willing to make. While not as visible as some of his more famous contemporaries, Livingston's example would prove to be a powerful one. The faith of the legislature and the larger population that supported him would go rewarded with strong leadership, leavened with compassion, but always in the service of the overriding goal of winning independence.

The author wishes to thank Jim Gigantino and Maxine Lurie for their assistance with different parts of this essay. Much of this research was conducted as part of a grant from the National Endowment for the Humanities, a collaborative effort with Elizabeth Hyde of Kean University. Thanks are also due to Kean students, especially Caleb Dagnall and Nicole Skalenko, who have worked on this project and the creation of "William Livingston's World." See <https://sites.google.com/kean.edu/williamlivingstonsworld/about-livingston?authuser=0>.

Jonathan Mercantini is Acting Dean, College of Liberal Arts and Associate Professor in Kean University's Department of History where he has taught since 2007. Among his major publications are Who Shall Rule at Home: The Evolution of South Carolina's Political Culture, 1748–1776 (Univ. South Carolina Press, 2007), The Stamp Act of 1765, Broadview Sources Series (Broadview Press, 2017), and essays on slavery in South Carolina and New Jersey. His current research projects include Make History@Kean: William Livingston's World, an

exploration of the 18th Century Atlantic World funded by a Humanities Initiatives grant from the National Endowment for the Humanities.