Governor Josiah Martin: The Road to the Cape Fear

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It was a sunny March day in North Carolina in 1775, but the storm clouds kept blotting out the sun as they swept across the sound where the Neuse and Trent Rivers were united. Conscious of the approaching storm that made the light erratic in his study, Governor Josiah Martin, in his palace at New Bern, was busy answering his public and private correspondence. He could hear his children's happy voices as they played in the sun-dappled garden. He thought of his lively little boy, Sum, that they had lost the previous January. His secretary rose to close the door, but the governor signaled to him to leave it open. Childish laughter was a pleasant contrast to the raucous voices of the imminent General Assembly. Soon the assembly would meet again at his summons to discuss the pressing need for courts and the thorny problem of the Foreign Attachment Law. How like children the assembly members were, thought the governor, but dangerous children. They had supported the Boston Tea Party with their own tea parties in Edenton and Wilmington. They had responded to Parliament's Coercive Acts by supporting Massachusetts and defying law and order. Wilmington had called for a provincial congress in July, 1774, and John Harvey had convened the congress in New Bern in August, 1774, in direct defiance of the Crown and the governor. Despite Martin's proclamations, in September Harvey and the assembly had elected delegates to the Continental Congress in far away Philadelphia. Alone, embattled, and determined to fight the radicals' propaganda, Governor Martin continued to formulate his plans to uphold the royal prerogative and the rights of Englishmen as he saw them. A sudden clap of thunder cracked overhead, and he could hear the children's nannie calling them to the safety of the palace. A sudden gust of wind swept through the governor's office and scattered his papers.

On this 24th day of March, Martin wrote to his brother Samuel in London. He asked him to send his letters via South Carolina rather than to New York City. Martin did not trust the New York postal service because the northern radicals had access to the mails there. The governor reminded his brother Samuel that he was sorry he had given up his seat in the House of Commons because "your counsel is wanting in that Grand Assembly of the nation at this time of high frenzy & dissension. I take most kindly your friendly caution to be steadfast in my political duty." Martin had been steadfast in his political duty and for this he had received criticism and derision from the assembly members because of the attachment controversy and the lack of courts. Speaker of the House, John Harvey, had defied royal authority and Martin when he called for a convention to meet in New Bern on April 3, the day before the General Assembly was to meet.

Governor Martin moved to strengthen his already weakening position in the province by reorganizing his council. Of the fourteen members of his council listed by Martin in his dispatch to the Board of Trade on March 24, three were absent in England including the lieutenant governor, George Mercer, who apparently considered his office an emolument. Marmaduke Jones had resigned to return to England, and Thomas McGwire had received his mandamus but he had not yet qualified. Martin commented in his dispatch on one of his earlier nominees, Willie Jones. Jones had declined "the honor intended him." and since he had taken "so extraordinary a part in the present distempered times ... I conceive he is of very unfit principles for such a station." The governor recommended Hugh Finlay, one of the deputy postmaster generals, and Robert Munford and Thomas McKnight as possible candidates for the council. The Board of Trade considered Martin's request at their meeting on November 21, 1775, when it was too late to be effective. The Board did remove William Dry from the council, and it approved Martin's other request. Robert Palmer resigned his council seat on May 10, giving as his reason his health problems, but it should be noted that his resignation came after the problems of the April assembly and the Lexington Alarm of April 19, 1775.

Besides strengthening his council in March, 1775, Governor Martin began to reconsider plans for reinforcing Ft. Johnston, and a plan for recruiting loyal troops to support his government. A year before, Captain John Collet, who commanded Ft. Johnston near the mouth of the Cape Fear River, had expended £1500 to repair the fortifications. The assembly at first refused to pay for the repairs arguing that Captain Collet acted without their authority. Martin excused Collet's expenses without securing the House's approval first by explaining that the expense was necessary for the defense of the colony. On March 24, 1774, the assembly and council approved the appropriation, but apparently delayed in giving the money to Collet because Martin later had to ask Dartmouth, the Secretary of the State for the Colonies, for help in reimbursing Collet. Both the
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House and the council resolved that Ft. Johnston be abandoned at the end of the next session of the assembly. John Harvey wrote to Governor Martin on March 24 and told him that his refusal to give his assent to the establishment of superior and inferior courts was one of the main causes of trouble in the province. Harvey believed that the removal of the manner of attaining effects of foreigners was the chief reason why the court system was not approved. This was the royal message that Martin had been giving the assembly ever since the court quarrel was renewed in his administration. Harvey suggested that a law be designed not to harm foreigners and submitted to the Board of Trade. He hoped that the King would grant approval on this proposed law. Harvey believed the extension of the jurisdiction of inferior courts would aid the traders in the colony and he hoped the governor would support the House's efforts and approve the act for the good of the colony. It is interesting to note that Harvey finally came around to the attachment idea that Martin had been urging. On the other hand, given the temper of the colonists and the anger of the Massachusetts men just before the assembly was to meet, was Harvey sincere or was he trying to throw Martin off balance by drawing a red herring across the governor's path?

On April 2, the day before the convention was to meet in New Bern, Governor Martin met with his council. He advised them that he had received the King's commands to use all his endeavors to prevent the appointment of the delegates that would attend the second Continental Congress in Philadelphia. Since the convention was to meet the following day to choose these delegates, Martin asked his council for advice on which proper measures should be taken to prevent the meeting of the unlawful convention. The council was unanimous in its opinion that His Excellency had no other means than to issue a proclamation to forbid the holding of the proposed convention, and to declare that such proceedings would be highly offensive to His Majesty. The proclamation was issued and dated April 3, the first day of the convention and the day before the assembly was to convene.

Despite Governor Martin's proclamation the Second Provincial Convention of North Carolina convened in New Bern on April 3 with John Harvey as moderator. The proceedings of the first Continental Congress at Philadelphia were formally approved, including the celebrated association of October 20, 1774. All the delegates signed the association except Thomas McKnight from Currituck, who refused. McKnight had been nominated earlier by Governor Martin as a council member. The convention resolved that McKnight's intentions were "inimical to the Cause of American Liberty, and we do hold him as a proper object of Contempt to this Continent, and recommend that every person break off all connection, and have no further Commercial Intercourse or Dealings with him." They then resolved that their statement about McKnight be published in the newspapers of this and neighboring colonies. Earlier they had appointed William Hooper, Joseph Hewes, and Richard Caswell as their delegates to the second Continental Congress after fulsome praise for their past services. They prudently planned that in the case of the death of the moderator that Samuel Johnston, once more, be empowered on any future occasion that may require it to direct delegates to be chosen to meet in convention in the town of Hillsboro at such time as he shall think necessary. John Harvey died less than two months after this convention met. The convention also resolved that His Majesty's subjects had a right to petition the Throne for redress of grievances, and that such rights included a further right of appointing delegates for such purposes. Therefore,
the governor’s proclamation issued to forbid the meeting, and his proclamation afterwards, commanding the meeting to disperse were illegal, an infringement on their just rights, and thus ought to be disregarded as wanton and “ Arbitrary Exertions of power.” The convention adjourned on Friday, April 7.

Although there are two separate and distinct sets of journals in the Colonial Records of North Carolina, the Journal of the Proceedings of the Second Provincial Convention and the Legislative Journals, there was only one body of men meeting in New Bern. At this time body was called the convention and at other times it was called the assembly, depending on what the members were discussing. Both the convention and the assembly had the same man presiding, John Harvey. For the convention Harvey acted as moderator, and for the assembly he was the Speaker of the House. The clerk for the convention was Andrew Knox, and the clerk for the assembly was James Green, Jr.; an arrangement probably necessary to keep the journals separate. In the assembly there were 52 members who answered the roll call, and the convening had 67 members. Every member of the assembly was a member of the convention except Ralph McNair of Orange who later became a Tory. According to Colonel Saunders some of the men who were members of both the convention and the assembly are shown on the records to be members of the convention only. Saunders thought the omission from the assembly records could have been done by accident or design. Another reason there were more members listed for the convention than the assembly was that there were delegates appointed in some counties for special reasons, e.g., John Harvey’s county of Perquimans had an additional convention delegate who was Benjamin Harvey, possibly an illustration of patriotic nepotism or zeal. Still another difference in the two meetings were the dates convened and adjourned. The convention convened on April 3 and adjourned on April 7, whereas the assembly convened on April 4, and it was dissolved by Martin on April 8. Thus, the patriots stood firm on constitutional rights and defied the royal prerogative by outmaneuvering Governor Martin in the game of political one-upmanship. When the convention was sitting with John Harvey in the chair as moderator and the governor’s secretary was announced at the door, the convention automatically became the assembly with Harvey as a Speaker of the House waiting to receive the governor’s secretary with all the dignity of his office. It is tempting to imagine that Harvey must have exchanged a wink with the members or a slight bemused smile or a tense twitching of a facial muscle occurred, depending on his mood, just before the governor’s messenger entered the room.

Governor Martin addressed the assembly and the council in a joint session at the palace. He reminded them that they were “the only legal and proper channel” through which to lead the people away from sedition and insurrection by taking the great opportunity offered them now to serve their country and their king. He then directed their attention to the urgent necessity of solving the problems of finance and taxation to relieve the exhausted state of the public treasury, to establish by law a permanent court system, and to continue to support Ft. Johnston for the province’s defense. Despite the gravity of the situation (Martin knew the high stakes he was playing for, the willing cooperation of the assembly), the governor may have seen the irony of the situation when he called upon the gentlemen of the assembly to oppose the illegal meeting of the convention “appointed to assembly at this very time and place in the face of the Legislature.” Martin added that he had counteracted the illegal meeting and that he would continue to resist it by every means in his power. This appeal fell on deaf ears because most of these men were also members of the convention. In a conciliatory mood Martin concluded:

“I am sensible that the advanced season of the year requires your attendance on your domestic affairs: and I shall be therefore glad to find that your unanimity in the conduct of the very important business you are now met upon, affords me opportunity to conclude your Session, speedily, and happily.”

The next day Martin issued a proclamation forbidding all meetings for electing delegates to the Second Continental Congress.

The House prepared an answer to the governor’s speech in which they attested to their loyalty to the King but added that loyalty was a reciprocal duty that became incumbent upon both sovereign and subject. They argued that His Majesty’s subjects had an undoubted right to petition for a redress of grievances either in a separate or collective capacity and that they could not deem the convention an illegal meeting. Although they said the assembly was the legal representative body, yet the frequent prorogations “gave the people no reason to expect that the Assembly would be permitted to meet ‘till it was too late to send Delegates to the Continental Congress at Philadelphia.” The steps they had taken in the convention “resulted from a full conviction that the Parliament of Great Britain” had made the measures they pursue absolutely necessary. The committees appointed to the people in the colony in consequence of the resolutions of the Continental Congress were the result of necessity, not choice, as the only means left them to prevent the operation of those oppressive and unconstitutional acts of Parliament imposed upon America. They believed that the loyalty addresses, recently published in the North Carolina Gazette, were not “signal proofs His Excellency speaks of,” but a minority in the province “who could be found weak enough to be seduced from their duty” by the “base acts of wicked and designing men” to adopt measures contrary to the sense of all America and destructive of their just rights and privileges it was their duty to support. The assembly resolved to investigate the deficiency of public funds, but they could not provide for the establishment of Ft. Johnston. The assembly expressed their willingness to adopt a plan for the establishment of courts of justice. The assembly concluded that the “advanced season” would induce them to forward the public business with all possible expedition. It is interesting that the assembly used Martin’s rhetoric against him in this speech. As an illustration of patriot zeal in North Carolina, George Mason in Virginia sent to a friend “Martin’s Speech to his Assembly and their Address.”

The House on April 7 approved the proceedings of the Continental Congress. They were determined to adhere to its resolutions, and they would try to induce every individual in the colony to do so. The House approved the appointments of Hooper, Hewes, and Caswell as delegates to the Congress. They voted to thank these men for their faithful and judicious discharge of the important trust imposed on them during the late Congress. The House adjourned until ten o’clock the next morning, April 8, when the angry Governor Martin dissolved the assembly by proclamation. Thus, ended the last legislative body that sat in North Carolina under royal rule.
assembly was to have met on March 27, but Martin had to prorogue it from day to day until April 4 when a sufficient number of members arrived to make a house. Martin traced Harvey's activities of calling and convening the convention and his own two proclamations declaring the convention to be illegal. The council advised Martin to accept Harvey as speaker so that it would not be expedient to give a new handle of discontent to the assembly by rejecting its choice. Martin reluctantly agreed with the council although he considered Harvey's "guilt of too conspicuous a nature to be passed over with neglect." The governor added: "The manner however of my admitting him I believe sufficiently testified my disapprobation of his conduct while it marked my respect to the election of the House.

Martin reported to Dartmouth that when the House resolved itself into the convention on April 5, Martin sent his second proclamation by the High Sheriff to read it to them but not a man obeyed the request for dismissal. James Coor of Craven told the sheriff that he had read the proclamation and he could carry it back to the governor. Martin told Dartmouth that he laid this problem before the council and they advised that since the assembly had not under its name done anything offensive to let it sit until it should offend in its own name and character. To this Martin grudgingly agreed, and the Assembly still sits transforming itself from time to time into a Convention or an Assembly." Martin then complained to Dartmouth that the assembly had left a blank space in their journals omitting his speech to them. When he questioned the clerk about the omission, Martin discovered that a committee was working on a reply to his speech and presumably was referring to the copy of his address to them. Martin's speech had been written before he received Dartmouth's circular letter of January 4, but he was happy to note that he had followed the King's commands to resist "the growth of a most daring Spirit of Sedition." Martin told Dartmouth that it is a matter for great reproach and censure of me among the Members of the Assembly that I have taken so many steps against the Convention while the Governors of other Provinces have omitted them, but their reflections are of little account to me... while I have the approbation of the King and that of my own conscience in the discharge of my duty to His Majesty and the State."

Martin advised Dartmouth that the convention had been "inflamed by the Communication of the Proceedings of a like monstrous Body lately assembled in Virginia that had allegedly arranged for a company of 68 men in each County." The Convention at New Bern had considered a similar proposition, but it was overruled the day before. Martin concluded that "Government is here as absolutely prostrate as impotent, and that nothing but the shadow of it is left," similar to the rest of the colonies, except for New York. Martin believed that unless effectual measures were speedily taken "there will not long remain a trace of Britain's dominion over these colonies."

In Halifax, Andrew Miller reported on April 6 the rumored activities of the Virginia convention to his friend Thomas Burke. The Virginians were "raising 68 Infantry or 30 light horse in each county," and it would seem their leaders were trying to widen the breach and prevent reconciliation. Miller speculated that the Crown's ministers might repeal some of the laws if the provincial assemblies applied to them, but he thought they would never repeal them while the colonists applied through the "illegally Constituted" congress. Miller believed the "Inflated State of the Colonys" could not exist without protection from a maritime power, such as Britain, and therefore the colonies should submit to Parliament, "except as to Taxation, and even that I would submit to for awhile" until America had built up its manufactures, increased its population, and emancipated the slaves. He thought the British taxation extended "only to Superfluities or Luxuries of Life." Miller added: "We are not in a Condition to combat with Britain, nor do I believe she intends to make war on us. — I rather think she wishes to give up the power of Taxation, but will not be threatened out of it by a Congress or a Virginia Army." He thought the conduct of Virginia would irritate even their best friends in England against them.

Further away from New Bern and nearer the seat of power, a sometime business agent for North Carolina, Alexander Elmsly, wrote from London on April 7 to his friend Samuel Johnson. He discussed recent developments in the American Crisis, and then turned his attention to matters concerning North Carolina. He thought that Governor Tryon, who was about to leave for New York, had influenced Lord North to exempt North Carolina and New York from the restraining act. Both Elmsly and another business agent, Thomas Barker, were working, at the request of the assembly, to resolve the province's court law quarrel by negotiating with the Crown's ministers. Elmsly then related the unsavory influence of another colonial official's alleged impact on the court laws of North Carolina.

Elmsly wrote Johnson:

You asked Mr. Barker to let you know who it was that first moved, here, against your Court Laws. Neither he nor I know certainly; but when old Mr. McCulloh, as your agent, first received an account of your Court Bill miscarrying, on account of an instruction to your Governor [Tryon] against attachments, he hinted that Lord Hillsborough, then Secretary of State for America, and Lord Herford, then and now Lord Chamberlain, and both members of the Privy Council, and North-of-Ireland men, and friends and neighbors of your Dobbs, might probably, at their solicitation, have been the means of sending out the instruction. You know Nash had an attachment depending against their estate; this is only conjecture, but I think it probable, because had the measure originated amongst the merchants, we certainly should have heard of it long ago; as you say, however, it is not of much consequence now, as the new laws have taken place, whether old ones are restored or not.

If Elmsly is correct then personal reasons of two important officials, Lords Hillsborough and Herford, using their influence against the interests of the province for financial profit may have been the reason why North Carolina was excepted from the advantages of a foreign attachment clause when her sister colonies enjoyed it. Hillsborough continued to use his influence with the King's Friends in a most determined opposition to any concessions to America. In a debate in the House of Lords on November 27, 1781, Hillsborough expressed a hope that the "independence of America would never be admitted in that house." The Dobbs referred to by Elmsly was the governor that Tryon succeeded in North Carolina. Nash is probably the influential attorney from Craven County, Alambe Nash.

Although the assembly was dissolved, Governor Martin continued to meet with his council. The council advised him to delay issuing writs for a new assembly until the end of June. Martin laid all the council's proceedings of the convention signed by John Harvey. After some discussion about the subversive proceedings, the council approved
Martin's suggestion that they should take away Harvey's commission of the peace for Perquimans County. The council later took action against Pitt County justices by omitting names from the list, including Robert Salter.  

Martin then secured the council's approval to issue warrants on the Treasurers for expenses for Lt. Johnston.

General Gage had written Martin on April 12 and he reported that Massachusetts was still in a state of sedition and license stirred up by their leaders. He was happy to learn that many of the people in North Carolina were still loyal to the Crown. Although he could not supply Martin with the arms he had requested in his letter of March 16, Gage would arrange to send him some gun powder from New York for use at Lt. Johnston and to be distributed among the loyal men of the western counties. Martin once more assured Dartmouth on April 20 of the loyalty of the western counties. On May 3 Dartmouth urged the governor to encourage the loyal citizens of Guilford, Dobbs, Rowan, and Surry Counties to support the Crown against the patriots. Moreover, Dartmouth advised Martin that all the insurrections from the Regulator War would receive a general pardon except for Harmon Husbands. If war came, Dartmouth suggested that Martin should consider organizing an armed resistance made up of leading and loyal men. He advised Martin that he had written General Gage to send Martin a "discreet officer" to encourage loyalty, and, if necessary, to lead the people against any rebellious attempts to disturb the public peace.

News of the battles of Lexington and Concord of April 19 was forwarded southward from Massachusetts by relays from one committee to another. The news arrived in New Bern on May 6. Henry Montfort reported to Thomas Burke the news of the Lexington Alarm on May 9: "We have just rec'd some very shocking accounts from Boston. The Regulars and the Bostonians Have Had an Engagement, the former were Intirely defeated with the loss of 1200 men and 800 taken prisoners." Despite his assurance to Burke that he could rely on the figures as facts, Montfort was mistaken as to the figures. British casualties were: 73 killed, 174 wounded, and 26 missing.

Martin described for Lord Dartmouth on May 18 the inhabitants of the sea coast of the two provinces as "for the most part infected with the ill spirit that prevails in the adjacent Provinces of Virginia and South Carolina" by arming men and electing officers. In New Bern, they were "actually endeavoring to form what they call independent Companies under my nose. & Civil Government becomes more and more prostrate every day." The people farther west from Virginia and South Carolina, Martin wrote, were more loyal to the government, especially those men in the central and western counties. Martin again stated that he thought the pernicious influence of the press and the British supporters of the Americans had more weight than the measures of Parliament. With the advice of the trusted members of the council, Martin decided not to issue writs for the election of an assembly until the Continental Congress adjourned.

Events began to escalate for Governor Martin on Tuesday, May 23. Without any previous notice of their purpose, "a motley mob" appeared before the governor's palace. Martin did not see them until they were near the door. He directed his secretary, if they announced themselves as a committee, to tell them he could not see them. The secretary came to him a few minutes later and said the people were the inhabitants of the town. They requested to speak to him. Martin directed them to be shown into an apartment below stairs. He immediately went down to them. Abner Nash, the "oracle of the Committee" for New Bern (Martin later described Nash to Dartmouth as a "principal promoter of sedition here), came forward out of the crowd and presented himself as the leader of those present to find out why Governor Martin had dismounted the ritual cannon behind the palace that morning. These people had become alarmed because they knew that Lord Dunmore had recently deprived the Virginians of their gunpowder. They requested that the governor order the guns to be remounted. He thought that it was a pretext to insult him. Martin replied that he thought it was an extraordinary request since the guns belonged to the King, and that they were used to celebrate the King's birthday. To quiet their fears, Martin told them that the wooden gun carriages were rotten and he had ordered the guns dismounted so that they could be repaired for the imminent birthday celebration for the King. Nash accepted Martin's answer and "bowing retired with his mob." Martin later admitted to Dartmouth that the reason he gave the mob was correct, but not the whole answer because he had been advised some weeks before that the committee had a plan to seize the guns. While it was necessary to repair the gun carriages, it was also convenient to make their removal more difficult for the committee to seize by force and thus buy time to defend them or at least to parley about them.

A day or two after "this studied insult," probably May 24, an "old soldier" arrived from New York. He had an interview with Martin. He may have been the "Discreet officer" Dartmouth asked Gage to send to Martin. Evidence suggests that the old soldier was to give Governor Martin intelligence on the arms and ammunition intended for him that was aboard the King's sloop of war, Fisher, at New York. These military stores were to be sent at the direction of General Gage by Cadwallader Colden, the lieutenant governor of New York. Colden had learned that the New York Safety Committees had violated letters sent through the regular postal system. It was possible, Colden thought, that the patriots had learned about the imminent shipment of arms and ammunition to Martin. The Committees of Safety kept in touch with each other. They forwarded intelligence and news to each other, especially if it was pertinent to a particular colony. Martin feared that his correspondence with Gage had been "betrayed." He was correct. The other governors still holding office had their correspondence stolen and published too. The incumbent royal governors were Tryon of New York, Eden of Maryland, and Lord Dunmore of Virginia.

The old soldier was not sure whether the military stores would be sent by a man-of-war or a merchant vessel. If the expected stores came to New Bern in a merchant vessel, Martin later wrote, he "had not a man to protect them." They would fall "into the hands of the mob, which was continually watching every movement about my house." Martin was concerned for the safety of his family. The mob might use the military supplies as "a pretence for seizing my person and detaining me" according to the plan of all the colonies of making themselves "Masters of the King's Servants among them." Moreover, the radicals had been circulating "a most infamous report" among the people that Martin planned to arm the Negroes and give them their freedom if they supported the King's Standard. This was not true.

Concerned for the safety of his family, Mrs. Martin was pregnant and her children were young, the governor discussed his problem with a close friend, Archibald Neilson. Neilson, a Cape Fear merchant, often stayed in the palace when he was visiting New Bern. Martin had appointed Neilson to several offices in the province, but none of them seems to have netted Neilson any financial return. In January, 1775, on the death of Isaac Edwards, the deputy
auditor, Martin appointed Neilson in his stead. At the time of the mob’s visit to the governor, Neilson was Martin’s house guest. With the threat of the mob, the governor decided to send his family to New York and the safety of his father-in-law's estate on Long Island. Neilson moved to help the governor. He made the arrangements for a ship to take Mrs. Martin and the children to New York.

(Continuation of this article in the next bulletin)

FOOTNOTES
3. This information can be obtained from any competent history of North Carolina. The reader may wish to consult Hugh T. Leffler and William S. Powell, Colonial North Carolina, A History (New York, 1973).
8. Robert Palmer to the Board of Trade, May 10, 1775, Colonial Records, IX, 1246.
15. The Journal of the Proceedings of the Second Provincial Convention of North Carolina, Held at New Bern on the Third Day of April, A.D., 1775, Colonial Records, IX, 1178-83. See also the N.C. Gazette, April 7, 1775.
19. Proclamation by Governor Josiah Martin, April 5, 1775, Colonial Records, IX, 1167.
22. Legislative Journals, Colonial Records, IX, 1205.
23. A Proclamation by His Excellency Josiah Martin, April 8, 1775, Colonial Records, IX, 1211.
25. Ibid.
26. Ibid.
27. Ibid.
28. Andrew Miller to Thomas Burke, Halifax, April 6, 1775, Colonial Records, IX, 1205-06.
34. General Thomas Gage to Josiah Martin, Boston, April 12, 1775, Colonial Records, IX, 1220.
39. Henry Montfort to Thomas Burke, Halifax Town, May 9, 1775, Colonial Records, IX, 1245.
44. Ibid.

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