William Penn's Gentry Commonwealth: An Interpretation of the Constitutional History of Early Pennsylvania, 1681-1701

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> . . . you shall be govern'd by laws of your own makeing, and live a free and if you will, a sober and industreous People.
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> William Penn to the Inhabitants of Pennsylvania,
> April 8, 1681[1]

> For the matters of liberty and privilege, I propose that which is extreordinary, and to leave myselfe and successors noe power of doeing mischief, that the will of one man may not hinder the good of an whole Country.
>
> William Penn to Robert Turner and others,
> April 12, 1681[2]

> Cannot more friendly and private Courses be taken to sett matters to rights in an infant province, whos Steps are numbered and watched [?] For the love of god, me, and the poor Country, be not so Governmentish, so Noisy and open in your dissatisfactions.
>
> William Penn to Thomas Lloyd and the Provincial Council,
> August 15, 1685[3]

William Penn entered upon the great adventure of his life with a fervent desire to establish a sober, industrious, and free society in which all men would have a share in making the public decisions that shaped their lives, through a government in which no "one man [might] hinder the good of [the] whole." To insure the success of his new colony, he went to America himself and established Pennsylvania's first political institutions. Almost immediately upon his return to

England in 1684, however, he began to receive reports from America that his colonists were neither sober nor industrious. Worse, he soon became entangled in a hopeless conflict with his settlers over his exercise of his constitutional powers, which they viewed as haughty and threatening, and their assertion of their constitutional freedoms, which he viewed as licentious, disruptive, and exasperating.

In 1688, following three frustrating years of this struggle, Penn astonished his unruly Quaker settlers by naming as governor a Puritan from Boston to discipline them. The ten years following this desperate decision saw Penn become embroiled in endless battles with his colonists over a host of issues, and through them, with the English Crown over trade, defense, and even piracy. In this decade, Penn learned of the outbreak of the bitter Keithian schism among Pennsylvania's Quakers, lost and regained his government, saw his settlers rewrite his beloved *Frame of Government* without his permission, and suffered repeated threats by Delawareans to secede from Pennsylvania. By 1701, at the end of his second visit to his province, William Penn threw in the towel. On October 28, he signed a new Charter of Privileges that omitted nearly all of his central convictions about constitutional government, and that led, first, to an even more chaotic political society, and then to a powerful—and finally an orderly—anti-proprietary oligarchy that dominated Pennsylvania until the American Revolution.[4]

This dismal chain of events, following hard upon William Penn's high hopes for his new colony, with its new government and new society, has often been recounted. Yet it would appear that only one historian has advanced a comprehensive theory to explain it. Pennsylvania's problem, Gary Nash argues, was that William Penn and his executive appointees "were attempting to gain acceptance of proprietary prerogatives and to promote deferential attitudes in an environment where governors and governed lived much alike." [5] Only after two generations of increasing social stratification did "social position and political power become mutually supportive, restoring the traditional relationship between the structure of society and the political system." [6]

Some observations about Nash's perceptive analysis may be helpful in understanding the constitutional history of early Pennsylvania. First, Nash appears to have derived the underlying concept for his interpretation from the broad leftward-moving climate of academic opinion of the mid-1960s, and particularly from the contemporary scholarship of certain political scientists whose analytical struc-

tures the more enterprising young historians of the 1960s were beginning to apply to the study of American political history.[7] Second, whether or not the political thought of New Frontier academia is in fact the origin of Nash's interpretation, his argument clearly does not derive from a much older source, from which it could have sprung with equal propriety, the seventeenth-century English Commonwealth tradition. Implicit in Nash's thesis is the conviction that a society that vests political decision-making in men who neither control nor represent more than a small fraction of that society's wealth will not be stable. This is a central thesis in the political writings of Niccolo Machiavelli (1513-1518), James Harrington (1656), and Henry Neville (1681),[8] and in the "Fundamental Constitutions" proposed for Pennsylvania (1681-1682). Finally, whatever the origins of Nash's interpretation, he is largely content to confine his discussion of the economic bases of his actors' behavior to their New World fortunes. Neither Nash nor any other historian of early Pennsylvania has been concerned to explore the historical roots of the economic assets, and attitudes, of Pennsylvania's Proprietor, councilors, assemblymen, and settlers.

To fuse these diverse elements—Gary Nash's concept of the economic origins of early Pennsylvania's political instability; the English Commonwealthmen's concept of the economic origins of all political instability, combined with the important, yet elusive, role of Commonwealth thought in the framing of Pennsylvania's first constitution; the economic and social origins and fortunes of William Penn; and the economic and social origins of his Quaker settlers—into a single interpretation of Pennsylvania's early constitutional history is a venture that may strike some as methodologically unmanageable. Yet it may afford the historian a fundamentally new view of that history. From this vantage point, it would appear that Pennsylvania's early constitutional difficulties were the result of a profound mismatch between the structural features of its *Frame of Government,* the economic and social attitudes and attendant political beliefs of its Proprietor, and the economic and political aspirations of its settlers. Further, the proper point of origin for this story is not 1681, but the 1650s and 1660s.

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At least four broad political traditions had some currency in England in the years when William Penn and his settlers grew to maturity. These may, for convenience, be labeled radical dissenter-Leveller, Commonwealth(man), Whig, and Tory-patriarchal. All except the last played a major role in shaping the early constitu-

tional fortunes of Pennsylvania.[9] One can best appreciate the distinctive part taken by each tradition in the history of William Penn's colony by assessing its political substance in conjunction with its social support.

A large but still unknown portion of Pennsylvania's first settlers were Quakers.[10] By 1681 these dissenters were spread broadly across England's socio-economic spectrum, ranging from fairly poor artisans and yeoman to quite wealthy merchants. Their social origins, however, were more modest. When George Fox founded the Society of Friends around 1650, he recruited his followers largely from among the families of yeomen, tenant farmers, craftsmen, and petty merchants of England's relatively poor northern and western shires. In the chaotic years of the Interregnum many humble Englishmen and women were drawn to the more radical, anti-establishment notions abroad in the land, be they religious, social, or political. Thus we find Quakers associated with, or Quakerism becoming a refuge for, some of the more extreme social and political reformers of the day, especially the Familists and the Levellers.[11]

The Restoration of Charles II in 1660 brought reactionary changes to nearly all Englishmen. Quakers were no exception. Still radical in religion, they soon moderated their political rhetoric and their social behavior. Fresh recruiting furthered this development as well-educated young gentlemen joined their ranks, most notably William Penn. At its core, however, Quakerism was still a movement of relatively obscure men and women who had suffered at the hands of every English establishment they had known—Oliver Cromwell's Roundheads, the Church of England, the Stuart monarchy, and the local gentry's many justices and other officials. Among this first generation of Friends, Quaker political sympathies remained largely with England's abortive Leveller movement of the late 1640s. Friends wanted annual Parliaments elected by a broad franchise, and they had no use for either a hereditary monarch or a titled aristocracy.[12]

Certainly the smallest contingent of Pennsylvanians, and of Englishmen, were upper- and middle-class reformer intellectuals. Yet we probably know more about the political thought of these Commonwealthmen than that of any of their political competitors, whether to their left or their right. William Penn was not of their number, but he was strongly attracted to their ideas. When he had to frame a constitution for his new colony, he invited at least one, and probably several, of these aristocratic republicans to advise him.[13] Penn soon rejected a true "Common-

wealth" in favor of a more moderate design of government, but he incorporated so many of his more radical advisors' suggestions into his final *Frame of Government* that Commonwealth ideas, often in distorted form, played a major role in Pennsylvania's constitutional history.

At its core, the Commonwealth tradition taught that all political instability arises from a disjuncture between economic (and potentially military) power and formal political authority. It followed that political stability could only be achieved by a careful allocation of political power to all men or classes that held significant economic power, neither leaving out nor overweighting any man or social group. Commonwealth writers, particularly James Harrington, sought to achieve this balance through close attention to the numerical details of constitution-making.[14]

While most early Quakers started out poor and obscure, by 1681 many had moved up both the economic and the social scales. Where radical politics had once been appealing to Friends, more genteel reform efforts now attracted many Quaker leaders. Moreover, among the faith's post-Restoration recruits were several men who had never known economic hardship. These Quakers, while critical of England's establishment, had never quite left it. Foremost among them was William Penn. For these men the reform of certain legal abuses and a reduction of the powers of the established Church of England, carried out within a hereditary, constitutional monarchy dominated by a powerful titled aristocracy and a wealthy gentry, entirely satisfied their countervailing religious and social impulses. These moderate English Whigs, hostile to the more extreme claims of both the royal prerogative and the established Church, thoroughly accepted great concentrations of wealth, and gave little thought to the social costs. For William Penn, the owner of ten-thousand acres of Irish land, and after 1681 the outright lord of over twenty-five million acres in America, this gentry Whig ideology was not merely comfortable; it was essential.

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When he joined the Society of Friends in 1667, William Penn probably had a higher secular social standing than any Quaker in England. Upon the death of his father, Admiral Sir William Penn, the wealthy bureaucrat and courtier, in 1670, followed shortly by his own marriage to an upper-class Quaker heiress in 1672, he also became one of England's richest Quakers. There may have been wealthier merchant Friends in London and Bristol, but they had not inherited great wealth.

Several Quakers counted themselves, and were recognized by many non-Quakers, as gentlemen, but only William Penn was on intimate terms with powerful government officials, judges, courtiers, titled lords, and both King Charles II and his brother James, the Duke of York.[15]

Penn's upper-class background is widely known, but its influence upon his religion and his politics may not be fully appreciated. Because he joined a radical dissenting sect, preached and wrote for his new faith, and suffered repeated imprisonment for his zeal, his reputation as a firebrand for the Friends' radical new Truth seems unshakable.[16] Yet within both the Society of Friends and the English political nation, William Penn consistently played the role of a moderate. At every antinomian revolt against George Fox's leadership, Penn joined the counterattack by Friends who believed in orderly, disciplined meetings and restrained social behavior. In the one challenge to the faith from its right wing, led by the dogmatic Quaker George Keith in the 1690s, Penn was again at the center.[17] In his secular life, too, Penn was both an ardent reformer and an institutional and social centrist. No law that required oaths, encouraged intolerance and persecution, or implemented the collection of tithes for the established Church escaped his censure. Yet no established secular institution, whether the monarchy, the House of Lords, or the local judiciary, and few prominent officials, ever felt the sting of his polemical rhetoric, a sting that his many religious opponents came to know all to well.

From about 1675, William Penn devoted nearly all his efforts to presenting Quakerism as a respectable religious and cultural movement in English society. His religious polemics, whether in public halls or meeting houses, in the streets, courtrooms, or prisons, and in the press, largely predated that year. From 1668 to 1674 he had published a score of pamphlets that asserted the superiority of Quakerism to all other religions and attacked spokesmen for nearly every other dissenting sect.[18] In 1675, however, he ceased these assaults, turned his energies to lobbying the English establishment for toleration, and addressed three pamphlets to Parliament, all pleading for an end to religious persecution. The most interesting of these tracts is *England's Present Interest Discover'd, With Honour to the Prince, and Safety to the People,* in which Penn sets religious toleration at the center of a carefully constructed, moderate, and thoroughly traditional recounting of English legal and constitutional history.[19]

In the following year Penn bought and moved to Warminghurst Place, in Sussex, a large country manor house some two days' ride from London. He thereby qualified, for the first time in his life, as an English country gentleman.[20] In 1679, after a final missionary journey to Holland and the Rhineland,[21] Penn plunged into quintessentially gentry activity, writing a Whiggish election tract and actively supporting his aristocratic friend and neighbor, the radical Whig (or Commonwealthman) Algernon Sidney, in Sidney's futile attempt to win a seat in the House of Commons.[22]

The 1670s saw William Penn moving purposefully back into that upper-class world that he seemed to have abandoned upon his convincement to Quakerism in 1667. Remarkably, Penn achieved this without any loss of status within the Society of Friends. Indeed, after paying the traditional Quaker entry dues—preaching, arrests, trials, and imprisonments—and establishing his leadership credentials through the war of the spoken and printed word with Presbyterians, Baptists, Catholics, and dissident Quakers, Penn moved to take on a powerful role in the Society that was uniquely his: Quaker country gentleman, Whig propagandist, and influential courtier. It is against this background, and not that of the young Quaker controversialist, that William Penn's colonizing efforts and his constitutional thought and behavior must be understood.

Penn's first involvement with colonization is both important and easily misleading for understanding his later founding of Pennsylvania. In 1674 he was asked by leaders of the Society of Friends to arbitrate a dispute between two Quakers over the control of a new proprietary colony, West New Jersey. Penn accepted this challenge and led a board of three trustees to settle the dispute and, in cooperation with Edward Byllynge, the major Quaker investor, to devise terms for land sales, advertise the colony, and draw up a constitution.[23] This remarkable document, the West New Jersey Concessions (1676), was far more populist in character than Penn's *Frame of Government* (1682) for Pennsylvania. Its central ideas did not originate in either the gentry Whig or the Commonwealth traditions that played so great a role in Penn's *Frame of Government,* but in the Leveller democracy and Puritan law reform movements of the 1640s, as well as in certain Quaker political writings of the 1650s.[24]

There are two plausible ways of explaining why the West New Jersey Concessions differ so strikingly from the *Frame* that Penn issued for his own colony six

years later. First, Penn probably played a minor role in drafting the former document.[25] Perhaps as important, however, are the different circumstances in which Penn found himself in 1676 and in 1682. Penn did not own one acre of West New Jersey in 1676, nor had he any plans to buy into the colony, so that his primary concern, as a trustee, was to make the colony attractive enough to enable Edward Byllynge to clear his sizable debts. Moreover, Penn was just beginning his rapid march back to full social respectability, with its attendant pulls toward political and social conservatism. Finally, one can imagine that Penn was just beginning to see the vast potential in American colonization, something that he understood far better by 1682. West New Jersey must have been a crucial event in Penn's developing interest in colonization, but it was not a compelling precedent for the manner in which he would found and govern a colony of his own.[26]

Only a few more brush strokes must be added to our portrait of William Penn as a potential colonizer. Several factors converged in 1680 to impel Penn to seek a colony in America: his likely observation that West New Jersey had proven both a popular new economic opportunity and a place of refuge from persecution for English Quakers; his knowledge that Edward Byllynge, from an initial investment of £1000, was earning several thousand pounds from land sales in that colony; and Penn's own financial condition, which continued to deteriorate as his income from his English and Irish tenants fell behind his affluent tastes and his generous contributions to Quaker missionary and polemical activities.[27] What seems crucial, however, is Penn's deep discouragement over the prospect of achieving religious toleration and civic equality for Quakers.

It is tempting for the historian to assume that because William Penn had been a Whig propagandist and a supporter of the radical Whig, Algernon Sidney, just one year earlier, he must have sought his colony as a refuge from England's heavy-handed royal rulers. A full consideration of Penn's early career, however, suggests that his discouragement was with that perennial hope of England's Whigs, the House of Commons, not with the monarchy. Throughout the 1670s Charles II had warmly granted William Penn every request he could politically afford, while Parliament had consistently played the persecutor. When Penn sought to reform English religious policy, he hoped to alter the attitude of the legislature, not of the executive.[28]

Between May 1680 and March 1681, William Penn, the discouraged Quaker Whig reformer, persuaded his good friend Charles II, against the advice of several Crown officials, to grant him a large, fertile, well-located colony, with broad proprietorial and governmental powers, simply to meet an old, easily avoidable debt.[29] While this feat has appeared remarkable to many scholars and has called forth ingenious explanations for Charles' generosity, it probably did not seem so remarkable to Penn. Indeed, it may only have confirmed his deep conviction that an honest, upright executive, as he always believed Charles II (and later James II) to be, should play the role of teacher, guide, and protector to the weak and corrupted populace of his day.[30] This, of course, is just the image that William Penn had of himself, as he addressed his colonists in speeches, letters, and proclamations, and in his published *Frame of Government.*

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William Penn received his royal charter to Pennsylvania on March 4, 1681, and sometime in the next few months he began to plan out and draft a constitution for his new colony. One can trace the later stages in Penn's year of constitution-making in considerable detail through the seventeen draft constitutions and three commentaries on them that survive in manuscript at the Historical Society of Pennsylvania. These documents, twelve of which have been annotated and published in *The Papers of William Penn,* form the basis for the argument here.[31] Nothing certain is known about the early stages of this long process, however, and this dearth of information makes it essential to examine with particular care both the political traditions available to Penn and the course of his own political and social development for clues to how he proceeded and why he made the choices that he did.

In his first efforts at drafting a constitution, sometime in the late spring or summer of 1681, Penn may have granted his colonists relatively little political power, and been rather patronizing or authoritarian in tone. This, at least, is how Algernon Sidney saw Penn's first efforts when Penn asked his opinion of his work. The reforming Whig gentleman could not mollify the radical republican aristocrat, who began telling his friends that Penn had devised "the basest laws in the world, not to be endured or lived under, and that the Turk was not more absolute than [Penn]."[32] Whether this bitter disagreement, which apparently destroyed a warm friendship, or some other contingency intervened, Penn evidently began his constitution-making all over again. And he now seems to have turned sharply to the left, to embrace a

political tradition for which his social position and his recent political experience had done little to prepare him. Penn enlisted someone to draw up a constitution for a radical Commonwealth.[33]

"The Fundamentall Constitutions of Pennsylvania" is the most novel, fascinating, and frustrating constitutional document in early Pennsylvania history. It is the most radically populist organic law ever considered for Pennsylvania before the Constitution of 1776. Its intellectual origins are exceptionally clear. Its text is highly polished, and Penn's enthusiastic approval of it, *at some point,* is almost certain. Yet there is no indication who wrote it, when it was written, why Penn commissioned it—as he must have done—or why he abandoned it.[34]

At the document's center is a skillful re-working of the model of government presented in James Harrington's *Commonwealth of Oceana* (1656), which was designed for a large, heavily armed nation, to suit the needs of much smaller and more pacific new colony.[35] To this structure the draft's author added a Leveller franchise, qualifying all freeholders to vote and hold all offices, and a few favorite Quaker law reforms that had appeared in the West New Jersey Concessions (1676), in the Quaker tract, *A Mite of Affection* (1659), and, in different form, in Leveller and Puritan writings of the 1640's.[36] The "Fundamentall Constitutions" called for a large, complex government dominated by a massive representative assembly that was, in turn, closely controlled by an unusually broad electorate. Its only executive was a large council, elected by and from the legislature, which also had a minor legislative function. This arrangement left William Penn no special political role in his own colony. Yet Penn, we know, initially liked this legislative-dominated, quasi-unicameral constitution, and the behavior of his settlers from 1682 to 1701 suggests that, with substantial streamlining, the "Fundamentall Constitutions" would have been popular with them as well.[37]

That Penn seriously considered such a plan of government may seem astonishing. Yet even after he abandoned the "Fundamentall Constitutions," several of its Commonwealth provisions appeared in nearly every succeeding draft constitution for the colony, and in the final *Frame of Government.* Perhaps the best way to explain the appeal which this radical plan held for Penn is some combination of friendship, frustration, and an awareness of his audience.

Penn always operated in a highly personal way, befriending and supporting men more because he liked them than because he agreed with them. Probably this

happened yet again with some unknown Harringtonian who constructed this remarkable constitution. As for the role of frustration, the rapidly deteriorating relationship between Charles II and his Parliaments was forcing many Englishmen to reconsider old ideas about political order from the Interregnum (1649-1660). The monarchical right finally published Sir Robert Filmer's *Patriarcha* in 1680. The Whig and republican left rediscovered Harrington, and Machiavelli, in the mid-1670s. And in early 1681, just as Penn was receiving his royal charter, Henry Neville published *Plato Redivivus,* an ingenious argument for the creation of a Commonwealth-style constitutional monarchy under which England could be stable and free even with the Catholic heir to the throne, James, the Duke of York, as its head of state.[38]

With the Commonwealth tradition again alive and well, it was hardly surprising that someone whom Penn knew and liked should be attracted to it, and should try it out on William Penn, who was also politically frustrated, and who, as a new colonizer, offered the only immediate opportunity to translate this tradition into political practice. Finally, William Penn's primary audience, the potential source of his investors and settlers, was England's Quaker community. If some Friends were, like Penn, neither Levellers nor Commonwealthmen, others still longed for radical political reform. Had he approved the document, the "Fundamentall Constitutions" would have spoken powerfully to these Quakers.[39]

If Commonwealth thought had many warm friends, however, its essentially republican, legislative-centered structure and its broad franchise, in combination with the distinctive Leveller and radical Quaker additions to the "Fundamentall Constitutions," virtually guaranteed both the Commonwealth-radical tradition and the document itself powerful enemies in 1681-1682. Gary Nash has argued that Penn turned aside from earlier, more democratic constitutions for Pennsylvania when affluent Friends threatened to withhold the major investments that his colony required unless he granted them a constitution in which men of wealth would have the balance of power. If this argument is applied specifically to Penn's ultimate rejection of the "Fundamentall Constitutions" (which Nash does not do), it is quite plausible. Indeed, it may even be necessary since it seems likely that Penn was at the point of giving final approval to this radical document when he suddenly changed his mind.[40]

As a statement of Penn's own ideas about government, however, and therefore as a guide to his later behavior as a constitution-maker and colonial proprietor, the "Fundamentall Constitutions" is thoroughly misleading. However taken he may have been with this constitution, William Penn was no Commonwealthman. Scarcely a trace of this tradition appears in either his political tracts or in his behavior, before or after 1681. Aside from the "Fundamentall Constitutions," whose authorship must remain problematical, there is little evidence that Penn read Commonwealth writers. And Penn's ardent support for Algernon Sidney's two campaigns for Parliament in 1679 owed less to Sidney's republicanism than to his support for religious toleration.[41]

When Penn decided to shelve the "Fundamentall Constitutions," and perhaps well before he made that decision, he had at hand a more conservative advisor, the prominent lawyer John Darnall, to provide him with something more palatable to upper-class tastes. Darnall, assigned the task of preparing a brief outline for a constitution, responded with a plan that was so conservative that it required immediate and substantial alteration. He first proposed a two-house legislature of "proprietors" and "renters," with all seats in the upper house assigned for life to holders of 5000-acre land tracts. This chamber would have become a miniature House of Lords. There was, however, little role for Penn himself in this plan. Darnall's revised plan called for an elected upper house, chosen from and by major landholders only, and a strong council in which the Proprietor would play a major role. In this form, with Penn's blessing, the plan evolved through several increasingly elaborate drafts, all entitled "The Frame of Government." At this stage of composition, the major question became whether the lower house of renters and small freeholders would secure any right of legislative initiative, or would, as Penn came to favor, have only the right to approve or reject bills drafted in the upper chamber.[42]

In early January 1682, William Penn apparently had before him two sharply contrasting proposed constitutions for his colony. The completed "Fundamentall Constitutions," which Penn may already have definitively rejected, joined a Harringtonian model of government with a Leveller electorate and radical Interregnum law reforms. The "Frame of Government," which had evolved through at least three charts and six drafts in varying stages of completion, but which was still far from being finished, incorporated several important Harringtonian features, most of which were probably drawn from the "Fundamentall Constitutions"—

notably an executive council divided into four committees, and the use of the secret ballot in all elections —into a most unCommonwealth-like document. The object of England's Commonwealth writers, particularly of James Harrington, was to bring men of different economic fortunes together in common councils and assemblies, giving to each a political role that corresponded with his economic power, so that all would work together for the security of the nation. The "Fundamentall Constitutions" did this, although in a far more Leveller fashion than Harrington would have favored.[43] All early drafts of the "Frame of Government," however, rigidly divided wealthy from poor colonists, allowed only the former to vote for members of the upper legislative chamber, and in two drafts assigned the sole right of proposing all laws except money bills to that chamber, leaving the lower house only a veto power over proposed legislation.[44]

Thomas Rudyard, a Quaker lawyer who had worked with Penn at the conclusion of the Penn-Mead trial to issue that powerful statement on judicial rights, *The People's Ancient and Just Liberties Asserted* (London, 1670), now entered the constitution-making process with a trenchant commentary on the "Frame of Government." No Commonwealth radical, Rudyard immediately saw that the "Frame" would create serious divisions in Penn's new colony. Arguing in the best gentry fashion, he urged Penn to establish a one-house legislature open to any freeholder. Elections to this "grand Assembly," Rudyard argued, would function like elections to the House of Commons in England, where poor yeomen were allowed to vote for the humblest freeholder, but always chose gentlemen of honor, education, and fortune. So, too, would Pennsylvania's humble freeholders vote, if William Penn did not force them into their own more lowly, impotent chamber, where they could only nourish their envy and resentment of their powerful—and distant—betters.[45]

Had Penn followed Rudyard's advice to the letter, rather than merely adopting a part of it, he might have avoided much of the anger and confusion in which both he and his settlers became mired over the next two decades. But if Thomas Rudyard had an almost Namier-like appreciation for the role of the House of Commons in English political life, William Penn adhered to a more traditional gentry world view in revising his "Frame of Government."[46] Working closely with Rudyard to improve the "Frame," Penn decided to retain a two-house legislature, but to open each chamber to all freeholders, and to allow every freeholder to vote for both councilors and assemblymen. On one point, however, Penn was immovable: the

Council would have the sole right to propose legislation, which the Assembly could only accept or reject.

Penn's refusal to yield to objections to this provision for nearly twenty years, and his failure in January 1682 to see the real thrust of Rudyard's commentary, can hardly have been accidental. His devotion to the principle that "the Council proposes, the Assembly disposes," has been cited to show that he was a Commonwealthman, since this is a central element in the structure of Harrington's *Oceana* and other works.[47] His application of the rule to Pennsylvania after 1683, when the size of the government was reduced, however, violated other Harringtonian principles, thereby showing, at the very least, that he did not fully comprehend Commonwealth thought.[48] Moreover, it seems improbable that Penn became so fixated upon a political principle that was neither used in England nor being applied successfully anywhere in America without having strong personal motives for his attitude. Perhaps there is a thread that ties Penn's devotion to this Commonwealth precept to his rejection of Rudyard's argument for a unitary legislature.

William Penn occupied a highly anomalous position in English society. Socially of the gentry class, with an income and connections that placed him on that vague border between the upper gentry and the aristocracy, he was barred by his faith from full political citizenship: the right to sit in the House of Commons.[49] He had, however, come before that body several times to seek relief from persecution for all Quakers, and had always gone away empty-handed.[50] The two groups of Englishmen who had not disappointed William Penn were the social aristocracy of peers and high officials at Whitehall Palace and the moral aristocracy of the Society of Friends, many of whose members were moving rapidly up the secular social ladder as well. Finally, unlike most country gentlemen and members of Parliament, Penn was not rooted in any shire or rural neighborhood in England. In the decade that he had been financially independent, he had moved from London to the Hertfordshire-Buckinghamshire border upon his marriage in 1672, and then to Sussex in 1676. These years were further broken up by long trips all over southern England and into Holland and Germany, in addition to several long and short stays in London every year. Moreover, Penn's family had never lived in Hertfordshire, Buckinghamshire, or Sussex, so he had no roots in these neighborhoods.[51]

In 1682 William Penn was an outsider to that class of men who could enter the House of Commons, and equally an outsider to those who looked with hope to

the Commons for the redress of their grievances. For Penn, the keys to success in life had been personal contacts, religious conviction, and a nearly constant geographic mobility, not cooperative efforts carried on with social equals in any one location. His view of government was personal, moral, and cosmopolitan, not structural, communal, and provincial, as it was for most Englishmen. In the preface to his published *Frame of Government,* he carefully explained that the relative strengths and weaknesses of "particular Frames and Models" of government did not vitally concern him—a statement that one cannot imagine any Commonwealthman making. These models were unimportant, he declared, because: "*Governments,* like Clocks, go from the motion Men give them; and as *Governments* are made and mov'd by *Men,* so by *Them* are Ruin'd too . . . . Let *Men* be *good,* and the *Government* can't be *bad;* if it be *ill,* they will cure it: but if *men* be *bad,* let the *Government* be never so *good,* they will endeavour to warp and spoil it to their Turn." [52]

William Penn the moralistic Quaker knew why governments erred. William Penn the courtier was happy with the power and authority commanded by England's upper-most classes, who had always treated *him* well. While Commonwealth erudition, structural balance, and techniques for avoiding political corruption all deeply appealed to him, neither the Commonwealth sense of inter-class cooperation, the Whig faith in elected assemblies, nor the Leveller concept of democracy impressed him. Thus he abandoned the "Fundamentall Constitutions" and ignored the heart of Thomas Rudyard's critique of the "Frame of Government," while adopting most of Rudyard's secondary points to create a document that blended radical and conservative elements into a constitution that had no close parallel in America.

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On April 25, 1682, William Penn signed his *Frame of Government of the Province of Pennsylvania;* ten days later he signed his *Laws Agreed upon in England,* and then published the two documents as one pamphlet.[53] Although he had missed opportunities to adopt an even more effective organic law, he had reason to be proud of his constitutional labors. The *Frame of Government* was an exceptionally clear, well-organized document that drew upon a variety of English political traditions to create a strikingly original constitution. The *Frame* was altered in 1683, frequently ignored in its new form in the late 1680s, altered again in 1696, and finally discarded in 1701. Yet in these two decades it did shape Pennsylvania history, for good or ill. And, in ways that have never been investigated, its seems to

have exerted an influence three generations beyond its demise, to Pennsylvania's radical Constitution of 1776. Early Pennsylvania history cannot be understood without a thorough understanding of William Penn's first *Frame of Government.*

Following a deeply religious and highly moralistic Preface, Penn began his *Frame* by granting all freemen the right to elect a Provincial Council of 72 members; they were to choose one-third of the councilors each year, for three-year terms. This Council combined the executive functions and structural features of the councils in the "Fundamentall Constitutions" and the early drafts of the "Frame of Government" with the legislative powers of the upper house in the early "Frame." The Provincial Council was to execute all laws, and to manage the treasury, the courts, commerce, and education through four committees. It had the sole right to propose all legislation. The Proprietor sitting as Governor, or his deputy, was to preside in the Council, with a treble vote in all decisions. The freemen were also given the right to elect a large General Assembly of up to 200 members every year. This Assembly would deliberate over legislation presented to it by the Council for only eight days, during which time it could confer with a committee of the Council on amendments to any bill; but on the ninth day it had to accept or reject all legislation without further alteration. The Council nominated all provincial judges, treasurers, and land recorders; the Assembly nominated local sheriffs, justices, and coroners; and the Governor made final selections from the nominees. Penn, however, gave himself the right to make all initial appointments without nomination. Finally, neither the *Frame* nor the *Laws* could be altered without the consent of the Governor and six-sevenths of "the Free-men in Provincial Council and General Assembly." [54]

The *Frame of Government* was not, a thoroughly Commonwealth document, yet it was replete with Commonwealth features, and with other borrowings from the more radical Leveller tradition. It had three principal Commonwealth provisions. First, councilors could not serve successive terms, but had to leave office for a year after each three-year term. Second, all voting, both in popular elections and within legislative bodies, was by secret ballot. Finally, as in Harrington's *Oceana,* all legislation was prepared by the upper house, and approved by the lower house. This structure of government, however, rested on a broad franchise that resembled the more conservative of the franchises associated with the Levellers. Essentially, all landowning, land renting, and urban taxpaying adult Christian males could vote, and hold any office.[55]

The prerogative powers in the *Frame,* on which William Penn would have to rely to maintain his constitutional position, were less clearly stated than the popular powers, but they were sufficient to give the Proprietor, as Governor, a large measure of control over the political process, and thus some protection for his immense land holdings. First, Penn or his assigned deputy had a treble vote on every matter before the Council. Second, the language of the *Frame* could be interpreted to mean that the Governor's consent, in Council, was essential on all proposed legislation, and this soon became a hotly contested issue.[56] Indeed, it was not clear that the Provincial Council could do anything without the cooperation of the Governor or his deputy. Third, the Governor made all initial appointments, and thereafter selected one of the two men nominated for each post, either by the Council or by the Assembly. Fourth, the Governor, with his Council, could dismiss the Assembly at any time after its nine constitutional days had expired. Finally, the Governor could veto any attempt to alter the *Frame of Government.*

Although the body of *Laws* attached to the *Frame of Government* was, according to its title, "agreed upon in England by the Governour And Divers of the Free-Men of Pennsylvania," [57] it is not known who endorsed or even witnessed the signing of either the *Laws* or the *Frame* in London in the spring of 1682. Nor is it known if Penn received any criticism of his constitution between its publication in May and his departure for America in August. The *Frame* would soon be sharply criticized by Quakers in England and in Holland, but its first test came from the men it most had to please: William Penn's settlers on the Delaware River.

* * * * *

The title page of the *Frame of Government* and the *Laws Agreed upon* promised that the documents were to be confirmed by the first Provincial Council and General Assembly to meet in America, and these bodies were to convene in March and April 1683. When William Penn reached the Delaware River in October 1682, however, he was impatient to secure a quick confirmation of his authority, especially from the inhabitants of the lower counties (hereinafter called Delaware), which he had just bought from the Duke of York in August. Most Delawareans were not Quakers, many were not English, and virtually none had ever met William Penn.[58] But Penn wanted to govern Pennsylvania and Delaware as a single province, and he hoped that an immediate approval of the *Frame* by delegates from both areas would unite his settlers.

The new governor therefore issued special writs for the election of a quasi-official assembly, without a council, and succeeded in gathering at Chester forty-two representatives from throughout his expanded province in early December. This assembly did advance Penn's immediate aims: Delaware's spokesmen consented, apparently with enthusiasm, to an Act of Union with Pennsylvania, which the whole body then passed; and the delegates did approve the majority of Penn's *Laws*. They would not endorse the *Laws* as a unit, however, and they flatly refused to confirm Penn's *Frame of Government*.[59] In seeking approval for his constitution and laws by an unconstitutional short-cut, Penn took his first misstep. Whether this blunder chastened him is not known, but for the next eighteen months he scrupulously observed constitutional procedures, and achieved his major goals.

The December assembly had not rejected the *Frame of Government* on procedural grounds alone, however, as Penn soon learned. When he proclaimed the first election for councilors and assemblymen under the *Frame* in February 1683, his settlers brought his constitution's first major weakness to his attention. On election day voters in at least four of Penn's six counties selected a small number of legislators and then drew up petitions that declared the colony's freemen incapable of finding as many men who were qualified, or could afford to serve in the legislature, as the *Frame* required. Penn's constitution provided a government that was simply too large for the rude young colony. Nor could Penn doubt his settlers' claim, "that we have few fitt for or acquainted [with] such Publick Business," when fully half of the petitioners, who were probably representative of those most able to hold public office, made an "X" or some other sign under their names, which were written out in a rough clerical hand.[60]

Penn granted the petitioners' requests without any display of annoyance or even surprise.[61] The temporary electoral arrangement sent three councilors and nine assemblymen from each county to Philadelphia to form a Council of eighteen, and an Assembly of fifty-four members, in place of the seventy-two councilors and two hundred assemblymen called for in the *Frame*. Thus began a twenty-year trend in Pennsylvania toward ever smaller legislatures, and a tradition of representing large areas, with rapidly growing populations, by small delegations. This tradition would end only with the American Revolution.[62]

The Governor's good-natured acceptance of the February petitions augured well for the legislature's first constitutional session, for it was obvious to most Penn-

sylvanians that the *Frame of Government* required major corrective surgery to qualify as a working constitution for a young colony. Penn went into this session willing to make compromises and accept amendments, but he also had constitutional goals of his own. First, the initial decision of the Governor, Council, and Assembly to devise an Act of Settlement that would make minor revisions in the *Frame*, and be regarded as an appendix to that document, probably owed much to Penn's reluctance to rewrite the constitution on which he had labored for nearly a year. For ten days he contained the demand for change to this half-way device, which the Council and Assembly did pass, but on March 20, he granted his legislators the right to draw up a new *Frame.*[63] Second, Penn was determined that if he had to consent to alterations and make concessions, he would press for other changes that favored his constitutional position.

A close examination of the workings and results of the legislative session of March 10—April 3, 1683 shows the process of compromise and accommodation between William Penn and his colonists at its best. The legislature wrote a reduction in its own size to eighteen councilors and thirty-six assemblymen, divided equally between Pennsylvanians and Delawareans, into the second *Frame of Government,* but retained all of Penn's original proportions in setting quorums and regulating the rotation of councilors' terms of office. The lawmakers also secured a calendar change that placed the convening of both Council and Assembly twenty days later—into warmer weather—than the first *Frame* had directed.[64]

Governor William Penn, meanwhile, had been reading over the royal charter granted to Proprietor William Penn, and he suddenly realized that if his legislature were to pass any laws that impeded the execution of England's Navigation Acts, he would be financially liable for any damages to English revenue or interests that resulted.[65] Penn may also have feared that a repeated or persistent legislative obstruction to any English policy would result in a proceeding of *quo warranto* against his charter in the English courts, and the possible loss of his colony. Upon his return to England in 1684, Penn became thoroughly alarmed at this possibility. In October 1684, the Crown secured the dissolution of the Massachusetts Bay corporate charter by a similar judicial proceeding. In 1685, the Crown began a *quo warranto* against Lord Baltimore. And in 1686, Crown officials threatened Penn himself with a *quo warranto.*[66] Unless he had something resembling an effective veto, Penn could not protect himself against this disaster.

In the second *Frame of Government,* William Penn and his legislature worked out a subtle solution to this problem. First, Penn sought and received an explicit, but indirectly worded, veto over all legislation proposed in the Council. In what was probably a concession to his councilors' political pride, and to their greatly reduced numbers, he allowed the new *Frame* to omit any mention of his treble vote in Council; yet the Council minutes show that he informally retained this power as well.[67] Moreover, when the legislature inserted into the Act of Settlement the provision that all laws must be consistent with the powers granted to Penn in the royal charter, Pennsylvanians benefited from another limitation on their Governor's arbitrary power, while Penn received yet further protection from laws that might cost him money and weaken his position in England.[68]

The Governor consolidated his power in another way as well. In the first *Frame* he had granted himself the right to make the first appointment to each post in the government, with appointees holding office during good behavior; thereafter Penn would have to select appointees from nominees presented by the legislature. In the second *Frame,* however, Penn received the right to make all appointments for his lifetime.[69] All in all, William Penn had reason to be pleased as he signed the second *Frame of Government* on April 2, 1683. His constitutional position, which had grown stronger with each major alteration in his draft constitutions in England, was now at its height. In 1683 William Penn's colonists gained a streamlined, workable government. William Penn gained a government which, because of his suggested alterations, and the reduced size of the Council, he could dominate more easily.

The Governor's ultimate control over Pennsylvania, however, was qualified in two ways. First, Penn refused, yet again, to make more than cosmetic changes in the provision that the Assembly could only accept or reject legislation proposed by the Council. An unfortunate decision in January 1682, when he rejected Rudyard's advice on the point, this became a more serious error in April 1683, when the Assembly to which Penn was denying legislative initiative had just been greatly reduced in size. The crucial importance of numbers in legislative functions may be demonstrated from two quite different perspectives.

In the writings of James Harrington, England's principal Commonwealth author and the major theoretical source for Penn's thought on this matter, the division of the proposing of law and the approving of law between two houses, of

different sizes and with different social bases, would certainly help to preserve social distinctions between England's gentry and yeomanry, a goal with which William Penn appears to have been quite comfortable. It was not Harrington's intention, however, to confine the proposing of law to a few men: the Senate in *Oceana* had 350 members; the law-approving popular house had 1,050 members. In his *Aphorisms Political* (1659), he wrote: "If the popular assembly consist of so few and so eminent persons as are capable of an orderly debate, it is good for nothing but to destroy the commonwealth." Indeed, he said, "the popular assembly in a commonwealth may consist of too few, but can never consist of too many." Among the historical assemblies that Harrington admired were those of Venice (2000 members), Holland (500 members in each of several provinces), Israel (24,000 members), and Athens, Sparta, and Rome (the whole citizenry). In the theoretical authority on which Penn apparently relied, then, a popular assembly that was only allowed to approve law was not a legislative body in the modern sense at all, but a mass plebiscite assembly. Harrington understood that any small legislative body could not, and would not, function in this way.[70]

Because Penn was no true Commonwealthman, however, it ought to be irrelevant whether he understood Harrington or not, and in practical terms it is. What is not irrelevant is Penn's naive ignorance of the effect of his decision. His colony was new and small, yet his Assembly of thirty-six men, just six from each county, would naturally function as a gathering of local notables, or else not function at all. To treat it as a plebiscite assembly, even if some of its members were marginally literate, was demeaning, even insulting. In 1683 William Penn was not identifying distinct social classes and giving to each a distinct legislative function and chamber, as a Commonwealth lawgiver would do. Rather, he was trying, without knowing it, to create two distinct social classes out of one quite small elite. When Penn agreed to reduce his Council from 72 to 18 councilors, and his Assembly from 200 to 36 seats, while insisting on his original assignment of legislative functions, he was actually disenfranchising three quarters of the elite whom he had styled in the *Frame* itself as those "Persons of most Note for their *Wisdom, Virtue* and *Ability*," the men upon whom he relied to lead his infant province.[71] This curious policy virtually guaranteed the Assembly's hostility to Penn's government, and made him heavily dependent upon his Council to achieve his goals. And if the Assembly became thoroughly alienated, and new legislation were needed, a loyal Council would not be enough.

William Penn's second problem was closely bound up with his first. The Governor's own energy, authority, and charisma, especially among his fellow Quakers, played a vital role in persuading his colonists to cooperate with one another, and with him. Because he repeatedly rejected the one constitutional change that might have brought harmony to the colony, he had to rely on direct personal persuasion to preserve what harmony he could and prevent legislation that might have harmed him as a Proprietor. As he signed the second *Frame of Government* he foresaw no problem on this account. When Penn had sailed from England in 1682, he was departing from a nation that had frustrated his best efforts to pursue religious freedom and social acceptance for his people, and a more prominent secular political career for himself. America offered Penn everything that England did not, and he intended to enjoy his new role for a long time. Writing to Lord Culpeper, the Governor of Virginia, on February 5, 1683, he said: "I am mightily taken with this part of the World . . . . I like it so well that a plentiful Estate and a great Acquaintance on th'other side [of the Atlantic] have no Charmes to remove [me], my Family being once fixt with me; and if no other thing occur, I am like to be an adopted American." [72]

Some other thing did occur, however: Penn's increasingly bitter dispute with Lord Baltimore over the Pennsylvania-Maryland boundary line and the control of Delaware, to which Baltimore now laid claim. When Baltimore sailed for England in 1684 to lobby for his territorial interests at Whitehall Palace, William Penn felt compelled to do the same.[73] His timing could not have been worse. Many settlers in Kent County, Delaware, were in revolt against his government; several Philadelphia Quakers were arguing with him over the waterfront rights to lots facing the Delaware River; and virtually all of his colonists, Quaker and non-Quaker, English and non-English, Pennsylvanians and Delawareans, were resisting paying him their first quit-rent dues on their land, and many other taxes as well.[74]

Penn was keenly aware of these problems, and was becoming concerned, frustrated, and angry by turns, emotions that he would come to know well over the next two decades of dealing with his willful, factious, even avaricious colonists. Yet Penn's response, on the eve of his departure, suggests that he simply did not understand what he was up against. When he issued his commission entrusting the government to Thomas Lloyd and the Provincial Council on August 6, 1684, he added in a memorandum that he was only delegating executive authority and appoint-

ment powers to them, "intending that all laws that shall or may be made should receive and have my further determination Confirmation and Consent—or else to be voyd in themselves." [75]

Such a constitutional arrangement could only be viewed as insulting by Penn's colonists. From the perspective of the councilors and assemblymen with whom he had negotiated the second *Frame of Government,* Penn's intention was utterly unconstitutional. The *Frame* granted him the right to use a preventive (in Council) veto in person, or through his deputy. That he should now try to change the rules of the game unilaterally, and exercise his veto power at a distance, spoke ill of his understanding of what a new colony needed in a chief executive, and of his fundamental understanding of constitutional government.

* * * * *

William Penn's decision to return to England in 1684 was the greatest mistake of his life. In the pursuit of an important goal for his colony, he cut himself off from that colony. In the pursuit of other laudable goals for all Englishmen, especially for English Quakers, he alienated himself from most Englishmen, and from many Quakers. In seeking power to achieve his ends, he fell to the lowest point in his political career. In touch with his colony's problems in 1684, if not quite on top of them, he was hopelessly out of touch by 1689. As a colonial proprietor, and in many of his other vital interests, William Penn found the rest of his life to be a desperate game of catch-up. In Pennsylvania, at least in part because of serious flaws in his constitutional understanding, William Penn never did catch up.

Penn returned to England reluctantly in 1684, and only because he believed that he could not defend his control of Delaware and secure a favorable southern boundary for Pennsylvania without lobbying at Whitehall in person. Yet two unexpected events—the murder of a royal customs collector in Maryland by Lord Baltimore's cousin and chief agent, George Talbot, in October 1684; and the sudden death of Charles II, in February 1685, which brought Penn's friend James, the Duke of York, to the throne—insured that Baltimore would be in no position to press his claim effectively.[76] Penn, as it happened, could have secured Delaware and defended a reasonable boundary for Pennsylvania without leaving America.

Upon the accession of James II, however, Penn soon forgot his boast to Lord Culpeper that "no great Acquaintance" in England could tempt him from America. The opportunity to help save England's Quakers from continued persecution, and

perhaps, too, the opportunity to use his great political talents as they had never been used before, as one of the new monarch's most influential advisors, proved irresistible. So began three years of service at Court, broken only by travel all over England on missions for Friends, for James, and for himself. It all ended abruptly in the fall of 1688 when William, the Prince of Orange, drove his father-in-law, James II, from the throne, and the new monarchs, William and Mary, cast off all Jacobite advisors. William Penn, one of the greatest figures in England in 1688, became a political and social outcast in 1689. Penn would make a remarkable political recovery in the late 1690s, but he could never recapture the power he had held in the 1680s.

At every point in this dramatic story Penn had compelling reasons—at first, unparalleled opportunities; and later, massive legal and financial obligations and entanglements—for delaying the return to Pennsylvania that he said, in letter after letter to Philadelphia, he most desired.[77] This unbroken series of fortune and misfortune kept Penn away from America for over fifteen years, during which he had ample opportunity to grapple with the problems of being an absentee governor. The ways in which he did this, and the results of his efforts, effectively illustrate Penn's character as a constitutional governor, and his colonists' character as citizens under his constitution.

It must immediately be conceded that Penn's task was a difficult one. His settlers, as he had already discovered in his stay in America, were independent-minded people who wanted the greatest latitude for their behavior, particularly their economic behavior, and the least burden in taxation and in time given to public service that they could arrange. And as tight-fisted as the Delawareans, non-Quakers, and poorer settlers were, the aggressive independence of many wealthy Pennsylvania Quakers was more troubling still. Penn learned the hard way, as did so many governors, that few Englishmen came to America simply for religious freedom. Their goal was invariably a greater freedom in every aspect of their lives.

Intractable colonists, however, "went with the territory." It was William Penn who had recruited them, conferred with them, governed them, and lived with them. Now he had to learn to govern them from afar. Penn's approach to this problem went through three broad stages: 1) a diffused delegation of authority, quickly followed by anarchy, to which he reacted with angry, berating letters; 2) a brief, disastrous attempt at stiff discipline; and 3) a return to a long series of *ad hoc*

delegations of authority, accompanied again by dismay at the colony's anarchic politics, now expressed in letters of a more pathetic, resigned character. These three periods roughly coincide with: 1) the commission to Thomas Lloyd to act as President of the Council (1684-1688); [78] 2) the appointment of John Blackwell, a Puritan and a veteran of Cromwell's army, as deputy governor (1688-1689); [79] and 3) the return to weak commission-type governments, followed by a series of governors over whom Penn had, for various reasons, little or no control (1690-1698). The most important of these last were New York's royal governor, Benjamin Fletcher, appointed governor of Pennsylvania in 1692 by William and Mary, over Penn's objections, to meet wartime emergencies;[80] and Penn's loyal cousin, William Markham, who was forced in 1696 to agree to a revision of the *Frame of Government* of 1683 without Penn's knowledge or consent.[81]

Given his residence in England in these turbulent years and the many problems faced by his colonists over which neither he nor they had much control, Penn could never have an easy task of governing Pennsylvania. He made many important decisions, however, that only compounded the difficulties he faced. First were several tactical errors. William Penn, as historians have long noted, was a strikingly poor judge of character, letting his natural sentiments and great generosity outweigh a dispassionate consideration of the men with whom he dealt. Once he had made an unfortunate choice he was likely to stick to it with stubborn tenacity. In no other way can one explain his patient support for the lazy, selfish, proud Thomas Lloyd, the President of Pennsylvania's Provincial Council, who could usually be found in New York. Penn's next appointment, of John Blackwell to be deputy governor, shows his poor judgment working on a larger scale. Blackwell himself was just what Penn wanted: honest, tough, and loyal. Penn, however, had misjudged Pennsylvania's Quaker community, which would not tolerate a Puritan outsider.

A more strategic and constitutional error was Penn's decision in 1684 to break up executive authority among several persons and institutions. The *Frame of Government* provided for a deputy governor with clear lines of authority to the Council, Assembly, and judiciary. Penn, however, made Thomas Lloyd the President of the Provincial Council, a more limited, weaker office than deputy governor, and then distributed other powers among a Commission of Propriety, a Commission of Estate and Revenue, a secretary, and a surveyor, in addition to a provincial high

court, the Council, and the Assembly.[82] Five years later, when he despaired of his one experiment in governing through one deputy, John Blackwell, he returned to a policy of fragmenting authority by issuing commissions for three- and five-man executive boards.[83] All of these experiments merely blurred lines of authority and dispersed what little political power there was in Pennsylvania. Through his repeated experiments in *ad hoc* decisions, divided appointments, and overlapping institutions, Penn was showing a damaging disrespect for the well-thought-out provisions in his own constitution. And if the Proprietor could be so cavalier toward the one great agreement made between himself and his people, his settlers could adopt the same behavior in seeking their own, contrary interests.

William Penn's greatest difficulties as governor were bound up in a fundamental lack of respect for his colonists. His repeated expression of two convictions were particularly damaging. First, he continued to claim a veto power over completed legislation that the *Frame of Government* did not grant him, although he rarely exercised this power, and then only when pressed by English officials.[84] Compounding this insult to his whole government was his steadfast refusal to grant his small Assembly the right to initiate legislation, or any other rights except to vote on laws made by the Council. Penn, moreover, did not even consider the Assembly worthy of receiving a direct explanation of his position. In letters addressed only to the Council, he simply repeated the vague maxim that to grant the lower house legislative initiative would unbalance the constitution.[85] His stubborn resolve on these matters and his giving more attention to the grievances of Pennsylvanians and Quakers than to those of Delawareans and non-Quakers only encouraged the growing tensions in his badly divided colony. By 1692 sharp divisions had emerged between Pennsylvanians and Delawareans, Friends and non-Friends, Keithians and anti-Keithians,[86] and rich and poor colonists.

Finally, Penn was constantly plagued by a decision he made even before he began drafting his constitution in 1681: to impose a quit-rent on all land in the province. Quit-rents were traditional in proprietary colonies, and where they were collected as a tax to support a proprietary governor in the colony, or a popular and effective deputy governor, the settlers would grudgingly accept the necessity of paying them. To aggressive seventeenth-century colonists, however, these quasi-feudal land obligations had little legitimacy. An absentee governor who did not appoint a popular and effective deputy, and who was determined to collect his

rents in coin from his specie-poor settlers to pay his English debts, was not on the road to either proprietorial popularity or financial solvency.[87]

Had William Penn understood this simple but rarely understood truth, he would have realized that he could only make his colony pay by living in it, by governing it directly, and by collecting quit-rents in some form that his colonists could easily pay or, preferably, by paying all his expenses of government through modest excises, import duties, or land taxes set by a popularly elected assembly. In the 1770s Britain's failure to observe such simple rules led to a Revolution. In the 1680s and 1690s many Pennsylvanians had a simpler answer: they did not pay.

* * * * *

In 1699, William Penn finally became untangled from his English affairs long enough to come to America. He returned because he had to resolve certain problems in Pennsylvania if the province were ever to become a valuable possession for him and his heirs. Under orders from England's Board of Trade, he settled a dispute between English customs officials and his own attorney general, David Lloyd, by removing Lloyd from office.[88] He attempted to repair the badly strained relations between Pennsylvanians and Delawareans. He tried to reassert his authority over both the Provincial Council and the General Assembly.

Almost immediately, however, Penn discovered that the best way to resolve nearly every controversy was to yield to his colonists' demands. In May 1700 he agreed to the permanent abrogation of the *Frame of Government* of 1683, which had not been in effect since 1696.[89] He then negotiated a new Charter of Privileges with his settlers, and signed it on October 28, 1701. This brief document radically changed Pennsylvania's government. The Council, a major target of years of mounting frustration and resentment, completely lost its constitutional position and became a strictly proprietorial, advisory body. The Assembly remained small, but now permanently acquired all power it had seized in 1696, and more: the right to draft all laws, to nominate many provincial officials, and to sit on its own adjournments. Penn also granted the Delawareans the right to split off from Pennsylvania and form their own assembly, if they desired.[90]

The major constitutional issues that had disturbed and divided early Pennsylvanians were now largely resolved, although the Proprietor's political and financial position in the colony continued to excite resistance for many decades. In November 1701, William Penn sailed back to England for the last time. In 1704, Dela-

wareans exercised their option to hold their own assembly, separate from the domineering Pennsylvanians.[91] Pennsylvanians engaged in another quarter century of contentious politics, centering on their powerful new Assembly and its relationship with the Proprietor and his heirs. But William Penn's bicameral, two-class constitution had passed into the history, and the memory, of Pennsylvanians.

* * * * *

No founder of a proprietorial colony tackled the problem of writing a workable, liberal, enduring constitution for his settlers with more energy and determination than William Penn. The *Frame of Government* he produced compares favorably with the constitutions of most other proprietorial colonies, notably those drawn up for the Carolinas and for East New Jersey. Why, then, did Penn fail?

A part of the answer lies in simple blunders and unavoidable misfortunes. If Penn had not returned to England in 1684, and if Charles II had not died in 1685, Penn would have had a better chance to make his concept of government work. Yet it was never a good chance. William Penn was an anomaly, a well-born, well-connected Quaker, who achieved a paradox. He was the only Quaker whom one can imagine getting a colony from Charles II. Yet he was, because of the very position that enabled him to secure his colony, the least likely of all Quakers to know what his settlers wanted and needed in a constitution.

William Penn was born into England's ruling class, and in important ways he never left it. His fellow Quakers were born outside that class, and never entered it. Penn was born to power; his settlers were seeking it. Penn lived comfortably in an economically, socially, and politically hierarchical world. His settlers, particularly his Quaker settlers, lived in a world with more muted social distinctions. A few Friends were wealthy, many were rather poor, and none had much social status or political power. Yet many Quaker settlers hungered after status and power, and even their strongly communal religious tradition did not discourage them from seeking both goals.

William Penn's hierarchical model of government and society, embodied in his *Frame of Government,* was liberal by English standards, and even by Harringtonian standards. It was not, however, what ambitious, egalitarian Quaker settlers had in mind when they thought of government. Their vision of society was more accurately expressed, and better served, by essentially unicameral, more nearly classless constitutions like the West New Jersey Concessions, and the "Fundamentall Con-

stitutions" that Penn had rejected. William Penn and his Friends lived in the same religious realm, and in that realm they communicated freely and with joy. Socially, however, they lived in different realms. Unavoidably, they dreamed of, and built, different political worlds.

Notes

• This article made its first appearance, with this same title, as a paper presented to the Philadelphia Center for Early American Studies seminar in February 1983. I have made several stylistic revisions and a few deletions, but both the text and notes are largely unchanged from that occasion, my last of three presentations to the PCEAS. I have not added new citations because, with one exception, little of note has appeared on this subject for several years. The exception is the superb *Lawmaking and Legislators in Pennsylvania: A Biographical Dictionary, Volume One, 1682-1709* (Philadelphia, 1991), edited by Craig W. Horle, Marianne S. Wokeck, and others. This volume must now join the *Papers of William Penn* volumes and Jean Soderlund's *William Penn and the Founding of Pennsylvania,* all cited frequently below, to form the essential foundation for any serious study of early Pennsylvania. I would like to express my gratitude to all 1979-1983 members of the PCEAS seminar for their incisive criticism and warm support, and particularly to my *Penn Papers* colleagues, Richard and Mary Dunn, Jean Soderlund, Marianne Wokeck, and Scott Wilds; and to Michael Zuckerman and P. M. G. Harris and the members of their informal evening seminar in the same period. These and other scholars have made Philadelphia the center of the lively revival of interest in William Penn, his colony, and the entire Mid-Atlantic region that has become so prominent a part of historical research and writing on early America in the last fifteen years.

1. Richard S. Dunn and Mary Maples Dunn, eds., *The Papers of William Penn, Volume Two, 1681-1684,* (Philadelphia, 1982; hereafter *PWP,* 2), p. 84. All contractions and ampersands in quotations from this edition have been expanded.
2. *PWP,* 2:89.
3. Marianne S. Wokeck, Joy Wiltenburg, Alison Duncan Hirsch, and Craig W. Horle, eds., *The Papers of William Penn, Volume Three, 1685-1700,* (Philadelphia, 1986; hereafter *PWP,* 3), p. 50.
4. On the initial decades of chaos, see Gary Nash, *Quakers and Politics, Pennsylvania, 1681-1726* (Princeton, 1968), chap. 6. On the ensuing Quaker oligarchy, see Nash, chap. 7; Alan Tully, *William Penn's Legacy: Politics and Social Structure in Provincial Pennsylvania, 1726-1755* (Baltimore, 1977); and Richard Alan Ryerson, "Portrait of a Colonial Oligarchy: The Quaker Elite in the Pennsylvania Assembly, 1729-1776," in Bruce Daniels, ed., *Power and Status: Officeholding in Colonial America* (Middletown, Conn., 1986), pp. 106-135.
5. Nash, *Quakers and Politics,* p. 286, and see pp. 49-56.
6. Nash, *Quakers and Politics,* p. 336.
7. See *Quakers and Politics,* p. 295, n. 90, where Nash cites Karl Deutsch, "Social Mobilization and Political Development," *American Political Science Review,* 55 (1961), 493-514, as an influence upon his thinking.
8. The dates are those of publication of the major "Commonwealth" works of these authors. There is

no evidence in *Quakers and Politics* that Nash made significant use of Commonwealth writers or of modern commentary upon them.

9. William Penn associated closely with Tory politicians throughout his career, was a lifelong friend of both Charles II and James II, and may even have subscribed to the theory that kings ruled by divine right (see his congratulatory letter to James II upon his accession to the English throne in February 1684, *PWP*, 3:27-28). Nevertheless, pro-monarchical theory played no role in any of Pennsylvania's published or draft constitutions or in its constitutional debates. And neither Penn nor his settlers showed any interest in the most conservative political tradition in Restoration England, the patriarchal theory of Sir Robert Filmer (*Patriarcha,* written c. 1659; published, 1680), that the origin of all monarchy was divinely ordained patriarchal right.

10. Richard T. Vann, "Quakerism: Made in America?", in Richard S. Dunn and Mary Maples Dunn, eds., *The World of William Penn* (Philadelphia, 1986), pp. 157-170, argues that a large number of Pennsylvania's early settlers had not been Quakers in England, but only became so in America.

11. On the Familists and other radical sects of the 1640s and 1650s and the radicalism of the early Quakers, see Christopher Hill, *The World Turned Upside Down* (New York, 1973); Mary Maples Dunn and Richard S. Dunn, eds., *The Papers of William Penn, Volume One, 1644-1679,* (Philadelphia, 1981; hereafter *PWP,* 1) pp. 304-305, 308-309, and 312-313; and Phyllis Mack, *Visionary Women: Ecstatic Prophecy in Seventeenth-Century England* (Berkeley, 1992). On the Levellers, see A. L. Morton, *The World of the Ranters: Religious Radicalism in the English Revolution* (London, 1970), chap. 7; and John Blackwell to William Penn, May 1, 1689, *PWP,* 3:243-246.

12. Don M. Wolfe, ed., *Leveller Manifestoes of the Puritan Revolution* (New York, 1944); C. B. Macpherson, *The Political Theory of Possessive Individualism* (Oxford, 1962), chap. 2; Morton, *World of the Ranters,* chap. 7.

13. The one known Commonwealthman, of a rather atypical non-Harringtonian variety, who advised Penn was Algernon Sidney. On his role, and that of other, unknown, Commonwealthmen in framing a government for Pennsylvania, see below.

14. Among the more accessible introductions to Commonwealth thought are H. F. Russell Smith, *Harrington and His Oceana, A Study of a 17th Century Utopia and Its Influence in America* (Cambridge, 1914); and the introduction to J. G. A. Pocock, ed., *The Political Works of James Harrington* (Cambridge, 1977), pp. 15-152, which is pithier and more concrete than Pocock's *The Machiavellian Moment* (Princeton, 1975). The central English Commonwealth work is Harrington's *Commonwealth of Oceana,* of which Pocock's edition, in *Political Works,* is now the most convenient to use. Caroline Robbins, *The Eighteenth-Century Commonwealthman* (Cambridge, Mass., 1959), chap. 2, provides a good introduction to all the major early writers in the Commonwealth tradition, and Robbins' introduction to her edition of *Two English Republican Tracts* (Cambridge, 1969), is helpful on Henry Neville.

15. See *PWP,* 1:29-30, 34-36, 68 n. 1, 149-152, and 342, where Richard Baxter, writing to Penn in 1675, says of Penn that "hee swims himselfe in wealth."

16. *PWP,* 1:51-97, 147-148, 153-162, 171-180, 181-182, and 184-212.

17. On Penn's role in combatting the Perrot (Mucklow-Pennyman) and the Wilkinson-Story schisms between 1672 and 1679, see *PWP,* 1:249-259, 262-267, 327-333, 334-337, 363-365, 370-374, 520-533, and 556-557. In the 1670s, Penn was personally closest to those Quakers who favored the new monthly, quarterly, and yearly meeting discipline, particularly George Whitehead and George Fox, and to well-educated Friends of gentry background, notably Margaret Fell Fox, Robert

Barclay, and, interestingly, George Keith, who would later begin the Keithian schism in Pennsylvania. Keith's schismatic movement was appealing to a broad social range of Friends, and was not economically or socially "from the right." But theologically it emphasized dogma, and it finally drew many Friends away from the Society to the more structured religion of the Baptists, or even, in the case of Keith himself, back to the Church of England.

18. See especially *The Sandy Foundation Shaken* (1668); *No Cross, No Crown* (1669); *A Seasonable Caveat Against Popery* (1670); *New Witnesses Proved Old Hereticks* (1672); *Quakerism a New Nick-Name for Old Christianity* (1672); *The Spirit of Truth Vindicated* (1672); *A Winding-Sheet for Controversie Ended* (1672); *The Spirit of Alexander the Copper-Smith Justly Rebuked* (1673); *Judas and the Jews Combined Against Christ and His Followers* (1673); *Reason Against Railing, and Truth Against Fiction* (1673); *The Invalidity of John Faldo's Vindication* (1673); and *A Just Rebuke to the One & Twenty Learned and Reverend Divines* (1674). All were published in London.

19. Penn's other 1675 tracts addressed to Parliament were *A Treatise of Oaths* and *The Continued Cry of the Oppressed for Justice.*

These writings show Penn returning to a subject in which he had long been interested, and which would concern him deeply for the rest of his life: English law. This interest began either with his brief study at Lincoln's Inn in 1665, or with his trial for seditious preaching in 1670 (the Penn-Mead trial), referred to below.

20. Penn was by family background, wealth, and education a gentleman from his youth, but until his marriage in 1672 he lived only with relatives or in rented quarters, either in or a few miles outside London. For the first three years after his marriage he lived in a large rented house, a day's ride from London, which was quite adequate for his small family. Thus Penn did not need the shelter or space of a country manor house in 1675, and it cost him dearly. Warminghurst included a large house with gardens, a park, orchards, and farm land, in all over 300 acres. Penn paid £4450 to purchase it. This forced him to borrow £4700, to secure which he had to sell off £3000 of his wife's English farmland, and mortgage more of her acres as well (see *PWP*, 1:646-649). Thus Penn spent a large sum to live in a style that he regarded as essential, but which he could ill afford. When he moved to Pennsylvania, he would spend just as handsomely to build an imposing manor there, for far less social return.

21. *PWP,* 1:1:425-508 (Penn's "Holland Journal").

22. *PWP,* 1:511-512, 546-549, 553-555. Penn's election piece, *England's Great Interest in the Choice of this New Parliament* (London, 1679), was written between May and July 1679 for the second parliamentary election held in that year, in which Penn supported Sidney at Bramber, Sussex, a few miles from his country home at Warminghurst.

23. *PWP,* 1:383-388, 649-654.

24. An annotated text of the "Concessions" is in *PWP,* 1:388-410. For the Leveller origins of the document, see Hugh Barbour and Arthur O. Roberts, eds., *Early Quaker Writings, 1650-1680* (Grand Rapids, Mich., 1973), pp. 409-421 (republishing *A Mite of Affection, Manifested in 31 Proposals* [London, 1659], by "E.B.," a Quaker tract influenced by Leveller ideas, which Barbour and Roberts attribute to Edward Byllynge); Caroline Robbins, "Laws and Governments proposed for West New Jersey and Pennsylvania, 1676-1683," *Pennsylvania Magazine of History and Biography,* 105 (1982): 373-392 (hereafter cited as *PMHB*); and *An Agreement of the Free People of England* (London, 1649), by John Lilburne, William Walwyn, Thomas Prince, and Richard Overton, the most important tract of the Levellers, republished in Wolfe, ed., *Leveller Manifestoes,* pp. 400-410.

25. Caroline Robbins, "Laws and Governments," *PMHB,* 105:382-391, most pointedly makes the case for Edward Byllynge's authorship of the "Concessions," and rejects any substantial role in its composition by Penn. Barbour and Roberts, eds.,

Early Quaker Writings, pp. 409-410, agree.

26. There is no direct evidence that Penn's West New Jersey trusteeship influenced his ideas about how to found, promote, or govern a colony. Penn scarcely made even a passing reference to his involvement in New Jersey affairs in the 1670s.

27. In 1678, Penn sold another parcel of his wife's land for £2800, bringing his total sales between 1672 and 1678 to £6800 (*PWP,* 1:646-649).

28. In January 1982, when I presented a preliminary report on my work on Penn's constitution-making to the Zuckerman-Harris seminar on early American history, P. M. G. Harris observed that Penn had always gotten more from the nobility and royalty than he had from the Commons. Later in his career, as well, Penn found Tories far more sympathetic to his interests than Whigs; see Alison Gilbert Olson, "William Penn, Parliament, and Proprietary Government," *William and Mary Quarterly,* 3d series, 18 (1961): 176-195, on Penn's efforts to keep his colony after 1701.

29. Penn's negotiations to secure his royal charter have been carefully reconstructed by Scott Wilds and Richard Dunn: see *PWP,* 2:21-23, 30-49, and 57-78. Penn was granted his colony nominally in partial, but actually in total, payment for the debt incurred when Admiral Sir William Penn, as Victualler of the Royal Navy, advanced £11,000 worth of supplies to the navy for which the Crown had never paid him or his estate. William Penn, in his petition for his colony, calculated that the original debt had grown, with interest, to £16,000 by 1680. Although Charles II may have been morally obligated to pay this debt, in practice he, like many seventeenth-century monarchs, often did not pay such obligations, and courtier creditors extending such loans usually understood that repayment was far from certain. Charles II did, however, have a fond memory of Admiral Penn, for he insisted, over William Penn's objections, in naming the colony after the Admiral.

30. See Penn's statements of faith in James II, both just before and shortly after James's removal from the throne: William Penn to William Popple, October 24, 1688, in Joseph Besse, ed., *The Works of William Penn* (London, 1726), 1:134-139; William Penn, "An Epistle Generall to . . . Quakers," ca. 1689, *PWP,* 3:267-271. No direct statements of Penn's confidence in Charles II addressed to third parties are known, but nothing in his papers casts any doubt on the loyalty and warm friendship that Penn expressed directly to Charles (William Penn to Charles II, August 13, 1683, *PWP,* 2:428-431).

31. *PWP,* 2:137-238. The documents were edited by Ned C. Landsman, Richard Dunn, Mary Maples Dunn, and the present author. Because the introductory sections and annotation give full manuscript citations to the eight drafts that are not published in the *Penn Papers,* as well as to the nine drafts and three commentaries that are published there, I will omit citations to the manuscripts here.

32. William Penn to Col. [Algernon] Sidney, October 13, 1681, *PWP,* 2:124. It has often been assumed on the strength of this letter that Sidney was a major contributor to Penn's first constitution, but it seems more plausible to conclude that the letter shows Sidney's failure to contribute to the evolving document. No surviving text shows the kind of alterations that Penn said Sidney made to an early draft, and Penn makes it clear that Sidney, invited to submit a draft of his own, had not done so.

33. The reader will not fail to notice the words "may have," "whether/or," "apparently," "evidently," and "seems" in this paragraph. The unavoidable use of such maddeningly vague expressions stems from the fact that one cannot, with any certainty, tell either when Penn or any of his advisors wrote one or another of the early draft constitutions, or even who wrote many of the drafts. In the case of the "Fundamentall Constitutions," discussed below, it is not even certain whether it was written before all other surviving drafts, as I have assumed here, or after nearly half of the extant texts were completed.

34. The annotated text of the "Fundamentall Constitutions" is in *PWP,* 2:141-156, where it is

dated [summer 1681?]. I now believe this date is too early; the "Fundamentall Constitutions" must post-date Penn's discussion with Sidney, and perhaps his letter to Sidney (October 13) as well. Moreover, it is just possible that the "Fundamentall Constitutions" is a response to Thomas Rudyard's critique of the "Frame of Government" (see below), and therefore dates from early 1682. I am assuming that Penn did not himself write the "Fundamentall Constitutions" because the phrase "Very Good," apparently in Penn's hand, is written at two points in the margin to the finished text. (*PWP*, 2:143, 150 [constitutions (sections) I and XVIII]). As Mary Dunn has pointed out, however, the text's preface and the brief preambles to most of its twenty-four sections sound much like Penn, so he may have directly participated in its construction. The great problem with this text is its polished state. The two extant versions must have had numerous rough drafts behind them that would likely show the nature of Penn's involvement in their composition.

35. See Pocock, ed., *Works of Harrington,* pp. 6-14 (circumstances of *Oceana's* publication), and 155-359 (the text).

36. See particularly the provision abolishing imprisonment for debt in constitution (section) XIV, *PWP*, 2:148.

37. Penn's settlers would certainly have demanded a reduction in the size of both the Council and the Assembly, as they did in the *Frame of Government* that he published (see below). They would probably also have reduced the frequency of Council meetings. The "Fundamentall Constitutions," like its model, *Oceana,* provides for the kind of government that only a large and fairly wealthy nation would be able to use and support.

38. See Pocock, ed., *Works of Harrington*, pp. 128-136; Pocock, *The Machiavellian Moment,* pp. 406-422; and Robbins, ed., *Two English Republican Tracts,* pp. 5-20.

39. This strain of Quaker political thought is well represented in Barbour and Roberts, eds., *Early Quaker Writings.* See note 24, above.

40. Nash, *Quakers and Politics,* pp. 28-47. If major Quaker investors did pressure Penn to alter his constitution, Nash quite misunderstands how they did so, essentially by missing both the conservatism of the early drafts of the "Frame of Government" and the pragmatism of the early "Frame's" critic, Thomas Rudyard. Nash also, like the present author, has difficulty determining just when the "Fundamentall Constitutions," the only liberal constitution that could have been written before Rudyard's commentary, enters this complex story.

41. On rare occasion, Penn would quote from a writer in the Commonwealth tradition (see his reference to Machiavelli, *Discourses,* book 3, chap. 20, in *England's Present Interest Discover'd,* Besse, ed., *Works of Penn,* 1:690). But Penn's major political tracts, *The People's Ancient and Just Liberties Asserted* (1670), *England's Present Interest Discover'd* (1675), *One Project for the Good of England* (1679), and *England's Great Interest in the Choice of this New Parliament* (1679), are all thoroughly Whig, not Commonwealth, works.

42. Darnall's first and third charts are in *PWP*, 2:156-162. Three of the six drafts of the "Frame of Government" that built on Darnall's work follow, pp. 162-184.

43. Harrington divided all freemen into three groups. Those under thirty could not hold office. Those over thirty who were worth less than £100 per year could sit in the lower "prerogative," or popular, house and approve legislation. Those over thirty who were worth over £100 per year could sit in the Senate and make laws. (See Pocock, ed., *Works of Harrington,* pp. 212-213, 226-227). The "Fundamentall Constitutions" made no income distinctions; any freeman, age twenty-one or older, could hold any office.

44. See the sixth clause in both the first and second drafts of the "Frame," *PWP*, 2:165, 179.

45. Thomas Rudyard, "As for the parliamt or grand Assembly, . . . ," *PWP*, 2:184-189, see esp. pp. 187-188.

46. Rudyard resembled Sir Lewis Namier in his firm

faith that Englishmen, given the opportunity, would always elect men to Parliament who would protect the nation and serve all of the vital interests within it. See the wonderfully humorous, yet quite serious image in Namier, *England in the Age of the American Revolution* (London, 1930; 1966), p. 3.

47. See Russell Smith, *Harrington and His Oceana,* p. 177.

48. On Penn's troubles with the size of his government, see below.

49. Penn's annual income of about £1500, which he regularly overspent, placed him considerably above most English knights and even baronets, about on a par with the average bishop, and below only England's 160 secular peers, in Gregory King's tabular presentation of England's socio-economic structure in 1688. See Andrew Browning, ed., *English Historical Documents,* 1660-1714 (London, 1953), pp. 515-517.

50. On Penn's frequent lobbying before Parliament, particularly in 1672, 1678, and 1680, see *PWP,* 1:259-261, 533-542, and *PWP,* 2:49-56.

51. See *PWP,* 1:24-25, 287, 366, 428, 544.

52. *PWP,* 2:213.

53. The full text is in *PWP,* 2:211-227.

54. *PWP,* 2:220.

55. The exact nature of the Leveller franchise has never been resolved. The debate centers on whether the Levellers wanted to enfranchise all adult males, including servants, or only freemen (freeholders and free laborers who paid taxes), as the *Frame of Government* did (see Macpherson, *Possessive Individualism,* chap. 2; and Morton, *World of the Ranters,* chap. 7). I use the phrase "adult males" here rather than "adult white males" because nothing in the *Frame* or the *Laws* legislated either racial slavery or any racial distinctions. Unfortunately, Pennsylvania law would soon change that. Law 34 of Penn's *Laws* limited active citizenship to Christians, but Law 35 allowed all monotheists, presumably including Unitarians (Socinians), Jews, and Muslims, religious toleration and civic rights.

56. Section 7 of the *Frame* reads: "That the Governour and Provincial Council shall prepare and propose to the General Assembly, . . . all Bills . . ." Sections 8-12 begin in the same way, and section 15 declares that all laws passed shall be enrolled "with this Stile, By the Governour, with the Assent and Approbation of the Free-men in Provincial Council and General Assembly." None of this language actually gave Penn a veto, any more than such traditional language was seen as giving England's monarch a veto. Kings and queens, however, had more ways of killing obnoxious legislation without casting a veto than did Penn, whose *Frame of Government* required the annual meeting of both Council and Assembly.

57. *PWP,* 2:220.

58. On the Duke of York's sale of Delaware to Penn, see *PWP,* 2:281-284; on Penn's political policies in Delaware, see *PWP,* 2:299-300, 304-315, 318-320, 323-325.

59. *PWP,* 2:300, 304-305, 318-320.

60. *PWP,* 2:619-624, prints the petitions from Chester, Kent, New Castle, and Sussex counties, all written on or about February 20, 1683. The signatures, with the "X"s marked, are included. The quote is from the New Castle County petition, *PWP,* 2:621.

61. The four petitions are nearly identical in their phrasing, suggesting a concerted campaign in every county. Although no petitions have been found from Philadelphia and Bucks counties, they were probably written, since every county sent the same sized delegation to the March-April session. Penn was probably informed of the campaign while it was in progress.

62. This development confounded the expectations of all of Pennsylvania's constitution-makers. The assembly in the "Fundamentall Constitutions" had 384 members; the lower house in the early drafts of the "Frame of Government" could have grown even larger, as Rudyard pointed out in his critique; and the Assembly in the first *Frame of Government* had 200 seats, with a provision to expand to 500. James Harrington's *upper* house in *Oceana* had 350

members, and the House of Commons had over 500. Pennsylvania, however, had only 26 legislators in its unicameral legislature after 1704, and only 36 members as late as 1770, giving the Assembly, in that year, the greatest number of constituents per representative of any legislative body in British North America (see Jack P. Greene, "Legislative Turnover in British America, 1696-1775: A Quantitative Analysis," *William and Mary Quarterly*, 3d series, 38 [1981]: 442-463, esp. p. 461).

63. The Act of Settlement is in *PWP*, 2:362-367. The only annotated text of the Council minutes and the Assembly journal for March-April 1683 appears in Jean R. Soderlund, ed., *William Penn and the Founding of Pennsylvania, 1680-1684, A Documentary History* (Philadelphia, 1983), pp. 225-265. This fine volume is an abridged version of *PWP*, 2, with modernized texts and several important documents that do not appear in *PWP*, 2, notably the legislative minutes for 1683 and the second *Frame of Government.*

64. The text is in Soderlund, ed., *Founding of Pennsylvania,* pp. 265-273; note sections 1, 2, and 13, pp. 267-269.

65. See Soderlund, ed., *Founding of Pennsylvania,* p. 46 (section 14). Gary Nash, *Quakers and Politics,* p. 71, draws attention to this point, and adds that Penn's royal charter directed that all laws be made by the proprietor "with the advice, assent, and approbation of the freemen" (see Soderlund, ed., *Founding of Pennsylvania,* p. 43 [section 4]). Thus to have denied Penn a veto over legislation would have violated the charter, which Penn could not alter. This argument, however, as Nash admits, was apparently not made before 1706 (by James Logan).

66. See Michael G. Hall, *Edward Randolph and the American Colonies, 1676-1703* (Chapel Hill, N.C., 1960), pp. 77-83, 90; *PWP*, 3:26, 60, 74, 97.

67. Soderlund, ed., *Founding of Pennsylvania,* pp. 237, 260 (Council minutes, March 15, April 2).

68. *PWP*, 2:365. This clause was not incorporated into the second *Frame of Government.*

69. Compare the first *Frame of Government*, sections 17-18, in *PWP*, 2:218-219; with the second *Frame of Government*, section 16, in Soderlund, ed. *Founding of Pennsylvania*, p. 270 (and see p. 252, and n. 53 on p. 264).

70. Pocock, ed., *Works of Harrington,* p. 771.

71. *PWP*, 2:215. Jean Soderlund made this observation at the January 1982 meeting of the Zuckerman-Harris seminar, in response to my preliminary presentation of my work on Penn's constitutions.

72. *PWP*, 2:350.

73. See *PWP*, 2:111-114, 256-259, 281-284, 329-333, 344-346, 357-358, 381-437 *passim*, 471-558 passim, and 624-630 for the basic documents in the Penn-Baltimore controversy, edited with full introductions, annotation, and maps by Jean Soderlund.

74. See *PWP*, 2:520-523, 543-545, on the revolt in Kent County; *PWP*, 2:569-578, on the controversy over the Philadelphia waterfront; and *PWP*, 2:411-412, 500-501, 558-560, and 611, on the problems of collecting quit-rents, excise taxes, and even pledged voluntary contributions in lieu of the excise.

75. *PWP*, 2:583.

76. *PWP*, 2:607-608, 609; *PWP*, 3:25-26.

77. *PWP*, 3:34-35 (1685), 86, 88, 123 (1686), 171 (1687), 183 (1688), 284 (1690), 405 (1694), 531 (1697).

78. *PWP*, 2:583.

79. *PWP*, 3:194-195, 208-210, 218-255 *passim.*

80. *PWP*, 3:347, 356-357, 358-359.

81. *PWP*, 3:456-469.

82. *PWP*, 2:581-582, 583; 3:41-42, 142-144.

83. *PWP*, 3:144-146, 168-171, 208-210, 254-255, 285-290.

84. *PWP*, 3:552-554, 561, 562.

85. *PWP*, 3:286-290, 317-318, 329, 591.

86. *PWP*, 3:347-348, 354-358, 359-364.

87. Penn did succeed in collecting considerable quit-rents from both Pennsylvania and Delaware, but only through a constant struggle, and they were never sufficient to meet his proprietorial expenses. See *PWP*, 2:82, 97, 99, 101, 282, 351, 352, 403,

521, 553, 554; 3:257, 259-260, 542, 565-567, 679-737 (the Blackwell rent roll of 1689); Craig W. Horle, Alison Duncan Hirsch, Marianne S. Wokeck, and Joy Wiltenburg, eds., *The Papers of William Penn, Volume Four, 1701-1718*, (Philadelphia, 1987; hereafter, *PWP*, 4) pp. 92, 93, 94, 295-296, 317.

88. *PWP*, 3:566, 571-572, 577, 592, 620, 631.

89. *PWP*, 3:580-581, 591, 607.

90. *PWP*, 4:85-86, 104-110 (text of the Charter).

91. *PWP*, 4:257-258, 263, 309-310, 312, 313. For evidence of sharp antagonism between Delaware and Pennsylvania as early as 1691, see *PWP*, 3:295-306, 316-319. Delawareans fully stated their grievances to Penn in October 1701, to which he responded by permitting them to hold a separate assembly if they wished (4:102-103, 109).