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THE FREDERICK STUMP AFFAIR, 1768, AND ITS CHALLENGE TO LEGAL HISTORIANS OF EARLY PENNSYLVANIA

I

IN January, 1768, Frederick Stump, a thirty-three year old German settler in Penn's Township, Cumberland County, methodically killed, or helped to kill, ten Indians: four men, three women, two young girls, and a female infant. In quick succession Stump was captured, incarcerated, and rescued from jail by an armed mob. He was never thereafter brought to justice. To the degree that Stump's story has come to the attention of succeeding generations, it has been through the efforts of antiquarians and, more recently, historians fascinated primarily by the political implications of the drama surrounding his crimes.¹ As attractive as the Stump case may be as a measure of political loyalties and strategies, or of incipient revolutionary activity among Pennsylvanians on the frontier, it is the contention of this paper that it is even more valuable as a vehicle by which to judge the current state of knowledge concerning Pennsylvania's early legal history. Stump's killings, together with subsequent efforts on the part of some Pennsylvanians inclined to free and exonerate him, and the determination of others to see that he pay in full for his crimes, identify every question that should be at the heart of today's investigations by legal scholars of colonial Pennsylvania. Stump's case thus challenges the legal historian on every level of attention and raises anew the need for a more systematic and rigorous investigation of crime and law enforcement in early Pennsylvania.²

II

By December, 1767, Anglo-Indian relations on Pennsylvania's western frontier were again tense. Frontier families and "long hunters" persisted in settling lands prohibited to them by treaty. Not only did these aggressive westerners violate treaties with the Six Nations, but also to the great consternation of Pennsylvania authorities and royal officials alike they frequently preyed upon local tribes.³ Murders were not uncommon. "The many Murders committed on Indians in and on the Frontier of Pennsylvania . . . and no one being Ever punished for them," wrote one observer, "cannot fail of exciting in the Minds of the Natives, the most unfavorable opinion of the Justice and Strength of the Government." Pennsylvania Governor John Penn admitted that his "Civil Officers, whose Business it is to see that [laws] are duly enforced, cannot exert their Authority in so distant and extensive a wilderness."⁴ Military personnel sought to avert further depredations by forcibly removing many of "these Lawless Settlers," but as British commander in chief, General Thomas Gage, confessed to Penn, "as they meet with no Punishment," settlers quickly return "to the same Encroachments . . . in greater Numbers than ever." He concluded that more would have to be done than merely "destroy a parcel of vile Hutts."⁵

The Pennsylvania Assembly angrily denounced the settlers' "audacious Encroachments" and the "repeated murders" of Indians. On January 13, 1768, it warned Penn that "should crimes of the first Rank, of the deepest Dye, remain unpunished, wicked men will never be wanting . . . to take Advantage of the Time and Debility of Government, to commit the like, or other Crimes." It began work on a removal bill introducing the death penalty for anyone intruding on lands reserved by treaty to the Indians. By early January, 1768, the Assembly and a good many others in Philadelphia feared that continued violations of laws and treaties would not only unleash a destructive and prolonged Indian war but also seriously compromise the efficacy of the Penn government.⁶

During this tense period six Indians visited the home of Frederick Stump in Cumberland County at the mouth of Middle Creek. Stump, who two years before had become embroiled with John Penn himself over the matter of Indian lands,⁷ killed the two Seneca men, their wives, and the two male Mohicans, and scalped at least one of the males. He dragged the bodies to the nearby creek and after breaking the ice which covered it pushed the bodies in. The following day, accompanied by his nineteen year old German servant, John Ironcutter, Stump walked fourteen miles up Middle Creek to several Indian cabins. Finding there

a woman, two young girls, and a female child, Stump and Ironcutter killed them, placed their remains in the cabins, and burned the buildings to the ground. They then returned home where they "freely confessed" their exploits to neighbors.⁸

On January 12, William Blyth, who knew the slain Indians and had entertained them before they visited Stump, heard of the murders. To confirm the details, Blyth went to the grist mill of George Gabriel which Stump was known to frequent. There he found Stump eager to admit the murders but insisting that the six Indians had been drunk and threatening. Fearing for his life and that of Ironcutter, Stump had killed them. He had later slaughtered the four females because he believed they knew of the visit to his home by the first six Indians and might suspect foul play. By slaying them he sought to eliminate any reprisals against himself or the larger community. Once Blyth had received verification of Stump's account from men he sent to the burned cabins, he hurried to Philadelphia to warn the colony's leaders of the likelihood of an Indian war.⁹

With Chief Justice William Allen in attendance, Blyth testified before the Provincial Council on January 19. Shocked by Blyth's disclosures and convinced that the homicides held real potential to spark the long-anticipated uprising among the Six Nations, the Council urged Penn to issue a proclamation describing the atrocities and offering a substantial reward for Stump's capture. The Council also requested that immediate steps be initiated to pacify the Indians and to ensure that everything would be done to avenge their losses. Finally, the Council directed Allen to issue the necessary warrants to the sheriffs of Cumberland, York, Lancaster, and Berks Counties for the arrest and confinement of Stump.¹⁰

Philadelphia officials from the first rejected Stump's assertion that the Indians posed a real threat to his safety and that of his servant. Stump's story seemed patently implausible to many. As John Penn wrote his uncle, "Stump must have made the Indians dead drunk otherwise he could not have done the business alone, as any one of the men were an equal match for him had they been sober." Others simply took into account Stump's already tarnished reputation.¹¹ Whatever the reason, all official correspondence and warrants portrayed the murders as "unprovoked."¹²

Understandably, the Pennsylvania Assembly reacted sharply to news of the slayings and pressed the Council and Governor for additional details. Doubtless many in the Assembly, already disenchanted with Penn and Proprietary rule, saw in the Stump developments a convenient

opportunity to embarrass the Governor and the Proprietary Party. But a deep-rooted concern with law and order also prompted the Assembly's outcry. Assemblymen saw in the Stump affair only the latest of a long line of incidents underscoring the chronic inadequacy of law enforcement in the colony. Only a week before learning of Stump's killings, the Assembly had raged against the government's impotence in dealing with violators of the law and against those who seemed to forget that "it is the Dread of exemplary Punishment steadily and uniformly inflicted . . . that alone can deter the Wicked from the Perpetration of future Offences." Joseph Galloway, Speaker of the Assembly, clearly spoke for many when he grumbled that, "We have the Name of a Government but no Safety or Protection under it. We have Laws without being executed, or even feared (sic) or respected. We have Offenders but no Punishment. We have a Magistracy but no justice." Despite Penn's assurances that his government would act expeditiously in the Stump matter, the Assembly voiced no confidence in his ability or that of his legal subordinates to maintain order or to execute the laws.¹³

Seeming confirmation of the Assembly's low opinion of the power and effectiveness of local magistrates in the frontier counties reached the Council on February 1. It was then that Council members learned that Stump had been captured by William Patterson and a band of nineteen men paid by him, and delivered to Sheriff John Holmes in Carlisle late on Saturday, January 23. Patterson, a former militia captain living twenty miles from Stump on the Juniata, informed the Council that he and his party in capturing Stump and Ironcutter "were exposed to great Danger by the desperate Resistance made by Stump and his Friends who Sided with him."¹⁴ It was not lost on those in Philadelphia that neither Sheriff Holmes nor any of the county's justices of the peace were among those risking their lives to capture Stump. As Galloway complained sourly to Benjamin Franklin, then in England, "Stump tis true was apprehended, but by the Activity from [the government]."¹⁵

Events in the following week further eroded Assembly confidence in the ability of the colony's frontier magistrates effectively to administer justice. Despite orders from Chief Justice Allen to bring Stump immediately to Philadelphia, and despite the presence of several persons, including Holmes, anxious to do just that, Stump remained in Carlisle. Stump had been brought into town on Saturday just as the county court was breaking up and while the county judges were still in Carlisle. The judges were fresh from a session where seven of ten cases coming before them involved violence against individuals or against the standing order. Knowing what they did about their community, its turbulent people and recent history, they could not have been happy to

see Stump and Ironcutter enter their town, even in chains. Whether in Carlisle for a lengthy stay before trial or only briefly before transfer elsewhere, Stump and Ironcutter spelled trouble.¹⁶

Holmes' plans to hurry the prisoners eastward were quickly frustrated. On Sunday the weather was bad, and as the ice on the Susquehanna began to break up crossing became increasingly difficult. In addition, rumors that Stump and Ironcutter were to be taken to Philadelphia and tried there "had spread almost beyond credibility, like an electrical shock, overall the county, and into adjacent counties; and, unexpectedly to all (in Cumberland), had occasioned a very general alarm." As one inhabitant of Carlisle noted later, "the more general, nay, almost universal sentiment was, that if they went down, they would undoubtedly be tried there. . . ." Following several conferences with fellow justices and a consultation with the Reverend George Duffield on Monday evening, senior magistrate John Armstrong decided to override Holmes and to confine the prisoners in Carlisle for the time being. Another conference among local authorities on Wednesday, January 27, solidified the justices' belief that the prisoners' removal must be delayed.¹⁷

On February 2, one day after news of Stump's continued incarceration in Carlisle reached Philadelphia, Penn again ordered Holmes to send the prisoners to Philadelphia, warning ominously that "if in this important matter you shall be found to be delinquent you may expect to be called to the strictest account." Penn was not unaware of the support Stump enjoyed among Cumberland's citizenry. Three years before, in Cumberland's Sideling Hill troubles, rioters had brazenly defied provincial and royal authorities and employed armed threats to free prisoners. If Holmes feared a rescue attempt, Penn wrote, he was to keep the prisoners in Carlisle and send notice of that decision eastward immediately. Otherwise, he was to take the prisoners either to Philadelphia or to the Cumberland-Lancaster line and turn them over to Lancaster Sheriff James Webb, Jr.¹⁸

Cumberland's magistrates scrambled to clear themselves of charges that they had been remiss in their duties. Armstrong wrote Penn admitting that he had overridden Holmes' attempts to expedite the prisoners' removal to Philadelphia. He insisted that the principal cause for the delay in sending the accused to Philadelphia was "an alarm [that had been] raised in the Minds of many, touching their Privileges in this and in future cases, which they allege would be infringed by this Measure." The people of Carlisle and its environs were convinced that should Stump and Ironcutter be sent eastward, they would be tried there. Believing that all crimes should be tried in the county of their

origin, the people of Cumberland were not anxious to surrender this historical right. That Philadelphia officials sought to abridge this right in the Stump case had been raised by "some Person supposed to be learned in the law," according to Armstrong. Under the circumstances, he concluded, he could not release the accused for the trip to Philadelphia "without a manifest Resque (sic) of Complicated Evil."¹⁹

Armstrong's missive outraged Governor and Assembly alike. The Assembly denounced the actions of Armstrong and others in Cumberland as "open contempt." It challenged Penn to enforce the King's writ and to remove from office any Cumberland magistrate delaying compliance with that writ. It was imperative, the Assembly argued, that the "neglect" of current officers "should not pass unnoticed. If their insubordination to the offices of the Governor and Chief Justice escaped reprimand, "it cannot fail in the end to involve this Province in confusion, and Subvert all order and Authority," the Assembly warned darkly.²⁰

With barely controlled civility Penn informed Armstrong that nothing in the justice's letter convinced him his original order should be revised. He still expected that "absolute Obedience be paid to [it]." He expressed "astonish[ment] at the impertinent insolence" of those who had implied that he or his judges would pursue "so illegal an Act as to Try the Prisoners in any other County or place than where the Fact was committed." Penn again warned Armstrong that his current policy bordered on insubordination.²¹

Despite the many assurances from Penn that his government had no plans to bring Stump and Ironcutter to Philadelphia for trial and never had had, the aims of his government are suspect in this respect. In Penn's correspondence with Thomas, his uncle, Penn maintained the need to bring Stump eastward for "an Examination." He never openly advocated a trial for Stump anywhere but in Carlisle. Indeed, he had lashed out at the "foolish lawyer" mentioned by Armstrong who had misled the people in this regard. Penn's proclamation of January 19 had made no mention of a change of venue, nor had his letters to magistrates in Cumberland or to the sheriffs of neighboring counties early in February. Chief Justice Allen had also refrained from mentioning change of venue in his official warrants and correspondence.²²

Privately, however, Allen held that the exact location of Stump's crimes was in doubt, that there was some question as to whether they fell within the jurisdiction of Cumberland, Lancaster, or Berks Counties.²³ Under these circumstances, he hinted, special provisions might have to be made for Stump's punishment, and there is little doubt he believed those provisions should be made and carried out in Philadelphia.

Neither he nor Penn believed the criminals would be convicted in a Cumberland court, but neither wished to face the political and legal repercussions of openly advocating a formal change of venue. An earlier demand for such a change of venue for persons responsible for the Paxton murders of 1763 had taught them the folly of such a course.²⁴

Others were less guarded. Thomas Gage clearly believed that if the Indians of Pennsylvania were ever to receive justice in Pennsylvania courts, trials must take place in Philadelphia. He remained convinced that no white jury would convict one of their own of murdering an Indian. In October, 1767, he had informed Lord Shelburne that whites who refused to convict those guilty of crimes against Indians "must of Course be impannelled upon every Jury, the Law directing the Tryal to be held, where the Fact is committed." He concluded that, "Unless extraordinary Means are used, as well to apprehend and Secure these Lawless People, as to bring them afterwards to condign Punishment, by removing the Tryals to the capitals (sic) of the Provinces, where the Jurys would be composed of Men more civilized than those of the Frontier, no Satisfaction can ever be obtained for any Outrages committed upon the Indian."²⁵

Edward Shippen in Lancaster concurred. He told Colonel James Burd that such trials should be held in Philadelphia, that perhaps the legislature should consider special courts of Oyer and Terminer for that purpose. In Stump's case, Shippen proposed that along with Stump and Ironcutter, "two of the principal Indians" should be permitted to "follow the Murderers down to see him Try'd, & punished." In that way Indians would be assured of Pennsylvania's commitment to their interests and war might be forestalled. No jury in Cumberland would convict Stump, Shippen reasoned; "nothing less than the appearance of regular Troops will check the Insolence of these People." He told Burd that calling up the military to save civil authorities might "be dangerous, yet violent Diseases, call for Violent Remedies."²⁶

Provincial officials were almost apoplectic, then, when in the first week of February, they learned that an armed mob of men "unknown to the Magistrates" had entered the Carlisle jail on January 29 and freed both prisoners. The rioters had sent several small groups of men into town ahead of the main body. This advance guard entered the jail unnoticed and disarmed the jailor before the larger group arrived. Attracted finally by the sudden appearance of more than seventy armed men around the jail, magistrates Armstrong, William Lyons, Robert Miller, and the Reverend John Steel raced to hold the prisoners. The crowd ignored Armstrong's orders to disperse.²⁷ As the crowd threatened, jostled, and finally shoved the magistrates and Steel into the street

near one door the prisoners were brought out another door and were freed "in less than a second." It was later discovered that Stump and Ironcutter, who had originally been chained to the floor, had had their shackles removed two days before their rescue. Only their handcuffs remained on them, and the mob forced a local blacksmith to remove them before they left town.²⁸

Rumors that Cumberland officials were in collusion with the mob coursed through Philadelphia. Memories of Cumberland authorities aiding and advising the rioters in the 1765 Sideling Hill disturbances doubtless made such rumors more believable. Notice was taken of the prisoners being unchained before their rescue. Attention was drawn to the fact that the Reverend George Duffield had been among those most vigorous in pleading to have the prisoners remain in Carlisle, and it was reported that his New Side followers comprised a large segment of the crowd which subsequently liberated them. George Ross was denounced as the lawyer who promoted defiance of the King's writ by implying provincial authorities were seeking surreptitiously to try Stump and Ironcutter in Philadelphia. Despite his protestations of innocence, Armstrong was reproached for being the moving force behind those who would defy the provincial government.²⁹

Prominent figures outside Cumberland County openly predicted that Cumberland's defiance of the law would lead to an Indian war. Gage told the Earl of Shelburne that unless Pennsylvania officials recaptured and punished the killers "there doesn't seem much probability, considering the present Disposition of the Indians, that they can be pacified for the loss of their People." Penn moaned that an Indian war seemed "inevitable" and concluded that "it is drawn upon us by the villainy & Wickedness of our own People." Edward Shippen and James Tilghman expressed similar forebodings. Apparently people in Cumberland concurred. The *Pennsylvania Chronicle* reported that "several Families have fled from their Habitations on the Frontier of this Province under an Apprehension of a speedy Indian War."³⁰

Not surprisingly, under these circumstances, much of the ire of provincial and royal officers was directed at Cumberland's magistracy in general and Armstrong in particular. Penn wrote his senior justice in Cumberland that had he obeyed orders earlier "this event, so full of mischievous Consequences, would not have occurred." If the issue were simply a matter of the inhabitants of Cumberland being convinced that Stump and Ironcutter should be tried in their county, Penn told Armstrong, Armstrong was to assure them that Penn had no intention of abridging that right and to urge them to give up the prisoners. If the rioters refused to surrender the accused even after such assurances,

Armstrong was to use all his power to secure the murderers and to punish those involved in their escape. The Governor candidly admitted that he did not believe that the magistrates in Cumberland were completely ignorant as to the identity of those who had broken Stump and Ironcutter from jail. He suspected they "personally knew" many of them. He ordered Armstrong to collect names and depositions and "to exert the utmost Assiduity, Vigour and Activity" in the process.³¹

As Penn lashed out at his local magistrates, he in turn was belittled by his Assembly. And just as Penn began to see the issue primarily in terms of law and order, so the Assembly increasingly couched its criticisms of him in these terms. The Assembly hinted broadly that Penn was merely going through the motions, that he was not intent upon Stump's capture and punishment. It did not mention Penn's ineffectual handling of the Sideling Hill riots; it chose instead to dwell upon his failings in the Paxton massacres of December, 1763, when "not a single warrant was issued for the purpose." The Assemblymen reviewed the events of 1763 where "Murders [were] perpetrated at Noonday, in a populous Borough before a number of Spectators; and yet . . . the Names of the Criminals remain uncovered." They not only demanded that Penn secure Stump's and Ironcutter's conviction but the conviction of the Paxton murderers as well.

"There is a manifest failure of justice somewhere," the Assembly told Penn, "From whence can it arise?" Certainly not from the colony's laws. "It must then be either from a Debility or inexcusable neglect in the Executive part of the government to put those laws in execution," the Assembly protested. Granted, Penn had issued letters, warrants, and a proclamation in the current situation but "were not those letters altogether disregarded, and [the] Proclamation treated with utmost Contempt?" the Assembly asked. It told Penn that local magistrates were either impotent or blatantly incompetent. "Should not they have been immediately removed from those places of Public Trust which they had so greatly abused, and more worthy Men placed in their Stations?" asked the Assembly. People might be expected to be "inactive" but not the magistracy. It was a message that Penn labeled "indecent and unbecoming."³²

The Assembly was not the only source of criticism directed at Penn in the Stump affair. Thomas Wharton, Philadelphia merchant and inveterate enemy of proprietary rule, renewed his call for a change of government upon learning of Stump's malevolence and its aftermath. He told Franklin, "These Transactions hath filled the Minds of the People with great Uneasiness, they being fully Satisfied, that, there can be No security in a Government w[h]ere either its weakness or

Connivance, prevents them from bringing such atrocious Offenders to Justice." Wharton was particularly incensed by Penn's unwillingness to censure or remove Cumberland magistrates who he thought "Contraven'd the King's writ." Again, in March, he informed Franklin that "Every day more and more Convinces the thoughtful part of the Inhabitants even those of the Courtside who do not Immediately enjoy Lucrative posts, etc., that Unless a Change of Government takes place We shall be totally undone and that the Lawless and Abandoned will do as they please."³³

Other voices were added to Wharton's. John Ross, a Philadelphia lawyer, also wrote Franklin to describe the growing disorder on the frontier "and the extreme Debility if not wicked Connivance of our Government and Magistrates" in the Stump case. Joseph Galloway again wrote Franklin to lament the deteriorating conditions within Pennsylvania. "We have a Magistracy but no Justice; and a Governor but no government. . . . Our Persons and Estates are every hour liable to the Ravages of the Licentious and Lawless, without any hope of Defence against them," he told Franklin. Others observed bitterly that in a second proclamation designed to expedite the recapture of Stump and Ironcutter, Penn had, incredibly enough, made no mention of those who had violated the law in freeing them.³⁴

Penn also felt the sting of William Goddard's pen. Goddard, vituperative editor of the *Pennsylvania Chronicle*, gave Penn no quarter. After reviewing the Stump particulars for his readers, Goddard thought it clear that "upon the whole [Stump] seem'd to be under no Apprehension of Punishment." Goddard ran a series of articles under the name "Tom Mirror" wherein he ridiculed Penn's ability to govern or to execute laws. "Can law contribute much to the support of the State, if the execution of them be either neglected or discountenanced?" he asked. "It is not how the laws are made, nor how they are interpreted," he observed, "but how they are used that must influence the public." In the end, he wrote, the governor must "breathe life and efficacy" into the laws. Goddard concluded that Penn had failed dismally in this respect. Throughout February and March Goddard gave free rein to his opposition to Penn and made his paper available to others wishing to cast odium upon the current government.³⁵

As the law and order theme dominated discussion of the Stump case by the middle of February, Cumberland's leading personalities struggled to disassociate themselves from the "unruly" and "lawless" elements of their community.³⁶ John Armstrong tried desperately not only to clear himself but also to give those in Philadelphia some

appreciation of conditions under which he labored. He denounced those who had freed the prisoners as "ignorant and giddy," but he was quick to point out that these same people were convinced that their government cared more about the Indians than it cared about them. Indians broke the law and peace, inhabitants of Cumberland complained, yet were not brought to justice. Armstrong reminded his superiors that among the "piteous and distracted People" in Cumberland county there had been numerous "parties" intent on rescuing Stump and Ironcutter had the sheriff or, for that matter, any one attempted to take them eastward. One of those parties—"a large party under arms"—had approached "very near Carlisle" during the conference of magistrates on January 27, a few days after Stump's incarceration but before his rescue. The mob warned authorities that should Stump be sent to Philadelphia or should he "not be well used," it would spirit him away. Only the vehement assurances that Stump would remain for the time being in Carlisle had persuaded the armed band to leave empty-handed. Largely because of this, according to Armstrong, he had overridden Holmes and ordered Stump and Ironcutter to remain in Cumberland.³⁷

Additional defenses were forthcoming. Sheriff Holmes penned a lengthy vindication of his actions, emphasizing his almost frantic efforts to comply with his Governor's orders. George Ross, a prominent western lawyer, petitioned the Assembly in an effort to clear his name. Chief Justice Allen had spread the word that Ross was "the man of Law" referred to by Armstrong who encouraged the people and magistrates of Cumberland and York Counties to defy their Chief Justice and Governor. But Ross adamantly denied that he had ever espoused such defiance or that he had fomented insubordination in any way.³⁸ The Reverend George Duffield, too, took steps publicly to deny that he had encouraged Armstrong to ignore the King's writ or that he had emboldened his own churchmen to rescue Stump and Ironcutter. Duffield insisted that he had not seen or spoken to Armstrong until Monday evening, the 25th, long after Armstrong had determined to confine Stump and Ironcutter in Carlisle and to keep them there. Duffield angrily denied, too, that his New Side followers were primarily responsible for freeing the prisoners. He did not contest that many had participated, but he thought in this issue Old Sides and New Sides were "basically even" and that the affair "was no party matter."³⁹

As Cumberland authorities sought to locate and recapture the escapees and to rationalize their earlier failings, Pennsylvania's leadership moved against them. The Council summoned Holmes and Armstrong to Philadelphia for questioning. At their hearing on March 19,

their stories "disagreed in some Particulars," and Council members chose to reserve judgment until additional witnesses could be called. Justices Lyon and Miller appeared on May 6, finally persuading Penn that "both (Holmes and Armstrong) had . . . acted for the best, in a case of Perplexity." Penn warned them, however, that in future cases they were "to be very careful, in confining [them]selves within the Bounds of [their] Jurisdiction, and not to interfere again in Matters which belong to a Superior authority."⁴⁰

Penn's conclusions may have pacified the people of Cumberland and weakened opposition to his government among the Scotch-Irish,⁴¹ but they exacerbated relations with his own Assembly. The Assembly sourly reminded the Governor that Stump and Ironcutter had been captured "without any Authority from the Magistracy." It pointed out that even after Stump's capture several inferior magistrates "disobeyed legitimate orders." "Where can these things terminate," asked the Assembly, "but in Tumults and a Total Abolition of the Powers of the Government?" It insisted that its concern arose "from an Apprehension . . . that it is impracticable under the debilitated Administration of government, to Punish the Authors of Crimes committed at different Periods." The only conclusion that the people of the colony could reach under the circumstances, it argued, was that "the powers of government, vested in the feeble Hands of a Proprietary Governor, are too weak to support Order in the Province, or give Safety to the People." Not content to harangue the Governor, the Assembly fell to quarrelling with him over provisions of the removal bill, legislation designed to protect Indians from further encroachments upon their land.⁴²

The embroglio over law and order which preoccupied county and provincial officials in the first three months of 1768 seemingly came to very little. For their part, Stump and Ironcutter simply disappeared.⁴³ Despite impressive opposition, the Assembly pushed through a law that empowered provincial authorities to try certain offenses "in any county within this province in such manner and form as if the fact had been therein committed."⁴⁴ The May grand jury in Cumberland apparently indicted more than twenty individuals for participating in the escape of Stump and Ironcutter but, if so, only eight stood trial.⁴⁵ Benjamin Franklin, recipient of a steady stream of complaints regarding the pervasiveness of crime and violence in Pennsylvania, reported that English officials, accustomed to mobs and disorder in their own streets, saw nothing remarkable in Pennsylvania's troubles.⁴⁶

William Patterson, lauded in Philadelphia for his heroic seizure of the murderers, was rewarded by being named a justice of the peace for

Cumberland County, but shortly thereafter threats against his life compelled him to leave the county.⁴⁷ Persons who had supported the position that Stump and Ironcutter must pay for their atrocities also were harassed. Representatives of the provincial government often found travel in Cumberland and neighboring counties fraught with danger.⁴⁸ For the most part, however, by the Summer of 1768 concern and bitterness over Stump and his actions had given way to an increasing preoccupation with imperial disputes.

III

What, then, is the significance of the Stump affair and its aftermath for today's historian? Certainly an examination of Stump's crime and reactions to them provides a vivid glimpse into life on America's early frontier and the workings of the legal machinery there. While it permits an appraisal of legal procedures—and extra-legal practices—as they functioned on the county level, it also allows us to view county institutions and interests in tension with provincial agencies and priorities. It is equally true, however, that until we have a more comprehensive understanding of civil disorder, crime, and law enforcement in early Pennsylvania, we can not with any finality evaluate the Stump affair or those touched by it. In sum, if the Stump affair enhances our comprehension of violence and criminal justice in pre-Revolutionary Pennsylvania, it is also true that our understanding of them will be greatly strengthened by a better grasp of the conditions and environment which spawned and fueled it—and finally absorbed it.⁴⁹

As we have seen, Stump's crimes provoked considerable comment regarding the failure of the provincial government to execute the laws and to punish offenders. Galloway, Wharton, John Ross and others offered a litany of executive failures, most of which centered on the inability of the Penn government to suppress crime and disorder. A year after Stump's crimes, "Many Hundred families" in Cumberland and Bedford were still complaining that the inadequacy of existing courts and the absence of courts in particular areas rendered their lives and property insecure. "Delinquents escape before they are apprehended . . . [and] Rapine, Violence and Injustices are suffered to pass unnoticed," they protested. Four years later William Plunkett of Northumberland was bemoaning the fact that ". . . a number of desperatos should so long have residence unmolested, within the limits of . . . this Province, and in the Neighborhood of so feeble and defenseless a Body of Inhabitants as we are." Another resident of Northumberland decried the "scandal of

living entirely without any Peace of confinement or punishment for Villains." Other protests, originating outside Cumberland and Wyoming and dated both before and after Stump's crimes, could be cited.⁵⁰

Was this chronic clamor hyperbole? To what degree was the rhetoric about law and order which surrounded the Stump affair solidly based in reality, how much merely politically inspired? Scholars do not yet know. On the one hand, political historians assure us that the complaints were exaggerated for the purpose of toppling the Penn government. They point to the resiliency of the Proprietary government and to the stability of its local political mechanisms.⁵¹ On the other hand, historians of violence warn that crime and civil strife are generally symptomatic of a government's failure to satisfy normal expectations.⁵² A major obstacle facing those who would look beyond the "stability" of the Penn government to see if that achievement obscures very real areas of conflict and tension within Pennsylvania society is the absence of half the evidence. Significant portions of Pennsylvania's early legal history, particularly that encompassing crime and law enforcement, have been neglected. Only in Alan Tully's *William Penn's Legacy*, for instance, do we find an effort to link crime statistics to the larger question of political stability—and his is a limited effort, one confined to a single county.⁵³ The Stump particulars thus compel us to recognize that critical research questions remain unexplored or inadequately researched.

It is difficult to leave the Stump developments without the impression that he was part of a violent, unstable, even fragile, community. But before we can fully appreciate how stable Pre-Revolutionary Pennsylvania was or how typical was the Stump case in the annals of early Pennsylvania crime, we also need to learn more about crime patterns in that colony generally. How much criminality and violence actually occurred? How much of it was formally punished? informally punished? What accounts for the fact that some criminal behavior did not lead to conventional indictment? What distinctions separating "crime," "civil strife," "individual violence," and "collective disorder" are valid? pertinent?⁵⁴ Were there correlations between an individual's sex or social status and the outcome of his or her trial? How satisfied were the people of pre-Revolutionary Pennsylvania with the degree of "justice" available to them? Were there important inter-county differences in these matters? If so, why? What changes in these patterns took place over time? Douglas Greenberg has found that crime increased everywhere in eighteenth century New York and that the quality and effectiveness of law enforcement declined. Is the same true of Pennsylvania?⁵⁵

These are among the most pressing questions facing historians who would know Pennsylvania's pre-Revolutionary legal history and those who would fully understand Stump and those moved by his actions. We will never know with absolute certainty how much crime and violence actually occurred in provincial Pennsylvania,⁵⁶ but a rigorous assessment of long-neglected criminal papers, coupled with a more sensitive examination of familiar sources will bring us closer to the answers. It is true that historians of Pennsylvania do not enjoy the plethora of legal materials often available to historians of other colonies, but it is equally true that scholars have not mined Pennsylvania sources as effectively or as creatively as they might have.⁵⁷

Legal records in Cumberland County, site of Stump's violence, offer a beginning.⁵⁸ Between 1763 and 1776, when the Revolution brought a stop to judicial proceedings in the county, Cumberland authorities heard, or initiated, charges touching 440 acts of alleged criminal activity involving 424 individuals. An additional three dozen persons were placed under peace bonds but were not formally indicted. At least 106 of these charges either were dismissed as being without foundation, ruled *ignoramus* by grand juries, not prosecuted by the colony for any number of reasons, or removed to another jurisdiction. In 76 cases the accused denied guilt but refused to contest the charges and submitted to the judgment of the court. In still another 41 instances the person charged pleaded guilty, bypassing the cost, time and trouble inherent in a jury trial. In the end, Cumberland juries heard 127 cases, finding defendants guilty in 95 instances, not guilty in the remaining 32. Eight persons were tried before courts of Oyer and Terminer and condemned to die but two subsequently received pardons.

No indictments resulted from the Sideling Hill events in Cumberland in 1765. However, 90 people were indicted for crimes between 1763 and 1776 who are not accounted for in the records. In all probability, these individuals simply fled before court officials could bond or incarcerate them. Others broke bond, forfeiting their money before they departed. At least three, and perhaps more, escaped from confinement and were never recaptured. A final few avoided prosecution when the Revolution closed the courts and scattered its records and personnel.

Of the indictments for criminal acts in Cumberland County during this period, 184 (or 41.8% of the total) were for crimes against individuals. Five cases involved murder. Another 186 (42% of the total) were prosecutions of crimes against property. Only 16% of the indictments centered on violations of morals.⁵⁹ A closer look at patterns of crime in Cumberland County reveals something of the environment in

which Stump committed his violence against the ten Indians and his neighbors divided angrily over his crimes. One crime in every two and a half involved assaults by individuals against other individuals. Cumberland's female population was not immune to this rage. Of all indicted assaults between 1763 and 1776, 11 (7% of the total) were committed by women.⁶⁰

Nor did the county's gentry escape personal violence. Gentry and office-holders alike assaulted and were assaulted in turn. Ephraim Blaine (later sheriff), James Elliott, David Semple (brother to a later sheriff), and William Kelso were among the county's prominent citizens charged with assault and battery at one time or other. It is also clear that the riot which freed Stump and Ironcutter was no aberration. Even if one does not include the riots associated with the Sideling Hill disturbances, the county averaged almost one riot a year for the thirteen years under investigation. Less than half of the persons accused of riot ended up facing juries. Only one in ten was convicted. An individual's chances of facing a jury and being convicted were much greater for crimes against property than they were for crimes against individuals or the public order.⁶¹

Was Cumberland County a violent, lawless society? How does it compare with other frontier counties in Pennsylvania at the time? How does it compare with Philadelphia and Chester Counties where much of the criticism regarding Cumberland's violence and lawlessness emanated during the Stump proceedings? How does it match up with the findings of scholars concerning criminal patterns in other colonies? in England? Answers to these questions would go a long way toward providing a foundation for a history of crime and law enforcement in pre-Revolutionary Pennsylvania.⁶²

As noted, the Stump case stimulated vehement criticism of Cumberland authorities from the Pennsylvania Assembly as well as from any number of private citizens. Everyone in colonial America understood that a large part of the success or failure in capturing and punishing criminals depended on the quality of the local magistracy and the support it generated among local inhabitants. That the magistrates did not always win support from their constituents is established by the fact that the Assembly entertained almost daily protests questioning the honesty and competency of personnel in the local leadership. Typical was the 1771 complaint by "Diverse Freeholders and Inhabitants of . . . Lancaster County" who bitterly denounced "the dangerous Principles and bad Example of Isaac Saunders, Jr.," a justice of the peace. George Stevenson, magistrate from York removed from office, was characterized by John Penn himself as "a very bad man," an individual "with a

universal bad character,” and “certainly as great a Rascal as ever existed.” William Plunkett of Northumberland County was said to be “ill-conditioned,” “slothful,” “drunk,” and not very responsive to his official duties. In 1765 charges were made that Cumberland’s magistracy encouraged riotous and lawless behavior. Charles Jolly, a Philadelphia County justice of the peace, was found guilty of “diverse misdemeanors and corrupt Practices.” Any number of additional examples could be offered.⁶³

Yet studies currently available to us for this period, and they are admittedly limited in scope, suggest that, overall, good men were chosen who served admirably. What are we to believe? What did the people at the time actually believe? Needed is a fresh re-examination of the question, one that takes into account the largest perspective possible. Accepted definitions of order and stability and models from other disciplines may enable us to gain a firmer grasp of these issues.⁶⁴

Justices Armstrong, Miller, and Lyon, and Sheriff Holmes, so beleaguered in the Stump affair, were neither the first nor the last magistrates to face defiance from their communities. Defiance of authority seems to have been endemic. Any study of county law enforcement in pre-Revolutionary Pennsylvania must take into account the conditions under which law officers worked and the weapons at their disposal. Joseph Shippen once carried a direct order from the Governor to a merchant in Germantown demanding that the German utilize his wagons to take some much-needed stores to Harris’ Ferry. The German refused and, as Shippen put it, “did not seem to regard this much.” People not intimidated by direct orders from their Governor were not likely to be obsequious to, or bullied by, local magistrates. Residents of Laurel Hill in 1771 threatened all “Sheriffs and Constables and all Ministers of Justice” who would come among them. When Thomas Wood, an under sheriff of Bedford, tried to serve an ejectment on John Martin in that same year, he was set upon a crowd “armed with Guns and Tomhawks (sic).” A host of additional examples could be cited.⁶⁵

This disinterest in some cases and outright defiance in others could not fail to undercut the magistrate’s power and effectiveness. It tended to weaken the legal mechanisms generally. When Cumberland authorities were fortunate enough to bring prisoners before the bar, for instance, they still often faced community apathy and defiance. Fines against Cumberland’s inhabitants for refusing to serve as grand jurors or to participate as veniremen were all too common. This “contempt of court” in Cumberland was not limited to the common citizenry; the county’s gentry also was often reluctant to serve.⁶⁶

Was this a serious problem for other Pennsylvania counties as well?

A preliminary survey of legal records indicates it was.⁶⁷ What factors contributed to a community's reluctance in this matter? To what degree did its refusal to serve compromise law enforcement efforts? Did it become more difficult for the judicial machinery to run smoothly as the Revolution neared, as Greenberg suggests for New York? Answers to these questions, too, will provide valuable pieces to our puzzle.

Stump and Ironcutter, like many of the most brutal and habitual criminals in provincial Pennsylvania, were broken from jail before grand and petit jurors could act upon them. Laments regarding the inability of jails to hold criminals emanated from every county. They became a virtual litany before the Revolution and survived as a sharply felt problem during and after the war. In describing one Abraham Teagarten, Thomas Smith of Westmoreland wrote that Teagarten had "been several times *committed* for felonies," but Smith did not "know that he had been *convicted*, because he has always broke the Gaol." In 1775 the people of Bedford desperately sought a special court for a servant accused of murdering his master's child because they were convinced their jail would not hold the murderer for long. In 1772 the young lawyer Neddie Burd wrote from Reading that "two Persons hav(e) broke Gaol, which is not strong enough to secure any Body." From Westmoreland came the complaint that "Our Gaol is of no use, the worst Raskel is set at Liberty."⁶⁸

How many jailbreaks did occur? Under what circumstances did these escapes take place? In what matters did people support and defend local authorities? In what instances did they defy them? seek alternative solutions? Answers to these questions, unlike answers in some other areas, are well within our reach. But we need to reach.

At the center of Stump's problems and the activities and comments he provoked was the Indian and whites' attitudes toward the Indian. The impression one is left with from the Stump developments is that whites accused of violence against Indians had little to fear from the colony's courts. Observations by Penn, Gage, Shippen and Galloway, among others, lend credence to this impression. Professor Negley K. Teeters' study of public executions in early Pennsylvania identifies a single incident of a white person convicted and executed for killing an Indian. Yet we know that on occasion whites were tried for murdering Indians and there is evidence that early Pennsylvanians often sought to extend the court's power and effectiveness in these matters.⁶⁹ It would be helpful if we knew how many times whites responsible, or believed responsible, for crimes against Indians were indicted and tried and how often and for what reasons they were acquitted.

If the complaints of Stump's defenders are to be taken seriously, courts played no role in instances where Indians were accused of assaulting or killing whites. Admittedly, cases where Indians were formally charged with criminal behavior against whites and pursued within the legal system were not commonplace, but tantalizing clues suggest that on occasion they did occur. How frequently? Under what circumstances? The 1785 trial of the Delaware Mamachtaga has received considerable attention but there were other, earlier cases.⁷⁰ In December, 1763, Lewis Weiss of Northampton County pleaded eloquently to have the trial of Renatus, "a Moravian Indian" charged with murdering a white man, moved to Philadelphia in order to guarantee him a fair trial. Most of the particulars have eluded us. We have also tended to pass too quickly over the observation by Justice George Bryan in the Mamachtaga case that a trial *per medietatem linguae* might be in order; that is, a trial where half the jury would be comprised of Indians. He alluded to a Chester case where an Indian charged with murder had been granted such a jury. We have also taken rather too casually the implications of Edward Shippen's statement that there was a 1763 strategy by Assemblymen from Philadelphia, Chester, and Bucks Counties to eliminate courts of Oyer and Terminer in Lancaster, York, Northampton and Cumberland Counties in trials of white men for killing Indians, "& so *vice versa*." How many trials such as those alluded to by Bryan and Shippen actually took place? What were the outcomes?⁷¹

Other questions plague us. How seriously did Pennsylvanians—privately or publicly—take Sir William Johnson's 1767 proposal for special courts where Indians could serve on juries or his plan to permit Christian Indians to submit written testimony in all civil actions?⁷² Until we have the full particulars, or at least know a good deal more than we now do about these issues and those discussed above, the full ramifications of the Stump case will escape us. Then and only then will we know how seriously or how literally we are to take the complaints of those in Cumberland that their courts did not punish Indian crimes against whites. Would they have extended legal rights to Indians? Which rights? Had they or their peers in other counties previously done so? The opportunities for fresh scholarship are obvious.

Edward Shippen's first reaction upon hearing of Stump's malevolence was to urge the creation of a special court of Oyer and Terminer. There is evidence to suggest that if we find answers to the questions posed in previous paragraphs many will come from a closer look at the practice of commissioning special courts in early Pennsylvania. Much

about the origins and functions of these courts remains elusive.⁷³ We know that some county justices of the peace were authorized to exercise Oyer and Terminer powers. Cumberland's John Armstrong and Robert Galbraith were so empowered. We also know that at times Justices exercised their authority unaccompanied by a judge from the Supreme Court. In late 1771, for instance, when it was "inconvenient" for the judges of the Supreme Court to "take a journey at this Season so far as Bedford," the "three Eldest Justices of the Peace" were permitted to perform Oyer and Terminer functions in a murder case involving two members of the army.⁷⁴ How often and under what conditions did local justices exercise such powers? In all probability the frequency of such courts and their proceedings will be confirmed only after a thorough canvass of scattered and largely uncatalogued papers in Pennsylvania courthouses and historical societies, and only after we return with greater insight and susceptibility to customary sources. We may never learn the whole story, or even most of the story, but it is imperative that we push beyond our current knowledge.

If we can believe reports from Cumberland in 1768, Stump was forcibly freed only when citizens realized that he was not to be tried in a circuit court in Carlisle. Confidence in describing every day patterns and practices in legal matters in pre-Revolutionary Pennsylvania will come only after the chronic furor over provincial courts and their circuit obligations and routine is carefully reviewed. Much of the history of the superior courts remains to be written.⁷⁵ The performance of the provincial courts elicited perennial protests. The most damning stricture leveled at the court centered on its practice of arbitrarily removing cases to more convenient courts and on the disinclination of superior court judges to carry out an effective circuit. Both practices forced counties to send cases to Philadelphia for adjudication. Even before the Stump case more than twelve hundred inhabitants of Cumberland County protested having to attend Oyer and Terminer and Supreme Court functions in Philadelphia, arguing this imposed extreme hardships on them. They demanded that judges ride circuit at least once a year in their county. Other counties voiced similar concerns.⁷⁶

The Stump murders raise another issue of the historical right of Englishmen to be tried in the county of the crime's origins. Whether or not the people of Cumberland would have countenanced Oyer and Terminer proceedings in Carlisle against Stump and Ironcutter, no effort was made to expedite the holding of such a court. Penn readily conceded that his judges did "not hold themselves obliged to go on

circuit" beyond Chester and Bucks Counties and that even in those counties their efforts had been episodic and uninspired. The Assembly, too, acknowledged "the great Hardship and Expense in obliging Suitors, Jurors, Parties and Witnesses to attend the Trial of Cause in the Supream [sic] Court," and in 1767 set about writing a bill forcing superior judges to assume a wider and more systematic circuit. Still, as the Stump developments were unfolding, the Governor and Assembly were angrily divided over the specific provisions of a circuit bill.⁷⁷

The story of the circuit court act of 1767 has yet to be fully told and represents a good starting point for a larger investigation. What was the record of the court on circuit prior to the American Revolution? How does that record compare with the historical development of similar courts in other colonies? What was the relationship of debates over the court's circuit practices and events triggered by Stump's murder of the ten Indians? What is the connection between arguments over change of venue in the Stump case and abuses touching extradition generally? Among other things, answers to these questions would add to our understanding of strains between those who favored maximum local responses and those who believed that justice would be forthcoming only in certain questions if trials and proceedings were restricted to Philadelphia. The story of the court—like the history of its personnel and support system—will not come easily. It must be coaxed from scattered and often cryptic materials, but it is a story vital to our link with the past.

Officials in Pennsylvania during the Stump developments came to believe that a lawyer almost single-handedly persuaded Carlisle's inhabitants (and, indeed, people in surrounding counties) to defy provincial authorities and their own local representatives in defense of their historic rights. In March, 1767, Chief Justice Allen grumbled that lawyers in Philadelphia had stalled the passage of the circuit court bill because they were fearful the legislation would bite deeply into their practices.⁷⁸ How much power did Pennsylvania's legal fraternity wield? How much of Pennsylvania's legislative history was shaped by the hand or its early bar? In what ways and in what arenas did lawyers most effectively exercise their power and influence? Pennsylvania still has no study of its early legal practitioners comparable to those now available for other colonies.⁷⁹ A modern, scholarly study of the growth of Pennsylvania's colonial bar, its membership, its influence on Pennsylvania society, and its response to revolutionary conditions after 1774 is long overdue.⁸⁰

IV

Through Frederick Stump's actions in 1768 he forced his neighbors, Cumberland's magistracy, and members of the executive, legislative and judicial branches of the government in Philadelphia to assess personal priorities and immediate loyalties and to question both the organization and effectiveness of the colony's law enforcement machinery. The issues for those involved were seldom clear-cut or the heroes and villains easily identifiable. The inhabitants of Sherman's Valley, near Carlisle, who helped to free, hide and ultimately to protect Stump and Ironcutter from provincial and county authorities, at the same time cried out for law and order and the extension of provincial legal power into their valley.⁸¹ Stump's crimes in 1768, and the responses of Pennsylvanians to them, force historians today to admit how thin is our understanding of the assumptions, priorities, and loyalties of the people, and of the everyday workings of legal institutions in Cumberland County or, for that matter, other counties in eighteenth century Pennsylvania. We have at present a variety of impressions, anecdotes and case studies touching violence, crime and law enforcement in pre-Revolutionary Pennsylvania. It is time that these fragments be pieced together and supplemented by newer, broader studies, however formidable those tasks. It is time to see if these impressions, anecdotes and case studies reflect the typical or the atypical.

The bonuses are obvious. As more innovation and awareness are exhibited in the exploitation of early legal records and auxiliary materials for early Pennsylvania, and as more sophisticated approaches and models are employed to interpret these sources in order to shed light on crime and criminal justice, the more we will learn about Pennsylvania society generally. Laura Becker has shown how our understanding of the peoples of Pennsylvania and the role courts played in their lives can be expanded by an intelligent coupling of legal records with non-legal materials.⁸² Students of the American Revolution should take note. Before it will be possible competently to identify and measure the impact of the Revolution on Pennsylvania society and institutions, it is essential that we have an accurate and compelling portrait of pre-Revolutionary life. Legal scholars and historians responsive to legal materials have an excellent opportunity to provide valuable service in this respect.⁸³ They have an excellent opportunity, too, to identify how the factionalism apparent in society generally revealed itself in legal proceedings and among practitioners of the bar. Legal history oriented

toward comprehension of the social context of the law invites attention from today's scholars.⁸⁴

In his own macabre way Frederick Stump offered a very real challenge to his contemporaries. In a more positive and profitable sense, he challenges us still.

Mr. Rowe is currently working on a study of crime and criminal administration in Pennsylvania, 1763–1790. He wishes to acknowledge the help of Professors John Loftis, Charles Meyer, and Stephen Powers and the support of the University of Northern Colorado Research and Publication Committee.

1. See, for instance, Conway P. Wing, *et al.*, *History of Cumberland County, Pennsylvania* (Philadelphia, 1879), I: 72–73; Edwin Charles, "Stump's Run Massacre," *Snyder County Historical Society, Bulletin*, I (1914):31–40; James K. Martin, "The Return of the Paxton Boys and the Historical State of the Pennsylvania Frontier," *Pennsylvania History* 38 (1971): 117–33; Benjamin Newcomb, *Franklin and Galloway: A Political Partnership* (New Haven, 1972), pp. 153–54; Joseph Kelley, Jr., *Pennsylvania: The Colonial Years, 1681–1776* (New York, 1980); pp. 615–620, and Nicholas B. Wainwright, *George Croghan: Wilderness Diplomat* (Chapel Hill, 1959), pp. 248–49. The only work to focus extensively on the Stump affair is Linda A. Ries, "The Rage of Opposing Government: The Stump Affair of 1768 and the Pennsylvania Frontier" (M.A. Paper, Pennsylvania State University, 1978). I wish to thank Miss Ries for helping me obtain a copy of her work.

2. The starting points remain Lawrence H. Gipson, *Crime and Punishment in Provincial Pennsylvania* (Bethlehem, Pa., 1935); and Herbert W. K. Fitzroy, "The Punishment of Crime in Provincial Pennsylvania," *Pennsylvania Magazine of History and Biography* 60 (1936): 242–69. Kelley, *Pennsylvania The Colonial Years*, mentions crime frequently but more for "interest" than analysis. Recent surveys of Pennsylvania's historiography virtually ignore legal history. See Joseph Illick, "The Writing of Colonial Pennsylvania History," *Pennsylvania Magazine of History and Biography* 94 (1970): 3–25; Frederick Tolles, "The Historians of the Middle Colonies," in Ray B. Billington, eds., *The Reinterpretation of Early American History: Essays in Honor of John Edwin Pomfret* (San Marino, 1966), pp. 65–79; Douglas Greenberg, "The Middle Colonies in Recent American Historiography," *The William and Mary Quarterly*, (35) 36 (1979): 396:427; John A. Conley, "Criminal Justice History as a Field of Research: A Review of the Literature, 1960–1975," *Journal of Criminal Justice* 5 (1977): 13–14; and H. F. Bell, "Research in Progress in Legal History," *American Journal of Legal History* 18 (1974): 336. Only Greenberg notes legal studies for early Pennsylvania.

3. Accounts describing the Pennsylvania frontier are numerous, but see Jack M. Sosin, *The Revolutionary Frontier, 1763–1783* (New York, 1969), chapters 1, 3; and Lawrence H. Gipson, *The Triumphant Empire: The Rumbles of the Coming Storm, 1766–1770* (New York, 1965), pp. 417–54. See also Thomas Gage to John Penn, 7 Dec. 1767, in *Minutes of the Provincial Council of Pennsylvania* . . . (16 vols., Harrisburg, 1851–53), 9: 403.

4. George Croghan to Benjamin Franklin, 12 Feb. 1768, in William Wilcox, *et al.*, eds., *Papers of Benjamin Franklin* (New Haven, 1972), 15: 43; Penn to Gage, 15 Dec. 1767, *PCR*, 9: 406.

5. Gage to Penn, 7 Dec. 1767, *PCR*, 9: 403; Gage to the Earl of Shelburne, 22 Jan. 1768, in Clarence Carter, ed., *The Correspondence of General Thomas Gage, 1763–1775* (New Haven, 1931–33), I: 157.

6. *Votes and Proceedings of the House of Representatives of the Province of Pennsylvania . . . Oct., 1767 (Votes and Proceedings)* (Phil., 1768), pp. 20, 22, 23, 34–35.
7. In 1766 Indians complained that Stump had settled Indian land. Colonel Francis Turbutt, a justice of the peace at Fort Augusta who investigated, was told by Stump that “he had the Governor’s permission for what he had done, & had paid him £100 for it.” Turbutt knew this to be false and with the help of soldiers and some Indians burned Stump’s house and crops. Penn denied having ever met or contacted Stump. John Penn to Thomas Penn, 12 Sept. 1766, Penn MSS: Official Correspondence, 10: 82, Historical Society of Pennsylvania.
8. *Pa. Chronicle* 1 February 1768; *Pa. Gazette* 11 February 1768. James Galbraith and Jonathan Hoge to Penn, 29 Jan. 1768, Court of Oyer and Terminer Papers: Cumberland County, 1768, State Archives, Harrisburg, mentions the scalping. Indians interpreted the scalping(s) as an act of war.
9. Blyth’s deposition can be found in *Minutes of the Provincial Council*, 9: 414–15, but also see “Letter from Carlisle,” *Pa. Chronicle*, 1–8 February 1768.
10. *Minutes of the Provincial Council*, 9: 415–19. Ironcutter was apparently guilty of one of the ten murders. Pennsylvania officials correctly viewed Stump as the principal villain, Ironcutter as an accessory. *Ibid.*, 436.
11. Wainwright, *George Croghan*, p. 248; Penn to Thomas Penn, 21 Jan. 1768, Penn MSS: Off. Corresp., 10: 126, HSP. In the same letter Penn wrote that Stump was “acknowledged to be one of the greatest villains in the country.”
12. *Votes and Proceedings* (Phil., 1768), p. 45; *PCR*, 9: 415–19.
13. *Votes and Proceedings* (Phil., 1768), pp. 19–22, 31–32; Galloway to Franklin, 10 Mar. 1768, *Papers of Benjamin Franklin*, 15: 71. The Assembly could not have been unmindful of Penn’s ineffectual handling of the Sideling Hill riots of three years before. Eleanor M. Webster, “Insurrection at Fort Loudon in 1765: Rebellion or Preservation of Peace?” *The Western Pennsylvania Historical Magazine*, 42 (1964): 124–39, provides details of the attack by “Black Boys” in Cumberland County against pack trains thought to be carrying weapons to the Indians, and their subsequent defiance of British military authorities in the area, as does Stephen H. Cutcliff, “Sideling Hill Affair: The Cumberland County Riots of 1765,” *ibid.* 59 (1976): 39–53.
14. *Pa. Chronicle*, 1–8 February 1768; Patterson to Joseph Shippen, 23 Jan. 1768, *Minutes of the Provincial Council*, 9: 453.
15. Galloway to Franklin, 10 Mar. 1768, *Papers of Benjamin Franklin*, 15: 72; Also Thomas Wharton to Franklin, 9 Feb. 1768, *ibid.*, 39; *Minutes of the Provincial Council*, 9: 479.
16. In the January, 1768, term of the General Quarter Sessions of the Peace and Gaol Delivery there were four charges of assault and battery and single charges of riot, forcible entry and simple assault. Two of those charged with assault pleaded guilty as did the individuals accused of riot. Two charges of assault and battery were dismissed. Court of Quarter Sessions Dockets (Jan., 1768), Cumberland County House, Carlisle.
17. John Armstrong to Penn, 24 Jan., 7 Feb. 1768; John Holmes to Penn, 7 Feb. 1768, in *Minutes of the Provincial Council*, 9: 444–45, 462–64; Edward Shippen to James Tilghman, 2 Feb. 1768, Shippen Papers, 6: 196, HSP; *Pa. Chronicle* 11 February 1768.
18. Penn to Sheriffs Holmes, Webb and Morton, 2 Feb. 1768, *PCR*, 9: 441ff. Penn directed Webb to receive the prisoners and to deliver them to John Morton in Chester County. Penn then ordered Morton to see that Stump and Ironcutter arrived safely in Philadelphia. For the Sideling Hill particulars, see *PCR*, 9: 273; *Pennsylvania Archives* 9 Series (138 vols., Philadelphia and Harrisburg, 1852–1949), 1st Ser., 4: 220–22, 231–32, 239.
19. Armstrong to Penn, 24 Jan. (and P.S. dated 28 Jan.), 1768, *Minutes of the Provincial Council*, 9: 445.

20. *Votes and Proceedings* (Phil., 1768), 45.
21. Penn to Armstrong, 3 Mar. 1768, *PCR*, 9: 446. Armstrong must have received Penn's letter with a painful sense of *déjà vu*. See the Governor's letter to Armstrong, dated 29 Dec. 1763, in *Pa. Arch.*, 1st Ser., 4: 155.
22. Penn to Thomas Penn, 21 Jan., 8 Feb. 1768, Penn MSS: Off. Corresp., 10: 126, 130, HSP. Extradition implies the surrender of an individual or individuals by one jurisdiction in favor of another for the purposes of trying and punishing the person or persons involved. Ries (p. 12) and Martin (p. 122) err in maintaining that Penn called for the extradition of Stump and Ironcutter. Neither Allen nor Penn publicly called for either Stump or Ironcutter to be tried or punished in Philadelphia, merely that they be brought to the city for questioning. The issue seems to have been one of change of venue not extradition, in any case.
23. William Allen to Thomas Penn, 25 Feb., 1768, Penn MSS: Off. Corresp., 10: 136.
24. Ries, "The Rage of Opposing Government," 36; Martin, "The Return of the Paxton Boys," 117. Martin believes the issue in 1763 was extradition, I do not.
25. Carter, *Correspondence*, I: 152–53; Ries, "The Rage of Opposing Government," 14.
26. Shippen to James Tilghman, 2 Feb. 1768, Shippen Papers, 6: 196.
27. For a JP's authority and procedures, including his required speech, under such circumstances, see "An Act for Preventing Tumults and riotous Assemblies. . .," *Pennsylvania Session Laws, July, 1763* (Phil., 1763), pp. 317–18. See also, Pauline Maier, "Popular Uprisings and Civil Authority in Eighteenth Century America," *The William and Mary Quarterly*, 35, 27 (1970): 19, 21.
28. *Pa. Chronicle* 3 March 1768; Armstrong to Penn, 29 Jan. 1768, *PCR*, 9: 448–49. James Cunningham, a Lancaster farmer who witnessed the jailbreak, confirmed Armstrong's account and verified that the mob had been "Armed with Guns and some Tomohocks (sic)" and that the magistrates recognized none of the rioters. *Ibid.*, pp. 449–51.
29. See n.'s 37, 38, 39, and 40 below.
30. Gage to Shelburne, 30 Jan. 1768, Carter, *Correspondence*, I: 164; Penn to Thomas Penn, 21 Jan. 1768, Penn MSS: Off. Corresp., 10: 126, HSP; *Pa. Chronicle* 8–15 February 1768.
31. Penn to Armstrong, 4 Feb. 1768, *PCR*, 9: 452.
32. *Votes and Proceedings* (Phil., 1768), 51–53, 54.
33. Wharton to Franklin, 9 Feb., 29 Mar. 1768, *Papers of Benjamin Franklin*, 15: 39, 88.
34. Franklin to Ross, 14 May 1768 (Franklin here is clearly using Ross' own words to review Ross' position); Galloway to Franklin, 10 Mar. 1768, and Wharton to Franklin, 29 Mar. 1768, *ibid.*, 128–29, 71, 89.
35. *Pa. Chronicle*, 15 February, 29 February–7 March, 7 March–14 March, 21 March–28 March 1768.
36. Preparations for conferences with the Six Nations to present monetary gifts and condolences were going smoothly and provided optimism that peace would be maintained. It is probably because of this that the law and order theme began to emerge.
37. Armstrong to Penn, 7 Feb. 1768, *Minutes of the Provincial Council*, 9: 462–63.
38. Holmes to Penn, 7 Feb. 1768; Jonathan Hoge, Robert Galbraith and others to Penn, 28 Jan. 1768, in *Minutes of the Provincial Council*, 9: 463–64, 486; Jasper Yeates to

James Burd, 28 Feb. 1768, Shippen Papers, Historical Society of Pennsylvania, 6: 201; William Allen to Thomas Penn, 25 Feb. 1768, Penn MSS: Off. Corresp., 10: 94; Theodore Thayer, *Pennsylvania Politics and the Growth of Democracy, 1740–1776* (Harrisburg, 1953), p. 109n. It was said that Ross made some of his most violent charges in York during a court session where he had gone after leaving Cumberland.

39. *Pa. Gazette*, 7 April 1768.

40. *Minutes of the Provincial Council*, 9: 490, 510, 512–13.

41. William S. Hanna in his *Benjamin Franklin and Pennsylvania Politics* (Stanford, 1964) argues that Penn used the Paxton affair to form a political alliance between proprietary interests and those of the Scotch-Irish Presbyterians in the west. The implication is that Penn would not aggressively pursue Presbyterians in the Sideling Hill riots or the Stump case for fear of jeopardizing that alliance. Martin argues persuasively against Penn's leniency during the Stump developments in his "The Return of the Paxton Boys," 124. See also Peter A. Butzen, "Politics, Presbyterians and the Paxton Riots, 1763–1764," *Journal of Presbyterian History* 51 (1973): 70–84.

42. *Votes and Proceedings* (Phil., 1768), 35, 38–41.

43. Penn confessed to his uncle in May that Stump and Ironcutter would probably never be captured. Penn to Thomas Penn, 22 May 1768, Penn MSS: Off. Corresp., 10: 152. Armstrong (to Penn, 26 Feb. 1768, *Minutes of the Provincial Council*, 9:485) believed that the accused had gone to Virginia after visiting relatives in Lancaster County. Armstrong had heard rumors that Stump's friends were seeking advice from a lawyer on how "safe" Stump would be if he gave himself up. In August, 1783, one Frederick Stump was accused of fornication in Berks County and found guilty in the following (November) term. Whether or not it was the same Frederick Stump is conjecture. Quarter Sessions Dockets for Berks County, Historical Society of Berks County, Reading. See also Kelley, *Pennsylvania: The Colonial Years*, pp. 619–20.

44. The law, passed in 1770, pertained only to masked and disguised criminals. James T. Mitchell and Henry Flanders, eds., *Statutes at Large of Pennsylvania from 1682–1801* (Harrisburg, 1896–1908), 7: 353.

45. Ries, "The Rage of Opposing Government," 24 argues that twenty-three persons were indicted. Armstrong (26 February to Penn) noted that he had taken testimony against twenty-one individuals and had "issued a number of warrants." Andrew Boyd and seven others stood trial for "rescue" in January, 1769 and were found not guilty. Quarter Sessions Dockets, Cumberland County Court House, Carlisle.

46. Franklin to Galloway, 14 May 1768, *Papers of Benjamin Franklin*, 15: 127–28; Thayer, *The Growth of Democracy*, p. 109.

47. *Minutes of the Provincial Council*, 9: 471, 673; Sosin, *Revolutionary Frontier*, p. 83. As early as Feb. 11, 1768, the *Pa. Gazette* reported that Patterson's home in Cumberland "was being guarded by friends." Patterson remained listed as a JP in 1770.

48. *Pa. Chronicle*, 7 March 1768; Wainwright, *George Croghan*, pp. 250–52.

49. Political violence in Pennsylvania is currently receiving more attention from historians than is crime and criminal justice. Among newer studies offering insights into political as well as social assumptions and priorities of early Pennsylvanias, are James E. Crowley, "The Paxton Disturbance and Ideas of Order in Pennsylvania Politics," *Pa. Hist.* 37 (1970): 317–39; David Sloan, "'A Time of Sifting and Winnowing': The Paxton Riots and Quaker Non-Violence in Pennsylvania," *Quaker History* 66 (1977): 3–22, as well as the works by Webster, Cutcliff, Butzen and Martin cited earlier.

50. *Votes and Proceedings* (Phil., 1768), 25; *Minutes of the Provincial Council*, 10: 86; *Pa. Arch.*, 1st Ser., 4: 462. The Penns on occasion acknowledged their inability to govern. See Cutcliff, "Sideling Hill Affair," 48.

51. Thayer, *The Growth of Democracy*, chapter 8; James H. Hutson, *Pennsylvania Politics, 1746–1770: The Movement for Royal Government and Its Consequences* (Princeton, 1972); Newcomb, *Franklin and Galloway*, esp. pp. 154ff; Wainwright, *George Crogan*, pp. 248–49. The best study currently available on local government in pre-revolutionary Pennsylvania is Wayne Bockelman's "Continuity and Change in Revolutionary Pennsylvania: A Study of County Government and Office-holders" (Ph.D. diss., Northwestern Univ., 1969). A fresh dissent is provided by George Franz who, in his "Paxton: A Study of Community Structure and Mobility in the Colonial Pennsylvania Backcountry" (Ph.D. diss., Rutgers Univ., 1974), argues that Paxton, an "ad hoc," unstable and fragmented community which relied upon extra-legal instruments to resolve crises, was more typical of Pennsylvania communities than previously thought. For the period before 1763, see Allan Tully's *William Penn's Legacy: Politics and Social Development in Provincial Pennsylvania* (Baltimore, 1977).

52. See, esp., Ted Gurr and Charles Rittenberg, *The Conditions of Civil Violence* (Princeton, 1967), pp. 30–32, and Ted Gurr and Ivo and Rosalind Feierabend, *Anger, Violence and Politics: Theories and Research* (Englewood, 1972), pp. 32–34, 81–83.

53. See n. 51 above. Tully offers a summary of cases heard before courts of quarter sessions in Chester County between 1726 and 1755 in support of his generalizations about order and stability.

54. Ted Gurr's *Rogues, Rebels, and Reformers: A Political History of Urban Crime and Conflict* (Beverly Hills, 1976), chapter 2, provides help in making these distinctions.

55. Douglas Greenberg, *Crime and Law Enforcement in the Colony of New York, 1691–1776* (Ithaca, 1976).

56. Many crimes never found their way into the formal record and, in fact, were never formally acted upon. Nor did all those indicted for criminal behavior appear in the dockets. Moreover, persons indulging in criminal behavior, or threatening to, were at time placed under peace bonds rather than being indicted (Paul Lermack, "Peace Bonds and Criminal Justices in Colonial Philadelphia," *Pennsylvania Magazine of History and Biography* 100 (1976): 173–90). Adding to our difficulties is the fact that dockets are often incomplete or lost altogether. Finally, as numerous recent accounts testify, Quakers and others often preferred to deal with some criminal behavior outside the courts.

57. The following quarter sessions dockets for the period between 1763 and 1776 are available and have yet to be mined thoroughly: Westmoreland, 1773–1776; Bedford, 1771–1776; Cumberland, 1763–1776; York, 1763–1775; Lancaster, 1763–1765, 1770–1773, 1774 (partial), 1775–1776; Chester, 1763–1776; Northumberland, 1772, 1773 (partial), 1774 (partial), 1775; Berks, 1766–1767, 1769 (partial), 1771 (partial), 1772 (partial), 1773 (partial), 1774–1775; Bucks, 1763–1768, 1769 (partial), 1770–1776; Philadelphia, 1763–1770, 1773–1776; Philadelphia Mayor's Court, 1763–1764. Criminal papers supplementing the dockets are available in most of the counties although they are seldom either complete or readily accessible. Oyer and Terminer papers in the State Archives, filed by year and county, are also helpful, as is Negley K. Teeters, "Public Executions in Pennsylvania, 1682–1834," *Journal of the Lancaster County Historical Society* 64 (1960): 85–164. Neither Gipson nor Fitzroy (see n. 2 above) used these dockets to identify inter-county differences or changes in crime and law enforcement patterns over time. Studies which have creatively utilized dockets and criminal papers include Jack D. Marietta, "Law and the Enforcement of Morals in Early Pennsylvania" (paper delivered at the OAH meeting, San Francisco, 1980), and John K. Alexander, *Render Them Submissive: Responses to Poverty in Philadelphia, 1760–1800* (Amherst, Mass., 1980), esp. Chapt. 4.

58. Conclusions in this and following paragraphs have been pieced together from materials cited in n. 57 above. There were 1,501 taxables listed for Cumberland County in 1760, 3,521 in 1770, according to Evarts B. Greene and Virginia Harrington, eds.,

American Population Before the Federal Census of 1790 (Gloucester, Mass., 1966), p. 117. James T. Lemon in his *The Best Poor Man's Country: A Geographical Study of Early Southeastern Pennsylvania* (Baltimore, 1972), p. 48, estimates the total Cumberland population to have been just short of 10,000 in 1768.

59. Crimes against persons include murder, all types of assault, and rape. Crimes tabulated against property include theft, arson, forcible entry, and trespassing while license law violations, bawdy houses, drunkenness, nuisance and vagrancy are among crimes tallied under crimes against morals.

60. A small number of these indictments were for simple or aggravated assault but most were for assault and battery.

61. Only 19% of indictments for crimes against persons eventually were decided by a petit jury whereas 62% of indictments for crimes against property were. 14% of those accused of crimes against persons were found guilty by a jury compared to 47% of those charged with violations against property.

62. See, for instance, Greenberg (n. 55 above); Donna J. Spindel, "The Administration of Criminal Justice in North Carolina, 1720-1750," *Am. J. Leg. Hist.* 25 (1981): 141-62; Michael S. Hindus, *Prison and Plantation: Criminal Justice and Authority in Massachusetts and South Carolina, 1767-1878* (Chapel Hill, 1980); William Nelson, *Dispute and Conflict Resolution in Plymouth County, Massachusetts, 1725-1825* (Chapel Hill, 1981); J. S. Cockburn, *Crime in England, 1550-1800* (London, 1977); and Ted Gurr, "Historical Trends in Violent Crime: A Critical Review of the Evidence," in *Crime and Justice: An Annual Review of Research* (Chicago, 1981), 3: 295-353.

63. *Votes and Proceedings* (Phil., 1771), 225; Robert G. Albion and Leonidas Dodson, eds., *Philip Vickers Fithian: Journal, 1775-1776* (Princeton, 1934), p. 53; Penn MSS: Off. Corresp., 9: 236, 242, 276, HSP; *Minutes of the Provincial Council*, 10: 30-31.

64. See, for example, the works of Ted Gurr (n.'s 52 and 54 above) and Clifford Geertz, *The Interpretation of Cultures* (New York, 1973), pp. 3-30.

65. Joseph Shippen to James Burd, 24 July 1763, Shippen Papers, 6:45, HSP; Penn MSS: Off. Corresp., 10: 268; *Pa. Arch.*, 1st Ser., 4: 435. See also *Votes and Proceedings* (Phil., 1770), 195.

66. Quarter Sessions Dockets, Cumberland County (Oct., 1764, 1766, 1772, for instance), Cumberland County Court House, Carlisle.

67. Based on a survey of materials cited in n. 57 above.

68. *Pa. Arch.*, 1st Ser., 4: 623; *Minutes of the Provincial Council*, 10: 235, 265; J. Bennett Nolan, *Neddie Burd's Reading Letters* (Reading, 1927), p. 46.

69. John Winter was executed for killing "old Indian Toke Collie in 1728. See Teeters, "Public Executions in Pennsylvania," 146; Joseph Shippen to James Burd, Feb. 23, 1769, Shippen Papers, 7: 1.

70. For the Mamachtaga case, see G. S. Rowe, *Thomas McKean: The Shaping of an American Republicanism* (Boulder, Colo., 1978), pp. 190-93; and Hugh Henry Brackenridge, "The Trial of Mamachtaga," in Daniel Marder, eds., *A. Hugh Henry Brackenridge Reader, 1770-1815* (Pittsburgh, 1970), pp. 355-64.

71. *Votes and Proceedings* (Phil., 1764), 16; George Bryan to John Whitehill, 10 June 1785, Bryan Papers, Box 2, Case 63, HSP; Edward Shippen to James Burd, 25 Jan. 1764, Shippen Papers, 6: 8, Note, too, the trial mentioned in Kelley, *Pennsylvania: The Colonial Years*, pp. 233-34.

72. See Johnson's "A Review of the progressive state of Trade, Politics, and Proceedings of the Indians in the Northern district, with Some Hints humbly offered towards Establishing Some Regulations as may be enforced for preventing Abuses, and securing Tranquility of the Colonies," discussed in Gipson, *The Triumphant Empire*, pp. 435-36.

73. Most of the records for these courts have been lost, but the special courts dealing with Negroes, see A. Leon Higginbotham, Jr., *In the Matter of Color: Race and the American Legal Process, the Colonial Period* (New York, 1978), pp. 281, 288; and Paul Crawford, "A Footnote on Courts for Trial of Negroes in Colonial Pennsylvania," *Journal of Black Studies* 5 (1974): 167-74.

74. *Minutes of the Provincial Council*, 9: 8, 265.

75. Lawrence Lewis, Jr., "The Courts of Pennsylvania in the Seventeenth Century," *Pennsylvania Magazine of History and Biography* 5 (1881): 141-90; William H. Loyd, *The Early Courts of Pennsylvania* (Boston, 1919); Thomas R. Meehan, "The Pennsylvania Supreme Court in the Laws and Commonwealth, 1776-1790" (Ph.D. diss., Univ. of Wisconsin, 1960); and Norman S. Cohen, "William Allen: Chief Justice of Pennsylvania, 1704-1780" (Ph.D. diss., Univ. of Calif., Berkeley, 1966) provide background.

76. *Votes and Proceedings* (Phil., 1764), 66. Tully comments on Chief Justice John Kinsey's habits in this respect for an earlier period, in his *William Penn's Legacy*, p. 132.

77. Penn MSS: Off. Corresp., 9: 218, 252-54, HSP; *Votes and Proceedings* (Phil., 1764), 66, 101; *ibid.*, (Phil., 1767), 12, 16, 37; PCR, 9: 361; William Allen to William Buchanan and William Smith, March 18, 1762, William Allen Letterbook, HSP. Disagreements continued even after the passage of the act.

78. William Allen to Thomas Penn, Mar. 8, 1767, Penn MSS: Off. Corresp., 10: 94, Ries, "The Rage of Opposing Government," 20, indicates that there were several lawyers. The evidence suggests there was but one.

79. Examples include, Gerard W. Gawalt, *The Promise of Power: The Emergence of the Legal Profession in Massachusetts, 1760-1840* (Westport, 1979); and A. G. Roeber, *Faithful Magistrates and Republican Lawyers: Creators of Virginia Legal Culture, 1680-1810* (Chapel Hill, 1981). Works on Pennsylvania lawyers and studies of varying value do exist, including various county histories. See John Hill Martin, *The Bench and Bar of Philadelphia* (Phil., 1883); Albert H. Bell, *Memoirs of the Bench and Bar of Westmoreland County, Pennsylvania* (Batavia, N.Y., 1925); Wilmer W. MacElree, *Sidelights on the Bench and Bar of Chester County* (West Chester, 1918); Frank M. Eastman, *Courts and Lawyers of Pennsylvania*, 4 vols., (New York, 1922); David Paul Brown, *The Forum*, 2 vols., (Phil., 1856); and Edward Biddle, *The Courts and Bar of Cumberland County in the Eighteenth Century* (Carlisle, 1913).

80. We have biographies of Benjamin Chew, Thomas Smith, James Wilson, and Joseph Reed, and studies of John Dickinson and Joseph Galloway, but none concentrate on the individual's legal practice. We need studies which do and we need additional works on, among others, William Lewis, Neddie Burd, Nicholas Waln, George Ross, John Moland, Jasper Yeates, and Robert Magaw. G. S. Rowe's "The Legal Career of Thomas McKean, 1750-1775," *Delaware History* 16 (1974): 22-46, examines the early legal career of an important Pennsylvania lawyer and the state's first chief justice. Local magistrates occasionally practiced law and it would help us to have studies of those who did. A fine example of what can be accomplished through creative use of local records is Roland Baumann's *George Stevenson (1718-1783) Conservative as Revolutionary* (Carlisle, 1978).

81. *Minutes of the Provincial Council*, 9: 386.

82. "The People and the System in a Colonial Pennsylvania Town," *PMHB* 105 (1981): 135-50. Additional approaches and methodologies are suggested by A. G. Roeber, "Authority, Law and Custom: The Rituals of Court Day in Tidewater Virginia, 1720 to 1750," *The William and Mary Quarterly*, 35, 37 (1980): 29-52; Rhys Isaac, "Dramatizing the Revolution: Popular Mobilization in Virginia, 1774 to 1776," *ibid.*, 33 (1976): 357-85; and Rowe, "Alexander Addison: The Disillusionment of a 'Republican Schoolmaster,'" *The Western Pennsylvania Historical Magazine*, 62 (1979): 221-50.

83. This paper has concentrated on the immediate pre-Revolutionary period, the years between 1763 and 1776, but the questions raised here are equally valid and compelling for the period up to 1790 as well as before 1763.

84. Greenberg, "The Middle Colonies in Recent American Historiography," 421; Edwin C. Surrency, "The Evolution of an Urban Judicial System: The Philadelphia Story, 1683-1968," *Am. J. Leg. Hist.* 18 (1974): 95-123. For a post-Revolutionary study of value, see Barry L. Salkin, "Crime in Pennsylvania, 1786-1859" (Ph.D. diss., Harvard University, 1975).