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The Campaign to Make Pennsylvania a Royal Province, 1764-1770, Part I

ROYAL government was one of the perennial panaceas of colonial Pennsylvania politics. In every decade individuals and groups, unhappy with the way the province was being run, proposed it as a solution to their problems.[1] Friends espoused it as willingly as Anglicans, the Quaker party as willingly as its proprietary counterpart. Few professed to fear it, many expected to profit from it, and all who solicited it failed.

[1] During its early years Pennsylvania did, of course, experience royal government (1692–1694). In the first decade of the eighteenth century, the Anglicans were constantly pressing for it, going so far as to try to sabotage the operations of provincial government to provoke the Crown to intervene and take control. During the 1720's Sir William Keith was believed to be scheming to overthrow proprietary government and have himself installed as royal governor. Under Gov. George Thomas (1738–1747), the Quaker party was constantly buzzing with plans for royal government; "it became a common practice for the Quakers and their sympathizers," William Shepherd observed, that "when any carefully concocted political schemes were balked, to threaten to petition the king to assume the government." In the 1750's, as we shall see later in this paper, the Quaker party was again bubbling with plans for royal government. See Gary B. Nash, *Quakers and Politics, Pennsylvania, 1681–1726* (Princeton, 1968), 249–250, 312; Thomas Wendel, "The Keith-Lloyd Alliance: Factional and Coalition Politics in Colonial Pennsylvania," *Pennsylvania Magazine of History and Biography* (*PMHB*), XCII (1968), 295, 302; William Shepherd, *History of Proprietary Government in Pennsylvania* (New York, 1896), 551–552; George Thomas to John Penn, June 4, 1742, Penn Papers, Historical Society of Pennsylvania (HSP); William Hanna, *Benjamin Franklin and Pennsylvania Politics* (Stanford, 1964), 115, 116, 119, 120.

The most determined drive in the province's history to place it under royal government began gathering momentum in the mid-1750's. Initially, it was led by Quaker party chieftains Benjamin Franklin and Isaac Norris, but in time Joseph Galloway replaced Norris as Franklin's chief collaborator. The movement was precipitated by two factors: the unpopular policies of Thomas Penn and the outbreak of the French and Indian War. When Penn became the principal proprietor of the province in 1746, he resolved to reduce what he considered to be the Assembly's excessive power by establishing control over its finances. To this end, he instructed his deputies to pass no money bills unless they were given a voice in the expenditure of their produce.[2] To insure obedience to this and to his other instructions, he made each deputy give a £5,000 sterling bond to obey them. This surety served him well. When, for example, the Assembly passed a bill in December, 1754, raising £20,000 to defend the province against the French, his deputy of the moment, Robert Hunter Morris, dared not sign it because he was not given control over the money. Knowing that Morris' action was dictated by instructions from Penn, the Assembly petitioned the King in Council against them (January 7, 1755). Its principal objection to the instructions was to the inflexibility with which the £5,000 performance bond invested them and to the impotence to which they reduced both the governor and itself. By threatening the governor with financial ruin if he departed from them, the instructions robbed him of his independence and forced him to be as rigid and as unresponsive to legislative pressures as a ventriloquist's dummy. In the face of such executive rigor mortis, the Assembly felt useless. "All Debates and all Reasonings are vain," it declared, "where Proprietary Instructions, just or unjust, right or wrong, must inviolably be observed. We have only to find out, if we can, what they are and then submit and obey." Penn, the House protested, would not only deny "us the Priveleges of an English Constitution, but would, as far as in his Power, introduce a French one, by reducing our Assemblies to the Insignificance of their Parliaments, incapable of making laws, but by Direction . . . and only allowed to

[2] This and other matters in this paragraph are treated in detail in my "Benjamin Franklin and Pennsylvania Politics: A Reappraisal," *PMHB*, XCII (1969).

register his Edicts."[3] Here was the cause of the Assembly's opposition to Penn from the mid-1750's onward: its fear that through immutable instructions he would rule the province from England and deprive its people of any share in its governance. Having acquired, during the long period of proprietary neglect before 1746, the taste for and the habit of self-government, the Pennsylvania Assembly was unwilling to submit to distant dictatorship or to any form of external control. Thomas Penn's attempts to exercise it kept the province in a turmoil in the 1750's and triggered the campaign for royal government in 1764.

Braddock's defeat placed the Assembly at a great disadvantage in resisting Penn's pretensions. The rout of the general's army left the salvation of Pennsylvania entirely up to the House. Self-preservation became its task, and in the service of so imperious an objective no price was too heavy to pay, not even acceptance of startling demands written by Penn into new instructions to his deputies. These instructions, given to Robert Hunter Morris and to Captain William Denny, who succeeded him in the summer of 1756, forbade them to permit the Assembly to tax the proprietary estates to raise money for provincial defense.[4] Not content with exempting his own lands, Penn undertook to prescribe in detail how the people's property should be taxed—how long their taxes should run, how, by whom, and at what rates their land should be assessed, how appeals from the assessors should run, etc. The House, desperate for money, was forced to accept his dictates to obtain his deputy's signature to its supply bills, with the result that from 1755 to 1758 it exempted his estates from taxes. But the members (and their constituents) hated what they had been compelled to do. They despised the moral turpitude, the "ineffable Meanness,"[5] of Penn's tax dodging. It

[3] The first quotation is from an Assembly message to Morris, Nov. 11, 1755, and the second is from a message of Nov. 22–24 (?), 1755, *Pennsylvania Archives*, Eighth Series, V, 4113, 4177, hereinafter cited as *Votes of Assembly*.

[4] Denny laid his taxation instructions before the Assembly on Aug. 31, 1756, shortly after his arrival in the province. *Ibid.*, 4298–4306. Penn gave Morris no instructions forbidding the taxation of his estates, because he did not expect the Assembly to try to tax him. Morris, however, anticipated Penn's wishes by refusing to consent to a tax.

[5] The term is Franklin's; see his "Preface" to *The Speech of Joseph Galloway* (1764) in Leonard W. Labaree, ed., *The Papers of Benjamin Franklin* (New Haven, 1959,——), XI, 298–299, hereinafter cited as *Papers*.

seemed incredible that Penn, sitting in his study in England, could compel them by a few strokes of his pen to sanction a policy which they believed was transparently wrong. Such external control was intolerable and they resolved to do something about it.

But what could they do? Petitioning the King in Council seemed pointless, because their petition of January 7, 1755, against Penn's instructions had been dismissed out of hand. Considerable sentiment developed for attacking the problem at its root by requesting Penn's removal and his replacement by a royal governor and, when the House sent Benjamin Franklin to England as its agent in the spring of 1757, many people (including almost all of his political opponents) believed that this was his objective.[6] But documents show, and Franklin's actions prove even more conclusively, that he went to the mother country to engage in head to head negotiations with Penn to reform his government, not to replace it. His task was not to seek revolutionary change, but "to solicit the Removal of our Grievances, occasioned by Proprietary Instructions."[7]

Franklin's negotiations with Penn were a total failure. Fifteen months of sporadic palavering turned the two men into mortal enemies and in December, 1758, Penn washed his hands of Franklin by refusing to see him again. At the same time he declared that he and his brother would continue "to give Instructions to, and take Bonds from, their Lieutenant Governor."[8] Confronted with Penn's refusal to reform, Franklin concluded that only under royal government could Pennsylvania obtain a satisfactory resolution of its grievances, and therefore in the winter of 1759 he began promoting it in letters to his colleagues in the Assembly—Galloway, Norris, and company.[9]

These men had considerably more success in dealing with Penn's deputy than Franklin had in dealing with Penn. By April, 1759, they had contrived to bribe Governor Denny into breaking his instructions and permitting the taxation of the proprietary estates. When the bill taxing his property reached England, Penn requested

6 See, for example, William Peters to Thomas Penn, Jan. 4, 1756; Richard Peters to Penn, Apr. 29, 1756; Robert Hunter Morris to Penn, Oct. 8, 1756; Richard Peters to Penn, Jan. 31, 1757, and Richard Hockley to Penn, Feb. 20, 1757, Penn Papers.

7 *Papers*, VII, 110.

8 *Ibid.*, VIII, 181.

9 See, for example, his letter to Norris of Jan. 19, 1759, and to Galloway of Apr. 7, 1759, *ibid.*, VIII, 236, 315.

the King in Council to repeal it, while Franklin fought for its confirmation. On September 2, 1760, the Council confirmed it on the condition, which Franklin accepted, that the Assembly agree to six amendments designed to insure the equitable taxation of Penn's property in the future.[10] Thus ended the dispute over proprietary taxation—or so, at least, the Assembly thought. Not resolved was the larger problem of Penn's exercise of external control through inflexible instructions.

Beginning in the fall of 1760 this problem ceased to be so pressing. The change was caused by the French in Canada surrendering to Lord Jeffery Amherst (September 8, 1760); with the military threat to Pennsylvania now removed, the Assembly was no longer obliged to capitulate to proprietary instructions to defend the province. The advent of peace had dispelled the atmosphere in which Penn could dictate demands to it. But another war could re-create it, and resurrect the explosive issue of external control.

A new Indian war, known as Pontiac's Uprising, was precisely what Pennsylvania suffered in the summer of 1763. In December the Assembly resolved to send a 1,000-man expeditionary force against the Indians, and on January 6, 1764, it voted to emit £50,000 in paper currency to support this effort. Almost immediately it was asked to accept terms which it abhorred. On January 12 Governor John Penn, Thomas Penn's nephew, informed the Assembly that on the matter of paper money his uncle had instructed him to govern himself by the Privy Council's sixth amendment of September 2, 1760, which stipulated that "the Payments by the Tenants to the Proprietaries of their Rents, shall be according to the terms of their respective Grants. . . ." For decades the Penns had made their tenants sign contracts pledging to pay their quit rents in either sterling or provincial paper money at the rate of exchange between Philadelphia and London and for just as long the Assembly had thwarted them by issuing legal tender paper currency with which the inhabitants discharged their obligations. By authorizing Penn to refuse to accept legal tender paper, the Privy Council had resolved the long conflict in his favor.

Penn's insistence on the implementation of the Council's sixth amendment infuriated the assemblymen and their constituents.

[10] *Ibid.*, IX, 205–206.

They were as unhappy about the depreciation of the provincial currency as he was, but they accepted it out of a sense of civic duty. By refusing to receive it at face value, Penn appeared to be shirking the burdens of citizenship to satisfy his avarice, precisely what the people of the province thought that he had done in insisting on the exemption of his estate from taxes. And for those who recognized that depreciation was a tax, Penn's efforts to avoid it represented a continuation of his tax dodging from the 1750's.

Pennsylvanians were also impressed by another element of continuity from the 1750's: Penn's efforts to exercise external control over them. It was true, of course, that the Privy Council had ordered the Assembly to exempt his quit rents from the provincial legal tender, but because Penn had requested that favor in the 1760 hearings and had ordered his nephew to insist upon it, and because the people of the province had grown so accustomed to blaming unpopular executive demands on his instructions that they could not or, for partisan reasons, would not readjust their thinking, they attributed the order given in the sixth amendment to proprietary instructions. Galloway, who must have known better, and even Franklin himself, did so in print.[11] Thus, in January, 1764, many Pennsylvanians imagined themselves in a situation analogous to that of the late 1750's—forced by warfare to capitulate to demands contained in proprietary instructions which were morally repugnant to them.

The reaction of the Assembly, when it was actually compelled on February 1 to vote Penn's exemption from the legal tender, was one of boiling indignation. The temperate John Dickinson railed at the exemption as being "fundamentally unjust" and "contradictory to the maxims of equity; and the spirit of liberty," while Samuel Foulke, a Quaker member from Bucks County, was so exercised at seeing his colleagues put "their necks under the Tyrant's foot" that he proposed the immediate abolition of proprietary government and the establishment of royal government in its place.[12] Such a course, he believed, was "the wish of every one who retains a Just sense of

[11] *Ibid.*, XI, 137, 284.

[12] Dickinson is quoted from David L. Jacobson, *John Dickinson and the Revolution in Pennsylvania 1764–1776* (Berkeley, 1965), 12; for Foulke, see "Fragments of a Journal Kept by Samuel Foulke, of Bucks County," *PMHB*, V (1881), 69.

Freedom." William Logan confirmed that the Assembly "incline strong to a Change of Government," but doubted that it would act precipitously. It was not that he expected it to send another emissary to Penn to try to persuade him to change his ways; the failure of Franklin's mission had disillusioned everyone with the prospects of proprietary reform. Rather he perceived that in their cooler moments the assemblymen would recognize that Penn's exemption from the provincial legal tender was dictated by an order-in-council and that to petition the Privy Council to deprive him of his government for obeying one of its own directives would be absurd. But if the Assembly was forced to swallow another dose of external control, one not sanctioned by the British bureaucracy, then an appeal for royal government would be a virtual certainty. As Logan put it, the members "intend on the first Occasion that may offer as Grounds for such a Proceeding to apply for it at home."[13]

Such an occasion offered much sooner than anyone expected and, to everyone's surprise, it involved another of the Privy Council amendments of September 2, 1760. Having capitulated to Governor Penn on the legal tender exemption on February 1, 1764, the Assembly assumed that it had removed the final obstacle to the passage of the £50,000 bill. By February 10 it had put it in proper statutory language and on February 24 it passed the measure. To its astonishment Penn returned it on March 8 with a new objection, never so much as hinted at before; the bill, he claimed, contravened the second amendment of September 2, 1760, and could not be signed until it was made to conform thereunto. The Assembly was flabbergasted, for it had taken the second amendment into account in framing the bill and had, as far as it was aware, complied with it. In fact, it had inserted the amendment almost verbatim. "The located uncultivated lands belonging to the Proprietaries shall not," the bill stipulated, "be assessed higher than the lowest Rate at which any located uncultivated Lands belonging to the Inhabitants, *under the same Circumstances of Situation, Kind and Quality* [italics added], shall be assessed."[14] With the exception of the words in italics, the phraseology was identical to the amendment as promulgated by the Privy Council. The words in italics were precisely what

[13] Logan to John Smith, [Jan. 31–Feb. 2?], 1764, Smith MSS, HSP.
[14] *Papers*, XI, 111–112.

Penn objected to, however; he wanted them deleted and the exact words of the amendment inserted. But let us give the devil his due; it was Attorney General Benjamin Chew, to whose judgment John Penn deferred in all matters political, who insisted that the exact words be inserted.[15] A pettifogger's delight, they were a fair man's despair, for their literal meaning was that the best of the Proprietor's located, uncultivated lands should be assessed no higher than the worst of the people's. Suppose Penn were living today and owned a vacant lot at the corner of Broad and Market Streets in Philadelphia; Chew was insisting that it be assessed no higher than a plot of the same size on a worked-out strip coal mine near Scranton. Or, as Joseph Galloway put it in April, 1764, he was demanding that the Proprietor's "Lotts in this City [*Philadelphia*] that do not contain half an Acre, and are worth from £1,500 to £2,000 shall be rated no higher than half an Acre of a poor Man's land at Juniata, not worth £5."[16]

The Assembly could not believe that the Privy Council, in promulgating the second amendment, intended so egregious an injustice and Franklin, who had been present at the hearings in 1760, assured the Assembly that the Council had not. Though the members were aware of Chew's influence on the governor, they did not attribute the amendment's interpretation to him. John Penn they considered unlikely to have independently conceived anything so audaciously wicked. Hence, there seemed to be only one person who could have been responsible, their old adversary, Thomas Penn, and, following their habit of attributing unpopular executive demands to his instructions, they blamed them for his nephew's posi-

15 Chew, in truth, ran the executive branch of government in Pennsylvania, a fact which the assemblymen recognized by calling him the "Prime Minister." Foulke, "Journal," 73. James Pemberton wrote Dr. John Fothergill on Mar. 7, 1764, that Chew had "the sole direction of him [Penn] and the Affairs of the Government," while a few months later a pamphleteer claimed that Chew had "govern'd our G[overnors] this ten Years." Pemberton Papers, HSP; [Anonymous], *The Substance of a Council held at Lancaster, August the 28th. 1764*, Evans microcards no. 9848. For John Penn's acknowledgment of Chew's influence, see his letters to Thomas Penn, [May 5?], [June 15?], 1764, Penn Papers, Official Correspondence, IX (1758–1764). For Chew's responsibility for the interpretation of the second amendment, see William Logan to John Smith, Mar. 17, 25, 1764, Smith MSS; William Peters to Thomas Penn, June 4, 1764, Penn Papers.

16 [Joseph Galloway], *An Address to the Freeholders and Inhabitants of the Province of Pennsylvania* (Philadelphia, 1764), Evans microcards, no. 9561.

tion on the assessment of his vacant lands.[17] That the assemblymen were wrong on this occasion, they never discovered.

The Assembly raised two major objections to John Penn's demands, both as familiar as the rap of Speaker Isaac Norris' gavel. One was that by insisting that his uncle's best lands be assessed at the same rate as the people's worst lands, he was indulging the apparently insatiable proprietary appetite for tax dodging. The second was that, by acting in obedience to his uncle's instructions, he was sacrificing his independence and allowing himself to become, as his predecessors had, a conduit for external control, an instrument by which a resident of England ruled the province at the expense of its popularly elected representatives. Though the House's grievances were familiar, new circumstances seemed to favor a decisive attempt to remedy them. The Proprietor's assessment guidelines were not supported by the Privy Council order of September 2, 1760, as his exemption from the provincial legal tender had been; rather, they appeared to be an outrageous perversion of it and, for that reason, the members hoped that an indignant Council would welcome an attempt to oust him. Therefore, in March they mounted a massive campaign for royal government.

The campaign was masterminded and led by Benjamin Franklin and Joseph Galloway and was launched by a House resolution, March 10, 1764, appointing them and six of their colleagues to serve as a committee to compose "Resolves upon the present Circumstances of this Province, and the Aggrievances of the Inhabitants thereof."[18] Four days later the House passed a £55,000 supply bill (why £5,000 was added to the bill rejected by Penn on March 8 is not clear) and sent it to the governor. Although the members refused to change their position on the assessment of the vacant proprietary lands, they did not expect John Penn to repent and accept their reading of the second amendment. From past experience they assumed that he would adhere adamantly to his uncle's instruc-

[17] See, for example, the Assembly's 22nd resolve of Mar. 24, 1764: "it is the Opinion of this House, that the Governor's rejecting the said [Supply] Bill does not arise from its not being conformable to that Report, but because it is not formed agreeable to Proprietary Instructions." *Papers*, XI, 132. See also Franklin to Jackson, Mar. 14, 1764, *ibid.*, 105, and the Assembly's message to John Penn, Mar. 22, 1764, *ibid.*, 113.

[18] *Votes of Assembly*, VII, 5570.

tion (or what they erroneously assumed that his uncle's instruction enjoined) and that they would be forced by the demands of war to capitulate to it. What they wanted from young Penn was candor, because, although everybody in the province knew the interpretation he placed on the second amendment, he refused to make an explicit public declaration of his understanding of it, confining himself, as he did in rejecting the £55,000 bill on March 19, to terse statements that the bill did not conform to the amendment. In response to Assembly messages of March 19 and 20, requesting that he explain himself, Penn refused, informing the House that "the English language does not afford Words more forcible, clear and explicit"[19] than those in which the amendment was written and demanding that they be inserted into the supply bill verbatim. This the House declined to do and kept the pressure on the governor by reminding him in a message of March 22 "how absurd it would be for the two Branches of the Legislature to agree to pass an Act in Terms which both . . . understand very differently." Recognizing that the House could not be stalled off forever, Benjamin Chew, who had been writing Penn's messages all along, chose to spell out, in a message of March 23, the proprietary interpretation of the second amendment: "if Five, Ten, or Fifteen Pounds, is the lowest at which *any* such Lands of the Inhabitants are assessed, none of the located uncultivated Lands of the Proprietaries shall be assessed higher."[20] Here were the words the Assembly had been waiting for, words which could put the campaign for royal government in high gear, for by demanding that the best of the proprietary lands be assessed at the same rate as the worst of the people's, Penn provided the perfect battle cry with which the House could rally the people against him, the ideal self-incriminating political slogan. Hence the Assembly lost no time in proceeding against him, unanimously adopting on March 24 twenty-six resolves which its committee of March 10 had prepared.[21]

The resolves naturally stressed the Assembly's principal grievance: Penn's effort to subject the province to external control. The first one went so far as to declare that unless he came to Pennsylvania

[19] This and the following quotation are from *ibid.*, 5576, 5579.

[20] *Ibid.*, 5585; for Chew's authorship of this message, see William Peters to Thomas Penn June 4, 1764, Penn Papers.

[21] For these resolves, see *Papers*, XI, 123–132.

to govern personally, he had no authority in the province, that if he and his successors continued to govern through deputies, they could be "considered in no other Light than as private Owners of Property, without the least Share or constitutional Power of Legislation whatever." The next several resolves scored Penn's instructions and the "penal Bonds" with which he enforced them. Then, other grievances against the proprietary government were enumerated: Penn's deputies were accused of corrupting public morals by issuing exorbitant numbers of tavern licenses (for each of which they received a fee); the Proprietor was attacked for appointing judges during pleasure, rather than during good behavior; his land policy was denounced; his nephew's refusal to pass a militia bill, unless given the appointment of officers, was criticized; and Penn was berated for "endeavouring to demolish and annihilate the Priveleges granted" by his father. The final two resolves spelled out the House's response to this catalogue of complaints: the government of Pennsylvania should be "lodged in the Hands of the Crown" and, accordingly, the members proposed to adjourn to consult their constituents to determine whether "an humble address" should be sent to the King, praying him "to take the People of the Province under His immediate Protection."

Actually, the intention of the members was not to solicit public opinion (as their last resolve implied), but to shape it. Since they met behind closed doors and forbade day-by-day publication of their proceedings, the people of the province knew precious little about their latest clash with John Penn. Therefore, the assemblymen wanted to sell them their version of it while their minds were still open. Consequently, when the House adjourned on the afternoon of March 24, key members had planned and were prepared to execute what was perhaps the most intensive public relations campaign in the province's history, one which, as far as the state of the mass media permitted, intended to saturate Pennsylvania with royal government propaganda. Plainly visible in the plan was the hand of the province's foremost practitioner of the art of public persuasion and, by the testimony of friend and foe alike, the leader of the royal government campaign, Benjamin Franklin.[22]

[22] In a *Protest*, Oct. 26, 1764, against Franklin's appointment as agent to England, ten assemblymen accused him of being "the Chief Author of the Measures pursued by the late Assembly," *i.e.*, of the campaign for royal government. In reply, he wrote: "I shall not

The plan went into effect on March 29 with a "blitz" from the printing presses of Franklin & Hall. That day's issue of the *Pennsylvania Gazette* printed the messages which had passed between the Assembly and John Penn from March 19 onward and the resolves of March 24. The same day 3,000 copies of these messages and resolves, printed separately as a broadside, were published and distributed to the people. Still on the same day, 3,000 copies of "Explanatory Remarks," which Franklin wrote as a commentary on the resolves, were published and distributed.[23] On March 31 Franklin & Hall printed 100 copies of a petition for royal government (which Franklin wrote),[24] and these were circulated at a mass meeting of the citizens of Philadelphia, held at the State House on either that day or on one of the first days of April.[25] Exactly how many people attended the meeting is not known, but no one could have pleaded ignorance for missing it, because the Assembly leaders sent "particular Messengers" to every house in town to announce it. Joseph Galloway, touted by his admirers as the "Demosthenes of Pennsylvania," was the principal speaker at the gathering. He harrangued the crowd at length, poured "the most rank abuse" on the Proprietors, and urged his auditors to bestir themselves and demand a royal government. "The way from Proprietary Slavery to Royal Liberty was easy," he declared. Later in April, Franklin again took to the press, publishing a long antiproprietary polemic, *Cool Thoughts on . . . Our Public Affairs*, which supplemented a

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dispute my Share in those Measures." *Papers*, XI, 409, 431. For other affirmations of Franklin's leadership, see John Penn to Thomas Penn, May 5, 1764, Penn Papers; George Bryan to ———, Apr. 13, 1764, quoted in Burton A. Konkle, *George Bryan and the Constitution of Pennsylvania, 1731–1781* (Philadelphia, 1922), 49; and *Pennsylvania Journal*, supplement, Sept. 27, 1764.

23 There is no conclusive evidence that the broadside was distributed to the public on March 29; that it was is inferred from the billing date in the Work Book of Franklin & Hall. The firm billed the province for the printing of the piece on Apr. 12, 1764. On the same day it billed the province for Franklin's "Explanatory Remarks," which were certainly published on March 29. Therefore, it seems reasonable to suppose that the broadside, without which the "Explanatory Remarks" would have made little sense, was also published on March 29. *Papers*, XI, 133–134*n*, 134–144.

24 *Ibid.*, 145.

25 This meeting and the efforts of Assembly partisans to procure signatures to royal government petitions, discussed later in this paragraph, are described in a letter from John to Thomas Penn, May 5, 1764, Penn Papers.

shorter, more intemperate, piece by Galloway, *An Address to the Freeholders and Inhabitants of . . . Pennsylvania.* Both pamphlets were "distributed gratis[26] by the thousands" and were "thrown into the Houses of the several Inhabitants" of Philadelphia. On April 18 Franklin & Hall recorded the printing of another 200 petitions for royal government.[27] In the counties these were circulated by the local assemblymen, but in Philadelphia three of Franklin's cronies, Thomas Wharton, Philip Syng, and Philip Knowles, solicited signatures, going into "all the houses in Town without distinction, to give everybody . . . an opportunity of showing their Love for their Country in endeavouring to shake off Proprietary Injustice and Slavery." Liquor, dispensed by the Assembly party at an "open house" at one of the city's taverns, was used to prime prospective signers, and, according to the opponents of royal government, deceit was also employed; many people, they alleged, "put their Names to blank Sheets of Paper, did not know that the Constitution of their Country was affected by what they did, and were told that it was only an Address of Duty to their Majesty to which their names were to be affixed."[28]

The result of these unprecedented efforts became apparent when the Assembly reconvened on May 14. Petitions from all parts of the province were handed in, containing some 3,500 names.[29] A majority of the signatories were Quakers,[30] while close to one-half,

26 *Papers*, XI, 154–157.

27 *Ibid.*, 145.

28 *Pennsylvania Journal*, supplement, Sept. 27, 1764.

29 Several publications of opponents of royal government give the figure 3,500. Most significantly, Franklin, when commenting upon the figure directly, did not challenge its accuracy. See John Dickinson, *A Speech, Delivered in the House of Assembly of the Province of Pennsylvania, May 24, 1764* . . . (Philadelphia, 1764), iv; *Pennsylvania Journal*, supplement, Sept. 27, 1764; Remonstrance of the Inhabitants of Philadelphia, Oct. 26, 1764, *Votes of Assembly*, VII, 5688–5689. For Franklin's apparent acceptance of the figures, see his "Preface" to *The Speech of Joseph Galloway*, *Papers*, XI, 290.

30 It is virtually impossible to determine precisely how many of the signers were Quakers. The Quakers, in fact, circulated their own version of the royal government petition, which differed slightly from the one written by Franklin. Eight signed copies of it are in the Public Record Office, London. In that repository are also twenty-three signed copies of Franklin's petition. Many who signed this document are readily identifiable as Quakers, but since there is no complete roster of the Quakers in Pennsylvania, it is impossible to determine precisely how many were Friends. To complicate the problem further, the petitions in the Public Record Office represent only a portion of the total number which were signed. Given

1,650, were residents of Philadelphia and its environs.[31] Despite the notorious imprecision of colonial population statistics, something can be made of these figures. The population of Philadelphia and its suburbs in 1764 was probably no more than, and perhaps something less than, 20,000, while the population of Pennsylvania seems to have been in the neighborhood of 250,000.[32] Thus an area with only eight per cent of the province's population furnished almost fifty per cent of the petitions' signatures. Or, consider the matter another way. Suppose that for each adult white male in Pennsylvania at this time there were three other people (probably a conservative estimate in an era of large families). If this were so, there would have been about 5,000 potential petition signers in the Philadelphia area, and approximately 57,500 in the rest of the province; therefore, thirty-three per cent of eligible Philadelphians would have signed the petition, while only three per cent of the remainder of the inhabitants would have signed. Of course, these calculations are unscientific and, therefore, suspect, but compared with the somewhat more respectable conclusion that Philadelphia, with eight per cent of the population, furnished fifty per cent of the signatures, they demonstrate what appears to be a valid fact, that in signing the royal government petitions there was an urban-rural split, the province's major urban area providing a disproportionate amount of support for royal government, its rural areas providing overwhelming opposition. Contemporary testimony also documents this split. The Presbyterian politician George Bryan observed that "in the country the petitions for a change of government are less liked, especially as you approach the frontier," while Israel Pemberton informed an English correspondent that, in contrast to the city Quakers, "very few Friends in the country had sign'd or Approved of these Petitions." Even among the Germans the division was

these difficulties, one is forced to rely on contemporary testimony, such as James Pemberton's statement of June 13, 1764, that the Quakers "pretty generally" signed the petition, or George Bryan's statement of Apr. 26, 1764, that "great numbers" of Friends signed, to establish the identity of the signatories. *Ibid.*, 145–146; James Pemberton to Samuel Fothergill, June 13, 1764, Pemberton Papers; Konkle, *George Bryan*, 50, 51.

31 Richard Waln to Nicholas Waln, June 3, 1764, Waln Letter Books, 1762–1766, HSP.

32 The population of Philadelphia is arrived at by extrapolating from Sam Bass Warner's careful estimate of 23,739 in 1775; see his *The Private City; Philadelphia in Three Periods of Its Growth* (Philadelphia, 1968), 11–12. For the population of Pennsylvania, see *Papers*, XI, 290.

apparent, the rural Germans opposing royal government, those living in Philadelphia (led by David Deshler and John Wister) favoring it.[33]

That such a split occurred should not surprise us, for the tension between rural conservatism and urban experimentiveness (one hesitates to use the term liberalism in the context of the royal government campaign) is an enduring phenomenon in American history. But were there not specific factors to explain it? One possibility is that most of the supporters of royal government, the Quakers, lived in Philadelphia, but the information which we have about the distribution of Friends throughout the population, imperfect though it is, suggests that not an appreciably greater proportion of them lived in Philadelphia than in the remainder of the province. We are on firmer ground when we say that fear prompted Philadelphians to sign the royal government petitions. The march of the Paxton Boys early in February had a traumatic effect on the city, frightening many inhabitants so badly that they considered moving to other colonies or even to England.[34] Toward the end of February the frontiersmen began threatening a new march against Philadelphia, and their menaces, which lasted until May, made the capital's apprehensions mount.[35] The advocates of royal government played on these fears by declaiming on the "present Insecurity of Life and Property" and on the "imminent Danger" to the people,[36] and by reminding them that the proprietary government had no militia or police force at its command. A royal government, they promised, would not permit disturbances of the public peace, for the King's governor would be backed by the King's troops. Franklin, an enemy

33 Bryan to ———, Apr. 13, 1764, Konkle, *George Bryan*, 48; Israel Pemberton to David Barclay, Nov. 6, 1764, Pemberton Papers; Thomas Penn to Richard Peters, Nov. 18, 1764, Penn Papers. Also relevant is the observation of William Bingham that in the counties outside Philadelphia the petitions "do not meet with that encouragement" their sponsors expected. Bingham to John Gibson, May 1, 1764, Shippen Papers, VI, HSP.

34 See Benjamin Franklin to Richard Jackson, Mar. 14, 1764, to Peter Collinson, Apr. 30, 1764, *Papers*, XI, 107, 181. William Logan was one who thought of moving to England; see his letter to John Smith, [Feb. 15?], 1764, Smith MSS.

35 Their threats can be followed in Franklin's writings: the western mob is "soon expected down again" (March 14); "tumults" are "threat'ned and daily expected" (March 31); "we are daily threatened with more of these Tumults" (April 12); "Reports [are] frequently spreading that the Frontier People are assembling to come down again" (May 1); "the daily threats of these lawless People" continue (May 24). *Papers*, XI, 107, 150, 160, 185. The last quotation is from *The Speech of Joseph Galloway*, 39.

36 *Ibid.*, 35, 36.

charged, even suggested that the King might quarter a regiment of regulars in Philadelphia to protect the city.[37] It is clear that the fears of Philadelphians and the promises that royal government would allay them helped account for the city's support of the petition to the King. Colonial politicians, no less than present practitioners, recognized the effectiveness of the law and order issue.

The primary reason, however, why Philadelphians supported the petition for royal government was that they had been swayed by the public relations campaign on its behalf. They were available for public meetings, accessible to propaganda, and susceptible to proselytism. These conditions did not prevail in the rest of the province, where there were no cities and the population was dispersed on farms. Communications were so poor that some citizens did not know that royal government was being proposed, and those who did received only a fraction of the literature (and libations) which Philadelphians received. Therefore, the urban-rural split can most properly be explained as a cleavage caused by a communications gap.

Did the 3,500-petition signatures represent success to the proponents of royal government? Had they been spontaneous, they would have meant a considerable triumph; having been intensely solicited, they represented, in the opinion of friend and foe alike, a resounding failure. Opponents hooted at their paucity. "It is enough to say," wrote one, "that, after incredible pains, in a Province containing near Three Hundred Thousand Souls, not more than 3500 could be prevailed upon to petition for a change of government." "Such a small Number of Subscribers," wrote another, "in so populous a Province, and these procured in such a manner, instead of encouraging, ought immediately to have put a total Stop to this mad Attempt of the Assembly to change our Government."[38] The supporters of the petition were very defensive about these jibes and resorted to such stunts as drastically understating the population of the province—Franklin put it at 110,000[39]—to make their figures look better. But stratagems could not disguise their failure.

[37] In *Cool Thoughts* Franklin stated that a royal government and a regular army would be welcome for "the steady Protection it will afford us against Foreign Enemies, and the Security of internal Peace among ourselves." *Papers*, XI, 169. The charge that he suggested the quartering of regulars in the capital is in *Pennsylvania Journal*, supplement, Sept. 27, 1764.

[38] John Dickinson, "Preface" to *A Speech, Delivered in the House of Assembly of the Province of Pennsylvania* . . . (Philadelphia, 1764), iv; *Pennsylvania Journal*, supplement, Sept. 27, 1764.

[39] *Papers*, XI, 290.

One principal reason the royal government campaign failed was that it did not answer the right questions. Its voluminous propaganda was strong on sloganeering and vituperation, but weak on reasoned explanation. Its main purpose was to denigrate Thomas Penn by stressing his mean-spiritedness and his "oppressions,"[40] by reviling him as an aspiring despot whose ambition was to reduce Pennsylvanians to the "servile Condition of the . . . worst slaves of the most absolute Monarch." The strategy behind this effort was to portray Penn as such a base and abandoned individual that any change in the government of Pennsylvania would be a change for the better. Not that the supporters of royal government pictured George III as just any ordinary alternative. The young king they affected to idolize as "as just, benevolent, and amiable a Prince, as Heaven ever granted in his Mercy to bless a People." With him at the helm, they expected that "the direct and immediate Rays of Majesty [would] benignly and mildly shine on all around." Royal liberty would supplant proprietary slavery, as Galloway promised in his State House speech, and goodness and mercy would pour forth upon the people of Pennsylvania. Within the range of this rhetoric far more people signed royal government petitions than those beyond its reach. But even in Philadelphia, where it was most effective, approximately two out of three citizens were not converted to royal government and did not sign petitions requesting it. These people would not settle for slogans and panegyrics. They wanted specific answers to specific questions.

Although most of them were disenchanted with proprietary government and distressed with Thomas Penn's efforts to run the province from his Spring Garden study, they wondered how royal government could redress the grievance of excessive external control, especially when it was being sold to them as an instrument to suppress the province's internal disorders. Their doubts were not allayed by reports that the government of George III intended to lay imposts, levy stamp duties, and deprive Pennsylvania of its paper currency. And the situation on the Delaware Bay, where British men-of-war, now at the service of customs officials, searched every ship afloat, was hardly reassuring. Nor was it clear how royal government would safeguard the province's singular political priv-

[40] *The Speech of Joseph Galloway*, 7, 8, 11, 40; the remainder of the quotations in this paragraph are, in the order of their appearance, from *ibid.*, 19, 7–8, and from *Papers*, XI, 301.

ileges, the right of its Assembly to sit upon its own adjournment, for example. And many feared for the freedom of religion (which the proprietary charter guaranteed) in the face of rumors that the King intended to install a bishop in the American colonies and establish the Church of England, tithes, spiritual courts, and all.[41] These problems the literature and oratory of the royal government campaign did not confront; tactically, they could not.

The architect of the royal government campaign, Benjamin Franklin, pinned his hopes for procuring a new regime and retaining Pennsylvania's privileges under it on the influence of British politicians whom he had met and cultivated during his first mission to England. During those years certain of them had assured him of their assistance in establishing an acceptable royal government, and he expected that, if applied to, they would keep their word. Like most political influence, theirs would be exerted privately and Franklin perceived that the surest way to forfeit it would be to announce to the Pennsylvania public who they were and what he expected them to do for the province. These sensitive politicians would resent such public predictions of their behavior[42] and would doubtless repudiate their previous promises. Therefore, Franklin could not publicly divulge his reasons for believing that Pennsylvania would be safe under a royal government. But in the privacy of the Assembly chambers, where he could speak freely of his connections and conversations in England, as he did during the March 10–24 fortnight, when the decision to seek royal government was made, he dispelled virtually every doubt about its desirability.

Because Franklin's communications about his dealings with British politicians were confidential, it is impossible to discover precisely what he said. There are clues in his papers, in the comments of his friends, and in the accusations of his enemies, who seem to have obtained their information from John Dickinson or one of the other two or three antiroyal government assemblymen. According to one foe, Franklin told the assemblymen that "persons

41 Wrote the antiroyal government pamphleteer, the "Plain Dealer," in the spring of 1764: "It is very probable that we shall soon have stamp-offices, customs, excises, and duties enough to pay, we don't want to pay tythes into the bargain." John R. Dunbar, ed., *The Paxton Papers* (The Hague, 1957), 350.

42 See, for example, Richard Jackson's letter to Franklin of Aug. 11, 1764, *Papers*, XI, 314.

of weight at home" had "encouraged" him to try to change the government.[43] Another enemy claimed that he had specifically identified his supporters as the whole Grenville ministry, but a third declared that he had said that he was "not at Liberty to mention" the "great Men" who had counseled him. About one thing, however, all accounts agreed: Franklin said that his talks in England made him "sure" that Pennsylvania could obtain royal government, that the province need only ask and it would be given.[44] So positive was he about this, so convincingly did he communicate his certitude, that a sober Quaker confidant bet a friend £100 that the King would be governing the province in a short time.[45]

Franklin professed to be equally "sure" that Pennsylvania could retain its cherished privileges under the Crown. The basis for his confidence was a legal opinion which he received from Pennsylvania agent Richard Jackson on April 24, 1758. Franklin had drawn up a case in which he enumerated the province's privileges, explained that they had been conferred by the royal charter of 1681 and William Penn's charter of 1701, and emphasized that for additional security the Pennsylvania Assembly in 1705 had embodied them in laws which had received the royal confirmation. What, he asked Jackson, would their fate be under a royal government? The lawyer's answer was reassuring: "the Crown cannot introduce or establish any other Mode of Government within the Province than that now in Use there . . . except by an Act of the Legislature of Great Britain."[46] In other words, he appeared to be saying that in a change of government Pennsylvania had nothing to fear from the malevolence or machinations of ministers, for their instruments of governance, circular letters, instructions, and orders-in-council, were constitutionally inferior to colonial statutes confirmed by the Crown; only Parliament, by its sovereign act, could deprive the province

43 William Allen to Thomas Penn, Mar. 11, 1765, Penn Papers. The two following quotations are from the broadside, *To the Freeholders and Electors of the Province of Pennsylvania* [Sept. 28, 1765], American Philosophical Society (APS), and *Pennsylvania Journal*, supplement, Sept. 27, 1764.

44 For Franklin's confidence, see William Allen to Thomas Penn, Dec. 13, 1764, Mar. 11, 1765, Penn Papers; John Dickinson, *Reply to Galloway's Speech*, in Paul L. Ford, ed., *The Writings of John Dickinson* (Philadelphia, 1895), II, 89.

45 See the broadside cited in note 43.

46 For Franklin's case and Jackson's opinion, see *Papers*, VIII, 6–27.

of its rights. And who, his implied question seemed to ask, could believe that that palladium of British freedom would oppress its fellow subjects?

In 1764 Franklin used Jackson's opinion as a talisman to ward off the Assembly's apprehensions about a change of government. "We confide in the Opinion you once gave on the Case stated," he wrote Jackson on March 31, 1764, "that our Priveleges could not, on such a Change, be taken from us, but by Act of Parliament."[47] The agent's opinion inspired confidence because of his formidable reputation for learning—Samuel Johnson pronounced him "Omniscient," Franklin said that in England he was "esteem'd the best acquainted with our American Affairs, and Constitutions, as well as with Government Law in general"[48]—and, more importantly, because of his position in the government. When the Grenville ministry came to office in April, 1763, Jackson was appointed the prime minister's secretary. Pennsylvanians assumed that this position gave him vast power and influence—local newspapers wrote as though he had as much power as Grenville himself—and, therefore, the assemblymen assumed that if so important a man said that their privileges would be safe in a change of government, they would be.

Not everyone was so sanguine. It was recognized, for example, that there was a flaw in Jackson's opinion, caused by an error in Franklin's statement of the case on which it was based. Franklin had averred that the Pennsylvania statutes of 1705, which guaranteed the province's privileges, had received the royal confirmation. They had not. They had been considered by the Queen in Council, which declined to approve them, and resorted to the device of letting them become law by lapse of time in accordance with the proprietary charter. Could laws so sanctioned safeguard the province's liberties? Some doubted that they could. And then there was the problem of Parliament's response to a change of government. There was no iron-clad assurance in Jackson's opinion that it would refrain from intruding, if a change were being arranged. Moreover, the acts and regulations which it was supposed to be preparing for the colonies,

[47] *Ibid.*, XI, 151. See also Assembly committee report, Sept. 21, 1764, *Votes of Assembly*, VII, 5640; James Pemberton to Samuel Fothergill, June 13, 1764, Pemberton Papers; *The Speech of Joseph Galloway*, 23; Dickinson, *Reply to Galloway's Speech*, 138.

[48] *Dictionary of National Biography* (*DNB*) under Jackson; *Papers*, VIII, 88.

undermined belief in its benevolence, and shook the customary assumption that it was solicitous of colonial liberties. Quakers, in fact, were reported to be "exceedingly afraid" that it would intervene to strip them of their singular privileges.[49] Franklin tried to quiet these fears by discounting the possibility of Parliamentary intervention. But an opponent charged that he was "willing to say any thing, that may be like to persuade us that we may get a change of Government without coming through the hands of Parliament, tho' he knows very well that the thing is impracticable, for he has made enquiry and found it so, but he dishonestly conceals that story."[50] (Pennsylvanians would have been considerably more skeptical about Parliament had they seen a confidential opinion which Jackson had given Franklin on April 24, 1758, which blasted the notion that the British legislature was a bastion of popular liberties: "we may rest satisfy'd," Jackson advised, "that an Administration will probably for the future always be able to support and carry in Parliament whatever they wish to do so; [and] that they will almost always wish to extend the Power of the Crown and themselves both mediately and immediately."[51] Ominous words these and ones which Franklin wisely kept to himself.)

What then was Jackson's opinion really worth? The agent himself answered this question in the summer of 1764. In a letter of June 1, Franklin had asked him for specific advice on the feasibility of a change of government. In his reply Jackson warned against attempting it. He feared that an application for a change would "meet with some mortifying circumstances of Reception," that Pennsylvania might lose some of its privileges, and that consequently it would be better to remain under a proprietary government.[52] By his own admission, then, his opinion was worth very little.

What, therefore, were Franklin's motives in parading it before the Pennsylvania Assembly as a surety for the province's privileges? Was he, as his opponents charged, using it to dupe his colleagues, to

49 George Bryan to ———, Apr. 13, 1764, Konkle, *George Bryan*, 47; on Oct. 14, 1765, William Young wrote Thomas Penn that "the quaker friends wish indeed that Franklin may succeed, but they are still in fear that if he brings a change about by the parliament they might lose many things." Penn Papers.

50 Dunbar, ed., *The Paxton Papers*, 381.

51 *Papers*, VIII, 26.

52 *Ibid.*, 313, 464.

make them the unwitting servants of his and his supporters' unholy ambition to overthrow proprietary government and monopolize public office under a new royal government (Franklin was accused of coveting the governor's chair, Galloway the chief justice's seat, other cronies other offices)?[53] Some men did, to be sure, climb aboard the royal government bandwagon solely to gain power and preference under a new dispensation.[54] How much personal ambition motivated Franklin and Galloway is not clear, although one would assume that they were not blind to the possibility of serving themselves, while serving what they took to be the public's interest in a change of government. Surely they must have talked about the disposition of offices under a new regime, for their design of delivering the province from Thomas Penn's "tyranny" would have been defeated by the appointment of despotic royal officials. But this does not mean that the royal government movement was solely an office-seeking scheme and that Franklin was disingenuously using Jackson's opinion to promote it. In March, 1764, he produced the agent's opinion in good faith; months passed before Jackson's letters, virtually repudiating it, arrived. There were, to be sure, loose ends and loopholes in the opinion, but these did not bother Franklin because he assumed that the difficulties they presented would be resolved in Pennsylvania's favor by his principal British patron, the Earl of Bute.

The precise nature of Franklin's relationship with Bute is one of the major mysteries of his career. Before Franklin left for England in 1757 his opponents warned Thomas Penn that he would be a "Dangerous Enemy" because of "His reputation gained by his Electrical Discoveries which will introduce him into all sorts of Company."[55] Although Penn scoffed at the idea, science almost certainly brought Franklin and Bute together. The Earl was a "great Philosopher," as a Philadelphia newspaper put it.[56] He was an accomplished botanist, a patron of all branches of natural philosophy,

53 *Pennsylvania Journal*, supplement, Sept. 27, 1764; William Goddard, *The Partnership: or the History of the Rise and Progress of the Pennsylvania Chronicle* (Philadelphia, 1770), 62–63; George Bryan to ———, Apr. 26, 1764, Konkle, *George Bryan*, 50.

54 Nicholas Waln and Isaac Hunt, for example. See *Papers*, XII, 311; XIII, 281.

55 *Ibid.*, VII, 110–111.

56 *Pennsylvania Journal*, supplement, Sept. 18, 1766.

and the owner of one of eighteenth-century Europe's largest and best collections of scientific instruments.[57] His collection of "electrical machines" was especially fine and it can hardly be doubted that Franklin, who, after the Privy Council hearings in 1760, spent much of his time conducting electrical experiments to gratify the curiosity of the British upper classes, favored Bute with visits and performances. Dr. John Pringle, the Earl's physician and Franklin's friend, probably made the initial introductions.[58] These experimental sessions evidently blossomed into personal friendship. Franklin, at any rate, thought that they had, for in 1764, when an opponent charged that he had no influence at the British court, he "forgot his usual reserve, and swore by his Maker, that it was false, that he had an interest with Lord Bute." Another, later account, had Franklin claiming that he was "intimate" with his Lordship.[59]

When he returned to Pennsylvania, he advertised his relationship with Bute. No sooner had he debarked at Chester on November 1, 1762, than it was reported that he "speaks much of Lord Bute."[60] To make his point, he hung the Earl's picture in the parlor of his new house. To the assemblymen, wrestling with the proposal to seek royal government, he represented his connection with Bute, the King's favorite and the most powerful politician in the realm, as a gilt-edged guarantee that all would be well in a change. How did they know that he was telling the truth? His son William was the proof. In September, 1762, to the "universal astonishment" of the citizens of Pennsylvania and New Jersey, young Franklin was commissioned governor of the latter colony. "Every body here concludes that this must have been brought about by some strong Interest his Father must have obtained in England," Pennsylvania Governor James Hamilton wrote Thomas Penn on November 21, 1762. Lord Bute had arranged the appointment, Penn answered on March 11, 1763.[61] Franklin was not backward about broadcasting this fact

[57] G. L'E. Turner, "The Auction Sale of the Earl of Bute's Instruments," *Annals of Science*, XXIII (September, 1967), 213–242.

[58] For Pringle's role as intermediary between Franklin and Bute, see *Papers*, X, 147*n*; *Pennsylvania Journal*, supplement, Sept. 18, 1766.

[59] *Ibid.*; John Adams, Autobiography, July 9, 1778, Lyman H. Butterfield, ed., *Diary and Autobiography of John Adams* (Cambridge, 1961), IV, 150.

[60] Richard Peters Diary, Nov. 1, 1762, HSP.

[61] Hamilton to Penn, Nov. 21, 1762; Penn to Hamilton, Mar. 11, 1763, Penn Papers.

and the assemblymen consequently assumed that if his influence with Bute was strong enough to transform his son, the illegitimate offspring of an obscure Philadelphia woman, into a colonial governor, it was strong enough to procure a change of government and protect the province's privileges in the process.

That Bute had resigned as first lord of the Treasury on April 8, 1763, and held no public office thereafter did not upset these calculations, because most residents of the British Empire believed that he continued to run the government through his protégé, George Grenville, whom he had installed as his successor at the Treasury Board. Indeed, for several years after 1763 people on both sides of the Atlantic believed that public affairs in Britain were controlled by a "conspiratorial cabal"[62] headed by Bute. In 1767 the Marquis of Rockingham was convinced that Bute's "secret influence" had destroyed his administration during the preceding year, while three years later William Pitt railed against the Earl's "pernicious counsels" to which he attributed "all the present unhappiness and disturbances in the nation." Pennsylvanians willingly adopted the notion of Bute as a "well nigh indestructible machinator," as Britain's political "Primum Mobile," as James Logan, Jr., called him.[63] Their belief in his paramount, though private, influence was a principal prop of the royal government movement, for so long as they were convinced that he could change their government by a wave of his wand, so long would the movement retain its vitality. And their faith in the Earl and in Franklin's influence upon him, did not fade easily.

The persuasiveness of Franklin's account of his influence with Bute, Jackson, and other British politicians was demonstrated by an Assembly vote of May 23 on whether to send its own petition to the King, requesting royal government: twenty-seven of thirty, or ninety per cent of the members present, voted affirmatively.[64] But if this figure is contrasted with the 3,500, or something less than five per cent, of the adult males who signed the royal government petitions, Franklin's misunderstanding of the popular temper be-

62 This and the following quotations are from Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, 1967), 144–148.

63 James Logan, Jr., to John Smith, Feb. 19, 1765, Smith MSS.

64 *Papers*, XI, 193.

comes apparent. He evidently believed that among the people there was a vast reservoir of good will for royal government which could be tapped merely by denouncing Penn and suggesting that the province put itself under the King. He seems to have supposed that the citizenry did not need to be convinced of the advantages of royal government and that it was unnecessary (had it even been possible) to give them the careful, chapter-and-verse explanation of its acceptability which he gave his fellow assemblymen. But this was precisely what the people wanted and precisely what would have been necessary to enlist their support. The truth, which Franklin did not discern, was that they feared royal government and needed to have their apprehensions of losing their civil and religious privileges under it thoroughly allayed before they would support it.

The partisans of proprietary government read the popular pulse much better than Franklin and his colleagues. They sensed the people's fears and played on them. Until June, 1764, however, they did very little. There had been, it is true, a few public warnings against signing royal government petitions, as, for example, that issued by the leaders of the province's Presbyterians on March 30, 1764, but, aside from one counterpetition presented to the Assembly in May, "sign'd with 30 or 40 Names . . . from a remote Part of the Country,"[65] no positive action was taken on behalf of proprietary government until June. The lethargy of John Penn, who does not seem to have been aroused by the threat to his and his family's position, was one reason for proprietary inactivity. Division among the party's more active leaders, between John Dickinson and Benjamin Chew in particular, was another. At the beginning of 1764 Dickinson was firmly on the antiproprietary side; as late as May 5, a proprietary stalwart wrote Thomas Penn that Dickinson and Galloway had "entered the Lists against you as Tribunes of the People."[66] But by this time, Dickinson, fearing the loss of Pennsylvania's privileges under a royal government, had come out against it and soon became the most influential spokesman and publicist opposing it. His conversation was no instant boon to the proprietary cause, however, because the "invincible hatred" between

[65] *Ibid.*, XI, 218.

[66] William Peters to Thomas Penn, May 5, 1764, Penn Papers.

him and Benjamin Chew,[67] Penn's principal political lieutenant, prevented their co-operation. And for the moment there was no respected older leader to mediate between them and co-ordinate their activities. Debilitated by kidney stones, Richard Peters was on the verge of sailing for England to recover his health. James Hamilton had retired to his country estates, also in ill health. William Smith and William Allen were both in England.

But things changed for the better with the return of Smith during the first week of June. This active political parson immediately began plucking up the loose threads of the opposition to royal government and rolled them into what became a proprietary snowball which crushed Franklin and his friends. Smith made intelligent use of the press, arranging for the publication, with his own preface, of Dickinson's powerfully reasoned speech, delivered in the Assembly on May 24, opposing royal government. But his principal weapon (aside from the province's pervasive fear of royal government) was his fellow clergymen. The leaders of Pennsylvania's Presbyterians, the Reverends Francis Alison and John Ewing, were colleagues on the faculty of the College of Philadelphia and, since they were fervent opponents of royal government, it was easy for him to enlist their support in requesting their brother ministers to oppose it. Consequently, throughout the summer Presbyterian meetinghouses around the province resounded with warnings against royal government and, according to opponents, petitions against it were signed on many altars.[68] Smith had similar success in enspiriting the ministers and congregations of the German Reformed and Lutheran churches, who had never shared the affection of their countrymen, the German sectaries, for the Quaker party.[69] And many ordinary citizens, inspired by the fear, as William Allen put it, that "the King's little Finger we should find heavier than the Proprietor's

67 For the antipathy between Dickinson and Chew, which evidently was caused by differences over policies on the Three Lower Counties on the Delaware, where both of them had political and property interests, see John Penn to Thomas Penn, Nov. 22, 1764; Thomas Penn to John Penn, Jan. 11, 1765; and John Penn to Thomas Penn, Sept. 12, 1766, all in Penn Papers.

68 This charge is made, among other places, in [anonymous], *Observations on a Late Epitaph . . .*, Evans microcards, no. 9772.

69 Smith principally worked through the Revs. Carl Wrangel and Frederick Muhlenberg. Their activities, which included translating antiroyal government petitions from English to German, and circulating them for signatures among church officials and parishioners, can be followed in Theodore G. Tappert and John W. Doberstein, trans. and eds., *The Journals of Henry Melchoir Muhlenberg* (Philadelphia, 1945), II, 102, 106–107, 111.

whole Loins,"[70] remonstrated against royal government. The result was that by the middle of the summer a tremendous tide was running against it throughout the province. By September some 15,000 people had signed petitions against it.[71] The importance of this figure consists in comparing it with the 3,500 who signed petitions for royal government, because, by doing so, we have a yardstick, perhaps unique in American colonial history, for measuring the popularity of George III and his government on the eve of the Revolutionary agitation. The petition signatures may be considered as a kind of public opinion poll, as a referendum on the King's popularity at a propitious moment for him, at a time when he had not been damaged by the Stamp Act or other hateful measures. It is of considerable significance, then, that five out of every six Pennsylvanians who signed petitions rejected his government, preferring to remain under the morally discredited government of an unpopular proprietor. What this means is that in 1764 over eighty per cent of a significant sample of Pennsylvanians, by no means a "radical" people, were imbued with suspicions, fears, or hatreds of royal government active enough to compel them to register them publicly. Such a figure makes the Revolution easy to comprehend.

The summer surge of antiroyal government sentiment produced two major political changes. One was the alteration of the strategy, devised in England by Thomas Penn, to blunt the threat of Franklin and his friends. At the end of May, Penn received letters from his nephew describing the dispute with the Assembly over the assessment of his located, uncultivated lands. Penn was distressed at the construction Benjamin Chew had demanded that the House put on the Privy Council's second amendment. He sought the advice of his lawyer, Henry Wilmot, who had represented him at the Council's hearings in 1760, and Wilmot advised him that the Assembly's interpretation of the amendment was justified. Penn immediately sent his nephew a copy of Wilmot's opinion, dated May 30, 1764,

[70] *Papers*, XI, 432.

[71] *Pennsylvania Journal*, Sept. 27, 1764; Remonstrance from Philadelphia Inhabitants, Oct. 26, 1764, *Votes of Assembly*, VII, 5688. This figure may be somewhat suspect, because both sources for it were documents composed by proprietary partisans. By Dec. 7, 1764, Thomas Penn had received antiroyal government petitions signed by 8,600 people, while by Apr. 10, 1765, he had received petitions "signed by between ten and eleven thousand People and Doct^r Smith gives me reason to expect a great many more." Penn to William Smith, to Benjamin Chew, Dec. 7, 1764; to Joseph Shippen, Jr., Apr. 10, 1765, Penn Papers.

covered by his own letter of June 1, 1764,[72] ordering the young man to reverse himself and accept and be guided by the Assembly's interpretation of the amendment.

Penn's decision was dictated by the fear that his nephew had jeopardized his proprietorship. He overestimated the inflammatory impact of the assessment demand and assumed that its flagrant injustice had turned the entire province against him. He believed that he must either quench the flames or forfeit his position. Thus, he sent his nephew the order to reverse himself in hopes of convincing the populace of his fairness and dampening thereby the demand for royal government.

When Thomas Penn's letter reached Philadelphia in mid-August, John Penn and Benjamin Chew perceived that the Proprietor had misjudged the temper of the province and that, because of the manifest unpopularity of royal government, his interests would be best served by encouraging its partisans, not by pacifying them. Royal government had become a millstone around the necks of Franklin and his political supporters and Penn and Chew saw that the proprietary party might defeat them in the forthcoming October Assembly elections by keeping it there. Consequently, they suppressed Thomas Penn's offer to appease them.[73]

Many in the Quaker party also perceived the liabilities of the royal government issue, with the result that a split developed between the party's rural and urban wings. In the city and county of Philadelphia, where the support for royal government was concentrated, the candidates for the Assembly elections continued to make it their principal plank. But in the countryside, where royal government had never generated much enthusiasm and where it incurred more and more enmity as the summer advanced, Quaker party politicians saw that it was political poison, that to support it was to invite defeat. Therefore, they broke with their urban brethren, came out against it, and presented themselves to the electorate as patrons and protectors of proprietary government.[74] The October elections

72 Both documents are in the Penn Papers.

73 John Penn to Thomas Penn, Sept. 1, 1764, *ibid.*

74 William Allen described the tactics of the country Quakers to Thomas Penn in a letter of Oct. 21, 1764: "In the Country, all but Northampton, the Quakers had the address, or I might rather say, Craft, to delude the Dutch by false Storys, so that they . . . were induced

proved the wisdom of their policy. In the rural Quaker strongholds of Chester and Bucks counties not a single seat was lost to the proprietary party, while in the city and county of Philadelphia five of ten seats fell and the leaders of the royal government movement, Franklin and Galloway, were defeated.[75]

Because the people of Pennsylvania, by petition and by ballot, had clearly and decisively rejected royal government, many politicians expected the Assembly to repudiate it officially, when it convened on October 15. The issue was raised on October 20, when a member asked what the House proposed to do with the royal government petitions which it had sent Richard Jackson in June. After "considerable Debate," a motion to recall them was made and rejected. Then a motion, sponsored by Speaker Isaac Norris, that the House put "an entire Prohibition on the Agent's presenting the said Petitions, without further and express orders from the House," was also defeated. Finally, the House passed a motion which repeated almost verbatim the orders which it had given Jackson on May 28, when the royal government campaign was at its apogee: he was to proceed in presenting "the Application for a Change of Government . . .," taking care, however, to use "the utmost Caution" to protect the province's civil and religious liberties.[76]

The House's action in persisting in a policy which the electorate had just rejected was severely censured. Norris resigned in disgust as Speaker on October 24, while his old enemy, William Smith, upbraided the assemblymen, the Bucks county delegation in particular, for duplicity; they promised "at last election to use all their endeavours to recall the petition for a change of government, and yet voted for continuing it," he indignantly charged.[77] John Penn and Benjamin Chew blamed the House's action on Franklin and Galloway, whom they likened to sorcerers manipulating the members at secret conventicles. Though they had not been elected, they had,

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to oppose our friends, and carried the elections against them. *They were made to believe that if they changed the Assembly, the Government would be changed.*" Penn Papers.

75 For an analysis of the October, 1764, elections, see *Papers*, XI, 390–394.

76 *Votes of Assembly*, XII, 5682–5683.

77 [William Smith], *To the Freeholders and Electors of the Province of Pennsylvania*, [Sept. 28, 1765], APS. For the authorship and dating of this broadside, see Samuel Wharton to William Franklin, Sept. 29, 1765, APS.

according to Chew, "the entire direction of Matters within doors, the measure and plan of each days proceedings being settled by them every evening at private meetings and cabals with their Friends in the House."[78]

Chew's statement did great injustice to the Assembly, for the election to fill the speakership on October 24 showed that it was anything but a rubber stamp in the hands of Franklin and Galloway. Their candidate, nominated by their spokesman in the House, John Hughes, was George Ashbridge. He was defeated by the veteran assemblyman Joseph Fox. Fox's election was a setback for Franklin, because the new Speaker was "one of the warmest friends of the [proprietary] Government."[79] His victory proved that the rural Quakers, who were a numerical majority in the House and who favored the retention of Penn's government, were in command. Although people like William Smith did not perceive it, the vote of October 20, keeping the royal government petition alive, was part of this group's plan to retain proprietary government. And so was the appointment of Franklin as agent on October 26 to return to England to assist Jackson. Sending the Doctor to England and keeping the royal government petition cocked and ready were intended as bluffs. The Assembly hoped that Penn would interpret them as evidence that it meant to make a maximum effort to obtain royal government and that he would be frightened into offering it extensive reforms to divert it from its objective. "They never intended the petition should be presented," William Allen wrote Penn on March 11, 1765, "but only kept as a rod to hang over you to bring you to agree to their measures."[80]

[78] Chew to Thomas Penn, Nov. 5, 1764; John Penn to Thomas Penn, Oct. 19, 1764, Penn Papers.

[79] For Fox's election, see John Dickinson to Isaac Norris, Oct. 24, 1764, Norris Letter Book HSP. For his pro-proprietary attitude, see William Allen to Thomas Penn, Feb. 27, 1768, Penn Papers.

[80] Penn Papers. James Hamilton, who arrived in London in January, 1765, to seek medical treatment, confirmed Allen's statement. "He tells me he was told the Petition was not to be presented," Thomas Penn wrote Richard Hockley on Jan. 12, 1765, *ibid.* John Dickinson and the nine other assemblymen who signed the "Protest" against Franklin's appointment as agent, Oct. 26, 1764, affirmed that the petition was sent to England, not to procure royal government, but "to obtain a Compliance with some equitable Demands." *Papers*, XI, 409. The Assembly itself clearly stated its intentions in instructions to Richard Jackson of Nov. 1, 1764: "The present Assembly, hoping an Accommodation with our

The members assumed that Penn would accommodate them, because his instructions to his nephew to accept their position on the assessment of his vacant lands seemed to show a conciliatory disposition. Although John Penn had tried to keep these orders secret, his uncle had advertised them in England and letters reaching Pennsylvania had adverted to them, so that the province buzzed with rumors about his "healing Instructions." On October 26 William Allen officially announced their contents to the House.[81] He disclosed them for the same reason that they had previously been concealed: to damage Franklin. By announcing them just a few hours before the members voted on sending the Doctor to England, Allen hoped to defeat his adversary's appointment by proving it to be superfluous. If the members knew that Penn had conceded the point of the previous spring's controversy, would they send an agent to England to negotiate with him about it? But Allen and the proprietary party did not grasp the real nature of the Assembly's grievances. Though the members were incensed by Penn's tax dodging, they were far more distressed by his ability to force them to sanction it by means of inflexible instructions. His exercise of external control was what bothered them and this concern could not be appeased by concessions on the assessment of his property. Therefore, Allen's announcement did not dissuade them from appointing an agent whom they hoped would go to England and win significant concessions on the governance of the province.

But Franklin could not possibly accomplish their intentions, proprietary partisans protested; his "rooted Enmity" to Penn and Penn's to him precluded all possibility of an accommodation.[82] The members evidently agreed, for it appears that they did not intend that Franklin negotiate with Penn. His function in England they conceived rather as that of an intimidator. They hoped that when Penn learned of his arrival, he would assume that Franklin's hatred

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Proprietors may take Place, and that he [*sic*] will in due time make such Concessions as will fully satisfy the Assembly and Freemen of this Province have determined not to withdraw those Petitions to his Majesty. . . ." *Ibid.*, 423–424.

81 *Ibid.*, 409–410, 435–436; Israel Pemberton to David Barclay, Nov. 6, 1764, Pemberton Papers.

82 See, for example, the Philadelphia Remonstrance, Oct. 26, 1764, *Votes of Assembly*, VII, 5689, and the *Protest* against Franklin's appointment as agent, Oct. 26, 1764, *Papers*, XI, 409.

for him virtually guaranteed the presentation and prosecution of the royal government petition and that the only way to prevent this was to negotiate sweeping concessions with the Assembly. But with whom would he negotiate? The Assembly evidently expected Penn to deal with English Quakers who had remained friendly with both him and the people of the province, men like his physician, Dr. John Fothergill, and merchants like Henton Brown and David Barclay. Although no documents commissioning Quakers to negotiate with the Proprietor have survived,[83] they were evidently written, because in 1765 London Friends acted as the Assembly's plenipotentiaries in important, and heretofore unknown, negotiations with Thomas Penn.

Franklin, on the other hand, may have communicated oral instructions to the Quakers when he arrived in England on December 9, 1764, after a short, thirty-day voyage from Pennsylvania. Whatever the case, the Friends swung into action in early February,[84] just as Franklin was being caught up in the politics of the Stamp Act. Most historians have assumed that his immersion in the Stamp Act controversy signaled the end of the campaign for royal government, which they have treated as a political aberration which he was happy to have an excuse to forget. But this is not true. If his letters during the final half of 1765 say nothing about royal government, thereby giving the impression that he had washed his hands of it, it was because the Quakers and Thomas Penn were negotiating secretly about provincial grievances (against the tacit threat of an

83 A letter from Israel Pemberton to David Barclay, Nov. 6, 1764, though not an official commission, spells out the role the Pennsylvania Quakers wanted their London counterparts to play: "the aversion the Proprietaries and Franklin have to each other I am sensible will render the measures necessary for an amiable accommodation difficult, yet I hope, not impracticable, by the united assistance of such friends who may have some interest with them, if such who can influence the agent could prevail with him in a proper manner to make such proposals as they think reasonable, and those, with such other friends as have weight with the Proprietaries, would engage them favorably to receive and calmly to consider what they may offer, and seriously to reflect on the importance of this crisis, by which the connection between them and the people seems likely to be determined." Pemberton Papers.

84 Curiously enough, in a letter to John Ross of Feb. 14, 1765, Franklin represented the Quakers as acting on their own initiative. However, William Allen, who, as a member of the Assembly received accurate information about the Doctor's actions, stated that the Friends had intervened at his solicitation. "I hear," wrote Allen to Thomas Penn on May 19, 1765, "that he [Franklin] had ingratiated himself with Dr. Fothergill, and friends with you, and induced them so far as to interest themselves in his affairs as to propose terms of accommodation." *Papers*, XII, 67; Penn Papers.

appeal for royal government in the event of failure)[85] and he considered it imprudent to comment on their progress.

Quaker overtures were apparently made to Thomas Penn about the first of February and a few days later a meeting was held between Penn, his brother Richard, and their attorney, Henry Wilmot, on the one side, and Dr. Fothergill and Richard Jackson (who was not a Quaker) on the other.[86] At this meeting Fothergill handed the Penns a paper containing the Assembly's "Articles of Complaint," a list of grievances which the House wanted redressed. For reasons that are obscure, the Penns did not prepare an answer to the articles until May 9, on which date a response, drawn by Wilmot, was sent to Fothergill. A copy of the articles and the response, on the same sheet of paper, has been discovered among the Penn Papers at The Historical Society of Pennsylvania and is printed here for the first time.[87]

Articles of Complaint

1st. That Publick Houses and Dram Shops have much encreased of late to the great Injury of the Moralls of the People, and the Proposals made for reducing the Numbers of them have been rejected.

2d. That the Power of appointing Judges *during Pleasure* is dangerous and oppressive; and that it ought for the mutual Good of the Proprietarys and the People to be at least *during good Behaviour* if not *for Life*.

3d. That there ought to be only one Mode of Taxation for the Proprietarys and the People.

4th. That the Deputy Governor ought not to be restrained by private Instructions under a Penal Bond from Cooperating with the People for their mutual benefit as Exigencies may require.

5th. That a proper inquiry has not been made after the Authors of the Massacre of the Indians, and Riotts, and just Punishment inflicted on the Delinquents and their Abettors.

85 The Penns immediately recognized this. On Feb. 11, 1765, just after negotiations with the Quakers had begun, Richard Penn wrote his brother Thomas that he believed "they keep it [the petition] back only till they can find what is likely to be done with Us in regard to their several articles of Complaint." Penn Papers.

86 *Ibid.*

87 The articles and a heavily corrected draft of the response, both on the same sheet, dated May 6, 1765, were also found. See, at the appropriate dates, Pennsylvania Miscellaneous Papers, Penn and Baltimore, 1756–1768, and Penn Manuscripts, Assembly and Provincial Council of Pennsylvania.

Proprietary Response

1st. The Proprietaries will direct their Governor to assent to a law in which it shall be provided that no Licenses for Publick Houses shall be granted but such as shall be recommended by the Grand Jurys to the Justices in open Court, and by them to the Governor.

2d. The Judges of all the Colonies and of Ireland are appointed during Pleasure and the Proprietarys have received so many Cautions from the Kings Ministers to be watchfull that the Prerogatives of the Crown be not given up that they do not think themselves to be at liberty to consent to an Alteration. But if the Province of Pennsilvania can convince the Kings Ministers of the Utility of such an Alteration, and they will from the King recommend it to the Proprietarys to grant Commissions to Judges during good Behaviour, the Proprietaries will grant Commissions accordingly.

3d. The Proprietors apprehend this Matter was settled by the Orders they gave that their located uncultivated lands should be taxed according to their Situation and Quality agreeable to the Forms prescribed by the Act. Vide the N. B. below.[88]

4th. The Proprietarys have been so well advised of the Legality and fitness of Instructions and Bonds to enforce such Instructions that they cannot think of sending over a Governor without. But (the 3d Article and the making Paper Money a Tender being at an End) they think there are no Instructions They shall give which can be the Cause of any Difference between the Governor and Assembly.

5th. The Proprietarys are as desirous as the People that all Means may be used to bring the Authors of the Massacres of the Indians and of Riotts to Punishment and they do not know that any thing hath been omitted by the Governor for that Purpose.

[88] The following footnote occurred at the bottom of the manuscript: "upon this Occasion the Proprietarys cannot help observing that there are severall Objections to the last Tax Act, which they apprehend ought to be altered. The Governor informed the House how impracticable it was to present an exact List of the Proprietary Quit Rents agreeable to the Forms of that Act. The Land Office hath been for sometime shutt and the Receiver of the Proprietarys closely confined in order to comply with the Act, but it is impossible. The Names of Places and Bounds of Townships have undergone such a Variety of Changes that the Receiver knows them not by their present Names. Many, perhaps one third of the Settlers are under Warrants only, many, under no Survey at all. The Proprietors can demand no Rent from either of these, and from the latter the Rent is not known. This Inconvenience might be effectually remedied by laying the Tax for the future on the Occupiers, as if the Lands were not lyable either to any money remaining due for the Land or to any Quit Rents, and enabling the Occupyers to deduct the Tax when they pay the Interest or the Quit Rent to the Receiver. There are some other parts of the Act which they apprehend ought to be altered, not necessary here to be taken notice of."

Fothergill took his time in replying to the Penns' response. On June 8 he told the Proprietor that he would answer "soon" and a meeting was duly scheduled, but it had to be postponed because an illness befell Mrs. Richard Penn which required her husband's constant attendance. A conference with Fothergill and the Quaker merchant Henton Brown was finally held on July 12, but no agreement was reached. Differences on fundamental points were so great, in fact, that Fothergill and Brown concluded that further meetings would be fruitless and none were held.[89]

In the conference on July 12 both sides adhered to earlier positions, those contained in the document just printed. By analyzing it, we can form a clear idea of the course of the negotiations. Fothergill's Articles of Complaint covered grievances which had been troubling the Assembly for years,[90] and which, with the exception of article five, were contained in the House's comprehensive bill of particulars against the Proprietors, its twenty-six resolves of March 24, 1764. The Penns' response was not uncompromising. They agreed, for example, to redress the complaint about the proliferation of public houses. In Pennsylvania, justices of the peace recommended public house licensees to the governor who granted them licenses for a fee. The Assembly contended that this system prompted the justices to recommend an inordinate number of licensees as a payoff for continued appointment to office by the governors. The reform which the Penns offered was designed to limit the number of licenses, which would, of course, reduce their governor's income. Early in the negotiations Fothergill suggested that the Assembly would be willing to compensate them for this concession, but whether a precise sum was agreed upon is not clear.[91] The Penns' position on judicial reform was also reasonable. Recent

[89] Thomas Penn to John Penn, June 8, July 6, 1765; to Benjamin Chew and William Allen, July 13, 1765, Penn Papers.

[90] Complaints against the excessive number of public houses had been heard for decades; see, for example, the Remonstrance of the Philadelphia Grand Jury, Jan. 3, 1744, *PMHB*, XXII (1898), 497–499. The Assembly protested against Penn's commissioning judges during pleasure on Feb. 22, 1757 (*Papers*, VII, 140), while it attacked proprietary instructions enforced by penal bonds as early as September, 1753 (Hutson, "Benjamin Franklin and Pennsylvania Politics", 342–343).

[91] The agreement on public house licenses never went into effect; when Penn and the House failed to resolve other grievances, he canceled all concessions. See his letter to John Penn, Nov. 30, 1765, Penn Papers.

British ministries had taken a hard line against the appointment of colonial judges during good behaviour. The Privy Council had repealed several colonial statutes, including one passed in Pennsylvania in 1759 which granted this tenure, and in 1762 the governor of New Jersey was removed from office for passing an act which conferred it. Thomas Penn rightly feared that by approving such a measure he would put his proprietorship in peril. His willingness to grant this tenure if the Assembly received prior royal approval seems to have been sincere, even if he suspected that none would be given. The Penns believed that the third article was unnecessary, for they had already granted its complaint in their letter to John Penn of June 1, 1764, whose contents William Allen had announced to the Assembly on October 26, 1764. They tried to be accommodating on the fifth article, too, indicating that they were "desirous" of seeing the Paxton Boys brought to justice and stating during the negotiations that they would be happy to see the Governor and the Assembly make "such Provisions as they shall think necessary for this purpose."[92]

Only on the fourth article did the Penns show no disposition to compromise. Their intransigence may have been encouraged by Fothergill's negotiating tactics. Not appreciating Pennsylvania's antipathy toward proprietary instructions, he minimized their importance early in the negotiations, stressing instead the public house and judicial tenure issues. Proprietary instructions the Doctor professed to regard as "a mere Moon Shine which was to be given up upon a Compromise of the other two."[93] When he learned of the line Fothergill had taken, Franklin evidently put him straight by stressing that an understanding on proprietary instructions was the *vital* issue for Pennsylvanians. Accordingly, Fothergill put more emphasis on them later in the negotiations, demanding their abolition[94] and convincing Thomas Penn that ending them was "the only point they want."[95] But Penn would not budge on this issue.

92 Thomas Penn to William Allen, July 13, 1765, *ibid.*

93 Richard Penn to Thomas Penn, Feb. 11, 1765, *ibid.*

94 Thomas Penn to John Penn, July 6, 1765, *ibid.*

95 Penn wrote William Allen, July 13, 1765, that "the only point they want is . . . the disposal of the Publick Money." His meaning was that the Assembly wanted him to rescind his instruction, through which since 1751 he had ordered his governors to demand a voice in

In requesting that he refrain from giving his deputies instructions enforced by penal bonds, the Assembly was asking him to surrender control over the province. He refused to do so and, since the Assembly was adamant on this issue, negotiations collapsed at the end of July, 1765.

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the expenditure of the Assembly's surplus from the provincial excise and of the interest which it received from the emission of paper money on loan. For an explanation of these matters, see Hutson, "Benjamin Franklin and Pennsylvania Politics," 322–323.