

Governor William Denny in Pennsylvania

“**I** AM certain,” wrote Thomas Penn, “government cannot long subsist unless the several parts of the legislature act within their proper spheres, and do not confound the legislative with the executive part of government.” Penn worried over the Pennsylvania Assembly’s growing tendency to include within its bills provision for their administration by an Assembly-appointed committee. This procedure relegated the governor appointed by Penn to a position indignantly described by generalissimo Lord Loudoun as a cipher. Under Governor Robert Hunter Morris the quarrels between the Assembly and governor had become so violent that government seemed to exist in name only. But now it was summer of 1756 and all, Morris included, anxiously awaited the arrival of a new governor who might bring harmony to the province.¹

The story of the next three years is a remarkable one. The new governor was destined to bring increased discord. During his tenure conditions were not to improve, and in their continuing disintegration were to be characterized to a marked degree by a startling want of ethical restraint. The reasons for this unhappy state of affairs are to be found in the character of the governor, in Thomas Penn’s effort to preserve the powers of the executive branch of the government, and in the Assembly’s effort to take all power possible to itself.

Unassisted by his younger brother Richard, Thomas Penn, the principal proprietor, conducted Pennsylvania affairs from the study of his house on Spring Garden Street in London. Vested in him by the Crown were prerogative powers of government, and these powers Penn was required to sustain. In addition, Penn was a great landlord, but that was a private matter. His representative, the governor he

¹ Penn Letter Book, V, 13, The Historical Society of Pennsylvania; Loudoun Papers, 2262, Huntington Library. Unless otherwise designated, all manuscripts cited are from the collections of The Historical Society of Pennsylvania. In reproducing quotations, capitalization has been modernized and punctuation inserted where necessary.

appointed with the approval of the Crown, carried out his policies as expressed in elaborate instructions drawn up by Penn's attorney Ferdinand John Paris. Rigid adherence to these instructions had brought Governor Morris into the Assembly's disfavor.

Although the members of the Assembly spoke of themselves as freeborn English citizens, they were actually Americans breathing the revolutionary air of a new continent. Innately, they had come to resent checks on their freedom, such as Penn's instructions for their government. They openly spoke of Penn as a tyrant, selfishly ruled by despotic aims and uninterested in the well-being of Pennsylvanians. They sought to differentiate between instructions that stemmed only from Penn and instructions he included at the order of the Crown. The result of this differentiation was not always logical or even plausible, but it gave them a basis for agitating against certain instructions which they claimed were not Crown instructions and therefore not binding on their government. Such agitation had been going on since the time of William Penn and was now reaching a crisis.

The Assembly was touchy, smarting under condemning criticism leveled at it by the Board of Trade in England. After Braddock's defeat the previous year, an Indian war had broken out and the frontier was in flames. The Assembly had approved defense measures, but, it was charged, its Quaker-dominated membership had not acted vigorously. Furious with Thomas Penn, whose instructions they held to blame for their inability to co-operate with the governor, the Assemblymen wanted to acquit themselves of accusations that their passive attitude had helped bring on the Indian war. In the summer of 1756, they looked forward to Morris's successor in hope that he would come with relaxed instructions.

To replace Morris, a faithful servant but an unfortunate governor, Penn had asked the Duke of Cumberland, captain general of the British armies, to suggest an officer suitable for the wartime situation. The Duke recommended Captain William Denny, and at Penn's suggestion promoted him to lieutenant colonel so that he might have an appropriate rank while governor of Pennsylvania.²

Denny was forty-seven years old. His comrades thought him a good fellow even though he had a reputation in the army for stingi-

² Penn Letter Book, V, 6, 188.

ness. An Oxford graduate, Denny was capable of lively and witty conversation. He was "of an affable and complacent disposition," and was something of an authority on literature and on ancient history and Roman customs. Unfortunately, he was untested in a position of independent command, and, when stripped of his urbanity and cultural veneer by the hard realities of his well-nigh impossible responsibilities, Denny was to prove venal, lazy, and inept, unsteady and self-pitying, boastful but physically timid and wanting in moral courage—a weathervane sort of person. Such was the military man, the troubleshooter, whom Thomas Penn, unaware of the man's true character, dispatched on the warship *Stirling Castle* to the New World. With him Denny brought the revised instructions, for compliance with which he had posted a bond of £5,000. These instructions and the mood of the Assembly were incompatible. The key to government in Pennsylvania was now to become the struggle for control over the bewildered, flighty, frightened, irritable Denny.³

Fortunately for Thomas Penn, among the rather small band of his adherents in Pennsylvania were men of ability and strong character, men like former Governor James Hamilton, Chief Justice William Allen, and Attorney General Benjamin Chew. None of these gentlemen, however, could equal the Reverend Richard Peters in zeal and faithfulness, and Peters had been well rewarded. Not only was Peters secretary of the land office, but also secretary to and member of the governor's council. It was Peters who hurried to New York to meet Denny upon the arrival of the *Stirling Castle*.

Denny's hopes to enter Philadelphia without fanfare were disappointed. A large number of Quakers led by impetuous Israel Pemberton went to Princeton to meet him. Many others joined him at Trenton. The last twelve miles of his journey, all the way from the Red Lion Inn to Philadelphia, rejoicing throngs—Assemblymen, sheriffs, militiamen, ragtag and bobtail—swelled his party, and all was holiday and mirth. This extravagant demonstration had its roots

³ *Ibid.*, IV, 301, and V, 131; R. H. Morris to [John] Penn, n.d., Gratz Collection, Case 15, Box 18; Rev. H. L. L. Denny, "Memoir of His Excellency Colonel William Denny, Lieutenant-Governor of Pennsylvania," *The Pennsylvania Magazine of History and Biography*, XLIV (1920), 97-121. This article deals with Denny's genealogy and life in England, and does not cover his career in Pennsylvania.

more in pique to Governor Morris than in compliment to his successor.⁴

The crowd around the Court House was enormous when, with proper ceremony, William Denny was proclaimed governor on August 20, 1756, amid loud cheers. Governor Morris himself joined in the general huzza with as much noise and cheerfulness as any of his most bitter enemies. And there on the Court House balcony, looking down at the people who packed the High Street, stood the new governor. He was a little man with a large nose and humorous expression. Because of his antipathy to spending money he had not provided himself with rich attire for ceremonial occasions and now appeared plainly garbed in a drab, unornamented brown fustian coat. It was a great day for Denny. In his honor the ships in the harbor gaily hoisted their flags, batteries roared salutes, bells rang, and in the evening bonfires lit the skies.⁵

The celebrations may have been too much for Denny's nervous system. He retired to the handsome gubernatorial mansion provided for him by Thomas Penn, and there lived as secluded a life as possible, waited on by Penn's Negro slaves Hagar, Cato, and Nancy. His income as governor came in part from license fees estimated at £1,000 sterling, and from voluntary grants of the Assembly. The Assembly had customarily supported governors by voting them £1,000 a year, except when it disliked a governor, such as Morris whom it had refused to pay. Anxious to gain Denny's good will, the Assembly entertained him at a sumptuous banquet at the State House and gave him an order for £600.⁶

Denny's first official action was to ask the Assembly to pass a supply bill to raise money so urgently needed for defense. He even consented, at the Assembly's request, to show copies of his instructions on money bills. The Assembly then wrote an excise bill for £60,000 which gave the disposition of its surplus to a committee

⁴ *The Port Folio, Third Series* (New York, 1813), I, 46; Peters to Penn, Sept. 4, 1756, Peters Letter Book.

⁵ Isaac Foster, Jr., to John Smith, Aug. 21, 1756, Library Company of Philadelphia; *Pennsylvania Gazette*, Aug. 26, 1756; Penn Letter Book, VI, 80.

⁶ Penn Papers, Official Correspondence, VIII, 159; *Pennsylvania Archives, Eighth Series*, V, 4289. The Assembly did vote £500 to Morris on his arrival, but no other support during the two years of his administration.

controlled by the Assembly, contrary to Penn's instructions. Denny's refusal to approve the bill caused the usual fury, but the need for money was so critical that the Assemblymen angrily drew up a new bill for the inadequate amount of £30,000. This sum was so small that there would be no surplus to fall into anyone's hands. Denny enacted the bill.

This episode was his first tussle with Pennsylvania politics. In a series of protests and statements, the Assembly informed him that the proprietor or his deputy had no say in the disposal of the people's money. The Assembly feared that if the disposal of money lay in the hands of the executive it would be misused for selfish proprietary purposes. Penn's instructions on this point were termed proprietary and not royal, and therefore not constitutional. The effect of such instructions, it was averred, was to establish arbitrary government and subjugate the Assembly.⁷

It was on such rocks that the government of Pennsylvania foundered. Penn did not want to tyrannize the people of Pennsylvania, but he did want to protect his own interests, and he was required to protect the Crown's. Penn's insistence that the governor have the disposal of funds was good Crown dogma and standard legislative practice in England. But the Pennsylvania Assembly, like other colonial legislatures, could not see it that way, and in their agitation against such instructions its conservative members helped mightily to establish a pattern of thought whose logical and revolutionary end was not at all what most of them wanted. Through their control of funds by the appointment of provincial commissioners to administer them, the Assemblymen conducted the defense of the colony. Inconsistently, while insisting on their right to the expenditure of every penny raised by their laws, the Assemblymen informed Denny that they could only prepare laws and had no power to execute them.⁸

Although Denny had stood by his instructions, his heart was not in them. Richard Peters, who had virtually to think, write, and act for Denny in all state matters, was in despair. "I know not what to say about the Governor," Peters wrote Penn. "He sometimes talks in a serious manner so indifferently as to the Proprietors and expresses such unfavourable sentiments of their measures . . . that I

⁷ *Pennsylvania Archives, Eighth Series*, V, 4322, 4332.

⁸ *Ibid.*, VI, 4470.

am at my wits end with respect to his future conduct. He is a triffler, weak of body, peevish and averse to business and, if I am not mistaken, extremely near if not a lover of money. . . . I see so little judgment, and difficulty of access, and such a dread of visits tho' from men of influence and character, so little enquiry into the nature of matters before him, and such a fear of disobliging the Assembly. . . . He effects not to know you he says he is appointed by the Crown."⁹

Former Governor Morris also noticed Denny's lack of interest in learning his duties. "He is extremely slow and formal in everything else as well as business which he seems to hate and from that cause things are much in arrears and will be much more so soon. He sees no body, has no company at his house, dines & sups alone, goes not out, in common conversation with those he ought to trust he is over cautious expressing his fears about being over heard & shutting up the windows and doors even when the subjects are known to all the town, at other times when with men he ought to fear he is quite open concealing nothing and most of all so after a hearty glass. His inclinations are in favour of the Assembly, frequently complains of having his hands tied by instructions, is full of an unmeaning distinction between the King's affairs & the Proprietors as if the Proprietary government was not the Crown's." Shrewdly, Morris guessed that Denny's aim "seems to be money of which I am convinced he will spend very little in this place whatever his receipts may be."¹⁰

Time passed, and Denny's preference for the Assembly's side of the controversy grew more marked. Anxiously, Peters wrote Penn: "the Governor neglects everybody but the Commissioners and Assembly & they do with him what they please. He raves against them in conversation but is obsequious to them in business, & they treat him with contempt which he bears."¹¹

Nothing irritated Denny more than personal inconvenience and discomfort. He liked the luxury of the governor's mansion on Second Street and was averse to leave it for so much as a night. In November, the leaders of both the Assembly and the proprietary faction insisted that he go to Easton to conduct a treaty with the hostile

⁹ Peters to Penn, Oct. 2, 1756, Peters Letter Book.

¹⁰ Morris to [John] Penn, n.d., Gratz Collection, Case 15, Box 18.

¹¹ Penn Papers, Official Correspondence, VIII, 207.

Delaware chief Teedyuscung. Denny took it very hard. It was ridiculous to humiliate Indians. If they wanted to speak to him, let them come to Philadelphia. But off to Easton he went, closely chaperoned by Richard Peters and well-guarded by a strong force of regular troops.¹²

Besides the Indians at Easton there was a large body of Quakers who had come to see that the natives obtained justice. There was a humanitarian point of view, since the Indians had not formally complained of serious grievances before suddenly going to war and slaughtering frontier Pennsylvanians. Israel Pemberton and others coddled the murderous Teedyuscung and exerted their influence over him, and it was on this occasion, the Easton treaty of November, 1756, that Teedyuscung accused the proprietors of fraud in depriving the Delaware Indians of their lands. This charge has never died, despite the fact that a Crown investigation did not substantiate it, that Teedyuscung himself later retracted it, and the particular Indians he had said were the sufferers (those Delawares who had moved to the Ohio country) disclaimed any interest in the matter and tried to consign it to oblivion.

The fraud charge was gleefully accepted by the proprietors' foes and extensively used to discredit the Penns in England. It was not the passive attitude of the Quakers (as charged by the proprietorial politicians) that had brought on the war, maintained the anti-proprietorial leaders, but the unscrupulousness of Thomas Penn. The notion that Thomas Penn, unlike his famous father, was unfair to Indians has since become a part of the folklore of our American heritage. There is, however, another side to the controversy which does not find its way into popular historical accounts.

Benjamin Franklin had been one of the commissioners at the Carlisle Indian treaty of 1753. After the treaty was over, a drunken Shawnee informally conversed with him and others about lands reserved by the proprietors for his tribe. Since these lands were no longer needed, the Shawnees wanted to sell them. Franklin, perhaps not quite understanding the tenor of the talk, made some rough notes: "complaint . . . about right to land . . . the proprietaries."¹³

¹² *Colonial Records*, VII, 311.

¹³ *Penn Papers*, Official Correspondence, VIII, 53.

Two years later, when the Indian war broke out, Franklin confided these notes to the Assembly. It instantly appeared that the Indians had gone to war because the proprietors had been unfair to them. The Assemblymen perceived an excellent opportunity to shift the war blame from their own shoulders to the Penns, and they made the most of it. Israel Pemberton, long suspicious that the Indians had not been properly treated, was now confirmed in his belief. Seeking reasons for the defection of the Delawares, he fastened on the Walking Purchase of 1737. Some Delawares had complained of that purchase, but were shooed off the land by the Six Nations after a hearing in 1742. James Logan, a Quaker, the leading citizen of Pennsylvania at the time and a man revered by the Indians as a paragon of righteousness, had had the principal direction of the Walking Purchase and had set his seal of approval on the 1742 conference.¹⁴

But now the formidable Logan lay in his grave, and Pemberton focused on the Walking Purchase as an instance of cheating the Indians. With Samuel Fothergill, a visiting Quaker preacher, Pemberton formulated Quaker policy toward the problems raised by the French and Indian War. Before the fatal year 1755 was out, Fothergill wrote to his distinguished brother, Dr. John Fothergill of London, "an account of another charge Friends has made up for the Delawares that they have been cheated" in the Walking Purchase. Dr. Fothergill, a friend of Thomas Penn's, instantly communicated the news to the proprietor, who warned Peters and Governor Morris not to be imposed on, that that issue had been settled by the Six Nations in 1742.¹⁵

Pemberton had attended Governor Morris's treaty at Easton in July, 1756, where, for the first time, he met Teedyuscung. Pemberton came as a champion flamingly intent on righting wrongs, and what he said to the natives so impressed them that they selected him to be their speaker. In November, at Denny's Easton treaty, Pemberton was seen in frequent conversation with Teedyuscung. Pumpshire,

¹⁴ Penn Letter Book, VI, 44.

¹⁵ Theodore Thayer, *Israel Pemberton, King of the Quakers* (Philadelphia, 1943), 79; Penn Letter Book, IV, 226, 232, 237-238. Samuel Fothergill visited Thomas Penn in the summer of 1756 and told him the Delawares were also going to complain about the 1749 purchase from the Six Nations. Fothergill was accurately, if mysteriously, informed. Penn Letter Book, V, 18.

Teedyuscung's Indian interpreter, told of the pressure certain white people were putting on the Indians regarding complaints. It was on this occasion that Teedyuscung brought the very charge against the proprietors that Samuel Fothergill nearly a year earlier had written was being prepared for the Delawares by the Friends. Pemberton, who had apparently conveyed the idea to Teedyuscung, was delighted. He wrote Fothergill that the treaty had ended "to good satisfaction." Meanwhile, Penn's enemies dedicated themselves to making the charge stick. The mass of propaganda which ensued cannot be divorced from partisan politics. William Logan, who was far from a Penn admirer, but as a son of James Logan was more objective than other Quaker leaders, observed that the interest of too many Friends in Indian affairs lasted "no longer than some could obtain accusations against the proprietors from the Indians."¹⁶

Had Denny foreseen, as he rode morosely back to Philadelphia, that Teedyuscung's words were to bring on other Indian treaties which he would have to attend, his mood would have become even fouler. As it was, his most immediate problem on returning home was not Indian affairs but the winter quartering of the regular army troops in the city. The season was far advanced and the Assembly's quartering act did not provide shelter for enough men. A number of soldiers, who before long would have the privilege of dying in defense of Pennsylvania, suffered from want of proper housing. Denny, spurred on by the frantic commanding officer, took emergency steps to billet the unfortunate men, only to find himself faced by a stern committee of the Assembly headed by Benjamin Franklin.

Franklin played a high hand with Denny, insolently telling him that he was no governor because he did not protect the people (from having soldiers billeted on them). In express terms, Franklin called him a "bashaw," and Denny, in the presence of his council, tamely submitted to the tirade. Denny's comment that the reception of the King's troops in Philadelphia showed a want of humanity and gratitude did not disturb the Assemblymen. Their attitude seems

¹⁶ Thayer, 108, 130; Penn Manuscripts, Saunders Coates, 103; William Logan to John Smith, Nov. 26, 1759, Library Company of Philadelphia. Pemberton also told Fothergill that the results of the two Easton treaties were in large part due to the Friends who had been "instrumental greatly to contribute, & at a considerable expence both of time & money." Pemberton Papers, XXXIV, 44.

academic, their self-interest paramount. That men froze in the streets or were scalped on the frontiers was secondary to the security and privileges of the Assembly itself.¹⁷

And once again the province was out of funds to support its military establishment. The Assembly prepared a land tax bill and sent it to Denny, well-knowing that he could not pass it without breaking his instructions because it taxed the proprietarial estates in a way which Penn would not accept. In rejecting the bill for that reason, Denny also criticized it for placing the disposition of the money in the hands of provincial commissioners and not under the control of the governor.

The Assembly reacted by appointing Benjamin Franklin to go to England to solicit the removal of grievances caused by Penn's instructions. Penn's insistence that his governor dispose of money raised by taxes was called despotic. The Assembly demanded the right to raise money as it saw fit, as well as the sole right to dispose of it once it was raised. These were revolutionary notions, and Franklin's mission to England was foredoomed to failure.¹⁸

The determination to tax the Penn estates was a by-product of the French and Indian War during which the demand for tax money was unprecedented. These estates had never been taxed before, and Thomas Penn was understandably reluctant to throw his property on the mercy of provincial tax assessors. His instructions to Denny permitted the taxation of his estates, but were hedged with conditions the Assembly rejected.

The struggle with the Assembly took a lot out of Denny, who continued under Richard Peters's domination. But Peters himself was nearly worn out, "quite unhinged," in keeping Denny in line. "This gentleman," Peters informed Penn, "will not answer the difficulties of his station nor do anything for the publick service but grow sower and peevish. . . . He likes nobody, he seems to have no affections, his polite taste for men and books cannot suffer him to find any satisfaction in his station." Refusing to correspond with Thomas Penn or do more than a minimum of work, Denny retired to his library to escape reality. In disgust, General Robert Napier of the

¹⁷ Peters to Penn, Dec. 26, 1756, Peters Letter Book; *Pennsylvania Archives, Eighth Series*, VI, 4473.

¹⁸ *Ibid.*, 4497-4499, 4501, 4537.

Duke of Cumberland's staff commented that "this was no time for reading."¹⁹

In March, 1757, Lord Loudoun came to Philadelphia to perfect a defense plan, a holding operation for the southern frontier while the weight of the British armies marched northward. He found the Pennsylvania situation bad, defense legislation frozen in a perfect impasse. True, the Assemblymen by now were willing to exclude the proprietary estates from the new tax, but they continued to demand control of all money raised. Meanwhile, the provincial troops, unpaid for four or five months, were ready to mutiny. There was no money in the treasury.²⁰

Denny unburdened himself to Loudoun. Although the Assembly had given him a draft for £600 on his arrival, it had refused to honor the draft. In its supply bill, all money raised was placed at the disposal of commissioners selected by the Assembly, so that Denny would have to make special application for every article of expense no matter how trifling. In an Indian trade bill, now before him, the Assembly had excluded the governor and his council from any share in the choice of officers, or approbation of their proceedings, or disposal of presents. "In short, the powers of government are almost all taken out of the hands of the Governor, and lodged in the Assembly, and as to what little remains, scarce a bill comes up without an attempt to lessen them."²¹

Fortunately for Loudoun, while he was trying to reconcile Denny and the Assembly a catastrophic and groundless report arrived of an overwhelming enemy force about to attack Fort Augusta on the Susquehanna. The Fort Augusta garrison refused to do duty for want of pay, provisions, and ammunition. To save the province from calamity, Denny waived his instructions and passed an act to raise £100,000. The disposition of the fund lay in the hands of seven commissioners named by the Assembly. Five of these men, a comfortable majority, Joseph Fox, John Hughes, William Masters, Joseph Galloway, and John Baynton, all members of the Assembly, were dedicated enemies of everything that Thomas Penn represented. After Denny signed the bill, the Assembly at long last paid

¹⁹ Peters to Penn, Jan. 29, 1757, Peters Letter Book; Penn Letter Book, V, 117.

²⁰ *Colonial Records*, VII, 441.

²¹ *Ibid.*, 449.

him the £600 he had so frequently begged for. From this experience Denny learned that by bowing to the Assembly's will he could gain a salary.²²

Penn did not choose to prosecute Denny for breaking his instructions. His thinking on this point displayed a characteristic weakness. To Thomas Penn, instructions which protected his rents and properties were more poignant than those which protected the prerogatives of the Crown. The Crown, of course, was not primarily interested in Penn the landlord but in Penn the governor, responsible for the preservation of the Crown's rights in the colony. As for the Assembly, breaking prerogative power was more important than taxing Penn's real estate. Thus, in this instance, when it saw fit to compromise on its money bill, the Assembly backed down on the tax controversy but stuck to its guns in retaining control of the military purse. It was not enough that the money was voted for the King's use; the Assembly itself would supervise its expenditure. Growing bold with success and the sense of victories easily won in times of military crisis, the Assembly prepared to act a stiffer part in the future.²³

All Penn could do was reprimand Denny and order an investigation of Denny's personal conduct about which he had received such mortifying reports. He complained to Peters about the public papers which Peters wrote for Denny. It irritated Penn that these well-composed documents made Denny seem a man of sense and business. Penn requested Peters to sound out James Hamilton about resuming the office of governor. But Hamilton, Morris's predecessor, could not make up his mind. At first he refused the offer, later he gave indications he might accept, still later he left for a visit to England.²⁴

While Hamilton shilly-shallied, Denny seethed with rage. Everyone, friend and foe alike, was trying to get him to go to Lancaster to conduct another one of those cursed Indian treaties. No, he would not go, no, never. Let the natives come to Philadelphia. But the natives refused, and in May the governor, attended by his council, the provincial commissioners who controlled the money, and by members of the Assembly, was virtually carried off to do his duty.

²² *Ibid.*, 453; *Pennsylvania Archives, Eighth Series*, VI, 4561.

²³ Penn Letter Book, V, 163.

²⁴ *Ibid.*, 150, 204; Peters Manuscripts, IV, 97.

Although enemy raids on the frontier were common occurrence, Denny insisted on a large escort of Royal Americans who would have been better employed elsewhere. More than a hundred Quakers also attended the treaty where they exerted much influence and made things difficult for the Indian agents who ran the conference. The interference of Quakers at treaties was opposed by the president of the Board of Trade, Lord Halifax, the Indian superintendent, Sir William Johnson, and, as might be expected, by the man who considered himself the chief victim of their technique, Proprietor Thomas Penn. But there seemed to be no legal way to keep them home. One of their group said that efforts to eliminate Quaker influence in Indian councils emanated from "ill natured warm spirits, who cannot bear to see that Friends should have any part of the reputation of making a peace." Well-meaning though the Friends certainly were as they flocked to Indian meetings, their presence at treaties created chaos. They aggressively intruded themselves into councils and told the Indians not to trust the officials appointed to do business with them.²⁵

The purpose of the Lancaster treaty was to hear Teedyuscung's complaints and make peace with him. The management lay in the hands of Sir William Johnson's deputy, George Croghan, who wrote Denny's speeches and in whom Denny placed complete reliance. On hand to hear Teedyuscung's grievances and to reconcile him was a formidable group of Six Nations Indians, technically, if not in fact, overlords of the Delawares. Everyone was present except the man for whom the treaty had been called, Teedyuscung, who feared the Mohawks and their allies and who dared not show his face.

Consequently, the treaty could accomplish little. To Denny's anguish he was forced by Croghan to accept the Mohawk speaker's advice and call another treaty. To this meeting the Senecas, who had not come to Lancaster, would be invited, and, since that powerful tribe had protected Teedyuscung, no doubt the hostile Delaware would appear.

During Denny's visit to Lancaster, the corpses of four Swatara pioneers recently scalped by Indians were brought to town. Had it not been for the Royal American guards, enraged relatives might

²⁵ Penn Letter Book, V, 95; Reynell to Thomas Saunders, Jan. 29, 1757, John Reynell Letter Book.

have made good their threat to murder the governor, whom they held responsible for Pennsylvania's inadequate defense. As it was, Denny was required to come out of his lodgings and peer into the cart at the piteous spectacle.²⁶

Despite this horrible event, Denny enjoyed some gaiety during the treaty. According to a crony of John Penn, who was Thomas Penn's nephew and the son of the inactive Richard Penn, Denny gave the following imaginative description of those two proprietors.

At Lancaster one morning, he diverted a mixed company with a ludicrous picture of your family, an adept at this kind of painting. He represented a coach and six, in which sat your father asleep, and your uncle in full spirits; six attendant Quakers were behind, and Ferdinand Paris was seated on the box as their coachman, driving like the devil. On the way, a party of Indians spring from the covert and scalp two of the Quakers, the others calmly saying "who would have thought it!" Your uncle entreats Ferdinand not to drive so fast, who replies, "damn you but I will." Your father, regardless of the driver, and ignorant of the accident, with his mouth open, continues his nap to the end of the journey.²⁷

Most of the time, Denny was in his customary peevish humor, one time remarking that the country was not worth saving. A Quaker leader reported: "I cannot charge the Governor in this reserved humour with partiality, he treats all ranks in the same manner, for tho he can converse tolerably on common topicks, & especially on the fashions & vices of the age he has not a sufficient fund of good sense & experience to enable him to perform the duties of his station in this critical juncture & is scandalously indolent & luxurious, so that he minds his own ease & belly more than the concerns of the government." Denny's conduct at Lancaster drove another observer to despair: "The Governr (poor little body) seems quite irresolute ready to receive any impression for a moment, & as ready the next to have it effac'd. In short he is a wavering, weak, unstable gentleman, & under his administration, Lord have mercy on us."²⁸

²⁶ Charles Thomson to William Franklin, Papers of Dr. Franklin, Vol. 48, Pt. 2, 120, American Philosophical Society; letter dated Lancaster, May 18, 1757, John Baynton folder, Gratz Collection.

²⁷ *The Port Folio*, Third Series, I, 47.

²⁸ Pemberton Papers, II, 23, Etting Collection; letter dated Lancaster, May 18, 1757, John Baynton folder, Gratz Collection; Penn Letter Book, V, 178.

Back in Philadelphia once more, Denny engaged in an unprofitable exchange with the Assembly—messages of interminable length passed between them. The more important bills before the governor were framed in a way that he could not approve. A bill Denny rejected because it placed its administration in the hands of named commissioners brought from the Assembly the following protest: “the nomination of the Commissioners in bills of this nature is the settled right of the House of Commons [*an incorrect statement; the House of Commons did not have that right*], whose powers we have as Englishmen, and by our charters, which we hope the Governor will not . . . attempt to violate.”²⁹

Here was the rub. The charter of Charles II to William Penn did not say that the Pennsylvania Assembly would have the same powers as the House of Commons, and Penn in his own right could not delegate such powers to the Assembly. What the royal charter did say was that all Pennsylvania-made laws were to be sent for approval to the Privy Council, and if found inconsistent with the sovereignty or lawful prerogative of the King would be disallowed. The Crown did not accept the view that the Pennsylvania Assembly had powers equal to the House of Commons. If Speaker Isaac Norris and Benjamin Franklin were unable to comprehend that fact, they also were at a loss to interpret the bounds of the King’s lawful prerogative. In practice, the exercise of this prerogative right over colonial legislation was considerable, and it was fully expressed in instructions for the guidance of governors. Whether the Assembly knew it or not, it was engaged in a battle against colonialism, its guns turned on a governor who did his duty to the Crown as long as Richard Peters was able to make him do it. Despite the prominence of his name in the controversy, Thomas Penn actually stood in merely as trustee for the Crown and served as the Assembly’s whipping boy.

So inflamed were the Assemblymen with Penn and the instructions, for which he was held solely to blame, that Denny knew not what to do. The messages from the Assemblymen were filled with such inflammatory language as “we are sorry to find, that no Militia Bill, however necessary for the defence of the Province, will meet with the Governor’s concurrence, unless it is framed in such manner as will enable designing men to overturn the Constitution, subvert

²⁹ *Pennsylvania Archives, Eighth Series*, VI, 4643.

all our rights and privileges, and persecute several sects of religious societies." The militia bill drawn by the Assembly on this occasion had been rejected by Denny for again containing a feature criticized by the Privy Council when it disallowed the 1756 militia act. Denny was almost ready to give up. He pleaded with his council to send for one of the proprietors to come to America and take over the government.³⁰

In July, 1757, Denny presided over an Indian treaty at Easton where Teedyuscung had come to make peace. The Quaker group known as the Friendly Association for Regaining and Preserving Peace with the Indians by Pacific Measures attended in force, despite Denny's resolute efforts to keep them home. Isaac Norris, Quaker speaker of the Assembly, admitted the absolute prerogative of the Crown to make war and peace. But in this instance, when the representatives of the Crown resented the intrusion of the unofficial Quaker group into the affairs of the peace treaty, Norris sighed, "it seems almost treason for any others to interfere."³¹

Naturally, the treaty was a failure. The Indians found themselves dealing with two groups of white men, one of which cautioned them against trusting the constituted authorities. At one point, the unofficial group of Indian champions stirred up the natives to such a heat that a massacre of the officials hung in the balance. The plan to investigate Teedyuscung's charges had to be dropped because the Delaware, evidently inspired by Pemberton, opened to question the suzerainty of the Six Nations over his people. Such a fundamental could not be aired unless traditional Indian diplomacy was to be utterly disregarded. The professional Indian agents were aghast at Teedyuscung's effrontery, but the Friendly Association, which controlled the chief, was as dangerous as a bull in a china shop. Its members could not understand why Denny quashed the investigation on the advice of Peters, Croghan, and Conrad Weiser, the experienced provincial Indian agent. In the midst of the confusion arising out of the conflicting interests, Teedyuscung nearly lost control over his tribe through adherence to Pemberton's insistence that the land question had to be investigated. Called to account by his impatient

³⁰ *Ibid.*, 4598, 4609; *Colonial Records*, VII, 633.

³¹ *Pennsylvania Archives, Eighth Series*, VI, 4595; Norris to Robert Charles, Dec. 4, 1757, Isaac Norris Letter Book, 84.

followers, who were not as interested in the land matter as Pemberton supposed, the Delaware spokesman declared peace, an empty gesture as it turned out, and the investigation was referred to His Majesty.

Sir William Johnson's condemnation of Quaker conduct at Easton was complete. Knowledge of their motivations would not have softened his report. Great harm can be worked by good intentions. It was a Quaker custom to arbitrate disputes, and, as all know, Quakers disapprove of war. When the Indian war broke out, the Friends sought to find its causes so that they might adjust grievances and end the conflict. They did not trust the provincial or the Crown agents to perform this task fairly. Between 1756 and 1762, the Friends were active at Pennsylvania Indian treaties. Although they did a great deal of good, the over-all effect of their work was discouraging to Israel Pemberton, who failed after the most laborious efforts to prove the proprietors guilty of fraud in cheating the Indians. Some years later, in 1774, the Friends admitted that they had no right to interfere in Indian treaties. Had they been of that mind in 1757, they would have saved Denny and his advisers a lot of trouble. Of this treaty, Penn wrote Peters, "What you say is too true that you were holding a Treaty with the Quakers & the Assembly, not the Indians." George Croghan, the Crown Indian agent, commented wonderingly, "shure those people must be mad."³²

Denny returned from Easton and was straightway engaged in more unprofitable wrangles with the Assembly. In September, 1757, the Assembly bitterly attacked him, urging him to disregard the advice of his council and break his instructions. To this message Denny replied through Peters' pen: "you are not so much displeased with the person governing, as impatient of being governed at all. . . . Your thirst of power, and fondness to monopolize all offices of trust and profit, induced you in the last mentioned bill to nominate all the commissioners for Indian Affairs among your own members; five of whom are also Provincial Commissioners." None but members of the Assembly, Denny pointed out, were appointed to offices of major trust. He could not persuade the Assembly to write a militia bill which accorded with the prerogatives of the Crown, and the

³² James Sullivan, *The Papers of Sir William Johnson* (Albany, N. Y., 1922), II, 752; Thomas Wharton to George Croghan, Aug. 28, 1774, Cadwalader Collection; Penn Letter Book, V, 210; Croghan to Peters, Dec. 18, 1757, Papers of the Provincial Council, Division of Records, Harrisburg.

province went through the rest of the war without a militia. In reply to Denny's plea for a new supply bill, the Assembly answered, "Redress our grievances, relieve our fellow-subjects from oppression and slavery, restore the Constitution, and every thing your Honour can reasonably ask will be cheerfully granted." The practical way for Denny to comply with this request was to resign the principal executive powers.³³

By now the Assembly had grown so sensitive about its place in the sun that it was spending most of its time investigating the authorship of a pamphlet which criticized its record. The Reverend William Smith was called before the Assembly and made an "insolent" speech which was applauded by a small group of spectators. Whereupon, the Assembly "*Resolved*, That stamping of feet, hissing and clapping of hands in a tumultuous manner, in the presence of, and before, this House . . . are an high contempt to the authority of this House, a breach of the privileges thereof, and destructive to the freedom and liberties of the representatives of the people." The investigation of this petty outrage went on endlessly while the war effort faltered for want of attention.³⁴

In 1758, Pennsylvania was called on for a supreme effort in aiding General John Forbes in his expedition to capture Fort Duquesne. The Assembly was co-operative, but violated instructions as usual by the provisions of its land tax and by vesting control of the money in provincial commissioners. These were the same commissioners as before, and Denny was on such bad terms with them that he declared he could no longer work with them. As for the tax, Denny told the Assembly that the proprietors were willing to be taxed, but were not willing to be discriminated against. He offered a tax plan in which the Penns would share the burden, but the Assembly flatly declared it unconstitutional. In the end, a compromise was reached which permitted the passage of the supply bill. The Assembly withdrew the tax on the Penns, and Denny, protesting that it went against his conscience to permit commissioners to administer the fund, enacted the law.³⁵

Denny was extremely morose. He had lost all interest in the Penns and fretted incessantly over his disappointment that Pennsylvania

³³ *Pennsylvania Archives, Eighth Series*, VI, 4644, 4651, 4703.

³⁴ *Ibid.*, 4720.

³⁵ *Colonial Records*, VIII, 64, 83.

had failed to yield him a fortune. Childishly, he insulted a committee of the Assembly. Savagely, he upbraided Richard Peters, "swearing and using horrid imprecations," and suspended him from the council, only to recall him because someone had to do the governor's work. Everyone, even the Negro slave Cato, complained of Denny's unbearable conduct. Penn searched in vain for a man to succeed him. As Penn had said earlier, "when an Assembly is resolved to bring all the powers of Government into their possession, it is not easy to know what sort of man is the most fit to be their Governor . . . indeed . . . it will be very difficult to find any gentlemen that will take the office."³⁶

In the late summer of 1757, Denny's wife arrived in Philadelphia. Denny did not meet her at the ship, but sent an upholsterer to fetch her. Extraordinary tales soon circulated about the city. The governor kept his wife a prisoner, giving out dark stories about her conduct. Meanwhile, Denny evidently lived with a Mrs. Drage whom he had forced his reluctant wife to bring with her to America. Denny also succeeded in spending a large part of his wife's little fortune. Horrified at rumors of her treatment, Lewis Way of London, guardian to the unfortunate lady, wrote a letter telling her he knew what was happening and would do all he could to aid her. According to Mr. Way, Denny's mother "was long confined by being disordered in her senses," and it was probable Denny was a chip off the old block.

Penn sent Way's letter to Peters, asking him to contrive a method of delivering it. On the night of June 12, 1758, the letter was spirited into Mrs. Denny's possession and was acknowledged by the following pitiful scrawl: "Sir, I have receiv'd it with many thanks in haist." Soon afterwards Mrs. Denny escaped from her husband's house, but was later recaptured.³⁷

While these dolorous domestic events transpired, General Forbes, anxious to neutralize hostile Indians and clear the path he must travel to Fort Duquesne, succeeded in calling a treaty, which was

³⁶ Peters Manuscripts, V, 42; Penn Letter Book, V, 10.

³⁷ Shippen Papers, III, 33; Peters Manuscripts, V, 30, 31; Peters Diary for Oct. 25, 1758. The Dennys had no children. It was believed in Philadelphia that Mrs. Drage was a niece of Mrs. Denny's. This relationship, which did not exist, according to Mr. Way, was probably given out by the governor. "I see the Governor's treatment of his wife makes all the ladies angry," wrote Franklin. Albert Henry Smyth, *The Writings of Benjamin Franklin* (New York, 1905), III, 441.

held at Easton in October. This treaty, the most important ever held in Pennsylvania, accomplished its end, and the Ohio Indians gave Forbes little trouble during the final stages of his victorious march.

The diplomatic success was gained despite extraordinary difficulties. Pemberton and his associates were more officious than ever. Teedyuscung, drunk from morn till night, was so puffed up with his own importance as to be all but impossible. And Denny never behaved worse. Hard work by Peters, Croghan and others pulled the treaty through.

The antiproprietary group had a big stake in Teedyuscung. He had accused the Penns of fraud and it was important to support his pretensions that he was a very great man indeed and worthy to be listened to. But at Easton, the sachems of the Six Nations publicly disgraced Teedyuscung, who then withdrew all the complaints he had made against the Penns, except the Walking Purchase. Pemberton was beside himself with rage at Teedyuscung's backsliding, and acted in so extraordinary a fashion that his brother had to apologize for his conduct. Somehow or other, Croghan steered the meeting to a declaration of peace.

During all this commotion, Denny was virtually useless. He had not yet recaptured his wife and was extremely irritable. Discovering that the sons of two of his principal assistants were in Easton, Denny exploded with wrath. Had it come to this? Was he to have boys for company? With much coarseness of language, he ordered the boys away. During the treaty, Denny was rude to the governor of New Jersey, he insulted his own counselors, the Indians, and everyone else. The only man at Easton indebted to Denny, a connection of his mistress whom he had appointed to office over Peters' objections, declared that Denny was mad, that everything he did was based on passion and petulancy.

Toward the end of the treaty, mail arrived with a number of letters from General Forbes, but not one line from anyone to Denny. This was too much! Denny went directly to his room, packed all his belongings, and announced he would stay no longer. He would return to Philadelphia the very next day. On the morrow, when he went to the treaty shed to make his farewell address, the Indians, although present, were not quite ready for him. Cursing and swearing, the infuriated governor put on a dreadful scene in front of the natives.

Peters warned him that his conduct would spoil the whole treaty; "his behaviour was shocking." Irritated by the governor's abrupt departure before their business was finished, the Indians "complained heavily," and ridiculed him. They asked Conrad Weiser to accompany them and search Denny to see if he was man or woman.³⁸

Forbes captured the site of Fort Duquesne in November, 1758, and renamed the locality Pittsburgh. Whether or not the British could retain their hold on that neighborhood depended on the campaigns of 1759. When the year opened, many people were of the opinion that the French and Indians would soon crush the small force Forbes had left west of the mountains.

Strong leadership was needed, but instead of a strong leader Pennsylvania was saddled with Denny. "The present governor," wrote a Philadelphian, "is the strangest composition of a gentleman I ever knew. Haughty without spirit, polite without manners and learned without knowledge. With respect to business, always at home, yet never to be spoken with. In the morning for the proprietaries, at noon of no party, and at night, plump for the Assembly. In short my dear sir, all is going wrong, and if long suffered, will be irretrievable." With Denny hiding behind his books on the ancient world and with Penn serenely confident that all would yet come right, Richard Peters growled, "Our Proprietor is asleep at the helm, and the present master of the ship is at Athens among some curious antiquities."³⁹

Once again the Assembly was called on to pass a major supply bill to support the army. Once again it sent up a bill for £100,000, taxing the Penn estates in a manner which violated Denny's instructions. Time and again Denny rejected this bill, time and again he proposed alternate methods of taxing the Penns, time and again he begged the Assembly to write a tax bill such as he had passed in previous years. General Amherst came to Philadelphia, but could not influence Isaac Norris to compromise. The Assembly would not amend the bill though Pittsburgh were to fall and Amherst were to act on his warning and withdraw all the regular troops from the province. So

³⁸ The account of Denny at the Easton treaty is drawn mainly from the diaries of Richard Peters and Benjamin Chew.

³⁹ *The Port Folio, Third Series*, I, 46; Sylvester K. Stevens and Donald H. Kent, *The Papers of Col. Henry Bouquet* (Harrisburg, 1941), Series 21644, Pt. I, 17.

strongly did the Assembly feel about the merits of its bill that one would assume it conformed in every particular with equity and legislative practice. And yet few bills were more severely castigated by the reviewing authority in England. The Board of Trade found eight features "in all of which particulars the act manifestly offends either against natural justice and the laws of England or the royal prerogative." If confirmed, "a capital injustice would be done to the proprietaries, several infractions would be made upon the constitution and several encroachments on the prerogative."⁴⁰

There is no question but that the Assembly was in deadly seriousness about this bill no matter how disastrous adherence to it would be to the defense of the province. According to Isaac Norris, the Assemblymen were willing "to venture everything" upon it in order to force the Penns to accept taxation on terms set by the Assembly. The province could get along without tax money levied from the Penn estates, but, as Norris wrote Franklin, "we have been contending for a matter of right rather yⁿ mony." Nothing aroused Norris more than the vexing thought that any of the Penn property should be exempted. It is amusing to note that after the land tax was enacted, Norris saved his own tax money by liquidating his real estate.⁴¹

Some months before this bill was written, Franklin in England was toying with the idea of an application to the Crown to take over the government from the Penns. To Isaac Norris, Franklin wrote: "I know not but a refusal of the Assembly to lay taxes, or of the people to pay them, unless the proprietary estate be taxed, would be sufficient [to force the Crown to supersede the Penns]. But this would be extreamly improper before it is known whether redress may not be obtained on application here." Evidently, Franklin did not approve of forcing the taxation issue without first appealing to the ministry about it.⁴²

Thomas Penn's instructions on the taxation of his estates had been approved by the attorney general and the solicitor general of Great Britain. The question of their fairness, if still in doubt, could always be submitted to the Privy Council. But, as Thomas Penn himself had said, "I do not take the dispute to be so much about money as

⁴⁰ *The Statutes at Large of Pennsylvania* (Harrisburg, 1898), V, 711.

⁴¹ Norris to Franklin, June 14, 1759, and July 28, 1760, Isaac Norris Letter Book, 99, 111.

⁴² Smyth, III, 455.

power.” The governor’s council was unanimous in opinion that the tax provisions discriminated against the Penns and might well ruin them, but Denny, under pressure from Amherst, who had failed to move the Assembly, enacted the bill. The Assembly promptly gave him £1,000, and Denny became their hired man.⁴³

Now that it had succeeded in buying Denny, the Assembly unleashed a flood of bills upon him, most of which attacked in one way or another the privileges of the Penns and the Crown. Despite unanimous objection on the part of his council and of independent legal opinion, Denny continued to do the Assembly’s will. According to General John Stanwix, who had taken Forbes’s place, the leaders of the Assembly had bluntly told him that 1759 would probably see the last campaign. Never again would they have so good an opportunity of gaining points from the proprietors as by extorting them in this the last year of military crisis.⁴⁴

On June 18, 1759, when Denny told his rebellious councilmen that he was determined to pass another bill of which they unanimously disapproved, Benjamin Chew accused him of being bribed—that this report of his behavior had come from members of the Assembly. The report was false and scandalous, declared Denny, who enacted the bill on June 20, and that same day received another £1,000 from Isaac Norris on behalf of the Assembly. On July 7, Denny passed an act for recording warrants and surveys, which trespassed on the rights of the Penns and which had been vigorously opposed by their agents and friends. As soon as Denny signed this act, another £1,000 was voted him by the Assembly, which also resolved to defend Denny in case Penn sued him on his bond. Denny did equally well, relatively speaking, with the legislature of the three Lower Counties.⁴⁵

Isaac Norris later decried the Assembly’s “bargain and engagements” with Denny, claiming that there had been no necessity for them. It is probable that it was not Norris but the aggressive young Joseph Galloway who handled these delicate negotiations. After the Assembly purchased Denny, Galloway wanted him continued in office indefinitely, and was one of those associated with an abortive

⁴³ Penn Letter Book, IV, 363, and VI, 19, 108; *Colonial Records*, VIII, 332.

⁴⁴ *Ibid.*, 356.

⁴⁵ *Ibid.*, 357, 362; *Pennsylvania Archives, Eighth Series*, VI, 5028; Penn Letter Book, VI, 159.

move to prevent Denny's dismissal. The younger politicians had few scruples. William Franklin, in England with his father, reproached Galloway: "I wonder when there was so good an understanding between the Assembly and Gov[ernor] they did not make an attack on the licenses of taverns, marriages etc. It would have been worth while for the Prov[ince] to have given him a considerable sum to have that matter put on a different footing." Young Franklin expressed the Assembly's mood by the word "attack"—attack on vested interests. It is ironic to recall that both he and Galloway were fated to become political exiles because when the Revolution came they were no longer crusaders.⁴⁶

In due course, most of the laws which Denny had approved contrary to Penn's instructions were repealed by the King in Council. The committee which reported on the laws observed: "It has been made sufficiently apparent by the manner in which the Assembly detained the salary of the Deputy Governor till he had given his assent to those laws, and by the manner in which they paid it when he passed them . . . that it was meant by the Assembly and understood by the Governor as a consideration for his passing these exceptionable acts in contradiction to his instructions."

"Amongst all the Laws referred to us by your Lordships and objected to by the Proprietaries," continued the committee, "there is not a single act . . . that does not contain either some encroachment on the prerogative of the Proprietors, as they are Trustees for the Crown, or on their property as landholders in the Province." It was the opinion at Whitehall that the powers of the Assembly were sufficiently great under its charter, and that they had to be restrained from becoming exorbitant.⁴⁷

Exorbitant was the word which best expressed Denny's venality in his continuing efforts to raise money for himself now that he realized he would soon be recalled. He called for high fees for military commissions he had signed for provincial officers since his coming into the province. His demand for fees for the signing of land warrants caused Peters to close the land office.⁴⁸

⁴⁶ William Franklin to Galloway, Dec. 28, 1759, and Norris to Benjamin Franklin, Sept. 20, 1760, Isaac Norris Letter Book, 115, 117.

⁴⁷ *Colonial Records*, VIII, 528, 549.

⁴⁸ Shippen Papers, IV, 37; Penn Letter Book, VI, 162, 181.

In May, Denny started selling flags of truce which were occasionally granted to enable masters of vessels to return French prisoners of war and redeem English seamen who were prisoners in French colonies. Denny found he could sell these passports to shipowners who wanted to indulge in a clandestine and treasonable trade with the French in time of war. At first he sold only a few at high prices, three to four hundred pistoles apiece, but later he opened shop, so to speak, and sold them at lower prices to all who came from Pennsylvania and neighboring provinces. Growing rapacious, he went so far as to dispose of a large number of blank flags of truce at twenty pounds and less. These negotiable documents passed from hand to hand among speculators for months.⁴⁹

On the fruits of this trade, as well as on his bargains with the Assembly, and on the perquisites of his office, which yielded him upwards of £5,000 during his administration, Denny became a wealthy man, though much despised. Even Isaac Norris, who had consented to make Denny his tool by "collusive and iniquitous" means, observed that the governor "when he found he was superseded he became very venal especially in his sales of Flags of Truce wch injured his character extreamly." Norris, trusting that the laws he had forced through Denny's hands would be upheld in England, was so delighted with the recent political turn of events that he asked his constituents to allow him to retire. Except for two years, he had sat in the Assembly since his father's retirement in 1735, and now, old and in bad health, felt free to withdraw "as the public affairs bear a better aspect than they have done for some years past." The voters, however, were every bit as bullheaded as the aged speaker, and re-elected him.⁵⁰

In the summer of 1759, Denny moved from Philadelphia to a forty-five-acre plantation he purchased at the falls of the Schuylkill. Before leaving Thomas Penn's house, he sold most of the furniture and made off with large sections of the library and all the kitchenware. The rural situation of his new retreat was ideal for the privacy he so loved, except that there was a ferry nearby. Denny ordered the ferry dropped downstream so that no accidental or impertinent visitor

⁴⁹ Gertrude Selwyn Kimball, *Correspondence of William Pitt* (New York, 1906), II, 351-353.

⁵⁰ Penn Letter Book, VI, 110; *Statutes*, V, 703; Norris to Robert Charles, Dec. 15, 1759, Isaac Norris Letter Book, 107; *Pennsylvania Gazette*, Sept. 20, 1759.

would disturb him. And there he lived in comfort in "The Lodge," a commodious two-story dwelling near the river with a separate kitchen, stable, "and several other conveniences."⁵¹

In September, an agent of General Stanwix came to call on him. As he approached, he saw Denny on the grounds, but was informed a moment later by Mrs. Drage that the governor had gone to Philadelphia. The effect of this news was somewhat spoiled by Denny himself who was caught peeking out of an upstairs window. "I find he is turn'd an apparition," Stanwix's man sardonically observed.⁵²

In November, James Hamilton returned from a visit to London and superseded Denny as governor. Denny remained on at "The Lodge" until the following summer when he sailed with his family to England. His wife deserted him as soon as they arrived in London, fleeing to Mr. Way's home where she was reported to be "in such a state of health they do not know whether she will recover." Her account of the way her husband treated her was shocking.⁵³

Denny seems to have lived out his days in London or nearby. Thomas Penn wanted to sue him for breaking instructions, and the ministry evidently considered prosecuting him for the sale of flags of truce, but in the end he went scot free. Occasionally, he saw Benjamin Franklin, and evidently assumed the role of a man-about-town. He was an active member of the Dilettanti Society, and had his portrait painted in the costume of a noble Roman. He died in 1765.⁵⁴

Years later, Benjamin Franklin rose from his seat at the Federal Convention to issue words of warning and advice. In rebuttal to James Wilson and Alexander Hamilton, who had urged that the Constitution of the United States embody an absolute veto by the president over all legislation, the venerable philosopher told of his experience in the proprietary government of Pennsylvania. The governor's negative, Franklin claimed, had been used constantly to

⁵¹ Penn Papers, Official Correspondence, IX, 208; Norris to Franklin, Aug. 22, 1759, Isaac Norris Letter Book, 105; *Pennsylvania Gazette*, Jan. 1, 1767.

⁵² Shippen Papers, IV, 141.

⁵³ Penn Letter Book, VI, 333.

⁵⁴ Norris to Franklin, May 1, 1761, Isaac Norris Letter Book, 120. This portrait is said to have been painted by George Knaption in 1744 when Denny was a captain. However, in large lettering in the top left corner is the name "Coll. Denny." This, at least, was probably painted in after Denny's return from America.

extort money. No good law whatever could be passed without a private bargain with him. An increase of his salary, or some donation, was always made a condition, until, at last, it became the regular practice to have orders in his favor on the treasury presented along with the bills to be signed, so that he might actually receive the former before he should sign the latter. Franklin feared that if a negative should be given as proposed, the president would demand more power and money until the legislature became an absolute creature to his will.⁵⁵

Franklin seems to have placed the cart before the horse. The practice he mentioned, while basically not a new one, reached its height in Denny's time when the Assembly bought what Denny should not have sold—the prerogative powers entrusted to him in Penn's instructions. So well did the Assembly like this form of collusion that in later years it made a practice of withholding salary as a threat until the moment a governor consented to sign bills, or to vote the governor a salary to be paid out of a pending money bill which he could not sign without violating instructions. Franklin should have realized, as evidently he did not, that this method of feeing an executive to avoid a veto kept the governor weak and enhanced the power of the legislature. The very men, Franklin included, who did all they could to weaken the executive during Denny's time, constantly decrying the prerogative powers which the Penns sought to exercise, were the same men who after the Paxton Riots of 1763 bitterly criticized the executive as being too weak. Having deliberately done all he could to rob the executive of power, Franklin saw no anomaly in later complaining about the result. In a 1764 petition to the King, Franklin wrote, "the said Proprietary Government is weak, unable to support its own authority."⁵⁶

To summarize Denny's administration, the governor was crushed between two opposing forces. The Assembly honestly believed that Thomas Penn was tyrannizing it. Thomas Penn was equally honest in his opinion that the Assembly was purely out for new power, and he fought its efforts to take over executive functions. According to Penn, "if the Governor & Council are not the planners of operations,

⁵⁵ Max Farrand, *The Records of the Federal Convention of 1787* (New Haven, Conn., 1911), I, 98-99.

⁵⁶ Smyth, IV, 314.

to whom only the King's order comes, I think the Government is dissolved." Both Penn and the Assembly were guided by the precepts of English common law, the royal charter, and the English constitution. These were the basic rules of the game, but how differently Penn and the Assembly interpreted them! The arbiter of the rules was the Board of Trade, which did not particularly approve of Penn because it thought his instructions to his governors were not strong enough. However, Thomas Penn was able to apply the rules of the game with admirable ability, whereas the Assembly consistently violated those rules. As a result, the Board of Trade endorsed Penn's efforts to keep the Assembly in line. Of the Assembly's complaints about the Penns, the Board flatly stated that "no instance has been produced of any improper exercise of their prerogatives on the part of the proprietaries."⁵⁷

During Denny's legislative struggles, Thomas Penn remained dignified and cool. He believed that the Assembly was temporarily under the control of a few levellers, incendiaries like Isaac Norris and Benjamin Franklin, men of dangerous "republican" notions. In the end, proper-thinking people would regain their reason and controversy would die out. Meanwhile, Penn continued doggedly to exert through his instructions the authority implicit in him as trustee of the Crown's prerogative and as the inheritor of the proprietary rights set forth in the royal charter.

If one believes the sincerity of their frequently expressed intentions to operate within the bounds of the accepted fundamental laws, the Assemblymen suffer in comparison to Penn. Their opportunistic behavior in times of crisis in insisting on the passage of bills which did not conform to the established guiding principles of government was not particularly admirable. But when men knowingly or unknowingly are bent on obtaining revolutionary powers, they devise expedients, and so it was that the Assembly voted themselves greater powers than the House of Commons enjoyed.⁵⁸

⁵⁷ *Statutes*, V, 732.

⁵⁸ "The Assembly have reserved to themselves the sole and exclusive nomination of the officers created by this act, a prerogative not only belonging but absolutely essential to the executive power and on which the exercise of all the rest depends, and it will be needless to point out to your Lordships that in this as in all other instances of the same kind they have far exceeded the largest claims of the British House of Commons." Report of Board of Trade, *ibid.*, 709.

The third party to the Pennsylvania political debate was William Denny, deputy governor of Pennsylvania. It appears that Denny's main motive in accepting his commission was to fill his pockets with money, as other American governors before him had done. The pressure of the contending political forces was too great for him, and he sold his honor to the side which would pay him the most. He was in all respects a wretched governor.

Philadelphia

NICHOLAS B. WAINWRIGHT