

FRANKLIN AND GALLOWAY

SOME UNPUBLISHED LETTERS

BY WILLIAM SMITH MASON

BENJAMIN FRANKLIN'S official connection with the Pennsylvania Assembly began January 29, 1730 when he and his business partner, Hugh Meredith, were appointed to print the minutes.¹ Although the partnership with Meredith was soon dissolved Franklin continued to be the public printer of the province until 1764. He was made Clerk of the Assembly in 1736, and on August 13, 1751 became a member from Philadelphia, continuing in office until 1764. It was in recognition of his services and ability that this body appointed him colonial agent to Great Britain, February 3, 1757. During his absence from America 1757 to 1762 he was annually elected to the Assembly from Philadelphia, and on his return he again became a member succeeding the aged Isaac Norris as Speaker from May 26 until September 22, 1764.² On October 1 and 2 of this year the proprietary party which he had always bitterly opposed prevented his re-election to the House by securing a small majority for their own candidate. The popular party, however, was in the majority when the Assembly met, and on October 26, 1764 Franklin was again appointed colonial agent to Great Britain.³ Eleven years later, 1775, he was again elected to the Pennsylvania Assembly, but owing to the pressure of activity in the affairs of the nation

¹Votes and Proceedings of the House of Representatives of the Province of Pennsylvania, Vol. III, p. 103. (Philadelphia, B. Franklin and D. Hall, 1754).

²Ibid., Vol. V, pp. 347, 348. (Philadelphia, Henry Miller, 1775).

³Ibid., p. 383.

and on account of his age, on February 26, 1776 he asked to be excused from attending.⁴ On the day following, his resignation was accepted. The forty-six years from 1730 until 1776, during which Franklin was associated with the Pennsylvania Assembly, was a period of intense conflict between the popular and the proprietary parties. Franklin was allied with the former in this struggle and the story of his part in it, especially during the early years of this period, has never been adequately told.

There were many able men in Pennsylvania who opposed the proprietary government, but the ablest in the period from 1756 to 1776 were unquestionably Benjamin Franklin and Joseph Galloway. When Galloway was elected to the Assembly, October 1, 1756, he was only twenty-five years of age,⁵ yet in spite of his youth was one of the leaders of the Pennsylvania bar and one of the wealthiest men of the province. At this time Franklin was the recognized leader of the popular party and a member of the two most important committees of the House, the Committee of Correspondence, and the Committee on Grievances. The French and Indian War had begun disastrously for the British who were making strenuous efforts to organize military forces to check the French and their Indian allies on the frontiers. Each colony was expected to bear its proportionate share of the burden in this war, but owing to the peculiar condition of affairs in Pennsylvania this province was unusually remiss in this respect. In the first place, the Proprietors impeded military preparations by refusing to allow their agent, Lieutenant Governor Morris, to assent to any bill to tax their lands in the same proportion as citizens' lands. The latter were naturally unwilling to pay more than their just share of the taxes. Then, too, the largest, the most influential and the richest part of Pennsyl-

⁴Votes and Proceedings, Vol. VI, p. 675. (Philadelphia, Henry Miller, 1776).

⁵The authorities differ as to the date of Galloway's birth. Some give the year 1730, others 1731. The latter date is the one given in the "Examination" edited by Balch.

vania's population were Quakers, who under the province charter, and also on account of religious scruples, claimed exemption from military service. Members of this sect not only refused to fight, but also opposed the execution of military measures. In June 1756 six Quakers in the Assembly resigned rather than support proposed military measures to which they and their constituents objected.⁶ The Quakers were also unwilling that their indentured servants should be enlisted primarily because this touched their pockets. The Indians on the Pennsylvania frontier, particularly the Delawares and the Shawanese, claimed that the Proprietors had fraudulently obtained their lands, were demanding satisfaction and in the event it was refused, threatened definitely to go over to the French. These were indeed troublous times in Pennsylvania history.

During the fall of 1756 and the first two months of 1757 Franklin and Galloway were members of various committees and began an acquaintance which continued for twenty years. November 23, 1756 they were ordered by the House to prepare a message to the Governor desiring him to lay before it the Proprietary instructions in regard to matters of legislation, and also a copy of the minutes of the conference which had been held with the Indians at Easton.⁷ On December 23, 1756 the Assembly met as a committee of the whole and "*Resolved, That for raising the Sum of One Hundred Thousand Pounds, granted to his Majesty for the Defence of this Province, a Tax be laid and levied on all Estates, real and personal, and Taxables within the same, sufficient to raise the said Sum in one Year.*"⁸ On the following day Franklin and Galloway were appointed on a Committee of Nine to draft a bill in accordance with this resolution. January 22, 1757

⁶Votes and Proceedings, Vol. IV, pp. 564, 566.

⁷Ibid., p. 646.

⁸Ibid. pp. 668-669.

a bill embodying the provisions of this resolution passed the third reading and Mr. Leech and Mr. Galloway were ordered to carry it to the Governor.⁹ January 28, Franklin and Galloway were ordered by the House to wait on the Governor to desire him to affix the Great Seal to an exemplification of the supply bill and a copy of the reasons which he proposed to send to the Crown for not passing the same.¹⁰ On the same day the Assembly resolved to send a commissioner or commissioners to Great Britain to solicit a removal of grievances occasioned by the Proprietary instructions. The temper of the Assembly and its determination to secure the passage of this bill is well exemplified in its remonstrance to the Governor after his refusal to give his assent. "That though the Governor may be under Obligations to the Proprietaries, we conceive he is under greater to the Crown, and to the People he is appointed to govern; to promote the Service of the former, preserve the Rights of the latter, and to protect them from their cruel Enemies.

"We do therefore, in the Name of our most gracious Sovereign, and in Behalf of the distressed People we represent, unanimously DEMAND it of the Governor, as our Right, that he give his Assent to the Bill we now present him, for granting to his Majesty *One Hundred Thousand Pounds* for the Defence of this Province (and, as it is a Money Bill without Alteration or Amendment, any Instructions whatsoever from the Proprietaries notwithstanding) as he will answer to the Crown for all the Consequences of his Refusal at his Peril."¹¹

This strong and threatening language, however, had no effect on Governor Denny who refused to depart from his instructions. Realizing that he would not yield, the Assembly on February 3, 1757 appointed

⁹Wm. Denny succeeded Wm. Hunter Morris as Governor, August 19, 1756.

¹⁰Votes and Proceedings, Vol. IV, p. 680.

¹¹The Assembly's remonstrance to the Governor, Jan. 26, 1757, Votes and Proceedings, Vol. IV p. 680.

Franklin as its agent in Great Britain.¹² March 1, Galloway was one of the Committee of Eight appointed to prepare Franklin's instructions,¹³ and on April 1, he was added to the Committees of Correspondence and Aggrievances to fill the place of Franklin. These committees were the busiest and the most important ones of the Assembly and Galloway's appointment to them indicates that the members regarded him as a fit successor to Benjamin Franklin. He did in fact actually become at once the recognized leader of the anti-proprietary party after Franklin's departure for England. With the exception of the year 1764,¹⁴ he continued to be a member of the Assembly, up to the time of the Revolution and was Speaker of this body from October 14, 1766,¹⁵ to September 29, 1774.

Benjamin Franklin and Joseph Galloway were friends during this time and each labored untiringly to effect reforms in the colonial administration of Pennsylvania. Their printed correspondence covers the period from 1767 to 1775 but includes no letters before 1767. The years from 1757 to 1767, covered by their unpublished correspondence in our possession were exciting times in Pennsylvania history, and it is on the events which transpired during this decade that this correspondence sheds many interesting side-lights. When Franklin was sent to France in 1776 he left with Galloway a trunk which contained all of his correspondence while he was in England. These letters were lost after Galloway deserted to the British side in 1777.¹⁶ Franklin's writings indicate that he was never able to recover all of them. Writing to his son-in-law, Richard Bache, Passy, September 13, 1781

¹²Isaac Norris was also named but on account of old age and ill health refused to serve.

¹³Votes and Proceedings, Vol. IV, p. 700.

¹⁴October 1 and 2, 1764 both Franklin and Galloway were defeated in elections for the Assembly through the efforts of the Proprietary party.

¹⁵See Votes and Proceedings, Vol. V, p. 498; Vol. VI, p. 543.

¹⁶Included among these lost letters were many to correspondents other than Galloway.

he expresses his concern for their recovery: "Among my Papers in the Trunk, which I unhappily left in the Care of Mr. Galloway, were eight or ten quire or 2-quire Books, of rough Drafts of my Letters, containing all my Correspondence, when in England, for near twenty years. I shall be very sorry, if they too are lost. Do not you think it possible, by going up into that Country, and enquiring a little among the Neighbours, you might possibly hear of, and recover some of them. . . . As he was a Friend of my Son's, to whom in my Will I had left all my Books and Papers, I made him one of my Executors, and put the Trunk of Papers into his Hands, imagining them safer in his House¹⁷ (which was out of the way of any probable March of the enemies' Troops) than in my own. It was very unlucky."¹⁸

Again writing to his son, William, Passy, August 16, 1784 Franklin indicates that he had not yet recovered his correspondence and gives us more information regarding the contents of the lost trunk. He says, "On my leaving America, I deposited with that Friend for you, a Chest of Papers, among which was a Manuscript of nine or ten Volumes, relating to Manufactures, Agriculture, Commerce, Finance, etc., which cost me in England about 70 Guineas; eight Quire Books, containing the Rough Drafts of all my Letters while I liv'd in London. These are missing. I hope you have got them, if not they are lost."¹⁹

Four years later he wrote to Mrs. Elizabeth Partridge, Philadelphia, November 25, 1788: "By one of the Accidents which War occasions, all my Books containing Copies of my letters were lost. There were Eight Volumes of them, and I have been able to recover only two. Those are of later Date than the Trans-

¹⁷At "Trevose," Galloway's estate in Bucks County, Pennsylvania.

¹⁸The Writings of Benjamin Franklin, ed. by Smyth (New York, 1905-1907), Vol. VIII, pp. 304-305.

¹⁹Ibid., Vol. IX, p. 253.

action you²⁰ mention and therefore can contain nothing relating to it."²¹ From this letter, the last in which he mentions his lost correspondence it would appear that Franklin never recovered the letters bearing dates prior to 1756. The first letter to Galloway in Smyth is that of June 13, 1767. The first in our collection bears the date April 11, 1757 and was written at New York while Franklin was waiting for a conference with Lord Loudoun. About June 3, 1757 he sailed from New York and arrived in England July 26, 1757.²² The first letter to Galloway from London in our possession is that of February 17, 1758. The correspondence continues to February 6, 1772 containing also letters after 1767 not in Smyth's edition of Franklin's Writings. Among the letters recently come to light are a number not only to Galloway but to other correspondents which are especially important in giving a better understanding of the problems of Pennsylvania colonial history from 1757 to 1760. The contents of some of the more important of these will be given in this paper.

From the constitutional viewpoint of American colonial history the Smith-Moore Affair is significant because the King and Privy Council by the decision in the case definitely forbade a colonial assembly to exercise certain powers and privileges of the House of Commons. It also well illustrates the bitterness of the struggle and the conflict of the claims of the colonial and the proprietary parties, and to what lengths each side went to achieve a victory over the other. More

²⁰The "Transaction" here referred to was the transfer of the Boston post-office to Mrs. John Franklin after the death of her husband, Benjamin Franklin's brother, January 1756. Mrs. Elizabeth Partridge (née Hubbard) was the daughter of Mrs. John Franklin by a former marriage.

²¹Franklin, *op. cit.* Vol. IX, p. 684. This letter is in reply to a letter of Mrs. Partridge, Boston, Nov. 12, 1788. See Calendar of the Franklin Papers in the Library of the American Philosophical Society, Vol. III, p. 382. She requests Franklin to send her a copy of a letter which he wrote when he transferred the post-office to her mother. Franklin thinks perhaps she has reference to another letter, probably the one to Miss E. Hubbard, Philadelphia, February 23, 1756, Smyth, Vol. III, pp. 329, 330.

²²*Ibid.*, Vol. III, p. 419, Letter to Mrs. Deborah Franklin.

than anything else it clearly illustrates the inability of the British government to appreciate and to cope with the colonial situation. June 20, 1756, an extract of a letter signed W. Smith which appeared in the London Evening Advertiser No. 334 from Saturday, April 17, to Tuesday, April 20, 1756 was laid before the House.²³ After spending some time in considering this letter a resolution was passed, "That the said Extract of a Letter contains divers wicked Calumnies against Numbers of sober and valuable Inhabitants of this Province, and likewise most infamous, libellous, false and scandalous Assertions against the two Branches of the Legislature of this Province." It was suggested at this time that the author was probably Reverend William Smith, Provost of the College in Philadelphia, inasmuch as the letter which appeared in the London newspaper indicated that it was written at Philadelphia, February 23, 1756. The Pennsylvania House ordered the Speaker to issue an order to the Sergeant-at-Arms to bring Smith before the bar of the House at five in the afternoon the same day, to answer certain questions.

"1. Whether he had wrote any Letter, dated on or about the Twenty-third of *February*, 1756, or at any other Time, of which, from the Tenor thereof, the Paper now read to him could be an Extract?

Answ. *'Tis not to be supposed that I can be prepared to answer this House, whether I have wrote any Letter, on or about the 23d of February, 1756, or at any other Time, of which, from the Tenor thereof, the Paper referred to could be an Extract; as the Question, in my Opinion, supposes that I can remember the Tenor of all the Letters I have wrote.*

2 Q. Whether, to the best of his Memory, he did, or did not, write any such Letter, on or about the Date specified in the first Question, or at any other Time?

Answ. *I do not conceive that I ought to charge my Memory with any Thing of that Nature; nor do I conceive that I am obliged in Law to make any other Answer than what I have already done.*

And the House not thinking it necessary to ask the said *Smith* any more Questions at this Time, he was ordered to

²³Votes and Proceedings, Vol. IV, p. 577. This Extract was probably sent to the Assembly from England by Pennsylvania's colonial agents, Robert Charles and Richard Partridge.

withdraw. But he having before he went desired that he might have a Copy of the Questions which the Speaker had asked him, and his Answers thereto, also a Copy of the Order to the Sergeant at Arms for bringing him to the Bar of the House, the Clerk was directed to make out the said Copies, and deliver them to him accordingly.

The House taking into Consideration the Answers given by the said *William Smith*, to the Questions put to him by the Speaker, unanimously

Resolved That the said Answers are trifling and evasive, and plainly indicate him to be the Author of the "*Extract of a Letter from a Correspondent at Philadelphia, dated February 23, 1756,*" which was published in the *Evening Advertiser*, No. 334."²⁴

Being busy with other matters of greater importance at this time the Assembly ordered Smith dismissed. His challenge to the members to the effect that they had no right in law to bring him before them in a matter of this nature, however, was not forgotten.

On November 24, 1756, the Assembly received three petitions against the offensive and oppressive proceedings of a certain William Moore, Esq., a Justice of the Peace and President of the Common Pleas Court of Chester County.²⁵ Moore was an appointee of the Proprietors, and the numerous petitions against his extortionate and illegal practices at length roused the Assembly to investigate the charges against him. On April 1, 1757, Joseph Galloway was appointed to take Franklin's place on the Committee of Grievances.²⁶ He at once began to investigate the charges contained in numerous petitions against Moore which had hitherto been read and tabled. On the same day that Galloway received his appointment to the aforementioned committee the House resolved to hold an investigation and ordered the Clerk to inform Moore of its resolution to inquire into the justice of the complaints against him at its next session. The Clerk was also ordered to inform the latter that he might obtain

²⁴Votes and Proceedings, Vol. IV, p. 578.

²⁵Ibid., p. 648.

²⁶Ibid., p. 706.

copies of the petitions upon payment of the cost of transcribing them.

On August 17, 1757, a number of petitioners having received notice from the Clerk appeared before the Assembly. The hearing on this occasion, however, was deferred until August 21, Moore also being given notice of the postponement. A hearing was not held on the 21st but on the 25th when Moore did not appear as he had been directed.²⁷ Since he was known to be in Philadelphia the Clerk was ordered to give him and the petitioners notice to appear before the House at four in the afternoon the same day. When Moore appeared according to the order he presented a memorial which was read. He contended as Smith had previously done that the Assembly had no jurisdiction over him. He was unprepared to defend himself at this time although he had been given ample notice, but the House postponed the further hearing of his case until September 1.

William Smith after his appearance before the Assembly, June 20, 1756, again incurred the displeasure of the members by intermeddling in the disputed election in Northampton County.²⁸ Mr. Vernon, one of the Assembly mentioned, having received a letter from Smith relative to this election was ordered to deliver this to the Speaker, December 9, 1756. On March 3, 1757 Nathaniel Vernon placed in the Speaker's hands the letter he had received from Smith. The letter was in the latter's handwriting but this name was torn off.²⁹ On September 1, when the extended hearing was to be held Moore was purposely absent.³⁰ After further hearings the Assembly, September 28, sent an address to the Governor requesting that Moore be removed from his public

²⁷Votes and Proceedings, Vol. IV, p. 735.

²⁸Mr. Jones and Mr. Plumsted were the rival claimants; the latter being inclined to serve the Assembly's interests was allowed the seat.

²⁹Votes and Proceedings, Vol. IV, p. 700.

³⁰Ibid., p. 738.

offices. This address was printed in the *Pennsylvania Gazette*, published by David Hall, Benjamin Franklin's business partner. Governor Denny in reply to this address refused to remove him until he examined evidence as to his guilt and the copies of the petitions against him.³¹ These papers were ordered transcribed September 30. In answer to the Assembly's address Moore presented one of his own to Denny, October 19, 1757, which was also printed in the *Pennsylvania Gazette*. David Hall had received permission from the Speaker and several members of the Assembly to do so. Moore's address was also printed in William Bradford's *Pennsylvania Journal* and Smith secured for Moore its translation and insertion in the German newspaper "*Philadelphische Zeitung von allerhand Auswärtig-und einheimischen merkwürdigen Sachen,*" printed by Anthony Armbrüster.

The subsequent Assembly whose personnel was practically the same as the retired body considered that this address contained, "many injurious charges and slanderous aspersions against the conduct of the late Assembly, and highly derogatory of, and destructive to, the Rights of this, and the Privileges of Assembly . . ." The Speaker was ordered to issue a warrant to the Sergeant-at-Arms to bring Moore to the House and also William Smith, who was suspected of being concerned in the writing of this. Thomas Bond, Dr. Phineas Bond, Michael Lovell, Robert Levers, David Hall and William Bradford were called to the Assembly and were separately examined.

The House was convinced after these examinations that William Smith had aided Moore in the preparation of the latter's address to the Governor. Governor Denny had appointed January 9, 1758, as the day for the hearing of Moore's case in the Council Chamber at the State House. Moore was unable to be present having been arrested and placed in the custody of the

³¹Votes and Proceedings, Vol. IV, pp. 749, 750.

Sergeant-at-Arms. On January 6, the Assembly, however, claimed that it had no notice of Denny's proposed hearing of the case and requested the Governor to hold a hearing on articles of impeachment, but this the Governor claimed he had no authority in the charter to do. Moore was examined in regard to his authorship of the address on January 11. He admitted that he was the author and that his friends to whom he had shown it had made suggestions which had perhaps influenced him to make certain alterations, but maintained that the address was in the main his own production. His refusal to answer to petitions against him of January 10 and his bold statement that "The House had no Cognizance in such Matters,"³² aroused the anger of the members. He was immediately found "guilty of an high Contempt to the Authority of this House" and "committed to the common Gaol of the County of *Philadelphia*." The sheriff was futhermore ordered not to obey a writ of Habeas Corpus or any other writ or to discharge him on any pretence whatsoever.³³

On January 13, Reverend William Smith was brought before the House. He was informed by the Speaker that he was charged with being a promoter and abettor of the writing and publishing of a libel. He desired a copy of the charge, counsel and time to prepare his defence. These requests were granted and January 17 was the day appointed for his trial. He desired Mr. Chew, the Attorney-General, as his counsel, but the House thought that since Mr. Chew was the King's attorney that Smith ought not to be permitted "to depend singly on the Attorney-General" but ought to get other counsel. Mr. Ross finally appeared as Smith's counsel at the trial. An endeavor was made to secure evidence to show that the manuscript of Moore's address contained Smith's hand-

³²Votes and Proceedings, Vol. IV, p. 768.

³³This order was never formally issued to the sheriff. Franklin to Thomas Leach, London, May 13, 1758, Mason Library No. 216.

writing. At length, January 24, after considering all the evidence and the testimony of numerous witnesses the House "*Resolved*, by a great Majority, That the said *William Smith* is guilty of promoting and publishing the libellous Paper, entitled, *The Address of William Moore to Governor Denny*."³⁴ On the following day the Speaker signed and delivered to the sheriff an order of the House to take Smith into custody. The Sergeant-at-Arms was also ordered to deliver "an additional Charge to the Sheriff respecting the Writ of *Habeas Corpus*, if the same should come to his Hands, as before given him in the Case of *William Moore*."³⁵ Smith's counsel desired the privilege to appeal his case to the King and Council but the Assembly denied this request. Smith, however, in a letter to the Speaker, January 30, 1758, notified the House of his determination to lay his case before the King.³⁶

After his arrest by the Sergeant-at-Arms, January 6, 1758, Smith was kept in confinement until the 25th and then placed in the Philadelphia gaol, where he remained until about April 11, being then liberated by order of the Supreme Court. On September 27, the Assembly again ordered that he be apprehended and he was again placed in confinement, but in some way secured his release, for the new Assembly, November 18 again ordered his arrest.³⁷ Moore was acquitted in a hearing before the Provincial Council, August 26, 1758, and although the Assembly ordered him to be arrested on September 27, and again November 18, he does not seem to have been apprehended.

After the warrant for his arrest was issued in November, Smith decided to appeal his case to the King. He arrived in London, January 1, 1759, and immediately got in touch with the Bishop of London

³⁴Votes and Proceedings. Vol. IV, p. 777.

³⁵Ibid., p. 782. This charge to the sheriff was never delivered by the Sergeant-at-Arms. See Mason Library, No. 216.

³⁶Ibid. p. 784.

³⁷Ibid., Vol. V, p. 5.

and other churchmen,³⁸ and also with the chief proprietor, Thomas Penn. Smith submitted his appeal to the Crown in April, 1758 and his case was immediately referred to the Attorney and Solicitor-General. Franklin's letter to Galloway, April 7, 1759,³⁹ indicates how closely he was observing every move of Smith and his plans to thwart him in his appeal to the Attorney and Solicitor-General for a report on this case. "Smith (now we talk of Libellers) is here, dancing Attendance on the Att^y and Soll^r. Gen^l. to obtain a Report. They are very unwilling to make one, but perhaps may at length be teas'd into it by Paris,⁴⁰ who is a most malicious and inveterate Enemy to our Province. I have reason to believe, however, that if they censure any Thing in the Conduct of the Assembly, it will be Modes and not Essentials: But of this I cannot yet be certain; and am determin'd to renew the Contest in a Hearing before the Council, if the Report appears likely to prejudice our Privileges. This may perhaps keep Smith longer on Expence to his Supporters with you than they will care to bear, tho' 'tis said they have subscrib'd largely: He represents himself as a Clergyman persecuted by Quakers, for the Services done the Church in opposing and exposing those sectaries, and in that Light a Bishop recommended him to Oxford for a Degree of Doctor of Divinity, which it seems he has obtain'd; and if he can get a Benefice here, as possibly he may, it is not unlikely he will desert poor Philad^a. and by removing his Candlestick leave the Academy in the Dark."

The Moore-Smith affair caused much interest in Great Britain. Moore's Memorial and Address were published there to create an unfavorable public opinion of the Assembly in Pennsylvania. Franklin

³⁸On the recommendations of the Archbishop of Canterbury and five other bishops, Smith was awarded the degree of Doctor of Divinity by Oxford, March 27, 1759.

³⁹Mason Library No. 226.

⁴⁰Paris was the legal adviser of the Penns.

in a letter to Galloway, London, February 17, 1758,⁴¹ says, "As the extraordinary Lower-County Speech & Address has been published here, where never appeared before any Proceedings of that Government, it is plainly done by the Proprietary Tools to continue the Prejudices against the Province." Moore was an appointee of the Proprietors⁴² and had a brother in the House of Commons, facts which explain his bold tone towards the Assembly. He felt himself secure against this body due to these connections. Smith also was much in the same position only he had the additional support of the Church of England. Both denied the right of the Assembly to try and imprison them for libel and this body plainly asserted that it had this right. The ablest exponent of the Assembly's rights was the brilliant young lawyer, Joseph Galloway, who vigorously prosecuted the case against Smith.

Soon after Franklin arrived in England July, 1757, he endeavored to treat with the Proprietors with reference to the removal of the many grievances complained of by the citizens of Pennsylvania. What progress he made and the attitude of the Proprietors in these matters is told by him in a letter to Isaac Norris, dated London, January 19, 1759,⁴³ "When I first began to treat with the Proprietors, they desired I would put down in Writing the principal Points of Complaint which were to be the Subjects of Conference between us, that they might previously consider them. I accordingly deliver'd them the Paper herewith enclos'd, called *Heads of Complaint*, in which I confin'd myself to those that related chiefly to his Majesty's Service and the Defense of the Province, as being of more immediate Importance, and omitted the Appointment of Judges during Pleasure, and some

⁴¹Mason Library No. 207.

⁴²The chief proprietor, Thomas Penn who owned about three-fourths of the proprietary lands joined the Church of England in 1758. The other proprietors, Richard and John Penn ceased to be strict Quakers.

⁴³Mason Library No. 229.

other things, as Points that might afterwards come into Discussion, if we could by any means get over the former.

“This Paper was deliver’d in August 1757: They receiv’d it with Pretensions to great Candour and real Intention of seriously considering it and giving a speedy Answer. We had several subsequent Conferences on those Heads . . . The Result was, that they said there were some Points in which the Royal Prerogative was concern’d, and it was therefore necessary, for the greater Safety in Proceeding, to have the Opinion of the Attorney and Solicitor General. This they would endeavour to obtain as soon as possible, having already stated a Case and laid it before those Gentlemen for their Consideration.

“The Reason given for declining any farther Treaty with me, to wit, ‘That I had acknowledged a Want of Power to conclude proper Measures,’ is of a Piece with the rest: The Truth is, I did refuse to take upon me to settle a Money Bill with the Proprietors, as having no Power to do an Act of that kind that should be obligatory on the Assembly, for that they neither had given nor could give me such a Power, it being no less than giving me a Power of making Laws for the Province; a Power which, tho’ the Assembly are trusted with by the People, they cannot delegate to another. But I never acknowledged any want of Power to treat and confer with them, and to endeavour accommodating the Differences with them agreeable to my Instructions. They say they have now wrote to the Assembly, and it is given out, that their Proposals to the House are so fair, that it is not doubted they will be agreed to. I wish you may find them so. In the meantime, tho’ I am advis’d to make no Application to Parliament till I hear farther from the House, yet I shall immediately permit the Publishing a Work that has been long in hand, containing a true History of our Affairs & Disputes;⁴⁴ from which I have reason to hope a good

⁴⁴The “Work” here referred to is “An Historical Review of the Constitution of Pennsylvania” (London, 1759).

Effect, if those Disputes must at length come under the Consideration of the Legislature.

“Seven or eight Months after the Heads of Complaint were delivered to the Proprietors, M^r Paris came to me with a Message from them, purporting ‘that it was M^r Charles’s⁴⁵ Fault they had not yet obtain’d the Attorney & Solicitor’s Opinion, he, M^r Charles restraining the Attorney by means of a retaining Fee, formerly given him, which M^r Charles would not take back again tho’ desired so to do by the Attorney, and until that was done, the Attorney did not think himself at Liberty to consider M^r Penns Case.’ Speaking to M^r Charles of this, he told me, that on hearing of my coming over, before my Arrival, he had retain’d the Attorney General in Behalf of the Province, and he did not think it consistent with his Duty to the Province to withdraw that Retainer. In which I thought him right. The Proprietors might either have got their Advice elsewhere; or, which would have been the fairest Way, have agreed with me on a joint State of the Case, to be laid before those Gentlemen in Behalf of all Parties concern’d: But they would never so much as let me see the Case they had stated

“Upon the whole, the House will see, that if they purpose to continue Treating with the Proprietors, it will be necessary to recall me and appoint another Person or Persons for that Service, who are likely to be more acceptable or more pliant than I am, or, as the Proprietors express it, Persons of Candour. Whether my Conduct towards them, or theirs towards me, had exhibited most or least of that Quality, I must submit to my Judges. But if the House, grown at length sensible of the Danger, to the Liberties of the People, necessarily arising from such growing Power and Property in one Family with such Principles, shall think it expedient to have the Government and Pro-

⁴⁵Robert Charles was one of Pennsylvania’s colonial agents.

perty in different Hands, and for that purpose shall desire that the Crown would take the Province into its immediate Care, I believe that Point might without much Difficulty be carried, and our Privileges preferred; and in that I think I could still do Service."

With the Assembly's permission Franklin then began to take steps to get the Crown to take over Pennsylvania as a Royal Province.⁴⁶ This greatly enraged the Proprietors who lost no opportunity which might present itself to place the Assembly and the citizens of Pennsylvania in an unfavorable light before the British Government. Smith's case gave them this opportunity and they immediately came to his support as is shown by their causing Moore's "Memorial" and "Address" to be published.

The hearing on Smith's petition before the Attorney and Solicitor-General occurred on the evening of April 17, 1758. Paris, who was employed as the legal adviser of the Penns, was Solicitor for the petitioners. Mr. Wilbraham and Mr. Forrester acted as his counsel. These lawyers tried to make it appear that Smith had incurred the displeasure of Quakers by promoting measures for defence in Pennsylvania. Franklin writes,⁴⁷ "Much of their Pleading was Invective against the Assembly as Quakers, the Rest to show that they had erected themselves into a Court of Justice, without any Authority so to do, and that they ap'd the House of Commons tho' they had not the Powers of that House; that by presuming to order the Sheriff to disobey the King's Writ, they were guilty of a high and most flagitious Attempt against the Royal Authority, &c. and ending with praying that the King might be advis'd to issue his Mandate for the Discharge of the Prisoner. They took up the whole Evening with their Harangues; so that Day Se'nnight⁴⁸ was appointed for the Hearing of our Council in Reply."

⁴⁶Franklin to Galloway, London, Feb. 17, 1758. Mason Library No. 207.

⁴⁷Franklin to Thomas Leach, London, May 13, 1758. Mason Library No. 216.

⁴⁸The same evening one week thereafter.

On the evening of April 24 Solicitor Joshua Sharpe assisted by counsels Parrot and De Grey presented the Assembly's side of the case. They argued that the House by implication possessed the right in the Pennsylvania Charter to try and to commit for breach of privilege; that these powers were inherent in any legislative body and that they always had been exercised by Assemblies in America.⁴⁹ Paris, solicitor for the petitioner, maintained that an Act anno 4 Queen Anne⁵⁰ upon which the Assembly based its claims to the powers in question had never been presented to the Crown and that therefore they never existed. Franklin later discovered that this act had been regularly passed in Pennsylvania and had never been disapproved by the Board of Trade. In a letter to Norris he writes,⁵¹ "While we were attending in one of the Chambers belonging to the Board of Trade, & were allow'd to search in the Press, containing the Plantation Acts, for the New England Indian Trade Laws to show their Lordships, my Son cast his Eye on the manuscript Volumes of old Pennsylvania Laws formerly transmitted home for Approbation, and found in the Vol. mark'd *Pensylv^a Laws from 1701 to 1709*, the Law of the 4th of [sic:] Queen Anne, to ascertain the Number of Members of Assembly & regulate Elections, properly certify'd by the then Governor,⁵² & Secretary Logan⁵³ . . . —I saw them—"

The appeal of Smith's case to England caused the agencies of the British government to take a definite stand in their attitude towards the colonies. Franklin in a letter to Isaac Norris, March 19, 1759⁵⁴ quotes Lord Granville, the President of the Privy Council as saying to him that, "The Council is *over all*

⁴⁹Franklin supplied the counsel with cases to substantiate this claim.

⁵⁰See "The Charters of the Province of Pensylvania and City of Philadelphia," (Phila., printed by B. Franklin, 1742, p. 72.)

⁵¹Franklin to Isaac Norris, London, June 9, 1759. Mason Library No. 223.

⁵²Governor Evans.

⁵³James Logan, the Governor's Secretary.

⁵⁴Mason Library No. 225.

the Colonies; your last Resort is to the Council to decide your Differences, and you must be sensible it is for your Good, for otherwise you often could not obtain Justice. The King in Council is the LEGISLATOR of the Colonies; and when his Majesty's Instructions come there, they are the LAW OF THE LAND; *they are*, said his L—p, repeating it, *the Law of the Land*, and as such *ought to be OBEYED.*' The whole of this Conversation was curious, of which, if I live to have the Pleasure of seeing you again, I will show you the Minutes; they are too long for a Letter. L—d Hardwicke, is next at the Council Board; than whom no one is suppos'd to be for carrying the Prerogative higher in all Respects even on this side the Water; all his Actions they say, on all Occasions, have shown this; and he makes little less Scruple than the President in declaring his Opinions of this kind. These two govern at that Board, so that one may easily conjecture what Reception a Petition concerning Privileges from the Colonies may meet with from those who are known to think that even the People of England have too many. —As to the Board of Trade, you know who presides and governs all there,⁵⁵ and if his Sentiments were no otherways to be known, the fruitless Experiment he has try'd at the Nation's Cost, of a military Government for a Colony, sufficiently shows what he thinks would be best for us. The Speaker of the House, indeed, is look'd on as a stanch Friend to Liberty; and so is the Sec^{ry} M^r. Pitt; the Att^y Gen^l. is likewise *inclin'd* to that Side in all Questions, tho' the Nature of his Office requires him to be something of a Prerogative Man; but M^r Yorke the Sol^l. Gen^l. who is L. H—'s *Son* is wholly and strongly tinctur'd with high Notions of the Prerogative, imbib'd from his Father, and may be said to be dy'd in grain.⁵⁶

“From this Sketch of Leading Characters, you will judge, that if the Proprietor does not agree with us, our

⁵⁵Lord Halifax was President of the Board of Trade.

⁵⁶Charles Yorke (1722-1770), the Solicitor-General was Lord Hardwicke's second son.

best Chance in an Application is directly to Parliament; and yet that at this Time is something hazardous, for tho' there are many Members in both Houses who are Friends to Liberty and of noble Spirits, yet a good deal of Prejudice still prevails against the Colonies, the Courtiers think us not sufficiently obedient"

The attitude of the Privy Council towards the Parliament and the position of the Attorney and Solicitor General is shown in the following paragraph of the same letter: "Smith is here, and by the Help of Paris worries the Att^y and Soll^r. Gen^l. for a Report on his Case, who did not intend to make any. The Att^y. is greatly perplex'd, angry with the Council for referring the Affair to them and with Smith for urging a Report; He has open'd his Mind to a Friend of mine on this Head; says, 'the Council he knows are for Clipping the Wings of Assemblies in their Claims of all the Privileges of a House of Commons; the House of Commons are thought to claim too many, some very unfit and unreasonable, and not for the common Good; but the Council have let the Colonies go on so long in this Way that it will now be difficult to restrain them; and the Council would now make the Att^y and Soll^r. the first Instruments of so odious a Measure; that they (the Council) should have carried it into Parliament, but they are afraid the Parliament would establish more Liberty in the Colonies than is proper or necessary, and therefore do not care the Parliament should meddle at all with the Government of the Colonies; they rather chuse to carry every Thing there by the *Weight of Prerogative*; which by Degrees may bring Things to a proper Situation. Most Att^y. Gen^{ls}. (he said) would immediately do what they knew would be pleasing to the Council; but he could not: He must however make some kind of Report.' This is the Substance of his Discourse to my Friend, who communicated it to me with Leave to mention it to you and the Committee, as it contains some Hints that are of Importance, but it is to go no farther. —It is some

Comfort that the Council are doubtful of the Parliament. The West India Interest in the House, in any general Attack on the Colonies would doubtless be of use to us, and perhaps that may be a little apprehended, and it may be thought not proper to disoblige those Members as they make a considerable Body. But at the same Time it is known here, that if the Ministry make a Point of carrying *any thing* in Parliament, they can carry it. On the whole, it is conjectur'd the Attorney and Soll^r. General's Report, will be of a special kind; some Censure perhaps pass'd on Modes and Expressions in your Proceedings; but the general Authority of an Assembly not impeach'd. This, however, is only Conjecture."

The exponents of the King's prerogative in the Ministry were also extremely afraid to incur the opposition of Parliament as can be seen from Franklin's letter to Thomas Leach May 13, 1758⁵⁷ in which mention is made of the interest taken in Smith's case by Mr. Moore,⁵⁸ a member of Parliament. "I have mention'd M^r. Moore's Influence as a Member of Parliament for that is a Circumstance that gives great Weight here in all Applications to the Crown. Almost every Thing is granted to Members of Parliament, the Ministry being extremely unwilling to disoblige them lest they should join in some opposition"

With these forces of the British government against the Assembly Smith could not fail to secure a favorable decision. The Attorney and Solicitor-General in their report to the Lords of the Committee of Council for Plantation Affairs admitted that Moore's address to Governor Denny was a libel against the assembly in session when the address was published but not against the subsequent Assembly which prosecuted Moore and Smith. Hence the latter body had no jurisdiction in the case because the libel was not against it. The

⁵⁷Mason Library No. 216.

⁵⁸This Moore was a brother of William Moore who was associated with Smith in the Smith-Moore affair.

Lords of the Committee of Council for Plantation Affairs accepted the Attorney and Solicitor-Generals' opinion in their report to the Privy Council which freed Smith June 26, 1759. The decision⁵⁹ was as follows: "The Lords of his Majesty's most honourable Privy Council, this day took the said Report into consideration, and were pleased to approve thereof, and do hereby, in his majesty's name, declare His high displeasure at the unwarrantable behaviour of the House of Representatives of Pennsylvania, in assuming to themselves powers which do not belong to them, and invading both his majesty's Royal Prerogative, and the Liberties of the Subject; and their Lordships do, therefore, hereby order that the Governor, or Commander-in-Chief, for the time being, of the said Province of Pennsylvania, do forthwith signify the same to the said Assembly accordingly, and take the utmost care, and use all the means in his power to support the Laws and His Majesty's Prerogative against all usurpations and encroachments whatsoever, by the Assembly of that Province, at all times and upon all occasions; and that the Governor or Commander-in-Chief, for the time being, do likewise take care that, in all cases, His Majesty's Writs do issue freely according to Law, and do protect all Officers of Justice, and others, in the due execution of them, and that no person or persons, whatsoever, do presume to disobey the same; and that, with regard to the petitioner, their Lordships are hereby further pleased to direct that he do seek redress (as he shall be advised) in the proper Courts of Justice, in the Province of Pennsylvania, whereof the Governor, or Commander-in-Chief, of the said Province of Pennsylvania, for the time being, and all others whom it may concern, are to take notice, and govern themselves accordingly."

In compliance with the Privy Council's decision Governor James Hamilton, February 13, 1760 sent the

⁵⁹Life and Correspondence of the Rev. William Smith, D. D. (Phila., 1830), Vol. I, p. 208.

following message⁶⁰ to the Assembly: "Gentlemen, Having been served by the Reverend Mr. *William Smith*, Doctor of Divinity, with an Order made by his Majesty's most Honourable Privy Council, on the Twenty-sixth of *June* last, upon the Petition and Appeal of the said *William Smith* to his Majesty, complaining of certain Hardships and Oppressions alleged to have been suffered by him from the Assembly of this Province for the Year 1758; I herewith lay before you both the said original Order, and the Petition of the said Doctor *Smith* to me thereupon.

"And as I am therein commanded, in the King's Name, forthwith to signify to you, *his Majesty's high Displeasure at the unwarrantable Behaviour of the said Assembly, in assuming to themselves Powers which did not belong to them, and invading both his Majesty's Royal Prerogative, and the Liberties of the People*; I do, in Obedience to the said Order, hereby signify the same to you accordingly.

James Hamilton."

Smith thus won his freedom in a long and hard fought struggle with the Assembly.

Another source of difficulty between the Proprietors and the inhabitants of Pennsylvania was the question of the ownership of certain Indian lands. When the French and Indian War began the Delawares, Shawanese and other tribes, who claimed lands on the Susquehanna and whose claims were denied by the Proprietors, joined the French. Conferences held with these tribes in 1756 produced no satisfactory results, but the inhabitants, particularly the Quakers, hoped the conferences to be held in the summer of 1757 would result in an agreement with the savages. The Quakers had formed a "Friendly Association" for the purpose of furthering negotiations and securing peace by giving the Indians gifts. They desired to allow the Indians to settle permanently on the lands they claimed along the Susque-

⁶⁰Votes and Proceedings, Vol. V, p. 96.

hanna around Wyoming in order that they might provide a defence barrier against the French and their Indian Allies. The Proprietors, however, claimed that these lands had been bought by them and secured by previous treaties with the Indians.⁶¹

Governor Denny objected to the "Friendly Association" giving the Indians presents and forbade members of the Association being present at the conferences to be held with Tedyuscung, the Delaware Chief, at Easton during the summer of 1757.⁶² Tedyuscung, however, forced the Governor to yield to the Association's request that members of the Association be allowed to attend, by refusing to treat unless they were present. The Assembly, contrary to the Governor's wishes, also secured for Tedyuscung a clerk in the person of Charles Thomson.⁶³ The Indians desired that the title deeds to the lands in dispute be produced and examined but the Governor refused this request of the Assembly in behalf of the Indians.

The Minutes of the Treaty held with Tedyuscung as taken by the Governor's clerk differed materially with the minutes taken by Charles Thomson, the former document giving the Indians less favorable terms than the latter.⁶⁴ The Assembly therefore, September 29, 1757, authorized their committee of correspondence to send Thomson's minutes of the Easton Treaty together with all deeds and necessary papers to the colonial agents in Great Britain that they might lay them before the King for his determination.⁶⁵

Franklin at once submitted the Indians' complaints to the ministry⁶⁶. In a letter to Galloway,⁶⁷ London,

⁶¹See W. R. Shepherd, *History of the Proprietary Government in Pennsylvania* (New York, 1896), Chapter VI.

⁶²Conferences were held with Tedyuscung who represented ten other Indian tribes besides the Delawares at Easton July 25 to August 7, 1757.

⁶³Galloway probably conceived the idea of Tedyuscung having his own clerk.

⁶⁴Votes and Proceedings, Vol. IV, pp. 760, 761.

⁶⁵*Ibid.* p. 749.

⁶⁶Franklin to Galloway, London, Feb. 17, 1758. Mason Library No. 207.

⁶⁷Mason Library No. 217.

September 16, 1758, he writes, "M^r Thomson has, as you desired, sent me constantly Copies of the Treaties with Tedyuscung. They are very Satisfactory, and must be of great Use when the important Affair of doing those People Justice comes under Consideration here. Sundry Circumstances have prevented it for some time, but it will now speedily be brought on." Writing to Galloway again April 7, 1759⁶⁸ Franklin indicates what steps he had taken before the matter was brought before the Board of Trade at an official hearing: "The Enquiry into the Causes of the Alienation of the Shawanese and Delaware Indians, has been some time publish'd,⁶⁹ and is more read than I expected. It will, I think have a good Effect. The Proprietary Interest must lessen as they are more known. My Petition in Behalf of the Indians is refer'd by the Council to the Board of Trade, where I shall prosecute it and endeavour to obtain a Report as soon as possible. M^r. Tho^s. Penn, had artfully waited on Lord Granville and Lord Halifax, and left with each a Copy of the last Easton Treaty,⁷⁰ with a Note requesting his Lordship would turn to & read the 5th Paragraph of the last Page, where he would find how highly satisfy'd the Indians were with Onas;⁷¹ so that when I spokewith them on the Petition, Lord Granville told me he understood all Matters were settled between the Proprietor and the Indians to their Satisfaction, and ordered the Treaty to be brought him, and read the Note and the Paragraph mention'd, to me. On which I explain'd that Matter to him, and set him right, by showing him, that what was there mention'd related only to the Purchase at Albany, and that the Delawares still understood their Complaint to be before

⁶⁸Mason Library No. 226.

⁶⁹This Pamphlet was written by Charles Thomson and printed in London, 1759.

⁷⁰The Treaty here referred to was the one concluded with the Indians at Easton, October 7 to 26, 1758.

⁷¹See paragraph five, p. 31 of Minutes of Conferences held at Easton in October 1758. (Philadelphia, printed and sold by B. Franklin and D. Hall, 1758). The Pennsylvania Indians called Thomas Penn "Onas."

the King, being told that it was so by the Governor in another Part of the Treaty, which I pointed out. My Lord then saw the Mistake he had been led into, and said it ought to be immediately settled; and accordingly the next Council Day it was referr'd as above. Lord Halifax seem'd to be under the same Mistake till I show'd him those Passages of the Treaty, where the Governor says, the Proprietors had press'd a Decision, but that the King was busy being engag'd in a great War, &c. at which his Lordship smil'd. —I am inclin'd to think, from what the Secretary told me, that they purpose to appoint Commissioners in America to make Enquiry; but I shall urge an immediate Determination here; as the Question seems to be chiefly this, Whether certain Lands are convey'd by certain Deeds; those Deeds being to be laid before their Lordships by the Proprietor; particularly whether the Walking Purchase was duly run out according to the Direction of the Deed (supposing that Deed a good one) on which it was founded? —This I shall think may be decided here on the Face of the Deeds and Maps; and I do not well see what farther Lights Commissioners can obtain."

On May 15, 1759 occurred the hearing on the Indian petition which the Assembly had forwarded to Franklin.⁷² Mr. Paris, the Proprietors' counsel objected to Franklin's motion that the Proprietors show their deed to the Board of Trade because he said that his enemies simply wished to see these "to pick holes" in them. To this Lord Halifax replied that he believed that Franklin did not care to see the deeds, but only that the Board of Trade might examine them. Franklin now sprang a surprise on the Proprietors: "No, my Lord, said I, I have Copies of them, here they are," and he straightway handed these to Lord Halifax who upon examination found them satisfactory. The Board of Trade then advised the King to refer the

⁷²Franklin to Isaac Norris, London, June 9, 1759. Mason Library No. 223.

whole matter to Sir William Johnson, the Superintendent of Indian Affairs in America. This was a victory for Franklin as the determination of this Indian question was taken from the Proprietors and submitted to an officer of the Crown.⁷³ Sir William Johnson held several conferences with Tedyuscung, and while the latter was not able to make good all of his claims yet they were sufficient to procure permission for his tribe to remain on the land at Wyoming as long as they continued to occupy it.

When the first conferences with the Proprietors failed to achieve any satisfactory results Franklin saw that the only hope of redressing Pennsylvania's grievances was to bring the questions in dispute before the English people and the House of Commons. In the fall of 1757 he determined to publish a pamphlet to justify the claims of the province against the Proprietors.⁷⁴ About this time he met personally Richard Jackson, a lawyer and perhaps the best informed Englishman of his day in matters pertaining to the American Colonies. After Richard Partridge, one of the Colonial agents of Pennsylvania, died March 1759, Franklin suggested to Galloway, who was one of the most influential members of the Assembly, that Jackson be appointed as the chief colonial agent.⁷⁵ At this time the Ministry was supporting Jackson's candidacy for a seat in the House of Commons and his election therefore seemed assured. Franklin felt that a member of parliament would have much greater influence with the government than a private citizen. Jackson was willing to act as agent and Franklin pressed the Assembly to appoint him but the members were unwilling to take the position away from Franklin. The latter was very busy with colonial matters in 1757-1758 and was unable to find the time to write the

⁷³The difficulties with most of the Indian tribes except those with the Delawares and the Shawanese had been temporarily settled by the treaty at Easton, October 1758.

⁷⁴Franklin to Joseph Galloway, London, Feb. 17, 1758. Mason Library No. 207.

⁷⁵Franklin to Joseph Galloway, London, Apr. 7, 1759. Mason Library No. 226.

pamphlet he intended to publish. He therefore prevailed upon Jackson to undertake the task and probably supplied him with the facts he wished to present and aided him with suggestions while he was writing it. In 1759 "An Historical Review of the Constitution of Pennsylvania" dedicated to the Speaker of the House of Commons, appeared anonymously, Jackson being unwilling to be known as the author because he did not wish to jeopardize his chances for election to Parliament by incurring the displeasure of the Ministry. Franklin was at once proclaimed the author and has usually received the credit for writing it. In a letter to Isaac Norris, London, June 9, 1759⁷⁶ Franklin writes "The Book relating to the Affairs of Pennsylvania, is now publish'd . . . The Proprietor is enrag'd.⁷⁷ When I meet him any where there appears in his wretched Countenance a strange Mixture of Hatred, Anger, Fear & Vexation. He supposes me the Author, but is mistaken. I had no hand in it.⁷⁸ It is wrote by a Gentⁿ said to be one of the best Pens in England, and who interests himself much in the Concerns of America, but will not be known."

The effect of this pamphlet in silently influencing Parliament and public opinion in England was considerable.⁷⁹ It did much to bring about the well-known agreement with the Proprietors in June 1760, whereby the latter recognized the Assembly's right to tax their estates. When Franklin returned to America in August 1762, the Assembly, although it

⁷⁶Mason Library No. 223.

⁷⁷Franklin here probably refers to the chief proprietor, Thomas Penn.

⁷⁸Franklin means that he had no hand in writing the pamphlet. In the manuscript "Franklin Papers" appears the following account dated December 31, 1759 "Printed for Benjamin Franklin by William Strahan—

Review of the Constitution of Pennsylvania
118 reams of paper for do.
Paid for binding 600 Reviews, and shipping

See W. R. Shepherd, *History of the Proprietary Government in Pennsylvania*, p. 89, Note 1.

⁷⁹William Franklin to Joseph Galloway London, December 28, 1759. Mason Library No. 224.

knew of his intention to return home, took no steps to appoint his successor. It was probably taken for granted by the members that Franklin would make an arrangement with Jackson to look after the province's affairs in England. Franklin did in fact make such an arrangement which was sanctioned by the Assembly.⁸⁰ Jackson was continued as agent by a resolution of October 15, 1763.⁸¹ At this time he was a member of Parliament having been returned from the conjoint borough of Weymouth and Melcombe Regis. Jackson's vast knowledge of colonial affairs earned him the soubriquet "Omniscient."⁸² He and Franklin, on the latter's return to England in 1764 ably cared for the interests of Pennsylvania.

The conquest of Canada by Great Britain in 1759 and 1760 practically ended the colonial phase of the Seven Year's War with France. The latter country was exhausted and ready to conclude peace but Great Britain was unable definitely to decide on demands to be made of France in the matter of territorial cessions. British public opinion in 1760 was about evenly divided over the question whether Canada or the sugar-producing island of Guadaloupe in the West Indies should be retained. The Ministry, dependent on popular support for continuance in office, could not decide and be sure whether their choice of either territory would satisfy the majority of the people. William Pitt for the Ministry pointedly asked this question in Parliament: "Some are for keeping Canada; some Guadaloupe; who will tell me which I shall be hanged for not keeping?"

A pamphlet discussion was begun in 1759 to influence both public opinion and the Ministry, and the first of the numerous pamphlets to be published was "A Letter addressed to two great Men⁸³ on the Prospect

⁸⁰Votes and Proceedings, Vol. V, p. 225.

⁸¹Ibid., p. 280.

⁸²Dictionary of National Biography, Vol. 29, p. 104.

⁸³The two great men addressed were the Duke of Newcastle and William Pitt who headed the Ministry, the former being the nominal head.

of Peace," written by John Douglas, a political follower of the Earl of Bath.⁸⁴ The author urged the Ministry to keep Canada. This was answered by another pamphlet entitled, "Remarks on the Letter addressed to two great Men," the writer, William Burke⁸⁵ urging the return of Canada to France and the retention of Guadaloupe. This latter pamphlet elicited the publication in 1760 of "The Interest of Great Britain considered with regard to her Colonies and the Acquisitions of Canada and Guadaloupe." Much has been written in regard to the authorship of this pamphlet. Many historians have regarded it as the joint production of Richard Jackson and Benjamin Franklin until Dr. I. Minis Hays recently settled the question by proving Franklin the author.⁸⁶ An unpublished letter of William Franklin to Joseph Galloway, London, June 16, 1760⁸⁷ furnishes additional evidence to support Dr. Hays' conclusion: "I wrote you a few Lines on Saturday last to go by the Pacquet, in which I mention'd a Pamphlet wrote by my Father in Answer to the Remarks on the Letter to Two Great Men . . . Something by way of Answer to my Father's Pamphlet has appear'd in the London Chronicle, wrote by one D^r. Tucker a Clergyman, who is an Intimate of L^d. Hallifax's, and patroniz'd by him, and is one of the bitterest Enemies N. America has in Britain. 'Tis so contemptible a Performance, that my Father could not think it worthy of his Notice, were it not that it affords him an Opportunity of saying some things omitted in his former Publication, and may be a means of silencing the Doctor, or a least of lessening his Influence in American Affairs for the future."

During the first part of 1760 Franklin's negotiations

⁸⁴William Franklin in a letter to Joseph Galloway, London, June 16, 1760. Mason Library No. 5174 states that "L. Bath" was the author.

⁸⁵Ibid., This pamphlet was published in London 1760. Burke was Secretary of Guadaloupe.

⁸⁶See Proceedings of the American Philosophical Society, Vol. 63, No. 1, 1924.

⁸⁷Mason Library No. 5174.

with the Penns temporarily came to an end and the other more pressing problems of Pennsylvania had been settled as far as they could be settled in England. Franklin availed himself of this lull in affairs to write his famous Canada pamphlet. This publication was by far the ablest of all the pamphlets bearing on the question of the retention of Canada or Guadaloupe. It did much to influence British opinion and to prompt the Ministry to make the decision to keep Canada which to this day has remained a possession of the British Empire.

The period from 1757 until 1760 was momentous in the history of Pennsylvania and Great Britain. It was in these years that the later much maligned loyalist, Joseph Galloway, fought for colonial rights and better colonial government. These also were the years in which Franklin won his first diplomatic victories and were the beginning of his career as the foremost of American Diplomats during the fateful years of the Revolution.⁸⁸

⁸⁸I desire here to express appreciation for the assistance and co-operation of my associates in the library and particularly to Lewis J. Carey, M. A. who has so cheerfully given of his time and knowledge.—W. S. M.

Copyright of Proceedings of the American Antiquarian Society is the property of American Antiquarian Society and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.