The Proving of Popular Power

IN THE PERIOD during which the English were integrating New York into their North American empire and establishing colonial Pennsylvania, arbitrary governmental power seemed to enjoy a renaissance. In France, Louis XIV became the model of monarchical absolutism; in England, Charles II and James II seemed intent on gaining the power that James I and Charles I had hoped to consolidate; and in the New World, proprietors took control over vast new colonies. ¹ Although there would appear to be some contradiction between England’s overall policy of reorganizing and centralizing its colonies under royal control and that of giving away North American proprietary rights, from the colonial perspective there was often little to choose between them. Both types of administration raised the specter of adventitious and perfidious power. In 1664, James Stuart promised New Yorkers the same standard of “freedomes and immunityes” New England enjoyed, and then proceeded to support a succession of autocratic administrations, to renege on promises of greater popular participation in government and to promote that well-known religion of oppression, Catholicism. ² As for Pennsylvanians, many Quaker immigrants had felt the lash of persecution in the British Isles and, although willing to acknowledge the beneficence of William Penn’s religious policies, were acutely aware of the wide sweep of proprietary privilege.
In the thick of this threatening environment, politically articulate New Yorkers and Pennsylvanians tried to check arbitrary power by drawing on the English libertarian tradition, to which all English colonies could lay some claim. The most useful and most easily understood part of that tradition was the notion of popular sovereignty. Developed in the English Civil War from much earlier roots, the ideology of popular sovereignty posited that a representative body—in the English case, Parliament—should ultimately limit monarchical behavior and retain considerable governmental power in its corporate hands.\(^3\) In transferring this concept west across the Atlantic, colonists demonstrated the innovative cast of mind that they brought along with old-world ideologies. On the one hand, they virtually ignored the “sovereign” aspect of popular sovereignty. After all, the colonies were dependent societies and seemingly happy to be so until the last quarter of the eighteenth century. On the other, they placed a great deal of emphasis on developing elective institutions, which were viewed as the essence of “popular” government, no matter how narrow the clientele they served. That tendency began with experiments in participatory government in some of the early colonizing ventures and was reinforced by the needs of colonial officials for both information and cooperation from immigrants.\(^4\)

By the time New York and Pennsylvania were being woven into the network of English colonies, strong traditions of representative government emanated from the West Indies, the Chesapeake, and New England.\(^5\) And a number of circumstances conspired to encourage the establishment of popular political institutions in the mid-Atlantic colonies. Paradoxical though it may seem, a number of new-world proprietors had been influenced by English republican thought, and that intellectual predisposition, along with the practical need to attract settlers to their colonies, prompted proprietors to include a place for the peoples’ representatives in their various efforts at constitution making.\(^6\) At the same time, the very extent of proprietary power and the Stuart monarchs’ efforts to disband provincial assemblies drew attention to the value of representative institutions. Once the English Whig settlement of 1691 finally brought an assembly to provincial New York, a colonial history of central autocracy, along with a sense of past deprivation derived from comparisons with the broadly based New England and New Jersey experiments with representative government, enhanced New Yorkers’ appreciation of elective institutions. And in Pennsylvania, the past experiences of Friends and the social imperatives of Quakerism combined to underline the importance of a strong popular government.
Opportunistic New Yorkers

The form of New York’s post-1691 government was much like that of other Crown colonies. The functional head was the governor and captain-general, a royal appointee responsible to the Crown. A royal commission granted the governor his power as the monarch’s representative, while a set of instructions, subject to both modification and augmentation at any time during the governor’s term, directed him on policy matters. Bound by the same instructions was a lieutenant-governor, frequently appointed from among colonial notables, to serve as interim executive in case of the governor’s death or personal absence. A council composed of a few prominent citizens, appointed by the Crown on the recommendation of the governor, served both as executive advisors to the governor and as an upper legislative chamber analogous to the British House of Lords. Finally, there was the popular part of government. The governor’s commission required that he pass laws “with the advice & consent of the Council and Assembly.” The “General Assembly” of the province of New York was expected to assemble on the governor’s call “according to the usage of our other Plantations in America,” to vote taxes for the support of government and to ensure that the legislative needs of the colony were met. The apportionment of assembly representatives varied slightly during the late seventeenth and early eighteenth centuries, but by 1726 interested parties had agreed on an acceptable formula. All counties save New York would have two representatives, New York City and County would have four, and a small number of towns and manors gained entitlement to a single assembly seat.

Although the outline of New York’s provincial government was fairly clear, the allocation of powers between the three component parts was not. The governor’s commission and instructions conferred powers that exceeded those of the British Crown in its relationship to Parliament. The power to call assemblies, adjourn, prorogue, and dissolve them, the right to nominate and remove judges, the capacity to create and fill administrative offices, the authority to act as captain-general of provincial military forces, the choice of vetoing legislation, and the authority to grant land were designed to make the governor the cornerstone of colonial government. It could be argued, as some governors did, that the council and assembly owed their existence to the governor’s letters patent, that his instructions should bind those two institutions as well as the chief executive, that the governor should be sole interpreter of the instructions, and that colonial rights should consist only of “such [privileges] as the Queen is pleased to allow.” Although few New Yorkers agreed with this sweeping interpretation of the royal prerogative, a number of prominent provincials were prepared to honor the turn-of-the-century governors who articulated such views. The
colony's recent turbulence and its tradition of administrative centralization under James Stuart predisposed numerous leading colonists to flock around the chief executive if it was politically expedient for them to do so. Tolerance of exaggerated gubernatorial claims was not a prohibitive price to pay for supporting the current sociopolitical order, for the status that attendance at the governor's entertainments conferred, and for the profitable land grants and public contracts that could come their way.

Of the two thoroughly provincial parts of government, the council and the assembly, the former was most tightly bound up with the prerogative. Because the governor could both recommend and suspend councillors, and because there were no separate social orders in the colony from which councillors were recruited, council members were usually either supportive of, or silent on, the royal prerogative. Not so for the assembly, however. No matter how much individual assemblymen might be drawn to the executive, as a body they asserted an institutional legitimacy grounded, not in the governor's letters patent, but in the inherent rights of Englishmen. It was not clear to very early provincial legislators exactly what powers they should possess in the name of the people, but they certainly felt these should be more extensive than royal directives initially appeared to grant. Firsthand knowledge of New England autonomy, Dutch acquaintanceship both with Low Country republicanism and the potential efficacy of English-rights language in protecting local traditions, recollection of the popular Concessions and Agreements that East Jersey proprietors had granted to New England migrants, rumors of the very liberal 1676 West Jersey constitution, and years of experience with highly autonomous units of local government encouraged New Yorkers to believe they should have a greater say in governmental affairs. Despite their parochialism, popular politicians knew enough to liken their assembly to those of other colonies and to claim an autonomous, inviolable heritage that stretched through Parliament back to Magna Charta. But at the same time such ideas were often intermingled with a continuing respect for the prerogative. Elected friends of Lord Cornbury might agree with him thoroughly when he admitted that certain privileges were "the Rights of the House of Commons ... and of ... [New York's] Assembly," but they also recognized that the prerogative had its own continuing claims to preeminence.

Given the unsettled and varied interpretations of prerogative claims and popular rights in early New York, the relationship between imperial officials and provincials was bound to have a delicate side. Yet into this situation the British introduced a pair of governors, Fletcher and Cornbury, who were extremely insensitive to New York's needs. It is not that they were uniquely imperious or particularly inept, but that they were disconcertingly venal. In addition to fees, there were three basic ways in which public revenue came
into a governor's hands in turn-of-the-century New York. Two of these were related to King William's and Queen Anne's wars (1689-1697 and 1702-1713) with the French, in which the colonies understandably became involved. First, recognizing the crucial role New York played in defending their North American possessions from New France, the British stationed four companies of soldiers in the Hudson River colony after 1695, and sent money to the governor to pay for the wages, outfitting, and partial maintenance of these troops. Second, the governors often demanded from the assembly what was called an extraordinary revenue—that is, money to be raised for singular military campaigns or for garrisoning costs. If the assembly heeded the governor's requests, it would lay taxes, usually on personalty and realty, apportion those taxes among the various counties, and vote the proceeds to the Crown's representative for dispersal. Finally, the assembly was expected to raise a separate category of ordinary revenue to support the regular administrative and executive expenses associated with the normal operation of government.

Cumulatively, the revenue from these sources could be a sizable amount; and both Fletcher and Cornbury did their best to divert as much of it as they possibly could to their own use. Although it was customary at this time for governors, in their capacity as captains-general, to profit from military payrolls, that was little solace to provincials who expected protection from British troops but found that gubernatorial peculation left the companies undermanned, poorly equipped and ill prepared to fight. Even more distressing was the governors' free hand with both extraordinary and ordinary revenues. Of the approximately £30,000 that New Yorkers raised for military purposes, large amounts were siphoned off for the governors' private purposes, while huge public debts were left unpaid. Of the ordinary revenue that the assembly voted at two- to six-year intervals to cover administrative salaries and contingent expenses, some indeterminate fraction went to the appropriate purposes and the rest disappeared. Moreover, avaricious New Yorkers were ever ready to join their governors in fleecing the public. Not only did such placemen as the receiver-general, the attorney-general, the deputy auditor, and the port weighmaster profit from corruption, the provincial councillors also shared in kickbacks, inflated supply and services contracts, and the opportunity to lend money to the government at usurious interest rates.

The problem with excessively corrupt administrations is twofold. First, there is never enough to satisfy all of the powerful suitors all of the time. There were always some influential individuals left out of the last round of pork-barrel politics who were ready to take the lead against those who benefited at the colony's expense. Second, taxpayers tend to get mad. The soft hands of the governors might initially divert attention from their cal-
loused souls, but not for long. Before Fletcher's tenure had run many months, and shortly after Cornbury began his administration, community members began to protest against their maladministration. But public scrutiny soon moved beyond the governors to focus on the realization that the assembly's obligation to the community involved more than simply voting money for the exigencies of government. It required oversight of those funds to ensure they were spent for their intended purposes.

The major problem assemblymen faced was how to accomplish this objective. In the case of the extraordinary grants for defense, the assembly tried two tactics: it pressed the governors for leave to audit their accounts, and it wrote increasingly detailed appropriations into tax bills. The first initiative was bogged down in a quagmire of executive noncooperation. The second failed because there was no means of forcing compliance. The receiver-general, who held the tax money, was a royal appointee under no obligation to compare the terms of any act of appropriation with the warrants for payment that the governor signed and sent to him. The receiver-general's sole responsibility was to pay out whatever amounts the governor, on the advice of council, demanded. By 1704, exasperated assemblymen turned to more direct action. They would only vote extraordinary taxes if the revenue went into the hands of a newly created assembly-appointed official, the provincial treasurer. Because the treasurer was the assembly's appointee, he would make sure governors' warrants complied with the intent of the appropriating act. In quiet acknowledgment of its governors' perfidy, Whitehall agreed to this innovation, and by 1706 the new system was in place.22

The one major part of the colonial revenue that was still outside the assembly's reach in 1706 was the ordinary revenue. When Governor Slaughter arrived in New York in 1691, the first of many such royal representatives to be armed with instructions demanding a permanent revenue to support ongoing administrative and executive expenses, New York's assemblymen refused to follow the precedents of Virginia, Barbados, and the Leeward Islands.23 Distrustful of any taxation measures that might contribute to autocracy, the most the first assembly would offer was to authorize an excise and tariff revenue for two years.24 But in 1702, an anxious group of anti-Leislerians found some relief in trading a revenue extension, to run through May 1709, for Cornbury's goodwill and his approval of legislation repealing the Vacating Act of 1699.25 The Revenue Act provided a governmental income from import and export duties that was completely under the control of the receiver-general, the governor, and his closest advisors. In addition to the financial autonomy it bestowed on Cornbury's administration, it legitimized a customs system that the governor's officials could brazenly use to extort money from both overseas and coastal shippers.26 As one Long
Island critique described it, the customs offices were so filled with "subtil Fellows to inspect into every nice Point in the Law," that no one could safely take a vessel into New York harbor "except he were a Lawyer." Angered by Cornbury's continued mishandling of the revenue monies, and adamant that the customs racketeering should come to an end, by 1707 the governor's opponents were blackening his name with rumors of transvestitism and asserting that the assemblymen had determined never to vote a future revenue that was not minutely appropriated, administered by the provincial treasurer, and renewable only "from year to year."

These turn-of-the-century conflicts between elected politicians and their governors, and the factional fights that accompanied them, were particularly important in shaping New Yorkers' attitudes toward their provincial political institutions. Local experiences with Fletcher and Cornbury demonstrated very clearly that many governors were not to be relied on. They arrived in New York puffed up with their extravagant prerogative claims, symbolic proximity to royalty, and unbridled greed. The most common way colonials responded to the threatening stance of these outsiders was to try to puncture their pretensions by neutralizing some of their prerogative privileges. The one body that was capable of doing so was the assembly. With its ability to draw strength from the House of Commons analogy, and, when that failed or was inappropriate, from the argument that local legislative innovation was justifiable in defense of English rights, the assembly was well equipped to claim a sizable area of political competence for provincials to control.

The various sociopolitical conflicts that New Yorkers experienced reinforced this tendency. Divisions between regional, economic, ethnic, and religious groups, between the Leislerians and anti-Leislerians, and, in the upper reaches of society, between those who at any one time preferred greater popular control of tax revenues and those who supported greater gubernatorial autonomy, encouraged the development of a provincial self-consciousness among the colony's prominent and well-connected residents. But at the same time, two decades of factional conflict revolving around the personalities and preferences of successive provincial governors failed to provide the kind of security many established New Yorkers craved. Life and property remained in jeopardy as long as different groups of local antagonists were determined to wreak vengeance on their opponents the moment they gained the governor's ear. Tired and scared, New Yorkers at last acknowledged that no one group could count on enlisting the support of a succession of capricious governors. Their best option, then, was to limit the cost of internecine squabbling. This they could do by building popular power at the governors' expense and then staging their battles in the
less deadly arenas of assembly management and electoral politics. Self-protection was a very early and very powerful motivating force behind the New York Assembly’s encroachment on prerogative claims.

Crown land policy is one notable illustration of how self-interest brought provincials together to promote assembly power. In principle, New York landholders were to pay quitrents to the Crown, but few in fact did. Exemptions on old Dutch patents and a succession of large land grants at nominal rates meant that huge areas within the colony produced no quitrent income. In 1708, the Privy Council issued new instructions pertaining to land to Governor Lovelace. Henceforth a quitrent of two shillings and sixpence was to be paid on all newly patented lands, and no individual was to receive more than 2,000 acres in a single grant. Accompanying the instructions was news of a royal veto of the 1702 New York statute that had repealed the 1699 Vacating Act. The royal veto, upholding the Leislerian legislation voiding a number of Governor Fletcher’s land grants, sent a nervous shudder through many of New York’s large landowners. The reason for the annulment of the patents was that they had been extravagant and paid only nominal quitrents. On such grounds, any number of New York patents would be eligible for similar treatment.

The fact that the greatest threat to existing land titles arose from an act of their own provincial assembly was not lost on New York’s political leaders. Rather than try to use the assembly’s power to get at each other, they needed to turn it into a bulwark against whatever new threats the Crown might pose. If like-minded locals refused to pass further legislation revoking old patents or calling for strict new surveys of old deeds, they could frustrate any royal attempt to meddle with what locals regarded as their property. The only realistic option Whitehall would have left would be an act of Parliament, which was unlikely, given the reluctance of the British upper classes to call property rights into question. The land issue was also useful to those popular politicians who wanted to generate public support for aggressive assembly actions. Although tensions always existed between large landholders who sat in the assembly and their smaller neighbors who voted for them, it is also true that the questioning of old deeds and the promise of more effective quitrent collection frightened little men as well as big. Many small landholdings had been carved out of large patents, and doubts about the validity of the latter always threatened the integrity of the former. By suggesting that its ministers might alter or enquire into the terms of colonial property rights, the Crown made it easier for local political leaders to claim to speak for a popular antiprerogative consensus that urged a further expansion of assembly power.

New York’s early political experiences and the patterns of popular political thought to which they gave rise had the cumulative effect of prompting
assemblymen to push their institutional powers with considerable intensity. Drawing on the confidence legislators gained from the frequent meetings that wartime demands necessitated, and building on such powers as the right to specify the qualifications of provincial voters, to determine the conditions under which elections would be held, and to regulate its own membership, the New York General Assembly acted purposefully to augment its role in government. By withholding the salaries and expenses of the assembly clerk and public printer, the provincial representatives made the point that no matter the former's appointment by the governor, their livelihood depended on loyalty to the assembly. In cooperation with the speaker of the assembly, these two officials took a hand in shaping the political news that traveled to the council chamber and to the province at large. The speaker of the assembly was, of course, a crucial figure; in that position the lawyers William Nicoll and James Graham drew heavily on the analogy between their assembly and the House of Commons. In addition to claiming consistently all the rights and privileges of English legislators, the speakers fostered the development of a strong committee system, which in turn distributed responsibility for protecting parliamentary privileges among assemblymen, built up legislative experience among New Yorkers, and strengthened the institutional basis of representative government.

In their quest for greater institutional power, the assemblymen deliberately struck at the other two branches of government. The council, overweight and content with its status, was an easy opponent. The assembly representatives quickly knocked that body out of serious contention by steadfastly denying it the right to amend money bills. The royal prerogative, however, was a far tougher opponent. The assembly first tried to bruise the chief executive with a flurry of blows, increasing the number of representatives in the legislature, publishing their own schedule of fees for various administrative and legal procedures, and using their power over military appropriations to dictate tactical decisions that had once lain with the governor. When Whitehall disallowed the legislation augmenting assembly representation and setting fees, the assembly pressed on in other areas of executive power where it had enjoyed some past success. During preparations for the 1709 attack against New France, the assembly appointed commissioners to organize the campaign and administer the money the legislature voted for the war effort. This extreme form of encroachment on the prerogative rarely occurred in other colonies before the mid eighteenth century.

Following Lord Cornbury's departure from New York, the assembly continued to press against the prerogative. Its members expanded their list of legislative patronage, tried to replace appointed officials with elected ones, attempted to hand what limited revenues they did raise to the provin-
cial treasurer, fostered local government in manor lands and newly settled townships, and ardently defended its dismissal of the council's claim to amend money bills.\textsuperscript{44} When Governor Robert Hunter reasserted the prerogative right to set provincial fees by executive ordinance and reestablished a chancery court that dispensed equity law under the governor's personal direction, the assembly protested loudly, arguing that all fees and courts should be authorized by statute only.\textsuperscript{45} In addition, New York legislators tried to establish precedents to adjourn the assembly over extended periods, framed a bill to establish a colonial agent in London answerable only to themselves (rather than to both legislature and executive), and tried to intrude on the governor's unlimited discretion in appointing sheriffs.\textsuperscript{46} All of these demands, however, were secondary. The assemblymen's main goal was to force Hunter to accept annual revenue bills minutely detailing appropriations and placing the monies the assembly raised in the hands of the assembly-appointed provincial treasurer rather than in the grasp of the receiver-general.\textsuperscript{47} After jousting with the legislature for some time, a flagging Hunter wrote Whitehall that to his mind "ye Assemblye . . . claim[ed] . . . all ye privileges of a House of Commons and stretch[ed] . . . them even beyond what they were ever imagined to be . . . [in Britain]. . . . They will be a Parliament."\textsuperscript{48}

Initially, Hunter had as much difficulty as later commentators in trying to understand the intensity of assembly intransigence over the revenue. To outsiders, the issue appeared simple: governors had a compelling interest in gaining a perpetual revenue, assemblies in keeping their executives on as short a leash as possible. What complicated the conflict in New York, however, was that in the minds of many provincials a revenue was synonymous with customs duties. This occurred because for over twenty years legislators had funded the ordinary revenue on imposts. The specter of a long-term revenue thus conjured up memories, not only of uncontrolled executive spending, but also of numerous instances of customs corruption, which many believed to have seriously weakened New York's commercial economy.\textsuperscript{49} Moreover, a number of New York City merchants who "tho't it their interest" to avoid such taxes, used their "Arts" to strengthen the association of imposts with the revenue and thereby to discourage debate on the two as separate issues.\textsuperscript{50} By 1713, however, Hunter had discerned the problem, and he addressed it in an election screed, pointing out that a revenue need not be funded by duties on trade goods. He would be quite willing to accept a revenue based on a land tax—that is, a tax on real and personal property—despite his personal opinion that taxes on commerce were less injurious to the middling and poorer people.\textsuperscript{51} Hunter's appeal was politically astute, because even representatives of rural constituencies in some cases preferred
a land tax to the possibility of resumed racketeering under a renewed customs system.\textsuperscript{52}

During this period of intense political conflict, antipathy to the royal prerogative became as strong as it ever would in New York prior to the Revolutionary crisis. Even before Cornbury’s colonial fling, Fletcher had Westchester freeholders muttering that “if the Kinge of England had don as Ill . . . as our Governor . . . . They would have shortened him by the head.”\textsuperscript{53} By 1714, the infection was of epidemic proportions. So soured were New Yorkers that when Governor Hunter proclaimed George I’s succession to the throne, he met with “some awkward half huzza’s . . . but few.”\textsuperscript{54} Such thoroughgoing alienation was not, however, a comfortable state for most members of New York’s political elite. The attractions that had drawn provincials to serve and connive with early governors—status, cupidity, power, and some sense of noblesse oblige—tugged at their sleeves. New York’s popular politicians had staked out claims to a huge area of legislative activity, within which they might exercise power if they could but consolidate their position, compose their differences with the governor, and integrate their new roles into the web of patronage, place, and influence that centered on the province’s chief executive. Motivated by these large considerations, as well as by the fear of disorder that the 1712 New York City slave rebellion had awakened,\textsuperscript{55} apprehensive of unfavorable British intervention in their revenue dispute with the governor, and newly appreciative of Governor Hunter’s ability to placate British politicians of both Whig and Tory persuasions, many assemblymen began to look among themselves for guides who might lead them through the deadfall of past factional storms to reach an accommodation with the executive.

Hunter, too, was interested in some kind of rapprochement. Early in his administration, he had convinced New Yorkers that he was “a Man as tenacious of Power” as any.\textsuperscript{56} He unequivocally asserted his unilateral right to establish a chancery court and to publish a provincial fee schedule. And once he began to see how intransigent many legislators were on the question of a permanent revenue, the new governor tried to find a way to outflank his adversaries. He urged Whitehall to apply the new quitrent schedule announced under Governor Lovelace retroactively to old land grants, and in the meantime, he hauled a number of quitrent delinquents before his court of chancery to force them to pay up.\textsuperscript{57} Under current conditions, efficient quitrent collection would bring in a few hundred pounds per annum, but if all provincial landowners were required to pay two shillings and sixpence per 100 acres annually, the yearly revenue would potentially total thousands of pounds.\textsuperscript{58} Such a levy would not only provide a good income for the executive, it would also tend to break up the large land grants in the prov-
ince, because the owners would be unable to afford the quitrent payments. That, in turn, would facilitate the development of New York and ultimately provide a broader economic base for the support of the provincial government. But by 1714, the British attorney-general had advised that the new schedule of quitrents could not be applied to New York's pre-1708 land grants. That decision dashed whatever hope Hunter had nourished of gaining an independent income for himself and other Crown officers, save in the very unlikely circumstance that Parliament, itself, would provide a revenue for New York governors.

Rather than give up in disgust at this juncture, Hunter proved that “he knew well how to use . . . [the ‘power’ he did have] as most Men.” By skillfully employing patronage, his pen, the pleasing side of his personality, and a streak of pragmatic ruthlessness, Hunter worked to build a following among New York’s various interest groups and put together a coterie of prominent provincials who were willing to take the lead in supporting his administration. Led by Lewis Morris, an assemblyman (soon to be both assemblyman and chief justice), and Robert Livingston, a manor lord (soon to be assemblyman in a Hunter-created manorial seat), those political leaders who favored consolidating assembly power through conciliation took control of the assembly. Four provincial acts passed between 1714 and 1717, and a small number of informal understandings between Governor Hunter and the province’s leading legislators, formed the basis for legislative-executive accommodation. Two of the relevant provincial statutes, known as Public Debt Acts, provided for the payment of all unsatisfied claims against the government running from the current administration back over twenty-five years through the Leislerian regime. While many of the debts were small-scale, service-related obligations arising from New York’s various military enterprises, others were sizable ones that the politically prominent traced back to the days of Leislerian/anti-Leislerian battles. The latter category remained as an irritating reminder of old injustices and of competing claims to legitimacy. By the second decade of the eighteenth century, however, there was enough support from a new generation of politicians and a handful of the old, who were finally willing to profit from the past, if not forget it, to induce most diehard members of the old factions and their heirs to acknowledge each other indirectly by paying these old obligations. Having cleared up the problems left over from the misappropriations of past revenues, the assembly and governor were prepared to deal on the issue of a new revenue law. In return for his signing a sweeping Naturalization Act that granted citizenship to virtually all foreigners residing in New York, Hunter obtained a five-year revenue act. The money generated by its imposts was to be lodged in the hands of the provincial treasurer, not the
receiver-general, however, and although the treasurer was to acknowledge Hunter's warrants on the advice of council, the governor had promised to issue these warrants for precisely the amounts the assembly resolved upon as payment for government services. What underlay the agreement was a joint executive-legislative accord on the amounts Crown officers should receive, and an understanding that any future change in the salary schedule of government officers was to take place only after consultation between governor and assembly. Other informal aspects of the settlement were that assemblymen should have considerable input into patronage decisions on justice of the peace and militia appointments in their counties, and that Hunter would cease his efforts to have the British apply the new quitrent schedules to old patents. The assemblymen wanted Crown officials to be low-paid and dependent upon the goodwill of the province's legislators for their income, and Hunter was prepared to agree to that. With the revenue question out of the way and related issues resolved, Hunter and his legislators quickly developed the most amicable relationship that New Yorkers had ever experienced in their provincial government.

Popular criticism of the assembly settlement with Hunter was sparse, and for good reason. Between 1705 and 1715, New York's provincial politicians had gained control of virtually all of the colony's public finances and had turned the General Assembly into a powerful advocate of popular privileges. That contemporaries perceived the conflict between Cornbury and the assembly to be of epic dimensions is clear from the way in which it entered New York's political mythology. In 1765, for example, Peter R. Livingston tried to set in perspective New Yorkers' "most Noble Resolves" against the Stamp Act. He did so by celebrating them as the best "since Lord Cornbury's time," when the General Assembly had outspokenly voiced its determination to protect the populace from prerogative-bred predation. And if Robert Hunter was subsequently perceived to have been one of New York's better governors (despite his willingness to use tax money to buy off anyone of consequence in the Public Debt Acts), it was in no small measure owing to the considerable powers he yielded up to the assembly in order to achieve political accord. Secure in the power base that the Hunter settlement acknowledged to be theirs, New York's provincial politicians recognized how much easier it would henceforth be to guard their perimeters and to strike out on punishing forays against prerogative privileges should occasion arise. With power came the confidence necessary to establish the assembly as the dominant political force in the province. During the fifteen years in which the Hunter settlement structured provincial politics, the bulk of politically conscious New Yorkers came to believe that what made them "in Reality a free People" was the power they had
through their representatives to be the “Divisors of” their own “Excellent Lawes.” Only when the assembly held the upper hand could New Yorkers enjoy the “freedom” on which “Happiness . . . depends.”

What undermined the Hunter settlement, after fifteen years of relative peace between executive and legislature, was a bitter factional battle between a vocal band of critics, the best known of whom were Lewis Morris, Sr., and James Alexander, and a determined group of elected and appointed officials who supported Governor William Cosby. The political circumstances of this falling-out went back into the 1720s. In the assembly election of 1726, some of the old gang of Hunter supporters had failed to be returned because of popular dissatisfaction with their friendliness toward Hunter’s successor, Governor Burnet. Their assembly replacements, led by Speaker of the House Adolphe Philipse, quietly cozied up to Governors John Montgomerie and William Cosby. Stung by this turn, and by Cosby’s subsequent dismissal of Lewis Morris, Sr., as chief justice, a group of Morris’s friends attacked the Cosby coterie as tyrannical, capricious, and corrupt—charges that led to the well-known Zenger trial on freedom of the press.

One of the reasons why the public brawls of the mid 1730s were so intense was that they touched a very sensitive nerve in the New York body politic—land titles. The province was a patchwork of large patents, bearing nominal quitrents, that had never been adequately surveyed, and many landowners avoided registering their deeds. One important consequence of this was that those who did owe quitrents would rather “stand a . . . suit” than pay up. They felt their intransigence was justified because so many others were either exempt or kept their titles hidden. At the same time, various New York officials saw provincial land as a potential source of income. Individuals such as Surveyor-General Cadwallader Colden and Receiver-General Archibald Kennedy tried to encourage the efficient collection of quitrents in hopes of sharing in the proceeds. But the real threat was the governor. Governor Burnet had loved to sit in chancery flexing his prerogative muscle, and quitrent income noticeably increased as a result. Governor Cosby was even more menacing. His interest appeared to be less in seizing on quitrent delinquents than in using the chancery court to void uncertain patents. Such rulings would allow him to regrant the land, providing fees for his purse as well as the opportunity to extort a substantial share of the new land grant from the petitioners. Under these circumstances, the chancery court and provincial land policy became explosive political issues, contributing significantly to the political conflict that wrecked New York in the early to mid 1730s.

Although Adolphe Philipse, the pro-Cosby Speaker of the House, kept the assembly pretty well out of the specific wrangles between Governor Cosby and the Morris/Alexander faction that led to the Zenger case in 1735,
the latter group did include the legislature in its attack on the Cosby administration. They claimed that Cosby’s corruption had infected both placemen and assemblymen, and that the only way to counter that influence was to replace the old assembly representatives. The main reason why the New York Assembly had become lethargic, its critics asserted, was that along with his power of prorogation and dissolution, the governor had the option of prolonging an assembly’s life as long as he wished. Between 1716 and 1737, New York had two ten-year assemblies; and the Morris/Alexander faction used its intimate acquaintance with the behavior of the first of these to argue that members of the second had been bought off by their high per diem compensation, their influence over militia and judicial appointments, and their ego-stroking association with the high officers of government. The way to cleanse the House of Representatives, then, was to require annual, or at least triennial elections, and vote by ballot. Once that had been accomplished, the representatives could exercise closer supervision over appointive offices by restricting revenue appropriations to yearly grants. The momentum that this clamor for reform generated was considerable, and it carried over into the administration of Cosby’s successor, Lieutenant-Governor George Clarke.

For his part, Clarke hoped to restore some political peace to the province. An extremely successful land jobber in his own right, Clarke had no intention of either vigorously collecting quitrents or threatening existing land patents with legal reinterpretation or expropriation. Nor did he have any particular interest in parading prerogative powers in chancery. Politically, he was prepared to use both carrot and stick to achieve his objective of a five-year revenue act. He tried to signal conciliatory intentions by signing a Triennial Act in 1737 (how convincing that action was is unclear, for Clarke undoubtedly expected the Privy Council to disallow the act), but then he reached for a shillelagh. The governor would only put his signature on an excise-continuation bill necessary to prevent New York’s outstanding paper currency from plunging in value if, in return, the assembly would provide long-term government revenue. Before the lieutenant-governor’s resolve could be tested, however, the British went to war with Spain. Needing legislative cooperation in order to raise wartime funds, Clarke dropped his demands and began to sign yearly appropriation bills that marked a new milestone in assembly power. The annual appropriations listed government officers by name in addition to position, forcing the lieutenant-governor to come to the legislature to approve any replacement. Whitehall’s response to these innovations was predictable. The Privy Council disallowed the Triennial Act (although it did accept a Septennial Act in 1743), and when Governor George Clinton left England to take over from Clarke in 1743, he brought renewed royal instructions to insist on a permanent revenue.
By the 1740s, provincial politicians in New York were becoming more adept at dealing with governors who were either malleable or stubbornly confrontational. Clinton, however, proved to be both. Initially, Chief Justice and Councillor James DeLancey found the new governor receptive to DeLancey's pragmatic advice: view the small loss of power involved in the shift from the Hunter settlement to annual appropriations as an acceptable price for peace. Clinton acquiesced, until the outbreak of the French phase of King George's War in 1744 pulled him from his pool table. As befit a career naval officer, Clinton adopted a vigorous military policy that promoted the invasion and reduction of Canada. In doing so, he broke with the popular faction of councillors and assemblymen led by James DeLancey and David Jones and took as his principal advisor the most disliked public official in colonial New York, Surveyor-General and Councillor Cadwalader Colden.

The DeLancey/Jones coalition that controlled the council and assembly during the late 1740s was composed of a group of Albany and New York City delegates who preferred trade to hostilities with New France and a number of Long Island and Hudson Valley representatives who did not want an expensive war that their constituents would have to finance. They were also very suspicious of the motives behind Clinton's martial ardor. They knew that the governor was disappointed with the income his office provided, and that the quickest way for Clinton to add profit to his post was through control and exploitation of a large military budget. Determined to prevent this and to stop the place- and power-hungry Colden from entrenching himself more deeply in the provincial administration, the assembly, advised and assisted by a small group of councillors, went on the offensive. It appointed its own commissioners and paymasters to handle military appropriations; it decided what was needed in the way of fortifications, and its appointees handled the building contracts; it intruded on the governor's management of Indian affairs; it pushed Clinton into signing the legislation it wanted by keeping the annual revenue bill back until he had acquiesced; and it continued the practice of passing annual salary bills and of voting compensation to specific officials rather than to the offices. Knowing Whitehall would condemn these practices, it appointed an agent solely responsible to the assembly through its speaker, David Jones. By 1749, Clinton was complaining that "the Assembly have made such Encroachments on his Majesty's Prerogative by their having the power of the purse that they in effect assume the whole executive powers into their own hands."

Clinton's lament is not to be taken literally, but it is true that during his tenure popular forces seemed to overwhelm the prerogative. Goaded by the governor's insistence that the Crown's representative could "put Bonds &
Limitations upon your Rights & Privileges, and alter them at Pleasure," the assembly went as far as it ever would to enlarge its effective power. Among the judiciary, supreme court judges pressed for, and secured, appointments for "good behavior" that made them immune to threats of removal. So strong was provincial prejudice against military expressions of gubernatorial authority that New Yorkers denied the chief executive a unilateral right to order militia mobilization. If there was no act of assembly conferring such power, "the people . . . [believed they might] obey or not as they please." And finally there were negotiations with Amerindians to consider. Since the late seventeenth century, a Board of Indian Commissioners had handled relations between the New York and the Iroquois Confederacy. Although all members of this board, with the exception of the secretary, were gubernatorial appointments, the commissioners, who were from the Albany area, were far more sensitive to local opinion than to executive demands. Opposed by assemblymen, councillors, judges, and Indian commissioners, Clinton felt beleaguered, and the prerogative seemed to be pared to the bone.

Governor Clinton was not one to suffer in silence. He spent long hours formulating, composing, and recomposing his complaints. Eventually, the Board of Trade responded to his incessant laments with an inquiry into New York affairs. As a result of this investigation, the Privy Council sent a new governor, Sir Danvers Osborne, to the colony with very strict formal instructions. They expressed the Crown's deep displeasure with New Yorkers, ordered the assembly to retreat from its encroachment on the prerogative, demanded a permanent revenue, required that the appropriation of provincial monies be by executive warrant "and no other wise," and conferred on the Crown's deputy the right to suspend any royal appointee who showed evidence of collusion in restricting executive privilege. Having arrived in New York and recognized in the shocked faces of his councillors the impossibility of fulfilling his mandate, the emotionally unstable Osborne promptly hanged himself.

With Osborne's suicide in 1754, less than forty-eight hours after he assumed office, responsibility for governing New York devolved on Lieutenant-Governor James DeLancey, and until DeLancey's own death in 1760, the administration of the province was largely in his hands. Although the problem of reconciling British prerogative demands with popular provincial prejudices was immense, DeLancey was extraordinarily capable; with the help of his political partner, Speaker of the Assembly David Jones, he fashioned a political settlement as far-ranging and stable as Robert Hunter's had been decades earlier.

The most important precondition of any political agreement is a willingness to compromise, and DeLancey quickly convinced Whitehall of the
wisdom of doing just that. Governmental paralysis was not something the British wanted on the eve of war with France. By 1755, the Privy Council refrained from further censure of the New York government and allowed the executive to accept temporary revenue grants in situations of great “exigency or emergency.” In cases in which “a good understanding between the governor and the assembly” was essential, the British would accept yearly revenue laws even if they were tightly appropriated. What Whitehall demanded of the assembly was that it should honor the governor’s warrant and cease appropriations by name of royal appointee rather than by office.

The assembly’s leaders found it relatively easy to back down from the pugnacity they had directed at Clinton. They allowed themselves one last blast, defending their past actions and maligning their former governor. Thereafter the DeLancey/Joncs coalition spoke in restrained tones. They would not yield to British demands for a permanent revenue, because it would “unhinge . . . their interior system of government.” DeLancey could successfully urge this type of moderate, rational approach because he was a trusted native of the province, closely associated with the assertion of assembly power during the past decade. His closest allies and advisors were popular politicians, he championed the independence of the courts, and he fully understood the importance of keeping provincial officers on a low salary and tight leash if New Yorkers were to exercise the kind of control over their provincial affairs to which they felt entitled. Under DeLancey’s stewardship, the assembly was willing to swallow the British demand that some small discretionary financial power should remain in the governor’s hands.

Although the executive-legislative agreement over the power of the purse was an essential feature of the DeLancey settlement, the compromise had other important features, including efforts by contemporaries to address some of the colony’s land-related problems. Many of the province’s early land patents had been issued to several owners in joint tenancy. The reason for this was twofold: the inclusion of influential individuals in applications for land increased the likelihood that a governor would grant approval; and petitioners preferred to share the often-extreme administrative and legal costs of soliciting and defending a patent. As time passed and joint tenancies passed on to various heirs, ownership of these tracts became increasingly complicated; individuals who owned a share could neither alienate nor improve the land until they had split up the original grant. While they could accomplish this objective by writ of partition, that legal process was expensive, complicated, and time-consuming. Knowing this, the assembly had passed an Act of Partition in 1708 that established an easy method by which a minority of owners, resident in the colony, might swiftly
achieve their objective. But the problem with that act, from the point of view of the officials concerned with quitrent income, was that partitioning would validate both property and quitrent exemption claims that were doubtful under any careful enquiry into the circumstances and extent of the original patent. Once a partition had taken place, and land had been rented or sold to numerous farmers, it would be virtually impossible for the Crown to obtain what might still be reclaimed under an original grant. Surveyor-General Cadwallader Colden led the charge against partitioning acts, and by 1720, the Crown began repealing any such statutes the assembly passed.

Landowners' concerns about the difficulties of partitioning their lands subsequently merged with other fears they shared about retroactive quitrents, the potential use of the chancery court to vacate land titles, and the possibility of direct British interference in matters of provincial land policy. The extent to which New York's big landowners wanted a partition act became obvious in the early 1740s, when the assembly offered to legislate some order into quitrent collection (probably in response to haphazard prosecutions by the attorney-general), in return for a simple partitioning procedure. Recognizing that the quitrent collection procedures that the New York legislature outlined, might, in fact, create more, rather than fewer, legal loopholes through which quitrent delinquents might escape, and determined to protect the prerogative in such areas, Whitehall repealed the legislation. The whole cluster of land problems touching on partitioning, quitrent payments and the chancery court thus continued to simmer quietly, if uneasily, into the midcentury years.

Once the lieutenant-governorship of New York passed to James DeLancey, however, circumstances quickly changed. DeLancey immediately made overtures to Surveyor-General Cadwallader Colden and somehow silenced the most vocal New York critic of a partitioning act. By mid 1755, the assembly had passed such legislation; with DeLancey's support and no outspoken New York opposition, the British accepted the new statute. When, in one of his few demanding moments, Governor Charles Hardy suggested the New York Assembly might vacate three old land patents, DeLancey faded into the background and let his creole confidants sink the initiative. What many leading New Yorkers quickly recognized was that DeLancey continued to be one of their own, no matter his royal commission. Although personally more involved in New York City real estate than in speculating in outlying lands, James DeLancey was well aware that his politically indispensable brother, Oliver, was one of the most important land jobbers in New York. And the future well-being of many other DeLancey friends, relatives, and political supporters was tied to the status quo. The lieutenant-governor made it clear that he had no intention of using his chancery court powers either to pursue quitrent evaders or to threaten old
land titles. Heaving a collective sigh of relief, New York landowners relaxed somewhat. On the one hand, they continued their quiet resistance to the tax gatherer; on the other, they resorted to the chancery court as never before. In friendly hands, the court was no longer perceived as a danger, and it quickly became a very important dispenser of equity in the face of the peculiarities of colonial society and the rigidities of the common law.

Like the earlier Hunter agreement, the DeLancey settlement was an important achievement, given the intermittent bickering that had divided legislature and executive for two decades. Yet political conflict during these years was never quite as vituperative as it had been during the 1690s and early 1700s. Although acrimony divided contending factions, all celebrated the British connection, shared a common approach to imperial politics, and measured their success in much the same terms. Once James DeLancey headed the government, he personified the belief that a colony with a powerful assembly and a reduced prerogative, led by a competent creole elite, could be consistent with a strong British connection. His settlement, of course, institutionalized that belief, and it became the prevailing orthodoxy in New York politics until well into the Revolutionary crisis.

In functional terms, too, the settlement created a solid foundation on which legislative/executive relationships would rest for some time. The assembly gave up little of its practical control over the purse in the 1750s concessions. During the French and Indian War, it relinquished to the governor and the British military some of the supervisory roles over extraordinary wartime appropriations that it had earlier exercised. Later, in the 1760s, the Crown refused to continue commissioning supreme court judges on good behavior, preferring to reassert the privilege of appointing judges at royal pleasure. And under Lieutenant-Governor Cadwallader Colden’s indelicate hand, the security of land titles and of trial by jury seemed to be threatened. But none of these changes or challenges significantly reduced the assembly’s dominance in colonial politics. The DeLancy settlement had made explicit and unshakeable (short of revolutionary parliamentary intervention) what the Hunter agreement had made possible—provincials’ control of provincial politics.

*Aggressive Pennsylvanians*

When William Penn heard that Parliament might repossess for the Crown the proprietary powers of government Charles II had granted him, he knew that this was no hollow threat. It is one measure of the man that his thoughts immediately turned to the protection of his colonists. Royal governors would be unlikely to look favorably on a whole range of Quaker-influenced
laws and constitutional guarantees. “Think, therefore . . . of some suitable expedient and Provision for your safety, as well in your Privileges as Property, and you will find me ready to Comply,” the colonists heard Penn say. “Review again your Laws, propose new ones that may better your Circumstances and . . . do it quickly.”118 This was such surprisingly sweet music that popular political leaders froze for a moment, perhaps doubting their ears. Recovering quickly, however, they drafted a new constitution, entitled the Charter of Privileges, which Penn hastily, and with some reservations, signed on October 28, 1701, a few days before his departure for England.

The Charter of Privileges, which was to survive through 1776, was a remarkably innovative document. By increasing the number of elected officers in the provincial government and concentrating power in a House of Representatives, it gave unprecedented structural recognition to Pennsylvanians’ sustained quest for greater provincial autonomy. Henceforth, laws were to be passed by a governor, in concurrence with a unicameral legislature. The assembly possessed an array of powers that included control over all its officers, the right to “be Judges of the Qualifications and Elections of their own members,” power “to sitt upon their own adjournments, appoint Committees, prepare bills in or to pass into Laws, [and] Impeach Criminals and Redress Grievances.” Beyond that they were to “have all other powers and Privileges of an Assembly, according to the Rights of the free born subjects of England, and as . . . [was] usual in any of the King’s Plantations in America.” The charter gave no legislative role whatsoever to the provincial council; laws were to be passed “by the Governor with the Consent and approbation of the freemen in General Assembly mett.” No governor could prevent the assembly from meeting at least once a year, because the charter provided for annual elections on October 1, with the new assembly to convene each October 14. The county sheriffs would supervise elections, and to ensure a minimum of executive-inspired electoral manipulation, the charter required that the sheriffs themselves face the electorate every three years. This provision and the election of county coroners sharply departed from the practice in other colonies, as well as in Pennsylvania at the time, of including such offices in the governor’s patronage bag.119 In placing such considerable powers in the hands of the people and the assembly, the 1701 charter reflected the major trend of political development in Pennsylvania during the previous two decades.120

Two other major initiatives were part of the 1701 reforms. One was a new Philadelphia charter that reorganized the corporate structure of the city; the other was a judicature act that reorganized the colonial courts.121 Both measures shared a common purpose with the Charter of Privileges, to insulate Pennsylvanians from capricious executive and proprietary acts, the former by expanding the city’s autonomy, the latter by attempting to locate
as much judicial power as possible in the colony's regular provincial courts. The Judicature Act was as iconoclastic as the Charter of Privileges, for it took traditional equity jurisdiction, normally administered in juryless prerogative courts established by governors, and gave it to the common law county courts, with appeals in all cases to go, not to the governor-in-council, but to an autonomous supreme court. Penn or his deputy still possessed the right to appoint judges, issue a number of writs, and generally oversee the administration of justice, but the executive could have no direct input into actual court decisions. This legislation made possible what the 6th article of the Charter of Privileges promised, that “no person . . . [should] be obliged to answer any Complaint, matter or thing whatsoever Relating to Property before the Governor and Council, or in any other place but in the ordinary Courts of Justice, unless appeals thereto” were allowed by law.

Although the Charter of Privileges and the Judicature Act gave considerable power and protection to Pennsylvanians, leading provincial politicians thought these changes had not gone far enough. The province's future seemed to involve either a continuing proprietary overlordship or expropriation by the Crown. In the former case, provincials would have to contend with the self-interested demands of self-centered proprietors; in the latter, with the close scrutiny of an unsympathetic royal governor. In either case, locals felt they needed to expand their political power in order to protect their society's provincial concerns.

In the ensuing campaign to achieve that end, Pennsylvanians were led by David Lloyd, a contentious Welshman who had been in the forefront of the opposition to proprietary and royal authority for over a decade. Originally recruited as Penn's attorney-general, Lloyd had teamed up with his kinsman Thomas Lloyd, former president of the council, to oppose Governor John Blackwell during the late 1680s. During the succeeding decade, David Lloyd served as chief prosecutor in the court hearings against George Keith, conspired with other prominent Pennsylvanians to try to protect their political power by adopting Markham's Frame of Government, and defied the royal authority of both Governor Fletcher and Whitehall-appointed customs and admiralty officials. During the brief period of Penn's second Pennsylvania sojourn, Lloyd was prominent among the provincial notables who wanted to seize the opportunity to remedy local grievances and consolidate their power. A rare individual, whose mind was liberated rather than shackled by an exceptional command of the law and English constitutional history, Lloyd was up to the challenge. The new constitution, the Philadelphia municipal charter, a reorganization of the colony's courts and a document designed to protect Pennsylvanians' property rights—all owed either their drafting or inspiration to the Welsh Quaker.

Once the Charter of Privileges was in place in 1701, Lloyd was deter-
mined to pursue the goals he had outlined in his burst of creative thinking during Penn's last months in Pennsylvania. As speaker of the assembly through almost the entire first decade of the eighteenth century, Lloyd never tired of pushing the assembly to prominence. Encouraged by his provincial predecessors who had resolved to follow "the orderly Method of Parlia­ments, and the Demeanor of the Members thereof . . . in England," Lloyd took the initiative and strengthened the speaker's ability to manage legislative affairs, laid the groundwork for the future establishment of standing committees, and insisted on the adoption of rules of order and decorum—all of which promoted a sense of institutional integrity. Following the same rationale, that the provincial assembly should be Pennsylvania's House of Commons, subsequent assemblies went on to establish control over their own officers, regulate the fees of all governmental officers, set franchise requirements and election procedures for provincial offices, and exercise close control over the editing and dissemination of their official minutes. When the logic of replication did not suit their purposes, Lloyd and his friends simply turned the argument on its head. Conditions in the colony were different from those in the Old World, and William Penn intended his colonists to have more privileges than Englishmen had. When Governor John Evans refused to sign a bill that explained the assembly's charter right of sitting on its own adjournments as the ability to decide the timing and duration of all its meetings, members simply went ahead and created their own precedents for such action. Innovation, in the ostensible pursuit of Penn's stated ideals, in keeping with the peculiar needs of the province, and in harmony with popular interpretations of the colony's seventeenth-century constitutional traditions, was a laudable goal. Augmentation of the assembly's power was not simply an end in itself, but a means of accomplishing larger goals.

The most significant consequence of expanding the Pennsylvania Assembly's effective power in the early eighteenth century was that it enabled popular political leaders to invade territory that William Penn had marked off as his own turf. One such area was proprietary management of Pennsylvania real estate. Complaints had long accumulated against the shoddy way in which proprietary appointees had run the Pennsylvania land office, and in 1701 Lloyd had pushed Penn hard to sign a charter of property along with other reform measures. The proposed charter was to remedy some of the worst grievances—corruption in the surveyor-general's office, arbitrary resurveys, high-handed inquiries into titles, dilatory confirmation of patents, preemption of old property rights with new patents, and the Board of Property's assertion of quasi-judicial powers. Penn angrily refused to have anything to do with the document, and on leaving Pennsylvania ordered his officious secretary, James Logan, to investigate all land titles in the
province in order to maximize the proprietor's return from both land purchases and quitrents. That response only roused David Lloyd to greater efforts. In the summer of 1704, Lloyd drafted a bill that brought the proprietary land office and the activities of the surveyor-general and proprietary secretary under the regulation of the assembly. Governor Evans, of course, refused to pass the bill, but the point had been made: the assembly saw provincial property affairs as too important to the public interest to be left uncontested in proprietary hands. Popular political leaders would return to this part of Lloyd's agenda numerous times in future decades.

Governor Evans's stubborn defense of proprietary rights was not the only obstacle Lloyd faced at the turn of the century. Legal advisors to the Crown took a dim view of Pennsylvanians' efforts to use statute law to depart too radically from English law, or to ride roughshod over the prerogative. That became obvious in 1705, when Whitehall repealed over one half of the 105 provincial acts William Penn had signed into law. Characteristically, however, Lloyd tried to turn adversity into advantage. By that time he had become convinced that one of the most important of the annulled statutes, the 1701 Judicature Act, had not gone far enough. Referring back to the 1682 Frame of Government and Penn's enthusiastic promises from those heady years, Lloyd argued that Penn had promised to establish courts independent of executive influence. The Charter of Privileges had moved a step toward acknowledging that promise by requiring elected sheriffs, but the recently repealed Judicature Act had failed to advance that objective. This time Lloyd hoped to gain more ground. In the revised version of the act, he added clauses designed to promote court independence. While the power of judicial appointment continued firmly fixed in gubernatorial hands, Lloyd hoped to offset that bias by requiring that the executive remove judges on an address from the assembly: the proprietor might appoint, but the representatives could fire. To encourage further court autonomy, Lloyd drew on English precedents that allowed the courts to choose their own clerks and control the licensing of taverns and public houses. Both of these changes struck directly at proprietary prerogatives. Clerks were patronage appointments that gave the proprietor significant influence in the judicial and administrative system, and licensing of taverns brought him income. There were other innovations that furthered the assembly's ends, but none drew so much opposition as these. Although Penn much preferred to see courts established by legislative act, Governor Evans and Proprietary Secretary James Logan were adamantine against such concessions. So heated did the battle over the courts become that the governor eventually provided for the continuance of provincial courts by executive ordinance, and the assembly responded with an unsuccessful attempt to impeach Evans's chief advisor, James Logan.
During the first decade of the eighteenth century, David Lloyd drafted a basic blueprint for Pennsylvanians to follow in order to attain the kind of political power they felt they should have. He identified the importance of the assembly, and in establishing its foundations demonstrated ways in which it might continue to accrete power both in internal affairs and in its relationship with Whitehall. He identified the proprietary land office as a crucial place for popular politicians to watch if they were to protect their fellow colonists' property rights. Finally, he pointed out the importance of keeping equity jurisdiction away from the proprietor and of installing independent court officers throughout the judicial system. Of course, Lloyd's assemblies fell short of reconstructing Pennsylvania's government along the lines the speaker specified. But they did attain a good deal. There were few assembly gains in future years that were not encompassed within Lloyd's original vision.

In a general way the circumstances that prompted Pennsylvanians to push for political power were much like those of New York. The early Quaker elite, however fissured, quickly concluded that strong provincial institutions were the best defense against the vagaries of outside authority; and the colonial institution best suited for the accumulation of provincial political power was the assembly. Like New Yorkers, Pennsylvanians became very adept at ferreting out parliamentary precedents that bolstered the assembly's powers, and at pleading local exceptionalism to promote the same end. So, too, did gubernatorial claims, wrapped in Pennsylvania's peculiar packaging of proprietary prerogatives, seem proportionately larger than the English constitution sanctioned. Transplanted in an overgrown form, they inspired compulsive, if intermittent, trimming to reduce them to a style in keeping with colonial taste.

But the drive for popular power in early Pennsylvania was far more focused than in New York. Friends, toughened by persecution, were determined to build a society in keeping with both Quaker principles and their recollections of what William Penn had promised. Pennsylvania was to be a colony with greater popular privileges than others. It was to be free of religious persecution and any other intrusions of authority that might threaten Quaker standards of behavior. The workings of the Inner Light provided a paradigm for society at large. Pennsylvania's public world should be built from the inside out, its political character shaped by the religious precepts that Friends held dear. Quakers, for example, should stand firm against governors who wanted to encourage martial behavior. So should Friends incorporate their religion into Pennsylvania law: while legal fictions were necessary under English law to carry out ejectment proceedings against squatters or delinquent tenants, Pennsylvania law should be tailored to reflect Quaker values (i.e., that a lie was a lie, notwithstanding its legal
status, and that lies were unacceptable), not English precedent. There should be no compromise with fundamental truths.

Concern for the integrity of the “holy experiment” was one sentiment William Penn shared with his colonists, but their respective understandings of what that included differed immensely. And from the gulf that lay between colonists and proprietor came additional impetus for the development of popular power. In respect to the Crown, Penn was both an advocate and a cheerleader for his settlers. He vigorously defended the reputation of Pennsylvania’s merchants when customs and vice-admiralty officials arraigned them for illegal trade; he urged Quakers to fight for a universal substitution of affirmations for oaths so that Friends could qualify, if they chose, for all offices in the Pennsylvania government; he counseled Pennsylvanians to resist administrative orders from the Board of Trade or from Crown lawyers that were not explicitly grounded in English or Pennsylvania law; and, of course, when Crown expropriation of Pennsylvania seemed likely in 1701, he invited his colonists to strengthen their position “as well in . . . [their] Privileges as Property.” In his encouragement of colonial self-assertion, Penn was oblivious of the close connection between the Crown’s relationship to Pennsylvania and his own. His urgings against British administrative authority and oppressive English law were meant as just that and nothing more. His promise to “better . . . [his colonists’] Circumstances” in 1701 meant that he wished to strengthen both proprietor and Pennsylvanians vis-à-vis the Crown. When Pennsylvania’s political leaders came up with new constitutional proposals, they would “find . . . [him] ready to Comply with whatsoever . . . [might] render us happy, by a nearer Union of our Interest.” In Penn’s mind the eighteenth century began, not with an explicit endorsement of colonial autonomy, but with a mutual rededication of the Pennsylvania enterprise to proprietary/colonist comity.

It is doubtful whether any Pennsylvania political leader even heard Penn’s emphasis on meeting adversity with reaffirmations of unity. What they extrapolated from his words were blessings on their inclinations to enlarge the popular sphere of provincial competence. But what they subsequently saw juxtaposed against such encouragement was an apparent determination to frustrate their ambitions. No sooner had he left Philadelphia in 1701, than Penn tried to claim a proprietary veto over all Pennsylvania legislation. When that idea failed to fly, he appeared to favor both an augmentation of council power and a diminution of assembly privileges. The appointive council should be acknowledged as a primary part of government, while the chief executive should wield a power of dissolution and prorogation over the annual assemblies elected under the Charter of Privileges. With respect to property, the proprietor’s actions were even more offensive. Penn established a “Court of Inquiry” with wide powers to examine Pennsylvania
land patents.\textsuperscript{146} In part intended to remedy grievances relating to boundaries, location, and quantities, it was also a means by which proprietary officials could repossess “overplus” land, enforce settlement covenants, and calculate delinquent quitrents.\textsuperscript{147} Despite a recession in the early 1700s, Penn encouraged Proprietary Secretary James Logan to dun for land debts and collect back taxes that the assembly had levied for proprietary expenses.\textsuperscript{148} From Penn’s perspective, his demands were perfectly acceptable ones. His idea of a proper relationship between colonists and colonizer was a paternal one. Oversight of provincial government was his duty, and collection of proprietary debts was his right.

To Pennsylvania’s political leaders, who had enjoyed such a slack proprietary rein in the 1680s and 1690s, and who had heard only the founder’s exhortations to defend themselves, Penn’s policies revealed a perfidious proprietor. By the early 1700s, they were detailing William Penn’s sad fall from a charitable idealist to a power-hungry, tight-fisted “Tyrant.”\textsuperscript{149} In view of what the proprietor had once promised his first settlers, they argued that even the Charter of Privileges was “Diminutive of former privileges.”\textsuperscript{150} When word arrived in Pennsylvania in 1704 that the proprietor was trying to sell his governing rights to the Crown in order to pay off his debts, his colonists paid little attention to the fact that Penn was determined to protect as many of their rights as possible.\textsuperscript{151} Rather, they arraigned his administration in blackest terms.\textsuperscript{152} Approximately a year later, when Pennsylvanians became aware of Penn’s huge debt to his former business agent Philip Ford, and thus had a means of explaining away some of his apparent avariciousness, perhaps a few felt some sympathy for their old benefactor.\textsuperscript{153} But charity soon dissolved into anger when they learned that Penn might have deeded Pennsylvania to Ford as long ago as 1696, thereby rendering uncertain all land titles granted during the previous decade.\textsuperscript{154} The more Pennsylvanians learned about their proprietor, the more they were convinced that the best part of William Penn had been his advice to expand their power and steadfastly resist encroachment.

Relationships between William Penn and Pennsylvania’s popular political leaders were often highly emotional ones, in which Penn alternated between anger and self-pity in the face of successive waves of antiproprietary sentiment.\textsuperscript{155} In such circumstances, personalities came to play an important part in the conflicts of the day. David Lloyd, for example, believed that the way the proprietor treated him was a microcosm of Penn’s betrayal of the province. During a second appointment as Pennsylvania’s attorney-general in the late 1690s, Lloyd felt he had Penn’s tacit approval in frustrating the efforts by customs and vice-admiralty court officials to augment their authority. But when the proprietor arrived on the scene in 1699, he quickly acceded to the Privy Council’s demands that he sack Lloyd.\textsuperscript{156} To someone
of Lloyd’s character, a man who “knew not what it was to bend,” this was unconscionable.\textsuperscript{157} Thereafter, Lloyd turned his unrivaled political talents to humiliating Penn and undermining the proprietary system. And as the scars from Lloyd’s attacks accumulated, Penn retaliated in kind. Excusing himself with the same rationale Lloyd employed (as Penn put it, Lloyd had “turned” against his benefactor as easily “as a nose of wax”), the proprietor periodically whirled on his tormentor and aimed a vicious blow at Lloyd’s exposed political flank.\textsuperscript{158}

Although the distance between Philadelphia and London prevented direct confrontation between Lloyd and Penn, it did not prevent battles by proxy. Lloyd provided information to Penn’s English opponents, while in Philadelphia, Penn’s administration was led by officials anxious to best Lloyd.\textsuperscript{159} Governor Evans was one such Philadelphia resident, but he was an inexperienced lightweight, whose impolitic actions did more damage to Penn’s interest than he ever inflicted on Lloyd.\textsuperscript{160} Although Evans was Penn’s titular representative, it was Proprietary Secretary Logan who was Penn’s chief surrogate. And in Logan, a man dismissive of “meer Pennsylvanian[s],” Lloyd had a serious opponent. To Lloyd and his friends, the arrogant, intellectually precocious Logan seemed to personify the true character of the proprietary regime.\textsuperscript{161} Logan’s power derived not from the Pennsylvania community but from England; his chief political goal was to augment the power of appointed officials and diminish that of elected representatives; he ran the land office like a personal fiefdom; and the proprietary policies he strained to implement frequently seemed at odds with the colonists’ best interests.\textsuperscript{162} From 1706 through 1709, one of David Lloyd’s priorities was to impeach James Logan, and Philadelphians’ ears echoed with the charges and countercharges that the two exchanged.\textsuperscript{163} The cumulative effect of their seemingly interminable spat was to widen the already sizable gulf between proprietor and people.

No matter how much personal rivalry seemed to generate differences between Penn and Pennsylvania’s popular leaders, that was not, of course, the fundamental reason for the conflict. Lloyd’s antiproprietary movement sprang from deep roots within the Quaker subculture. Friends were predisposed to reject any authority that was not consistent with and did not enhance their family and community life. Contribution to the socioreligious integrity of Quakerism was the only acceptable criterion for remodeling British society in Pennsylvania. And only the community of Quakers in Pennsylvania, not a far-off proprietary landlord, was capable of deciding what governmental policies were consistent with Quaker values. Pennsylvania Friends had experienced some of that freedom in the 1680s and 1690s when they fought off external threats, and when Penn intermittently left them alone. Having tasted the wine of freedom and power just
yesterday, they were not about to relinquish the bottle to the proprietor today. Encouraged by their new constitution and provoked by proprietary policies that seemed so out of touch with new-world Quaker attitudes, Pennsylvania’s political leaders strove to curtail proprietary influence and consolidate as much political autonomy as they possibly could.

Preoccupied with William Penn’s proprietary claims, and viewing their position within the English domain as that of residents of a private colony, provincials in Pennsylvania were less concerned than residents of a royal colony like New York about questions regarding their relationship to the Crown and of what loyalty to their sovereign meant. To most Pennsylvanians, their governor was primarily the proprietor’s deputy rather than the Crown’s representative. They did not perceive an attack on proprietary/executive power as a challenge to royalty, and neither did the questionable conduct of governors bring any great disrepute on the Crown. There were, however, a small number of Pennsylvanians who saw the fighting between proprietary and antiproprietary factions as an opportunity for themselves to emerge as the chief advocates of royal government. This shrill choir was largely composed of Anglicans, a few leading tenors from the customs and vice-admiralty court services, and a disharmonious chorus of old settlers, recent immigrants, and Keithian refugees from Quakerism. What brought them together to perform was their sense of grievance stemming from Friends “not suffering them to be superior” as befitted members of the Church of England. They hoped to exploit the loyalty issue, claiming that neither proprietor nor Quaker populace paid proper respect to Crown policies and English law. Anglicans felt that they might end up with the positions and influence that rightfully belonged to men of their creed if the Pennsylvania experiment could be discredited in England and Penn’s proprietorship expropriated.

The Quakers’ response was their standard one to any threat of outside authority: they resisted it with intelligence and vigor. When a vice-admiralty court was established for the Delaware region in 1696, the Pennsylvania government, led by David Lloyd, passed an act ostensibly to comply with the Navigation Act that authorized the court. Despite its professed intent, the law actually required that all alleged violations of the Navigation Acts occurring on inland waterways (including the Delaware River) should be tried, not before vice-admiralty courts, but before a jury in the province’s common law courts. Of course, the short-run successes of such trickery did not dull Quakers’ appreciation of the extreme dangers that royalization might pose. The drafting of parliamentary legislation to repossess proprietary governments, and the possibility of Penn voluntarily selling his governing rights, encouraged Pennsylvania’s political leaders to push for as much autonomy as possible. The 1701 Charter of Privileges was an attempt
to guard Quaker powers and rights against royal intrusion. Subsequent assembly gains were as much a hedge against future royal government as a rejection of an overbearing proprietor. The cagey David Lloyd was quick to recruit Anglican critics of proprietary government, knowing that whatever popular political gains came through their help could quickly be turned against Anglican placemen should Pennsylvania be royalized. Because the focal point of local politics was proprietary, not royal, power, relatively few local Anglicans concerned themselves with the implications of Lloyd’s activities. When they did, they were unsuccessful in effectively raising the issue in the appropriate English court circles.

That left Pennsylvania’s political leaders free to use the issue of royal government in whatever way they chose. They might confront royal officials directly and challenge their role in a proprietary government. They might, as David Lloyd occasionally did, exploit the loyalty issue by contrasting the rights the Crown had so generously granted in the Royal Charter with Penn’s parsimony in the years that followed. But never did the Quaker leaders suggest that royal government would be preferable to proprietary. They all believed that loyalty to the Crown was perfectly consistent with proprietary government; to demonstrate that, they participated, to the extent that Quaker principles allowed, in the public ceremonies and rituals that citizenship of the British empire required. Pennsylvania’s Quaker political leaders were as much loyal Englishmen as any other group of comparable colonials, but their primary objective was to secure as much autonomy as they possibly could within the imperial scheme of things.

By the end of the first decade of the eighteenth century, the animosity that had characterized relations under the Charter of Privileges began to quiet down. More moderate politicians temporarily took assembly leadership out of David Lloyd’s hands; Governor Evans was replaced in 1709; James Logan departed on an extended trip to the British Isles in the same year; and William Penn suffered an incapacitating stroke in 1712. Although Penn lived on until 1718, provincial affairs lacked authoritative proprietary direction from the onset of Penn’s illness through 1732, when a settlement was finally reached among his heirs. During most of that time, Penn’s second wife, Hannah Callowhill Penn, provided administrative leadership from Great Britain, while Governors Charles Gookin, Sir William Keith, and Patrick Gordon served as the proprietary deputies in Pennsylvania.

Different as Gookin, Keith, and Gordon were, all shared one important characteristic—all needed, or felt they needed, a sizable income to build themselves estates and “support the dignity of government.” That placed them at the mercy of the assembly, because members of the proprietary family, deeply in debt, unclear of their respective responsibilities, and with little income from Pennsylvania, believed they could no longer afford to
support the province's governmental establishment. Long before that time, under Governor Fletcher, David Lloyd had demonstrated to fellow Pennsylvanians how to deal with hungry governors: offer to trade financial support for the legislation provincials wanted. A successful exchange of that sort took place during a brief interlude in the almost constant war between Governor Evans and the assembly. Early in 1706, the representatives agreed to pay Evans over £800 for his assent to fifty acts. There were no subsequent deals, because the two parties soon resumed their paper war. Once the unpredictable and avaricious Governor Gookin arrived in Philadelphia, however, “the trade” became an integral part of legislative-executive dealings. Under Keith and Gordon, the bargaining was far less blatant, but both recognized that passage of popular legislation was the sine qua non of financial support of the governor.

In order to facilitate productive bargaining, the assembly dropped some of its old antiproprietary demands, such as insistence on changing the land office from a private to a public one and on the right of the people to strip judges who misbehaved of their commissions. But in so doing the legislators lost little of their aggressiveness. They simply switched their attention to other, more realizable goals. By the end of the 1720s, they had secured a series of acts that restored much of the court system outlined in David Lloyd's repealed Judicature Act of 1701; they persisted in drafting bills that allowed Quakers to substitute an affirmation for the oaths public officials and citizens were required to swear; they sponsored legislation that increasingly confined the activities of the proprietary land office to the sale of new land and the collection of quitrents; they established a new elective county commission system of government that undercut much of the administrative power of appointed justices of the peace; they provided for a measure of popular input into the running of Philadelphia City by requiring that elected assessors raise all local taxes; they demonstrated that they had the power to create new counties and assign representation to those areas by their creation of Lancaster County in 1729; and they expanded their patronage privileges over a number of administrative appointments. Cumulatively these measures placed substantial power in popular hands.

A second way in which the assembly augmented its power was to exert popular control over provincial finances. Back in the days of David Lloyd's dominance, the groundwork had been well laid. In an early Revenue Act, the assembly had participated in choosing a new provincial treasurer. In a subsequent act, it reconfirmed the choice, required that all tax revenues be lodged with that official, specifically appropriated what was to go to the governor, and provided for other funds to be drawn in accordance with assembly resolve and the speaker's warrant. Although the council briefly
challenged the assembly over the nature of the treasurer’s obligations, the House of Representatives clearly controlled the disposition of tax monies subsequent to that 1706 Act. Thereafter, as the level and range of taxation grew, so did the assembly’s reach, extending its power over the appointment of new tax collectors, putting more proprietary placemen, such as the chief justice and attorney-general, on its payroll, tightening its oversight of the treasurer by auditing his accounts, and confirming its own nominee in that post when the position fell vacant in 1714.

From the point of view of popular politicians, their virtual monopoly on financial power was a fine accomplishment. But there was a problem with it. Constituents now knew exactly whom to blame for the tax load they carried. From one side, the proprietor pressed them for his land-purchase payments, while on the other, the local collectors demanded current provincial levies and arrears from earlier laws. Assemblymen were unperturbed by the discontent proprietary exactions generated, but they worried when complaints came their way. Fortunately, from their perspectives, the representatives found an ingenious solution to their problem.

During the 1720s, economic pressures drove the assembly to adopt a paper currency, a step that other colonies had followed when threatened by large government expenses or by a severe shortage of specie. The Pennsylvania legislation put the bulk of the newly printed currency into circulation through the agency of a provincial loan office. The trustees of this agency loaned out the currency in small amounts, between £12 10s. and £100, to those who could offer land or personalty as security. The recipients were required to make regular yearly remittances, which included equal installments of principal and modest, under-market interest payments. In addition, the assembly spent some of the currency for the support of government and for provincial and county public works. These provincial expenses were to be paid back by future tax levies, the most important of which were excise taxes on alcoholic beverages.

The Pennsylvania loan office was a remarkable success, and in becoming so, significantly increased the power of elected politicians. First, many constituents credited the House of Representatives with saving property and businesses during bad times, and, in better days, with giving capital-poor but ambitious Pennsylvanians the opportunity to improve their lot. The loan office was an institution that in tangible ways really could benefit ordinary people. Second, the assembly noticeably extended its power of patronage. The loan office provided paying jobs for cash-hungry politicians and influence over loan decisions and collection policies. Finally, in the annual income accruing from interest payment on loans, the legislators enjoyed a secure income to be appropriated as they wished. As long as the loan office re-emitted loans and the excise tax was continued, the assembly
was financially autonomous, able to avoid levying unpopular land taxes and to maintain complete control of government expenses.\textsuperscript{191}

By the end of the 1720s, Pennsylvania’s popular politicians had made their assembly the most powerful in the British colonial world. But knowledge of that inspired little complaisance. They continued to cultivate the convictions and habits of mind that had brought them so much, and as old leaders gave way to new, the succeeding generation fell heir to a provincial political tradition that demanded an exceptional degree of autonomy. Thus, in the 1730s and 1740s, the assembly continued to accrete power. Under Andrew Hamilton’s leadership, the House of Representatives became more forceful about its rights, clarifying them and elaborating on them when it felt the need.\textsuperscript{192} After an argument with Governor Gordon, Hamilton shut down the anemic chancery court that, in a rush of post-rapprochement rapture, representatives had allowed Governor Keith to establish in 1720.\textsuperscript{193} Under Hamilton’s successor, John Kinsey, the assemblymen became more aggressive. They cut off Governor George Thomas’s salary to bring him to heel, (“Starve him into compliance or into silence is the common language . . . here,” stormed Thomas) and then lengthened the duration of the excise tax and loan office re-emissions in 1746 to provide the legislature with an assured income through the next decade.\textsuperscript{194} In addition, they augmented their patronage list of appointed officials, established a colonial agent in England answerable only to the assembly, and increased the number of elected local officers in Philadelphia.\textsuperscript{195}

During the early 1740s, when the assembly was locked in conflict with Governor Thomas over the chief executive’s enlistment of indentured servants (to serve with the British in the West Indies) and over the assembly’s unwillingness to undertake the preparations for defense that Thomas thought the outbreak of war with Spain warranted, spokespersons for the executive branch of government finally began to realize how thoroughly the assembly dominated Pennsylvania government.\textsuperscript{196} “Fatal was the complaisance in . . . Governmt,” lamented Provincial Secretary Richard Peters, that in the 1720s allowed the assembly to begin the practice of disposing of “the Publick Money” “independent of the Governor.”\textsuperscript{197} Fresh from his experiences in the British West Indies, Governor Thomas was equally discerning. “When the Assembly was vested with the sole Power of Disposing of the publick Money & of adjourning to their own time,” Thomas concluded, “they were vested with the Powers of Governmt so amply as to render the Governor a cypher or no more than nominal.”\textsuperscript{198}

What compounded the depression that Peters, Thomas, and a handful of other administrators felt was their recognition that the executive’s weakness lay rooted in deep-seated popular hostility to the proprietary. Despite the gains that the Pennsylvania Assembly had made under William Penn and
later under Hannah Penn’s custodial eye, politically aware provincials periodically reminded one another of past proprietary pretensions and the Penns’ resistance to popular power. And the recent residence of William Penn’s son Thomas in Pennsylvania had sharpened the edge of the province’s antiproprietary folk memory. Thomas Penn’s chief purpose in coming to Pennsylvania in 1732 was to bring order to the land office and to turn the family’s colonial enterprise into a lucrative business. To that end, he raised the price of land by 50 percent, doubled the quitrent rate, set about collecting old debts, demanded public compensation for accepting the province’s paper currency in lieu of sterling on old quitrents, and did little to lessen the cronyism and corruption that attended land office affairs. The cumulative effect of Thomas Penn’s land policies was clear to Governor George Thomas: “Every disappointment in a bargain of land, or something else as trifling is a good reason for opposing the Government,” wrote Thomas, “the governor being appointed by the Proprietors, who have disoblged . . . [the people] either by demanding what is due or giving a preference to one thought more worthy.” When the few leading Philadelphians who did support a stronger executive disgraced themselves by their implication in the well-known election riot of 1742, Governor Thomas felt he had no option but to placate the assembly, confirming and consolidating the powers that the legislature claimed.

If Pennsylvania’s popular leaders had slipped slightly into complaisance after gaining control of the province’s financial system during the 1720s, the activities of Thomas Penn and initial policies of Governor Thomas bestirred their successors. “Young fiery men have too much sway,” complained Richard Peters. “The members [of the assembly] are . . . stiff & unyielding in every popular Case.” In 1750–1751, for example, the provincial representatives increased the powers of elected officials in Philadelphia and renewed attempts, for the first time since David Lloyd’s day, to regulate the land office. That merely confirmed Thomas Penn’s view that “as often as an Assembly meets, they . . . desire to throw something onto the peoples scale.” And when the proprietor suggested that a chancery court constituted by gubernatorial ordinance might help the proprietary cause, Governor James Hamilton treated Penn to a dose of reality: “as the road to both power and wealth passes entirely through the channel of the People in this province, Our lawyers . . . will not hazard their interest with them, by . . . [applying to practice in such a] Court.” By the early 1750s, the beleaguered Governor Hamilton was sounding the same lament as his counterpart, Clinton, in New York. The colonial bird of state was so “pluckt” of “the powers of . . . Government,” “as scarcely to have a feather left, either for Ornament or Defence.”

Unlike the situation in New York, however, in which a provincially
trusted lieutenant-governor and a backpedaling Privy Council created some room for executive-legislative accommodation, Pennsylvania met with an uncompromising proprietor and accentuated conflict. In 1746, Thomas Penn succeeded his elder brother John as chief proprietor and began to implement policies that he pursued virtually until the Revolution. Influenced by his Pennsylvania placemen crying their weakness, encouraged by a personal financial position that could withstand some temporary disruption in his Pennsylvania income, and backed by a rejuvenated Board of Trade, Penn decided that he would try to turn affairs in Pennsylvania around by enhancing executive power at the expense of the assembly. Early in the 1750s, Penn promised to come to Pennsylvania to lead the anticipated battle, but in fact, he had no stomach for the direct confrontation such a journey would entail; throughout his life, Penn preferred to fight through proxies. That was easy enough to do in Pennsylvania. In the decades that followed William Penn’s ill-fated attempt to claim a proprietary veto over colonial legislation, the proprietary had always maintained the right to load its governors with specific instructions, just as the Crown freighted its chief executives in royal colonies. The assembly had from time to time fought such pretensions, most notably during Sir William Keith’s governorship, when Hannah Penn had demanded that Keith take no action without the consent of his council. Since that time, the assembly had usually been successful in forcing Pennsylvania governors to disregard their instructions when these conflicted with cherished provincial priorities. Knowing this, Thomas Penn chose his ground carefully. In 1756, the excise tax would expire and the loan office’s currency would begin to be withdrawn from circulation. That would steadily cut the assembly’s income until it became a trickle, and simultaneously focus popular pressure on the legislature to pass a statute authorizing the loan office to re-emit funds for new mortgages. Penn’s price for allowing his governor to sign a new excise bill and the re-emitting legislation was to be heavy: joint executive-legislative appropriation of all revenues the new laws produced. In demanding executive participation in the appropriation of provincial monies, the proprietor was aiming to turn the clock back by half a century.

Once cursed by their proprietor, the representatives were again cursed by international events. The French and Indian War broke out in 1755, and in order to defend their province, Pennsylvania’s legislators had to finance a large war effort. That meant both renewing the excise duties and, for the first time since Queen Anne’s War, levying large land taxes. In the case of the excise, the assembly protestingly bowed to the proprietary yoke by accepting joint executive-legislative appropriation of the revenue. In the case of the land tax, the representatives found themselves in a prolonged stalemate with the proprietor. Knowing that his father had always claimed exemption
from land taxes, Thomas Penn demanded the same treatment. The poor freeholder and tenant should ante up for the province’s defense, but from the colony’s largest landholder, not one shilling. And this was precisely at a time that Penn was orchestrating an unprecedentedly large legal offensive against quitrent and land-purchase debtors. For the next eight years, the assembly kept after Penn as he twisted to avoid taxation. First, he granted a gift of £5,000 in lieu of taxation. But when the time came to collect, the assembly found that Penn had instructed the money to come out of delinquent quitrents, which, of course, put the burden back on the freeholders. Next, he agreed to taxation in principle, but then exempted all his located unimproved land, quitrent income, and purchase money at interest. As Benjamin Franklin put it, that left only “a Ferry-house . . . a Kitchen, and a Dog Kennel,” eligible for taxation. Finally, when the Privy Council eventually interceded to hasten a settlement, Penn’s agents put an initial construction on the language of the agreement that would have resulted in all Penn’s lands paying taxes at the lowest possible provincial rate. Once this last had been fought, the assembly did establish its right to tax the proprietor. But the price was that the House of Representatives had to share powers of appropriation either directly with the governor or with commissioners chosen jointly by executive and legislature.

The long and rancorous dispute between Pennsylvania’s local leaders and Thomas Penn led popular provincial politicians to extremes reminiscent of the colony’s early decades. Goaded by the inventive duplicity of both Penn and his few Pennsylvania allies, the assembly’s masterminds, Isaac Norris, Benjamin Franklin, and Joseph Galloway, became as uncompromising as David Lloyd had been long ago. They argued that the popular powers Pennsylvanians enjoyed were the price William Penn had paid “in order to settle his Province without any charge to himself or to the Crown.” By midcentury, these powers were firmly grounded in the province’s charters and laws, in the assembly’s origins as an “English Representative Body,” and in the Privy Council’s past willingness to accept the province’s internal system of government. And when opportunity appeared in 1758–1759, in the form of a governor who could be bought, they sponsored a clutch of laws that harkened back to David Lloyd’s agenda. Among the most important of these were acts appointing Pennsylvania judges for good behavior, taking over the administration of the land office, and setting up a new civil appellate court staffed with assembly appointees. Predictably, the Privy Council disallowed much of this legislation at the same time as it oversaw the ultimately binding compromise between the assembly and proprietor over the taxation of his colonial estate.

“Soured” by the loss of their punitive legislation and angered by the
subsequent proprietary efforts to avoid fair taxation of Thomas Penn’s lands, Pennsylvania’s popular politicians then initiated one of the most bizarre episodes in colonial history. Under Benjamin Franklin’s leadership, the Quaker Party tried to orchestrate a popular movement in favor of royal government. In order to comprehend how Franklin, Joseph Galloway, and other popular leaders came to embrace this unlikely way of protecting the political autonomy Pennsylvanians had striven to maintain over the previous three quarters of a century, especially when Whitehall’s decision to tighten imperial controls was already evident in the early 1760s, it is necessary to appreciate something of Benjamin Franklin’s intense loathing of Thomas Penn. But just as important (and more relevant in this context) was the way in which the short-lived campaign for royal government revealed how Franklin and his friends fell victim to the arrogance of power. Put a different way, the policy of petitioning for royal government testified to how completely the assembly had dominated Pennsylvania government: late colonial popular leaders were so certain of their preeminence that they could not imagine even the direct supervision of the Crown reducing their stature. At the same time, years of distant, unreflective obesiance—feeding the British lion, as it were, without feeling its breath—had lulled Pennsylvania legislators into thinking that predation had somehow given way to protectiveness.

Despite the intermittent conflict between assembly and proprietor during the 1750s and 1760s, the Pennsylvania Assembly remained the same powerhouse it had developed into during earlier colonial days. Determined to develop a society with as much internal autonomy as a colony could possess, and imaginatively aggressive in their pursuit of such ends, Pennsylvania’s popular politicians established the assembly as the dominant political force in the province in the early eighteenth century. And that tradition continued on through the colonial period. What the assembly lost in the 1750s and 1760s in the way of sole powers of appropriation was, in practice, quite limited. Throughout the French and Indian War, the representatives had an effective veto over commissioners in charge of wartime expenditures and, in fact, many of them were popular political leaders. Moreover, the assembly continued to pick up ancillary powers—considerable control over the Indian trade; recognition from Thomas Penn that the land office should function as a public office; and the right to tax proprietary property in the same way, and with the same personnel, as other owners. By the late colonial years, the Pennsylvania Assembly stood muscular and solid, little touched by the proprietary challenges that had come its way. No colony’s record is more illustrative of British North American settlers’ taste for popular power than Pennsylvania’s.
The most striking similarity between early eighteenth-century New York and Pennsylvania was the rapidity with which provincial leaders developed popular political power. Frustrated by unfulfilled promises, fearful of autocratic forces that had frequently swept through Europe, Britain, and the English colonial empire, convinced of their right to political representation, and encouraged by the example of older colonies with well-established assemblies, both New Yorkers and Pennsylvanians pushed early and hard to establish a powerful, popular political presence. Vexed by years of arbitrary taxation and financial mismanagement, at the first opportunity the New York Assembly went straight for the strategic center of prerogative power—the provincial purse. Given great financial leverage by the demands of early eighteenth-century wartime budgets, the House of Representatives quickly took advantage of the executive’s dependence and annexed a series of powers New York governors had formerly enjoyed. In Pennsylvania, provincial leaders tended to advance on the proprietor over a broader front, with a general swarming attack. But motivated as they were by an intense Quaker-based desire to establish a colonial society largely on their own terms, and encouraged both by William Penn’s intermittent urgings to protect themselves and by his proprietorial weaknesses, they were, if anything, more effective than their New York counterparts. Early in the eighteenth century, much earlier, in fact, than in the more leisurely southern colonies, the provincial representatives of New York and Pennsylvania established their assemblies as the dominant force in colonial government. This early assertion of popular power was of utmost importance in each colony’s political development, for it stood out in the collective memory of later generations of political leaders as a standard by which they measured and justified their own activities. In New York, turn-of-the-century victories over Lord Cornbury became the measure of patriotic provincial politics, while in Pennsylvania, the Charter of Privileges was frequently perceived as a reference point provincials could use to judge whether they had gained all that William Penn had promised and that earlier charters (including Penn’s Royal Charter) had established in principle.

This built-in provincial dynamic that enabled New Yorkers and Pennsylvanians to continue to emphasize, both consciously and unconsciously, the accretion and consolidation of popular power throughout later decades was reinforced, of course, by other circumstances. Two notable antiauthoritarian strands of English political thought—the first, the language of seventeenth-century English opposition to the Crown, the second, the radi-
cal Whig description of post–Glorious Revolution politics as an unrelenting battle between liberty and the forces of ministerial corruption—
influenced public opinion in the colonies to support assembly initiatives
circumscribing prerogative and proprietary privileges. Very quickly, too,
first-generation provincials came to recognize that Whitehall's placemen
frequently lacked knowledge of, or desire to serve, the interests of the
colonial community. Provincials soon developed more confidence in the
abilities of their elected representatives and in their own judgments on
public affairs than in those of their governors. That sense of competence and
self-confidence grew rapidly in the eighteenth century as the assemblies
built up a fund of political and governmental experience. With the growing
complexity of New York and Pennsylvania, an “array” of issues (including
“defense, the need for a medium of exchange, Indian relations, transportation facilities on a . . . [broad] scale, intercolonial relations, and the regulation of competing economic, ethnic and religious groups”) appeared that
were beyond the scope of local government and unsuitable for adjudication in London. As the assemblies proved themselves capable in handling these problems, “colonists turned increasingly to them to get things done.” In the process of “respond[ing] . . . to . . . constituent demands,” the assemblies matured as institutions, and the relationship between representatives and their electors became more regular. The increasing prominence of the assemblies in turn confirmed New Yorkers and Pennsylvanians in the belief that their legislatures should be more prominent.

The record of both the New York and Pennsylvania assemblies, then, was
one of persistent promotion of popular power—to the point where New
York's Lieutenant-Governor Clarke publicly raised the question of whether
“the Plantations . . . [were] not without Thoughts of throwing off their
Dependence on the Crown of England,” and the Pennsylvania cartographer
Lewis Evans could quietly raise the same possibility in a matter-of-fact
discussion of the character of provincial society. Their point was that
during the early eighteenth century, the assembly in each colony had “devi­
ate[d] from the Example of Parliament” by seizing new powers. Thereafter, they went far beyond the English model. Their refusal to grant a perma-
nent revenue to governors, their determination to control all government expenditures, and their appropriation of a number of governmental func-
tions that by British standards belonged to the executive, created colonial
constitutions considerably closer to republicanism than the English model
seemed to sanction. And the development of assembly prominence and
competence in provincial affairs (although far more analogous to parlia-
mentary activity) simply reinforced the perception that the two colonies
were developing a more autonomous form of government than was consis-
tent with subservience to Great Britain.
Similar as the New York and Pennsylvania experiences were, there were also important contrasts. One, of course, was the differing temper of provincial politics in the two provinces. Whereas various episodes of conflict among royal governors and a variety of scrappy, well-heeled provincials tended to underline the contentious character of New York politics, the nurturing, protective, and collaborative efforts of William Penn (short-lived as they always were), and the frequent ineffectiveness of the proprietary family, softened the tenor of political affairs in Pennsylvania. What exaggerated that difference was the apparent narrowness of New York provincial politics compared to the relative “populism” of popular politics in Pennsylvania. And, as we might expect, there were different rhythms to the provincial politics of each colony. Whereas the earlier, rather than later, decades of New York politics produced more sustained contention, in Pennsylvania the most marked periods of conflict tended to occur after midcentury, once Thomas Penn had taken control of the proprietorship.

Overall, of course, the Pennsylvania Assembly outstripped its New York counterpart in its accretion of power. That was largely a consequence of their different systems of government. Because New York was a royal colony with no prospect of gaining some of the exceptional popular powers Pennsylvanians won from their proprietor, the New York assemblymen could never hope to tie up their governor to the degree Pennsylvanians could. With an unchallengeable power to prorogue, dissolve, or prolong the life of any assembly (this was subject to a seven-year limitation after 1743), New York governors always possessed a means of both punishing and rewarding the peoples’ representatives. In Pennsylvania, on the other hand, with annual elections stipulated and the assembly claiming control of its own adjournment, the best any governor could do to pressure the House was to harass members by continually calling them into session.\footnote{236}

Another related issue was the power of royal disallowance. New York laws were to go to Great Britain within three months of their signing and they could be vetoed anytime thereafter.\footnote{237} Should disallowance occur, governors were ordered not to sign any similar bill the assembly might subsequently draft.\footnote{238} In Pennsylvania’s case, Penn’s Royal Charter allowed much more room for colonial maneuver. According to the terms of the charter, the proprietor was to forward Pennsylvania laws to Whitehall within five years of their passage, and, once delivered, the Privy Council had but six months either to confirm or to veto them. A veto, however, did little to abate provincial pressure on the governor. Because there were no royal instructions demanding that the Pennsylvania governor refuse to sign bills similar to the disallowed acts, the assembly could simply draw up a new bill essentially the same as the old act and present it to the chief executive at its next sitting. Pennsylvanians also became adept at wringing the most out of...
the five-year period of grace; the assembly could pass a series of temporary laws knowing that a statute might well have lapsed and been renewed by the time the proprietors sent the laws to the Privy Council.\footnote{239}

The character of politics in New York also differed from that of Pennsylvania because there were important inducements in the former colony, which did not exist in the latter, to lead popular politicians to compromise with their chief executive. The institutional strength of the governorship was the most important of these, but there were others. One was the continuing tradition of popular co-option that had begun with James Stuart’s arbitrary regimes and continued both under unpopular governors such as Fletcher, Cornbury, and Cosby and under the more respected Hunter, Burnet, and Monckton. A set of the most outspoken proponents of assembly power during Cosby’s administration, for example, found it easy to argue that being a “Courtier gives no scandal under a wise and good Administration,” once they had cozied up to Cosby’s successor, Lieutenant-Governor Clarke.\footnote{240} Perhaps the best indicator of the receptiveness of popular politicians to the lure of executive favor was the willing way in which they lined up for a say in the appointment of justices and militia officers.\footnote{241} By doing so, they attested to a belief that the administrative and coercive side of government could live in harmony with popular needs and demands. And these circumstances also gave some substance to the view that New York public norms included a place for venality.

Strong reinforcement of these ideas and practices came from the attention New Yorkers paid to the parent English society. Unlike Pennsylvanians, New Yorkers had no fundamental charter to help them develop a strong sense of separate identity. As a result, they fixed their attention on the British constitution as the best guarantor of popular powers. In this manner they came to see, not only how to build and consolidate assembly powers, but also how administrative and legislative personnel could comfortably camp together on common ground. As long as executive/legislative collusion did not traduce the representatives’ sense of fundamental commitment to local interests and power, cooperation might be a possible and desirable end.

Another feature of British polity that drew New York’s political leaders to much the same conclusion was its famous mixed constitution. According to contemporaries, the genius of the British constitution lay in the fact that the three social orders—monarchy, aristocracy, and commons—all participated in the legislative functions of government, and that such a combination was essential for good government.\footnote{242} The problem for New Yorkers was that there was no colonial aristocracy to provide the wisdom that tradition claimed for that estate. Always ready to fill any political vacuum, popular New York leaders characterized themselves as ambidextrous colonials, capable of providing both the popular and mediating roles that came from
separate English social orders. They could thus legitimize their social emulation of Britain's upper classes and surrender to their psychological need for inclusion in the larger imperial power structure without cutting themselves off from the popular base that conferred power in a North American colony.

In both their quest for autonomy and their relationships with executive/proprietary representatives, Pennsylvania's popular political leaders were much less equivocal than their New York counterparts. Once past the turn of the century, the executive had little leverage with which to force or persuade assemblymen that accommodation was either necessary or desirable on any grounds other than the assembly's own. Rather than line up for justiceships or military appointments (during the very brief periods when the latter were available), elected politicians walked the other way. By the 1740s, few persons who held such positions could hope for election to provincial office. And in comparison with New Yorkers, Pennsylvanians seemed to adopt strong objections to the unseemly pursuit of wealth at the public's expense.

What alienated popular politicians from proprietary/executive power was a whole series of conditions, including Quaker antiauthoritarianism, hatred of proprietary land policies, the cultivation of a popular sense of provincial identity based on Quaker aspirations, and the perception of Thomas Penn as an enemy conspiring to undermine whatever autonomy the province had won. There were simply no countervailing forces of any magnitude in Pennsylvania society or government strong enough to draw popular politicians toward the executive in a sustained or even intermittent fashion. Short of offering administrative positions to a few prominent individuals, there was little the proprietors could do to moderate the thrust of popular politics.

One other characteristic of the New York and Pennsylvania assemblies is worth mentioning, because related differences suggest something of the distance between the two political orders. Following seventeenth-century English precedents, each assembly saw itself as something of a judicial body as well as a legislative authority. There was no widely shared theoretical separation of the two functions and the assemblies intermingled judicial hearings (or other acts interpreting colonial law) with their law-making activities. The general drift of colonial affairs in the eighteenth century was for the various assemblies to extricate themselves from judicial affairs, because the English model suggested that Parliament's judicial functions would be located largely in the House of Lords and in executive oversight of the courts. Because of New York's status as a royal colony, and because of its interest in following English ways, the governor and council became the primary focus of provincial judicial affairs in the eighteenth century. Which is not to say that the New York legislature abandoned its courtlike claims to
the respect legislative bodies felt they should have in their corporate capacity. To the end of the colonial period, members of the New York Assembly were prepared to deal harshly with those it judged guilty of contempt. But the New York Assembly never pressed, as did Pennsylvania's, to be recognized as the "Grand Inquisitor" of the colony. Without a council that it recognized, and determined to gain the right to oversee the behavior of judicial appointments, the Pennsylvania Assembly fostered its pretension as a court, until finally in the late 1750s, Whitehall made a point of strongly reprimanding it. Pennsylvania's political leaders were less willing than their New York counterparts to allow inchoate notions of a separation of governmental functions to diminish their vision of what popular provincial government should entail.

These differences notwithstanding, in both New York and Pennsylvania, provincials asserted as much political control over their circumstances as they felt they could consistent with their always-changing views of what was acceptable within the British colonial empire. They accomplished this primarily through the agencies of their respective assemblies, which undertook, if in piecemeal and uneven fashion, to establish an electorally based hegemonic influence in colonial government. In directing this development, popular political leaders were rarely single-minded, and in doing so they frequently revealed that their political world was a complex one. But if the proving of popular power through the assemblies was only one expression of the processes of political self-definition that both colonies undertook in the eighteenth century, it was clearly of fundamental importance.