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Charles Desmond Dutrizac

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EMPIRE, PROVINCES, FRONTIER
PERSPECTIVES ON THE PENNSYLVANIA-MARYLAND
BOUNDARY DISPUTE

Volume I - Part I

by

C. D. Dutrizac

Department of History

Submitted in partial fulfilment
of the requirements for the degree of
Doctor of Philosophy

Faculty of Graduate Studies
The University of Western Ontario
London, Ontario
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ABSTRACT

The Pennsylvania-Maryland boundary dispute began in 1681 and climaxed in the late 1730s although a final boundary line was not run until the 1760s. During that time, the nature of the dispute changed dramatically from a personal contest between two proprietors for the control of an uncharted wilderness to a multi-leveled conflict involving imperial officials, proprietary families, members of two rival provincial elites, and local border dwellers. From Whitehall to Philadelphia and Annapolis, to the disputed frontier, the interests of the Penns and Calverts, provincial leaders in Pennsylvania and Maryland, and the local border population became intertwined in an expanding web of participation that culminated in a series of dramatic encounters during the 1730s.

For the proprietary families, the bitter rivalry between William Penn and Lord Baltimore set the tone of the first 35 years of the dispute. The need to maintain honour and status made a settlement difficult, and personal and family problems and changing political circumstances precluded an agreement before 1732. Between 1685 and 1732, provincial elites emerged in Philadelphia and Annapolis, and settlers began to flock into the border region. At the proprietary level,

face-to-face negotiations, the pursuit of the political of 'interest' and recourse to formal litigation punctuated the contest during the 1730s. The border region witnessed ethnic and inter-family clashes that were fostered by members of the provincial elites. In this local conflict, provincial designations were deceiving; borderers were more conscious of family and ethnic loyalties than provincial affiliation. For provincial leaders, the boundary commission, various delegations, and the courts provided the arenas of conflict in their struggle to legitimize provincial ambitions and extend control over the frontier hinterland.

By the 1730s, the boundary dispute became a matter of local, provincial and proprietary concern. Ultimately, it also became an imperial concern. Despite the increase in local population, the growth of provincial power and the continuing antagonism of the proprietary families, imperial intervention succeeded in 1738 where it had failed in 1685. In an era of 'salutary neglect,' recourse to the crown proved to be a significant alternative.

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INTRODUCTION

For much of the 18th Century, most of the English colonists on the North American mainland were uncertain about the physical limits of provincial jurisdiction. Settlers on the frontiers of the British colonies often found themselves on lands claimed by the French, by an Indian tribe or by an adjacent province. Overlapping jurisdiction undercut the legitimacy of authority in these regions and frequently resulted in outright violence. For local inhabitants, provincial leaders, agents and for imperial administrators, such boundary disputes were common and lengthy.¹ Of the many such disputes, the Pennsylvania-Maryland boundary conflict was one of the longest and most hotly contested.

An examination of this particular dispute is valuable for a variety of reasons. The area under dispute included virtually all of settled Pennsylvania in the 1730s, over half of Maryland and all of what is now Delaware. Secondly, the dispute involved a wide range of participants, from frontier borderers to imperial courtiers to the two most successful proprietary families and largest landowners within the English Atlantic community. Thirdly, the conflict illustrates the unique difficulties faced by

proprietors in dealing with not only their colonies but an often unfriendly imperial administration. Lastly, the dispute underscores the dramatic importance attached to property and boundaries during this formative period in the development of British America.

Prior studies of the dispute have focused on its legal and geographic aspects, but none have considered it as a conflict which simultaneously affected the lives of people living at various levels of the English Atlantic community from the frontier borderlands to the committee rooms of Whitehall. Almost exclusively devoted to a spirited debate between champions of Pennsylvania and Maryland, earlier historians focused on the equity of the final agreement and addressed such questions as which side won, which side had the best case, and which side was right. The Penns and Calverts were heroes or villains, fools or wise men, depending upon which side of the debate was presented.²

Much of the recent scholarship devoted to colonial America has concerned either local communities or the growth of a particular province. With primary emphasis on demographic questions and quantitative methods, the behaviour of individuals and groups within various local communities has been examined. Although the influence of English and European culture is noted by

these scholars, the unit of study has necessarily remained local.³ Those who have sought to stress the linkages between the various levels of the English Atlantic Empire before the American Revolution have tended to emphasize one of two themes. In the first instance, a colonial world is presented in which emerging provincial elites are seen as part of a broader Anglo-American political economy. Alternatively, a unique provincial world is introduced in which the relationship between a growing hinterland and the need to extend provincial authority is perceived as more important than the place of the province within the empire.⁴

Since the Pennsylvania-Maryland boundary dispute affected the lives of local border inhabitants, provincial leaders and proprietary families, an explanation of its origin and persistence, its violence and its eventual resolution needs to incorporate both themes. Although never clearly defined, there were definite bonds which linked the local, the provincial and the imperial 'worlds' of the 18th century English Atlantic. In ways that varied across time and space, the boundary dispute encompassed all three 'worlds' in a web of dramatic encounters, so that conflict in one

areas frequently affected participants in another area.

This lengthy dispute can best be understood in four phases. The early 1680s witnessed the genesis of the dispute from the emergence of grievances through the unsuccessful efforts of William Penn, the proprietor of the new province of Pennsylvania, and Charles Calvert, 3rd Lord Baltimore and proprietor of Maryland, to negotiate a settlement. This highly personalized first phase ended in 1685 with an adjudication of the dispute at Whitehall and the issuance of an Order-in-Council which appeared to confirm Penn's claim. Why did the proprietors fail to settle their differences amicably? Why did royal arbitration in 1685 fail to resolve the dispute?

The second phase encompassed the lifetime from the 1685 Order-in-Council to the Agreement of 1732. During this period, both Pennsylvania and Maryland underwent significant structural changes, while the proprietary families persisted in their differences until 1732, despite the death of the original protagonists several years earlier. By the late 1720s, these changing circumstances introduced new perspectives to the persistent problem of the boundary. Do these changes help to explain the outbreak of violence in the 1730s?

Why did the proprietary families allow the dispute to remain unresolved until the Agreement of 1732? How did the continuities of this period influence the conflict?

During the 1730s, the boundary conflict entered a third phase when it simultaneously preoccupied many local border dwellers, the emergent elites of both provinces and the proprietary families. There were strong interconnections between these local, provincial and proprietary 'arenas of conflict', yet each illustrated the quest for legitimacy in a unique way. This search took on different meanings and used different methods as it shifted back and forth across the continuum from local to provincial, and provincial to proprietary. At each level of this tripartite empire, the participants employed different approaches to conflict and its resolution. Each of these levels will therefore be explored in Part II to explain why, after the proprietors had finally signed a formal agreement in 1732, this long contentious dispute suddenly climaxed in violence only to reach a manageable resolution six years later.

The imposed Temporary settlement of 1738 ushered in the final phase of the dispute, a lengthy denouement as the proprietors' Chancery suit ran its long and tortuous course through the 1740s, while peace was

restored in the borderlands. Why did the Orders-in-Council of 1737 and 1738 bring the local violence and the heated participation of the provincial elites to an effective end? Reduced to a manageable Chancery suit, the boundary conflict effectively ended when proprietary, provincial and local participants concurred with the Order-in-Council of 1738.

Recently, social anthropologists interested in law and the nature of disputes have focused upon an 'action' model which stresses the interaction of people with legal structures, using the case study method. The entire process of disputing is the unit of analysis rather than the specific outcome or resolution of the dispute. Unlike anthropologists, historians must rely on cases drawn almost exclusively from recorded material which is frequently incomplete. However, the use of the case study as a unit of analysis of major disputes can still be helpful. Within the context of this approach, the Pennsylvania-Maryland boundary dispute may be considered an extended case comprised of "a series of related cases through time," which took place across various levels of the English Atlantic community.⁵ This study is then an extended case analysis of the disputing process as it evolved at various levels within the First British Empire.

The Pennsylvania-Maryland boundary dispute provides an opportunity to assess the impact of change over time and an analysis of behaviour and perception across a social, political and economic spectrum, which ranged from proprietary families and their friends and enemies at Whitehall to local border inhabitants who were eking out a spartan existence on the frontier. The dispute, by its very nature, was a struggle for legitimacy as each side in the conflict tried to extend or defend its jurisdiction and authority. A lack of mutually acceptable limits to authority threw the whole formal exercise of power and, by inference, responses to it, into a state of confusion. In the midst of this confusion, all participants in the Pennsylvania-Maryland boundary dispute sought to legitimize their behaviour and to secure their social and economic well-being. Why vastly different persons, living within the English Atlantic 'community' of the 17th and 18th centuries, became involved in a major dispute, how they perceived the dispute, how they responded in different ways to these common problems, and how their perceptions and responses changed over time are the underlying questions that motivated this study.

NOTES - INTRODUCTION

ABBREVIATIONS

AHR	<u>American Historical Review</u>
AM	<u>Archives of Maryland</u>
BDM	<u>Biographical Dictionary of Maryland Legislators</u>
BP	Blathwayt Papers (Colonial Williamsburg, Va.).
BTP	Board of Trade Papers (Proprietaries). (Historical Society of Pennsylvania).
CP	Calvert Papers: Microfilm. (Maryland Historical Society, Baltimore).
CRP	<u>Colonial Records of Pennsylvania.</u>
CSP	<u>Calendar of State Papers.</u>
DD	Dulaney Papers (MHS).
DNB	<u>Dictionary of National Biography</u>
MHM	<u>Maryland Historical Magazine</u>
INLB	Isaac Norris Letterbook (HSP).
JCTP	<u>Journal of the Committee of Trade and Plantations</u>
JLLB	James Logan Letterbooks (HSP).
LCQS	<u>Lancaster County Court of Quarter Sessions.</u> (Lancaster County Historical Society, Lancaster, Pa.).
LCP	Lancaster County Papers, 1722-1774 (HSP).
LP	Logan Papers (HSP)
PA	<u>Pennsylvania Archives</u>
PMHB	<u>Pennsylvania Magazine of History and Biography.</u>
PP	Penn Papers (HSP).
PP(Unb)	Penn Papers, Unbound (HSP).
PP(JL)	Penn Papers, Penn Family to James Logan (HSP).
PvB	Penn Papers, Penn vs Baltimore (HSP).
PWP	<u>Papers of William Penn</u>
TPL	Thomas Penn Letterbooks (HSP)
WMQ	<u>The William and Mary Quarterly</u>

1. The most recent effort to explore a colonial boundary question is Philip J. Schwarz, The Jarring Interests: New York's Boundary Makers, 1664-1776 (Albany, 1979). Schwarz has examined each of New York's boundary controversies within the context of the interests of the provincial elites. However, the local and imperial levels received less attention. See also Clarence B. Bowen, The Boundary Disputes of Connecticut (Boston, 1882); Dixon Ryan Fox, Yankees and Yorkers (New York, 1940); Irving Mark, Agrarian Conflicts in Colonial New York, 1711-1775 (New York, 1940); Marvin

L. Skaggs, "Progress in the North Carolina-South Carolina Boundary Dispute," North Carolina Historical Review, XV(1938), 341-353; Jonathan Smith, "The Massachusetts and New Hampshire Boundary Line Controversy, 1693-1740," Proceedings of the Massachusetts Historical Society, XLIII(1910), 77-88. For the problems that emerged between Pennsylvania and Connecticut, see Julian P. Bond (ed.) The Susquehanna Company Papers (Ithaca, 1930), Vol 1 (1750-1755). For an insight into the mind of a provincial boundary commissioner involved in the Virginia-North Carolina dispute, see William Byrd, "The Secret History of the Line," and "The History of the Dividing Line," in Louis B. Wright (ed.), The Prose Works of William Byrd of Westover; Narratives of a Colonial Virginian (Cambridge, 1966).

2. The most complete review of the main points at issue from a surveyor's point of view is Edward B. Mathews, "History of the Boundary Dispute Between the Baltimores and the Penns Resulting in the Original Mason and Dixon Line," Maryland Geological Survey, 7(1908), 105-203. Although limited to the early phase of the dispute, one should also see Charles C. Tansill, "The Pennsylvania-Maryland Boundary Controversy" (Phd. dissertation, Catholic University of America, 1914). Other dated studies are J. Dunlop, "A Memoir on the Controversy Between William Penn and Lord Baltimore," Memoirs of the Historical Society of Pennsylvania, 1(1844), 163-204; Walter B. Schaife, "The Boundary Dispute Between Pennsylvania and Maryland," PMHB, IX(1885), 241-257; and Walter A. Powell, "Fight of a Century Between the Penns and the Calverts," MHM, 29(1934), 83-101. A recent brief account may be found in William H. Bayliff, The Maryland-Pennsylvania and The Maryland-Delaware Boundaries (Annapolis, 1959). The most scholarly examination of a specific aspect of the conflict is Nicholas B. Wainwright, "Tale of a Runaway Cape: The Penn-Baltimore Agreement of 1732," PMHB, LXXXVII(1963), 251-293. See also, "The Missing Evidence: Penn v. Baltimore," PMHB, LXXX(1956), 227-235.

3. The number of local studies is exhaustive. For notable examples, see Kenneth Lockridge, A New England Town: The First Hundred Years (New York, 1970); Philip J. Greven, Four Generations: Population, Land, and Family in Colonial Andover, Massachusetts (Ithaca, 1970); and John Demos, A Little Commonwealth: Family Life in Plymouth Colony (New York, 1970). Of particular value for Pennsylvania are James T. Lemon,

The Best Poor Man's Country: A Geographical Study of Early Southeastern Pennsylvania (New York, 1972); and Stephanie Grauman Wolf, Urban Village: Population, Community, and Family Structure in Germantown, Pennsylvania, 1683-1800 (Princeton, 1976). Recent Chesapeake studies which show a 'localist' orientation include, Carville V. Earle, The Evolution of a Tidewater Settlement System: All Hollow's Parish, Maryland, 1650-1783 (Chicago, 1975); Gregory A. Stiverson, Poverty in a Land Of Plenty: Tenancy in Eighteenth-Century Maryland (Baltimore, 1977); and Richard R. Beaman, "Social Change and Cultural Conflict in Virginia: Lunenburg County, 1746 to 1774," WMQ, 3rd Ser., 35(1978), 455-476. Excellent studies by Lois G. Carr, Russell R. Menard, Carole Shamas, Lorana S. Walsh, and Paul G. E. Clemens may be found in Thad W. Tate and David L. Ammerman (eds.), The Chesapeake in the Seventeenth Century: Essays on Anglo-American Society (Chapel Hill, 1979); and Aubrey C. Land, Lois G. Carr and Edward C. Papenfuss Jr. (eds.), Law, Society and Politics in Early Maryland (Baltimore, 1977).

4. For a recent survey of the literature that has focused on the broader context, see I. K. Steele, "The Empire and Provincial Elites: An Interpretation of Some Recent Writings on the English Atlantic, 1675-1740," The Journal of Imperial and Commonwealth History, VIII(1980), 2-32. A less exhaustive, but more recent survey is W. A. Speck, "The International and Imperial Context," in Jack P. Greene and J. R. Pole (eds.), Colonial British America: Essays in the New History of the Early Modern Era (Baltimore, 1984). See also, J. M. Sosin, English America and the Restoration Monarchy of Charles II: Transatlantic Politics, Commerce, and Kinship (Lincoln, 1980); _____, English America and the Revolution of 1688: Royal Administration and the Structure of Provincial Government (Lincoln, 1982) and _____, English America and Imperial Inconstancy: The Rise of Provincial Autonomy, 1696-1715 (Lincoln, 1985). Two excellent general studies of the Anglo-American political environment in the 18th Century are J. A. Henretta, 'Salutary Neglect': Colonial Administration under the Duke of Newcastle (Princeton, 1972) and M. Kammen, Empire and Interest: The American Colonies and the Politics of Mercantilism (Boston, 1970). For a recent attempt to link the local communities of colonial America to a broader world, see Darrett B. Rutman, "Assessing the Little Communities of Early America," WMQ, 3rd Ser., XLIII (1986), 163-178.

With particular reference to Maryland and Pennsylvania, the second theme has been examined in

detail by Alan Tully, William Penn's Legacy: Politics and Social Structure in Provincial Pennsylvania, 1726-1755 (Baltimore, 1977); Joseph E. Illick, Colonial Pennsylvania. A History (New York, 1976); Aubrey C. Land, Colonial Maryland: A History (New York, 1981); and Robert B. Mitchell, Commercialism and Frontier: Perspectives on the Shenandoah Valley (Charlottesville, 1977).

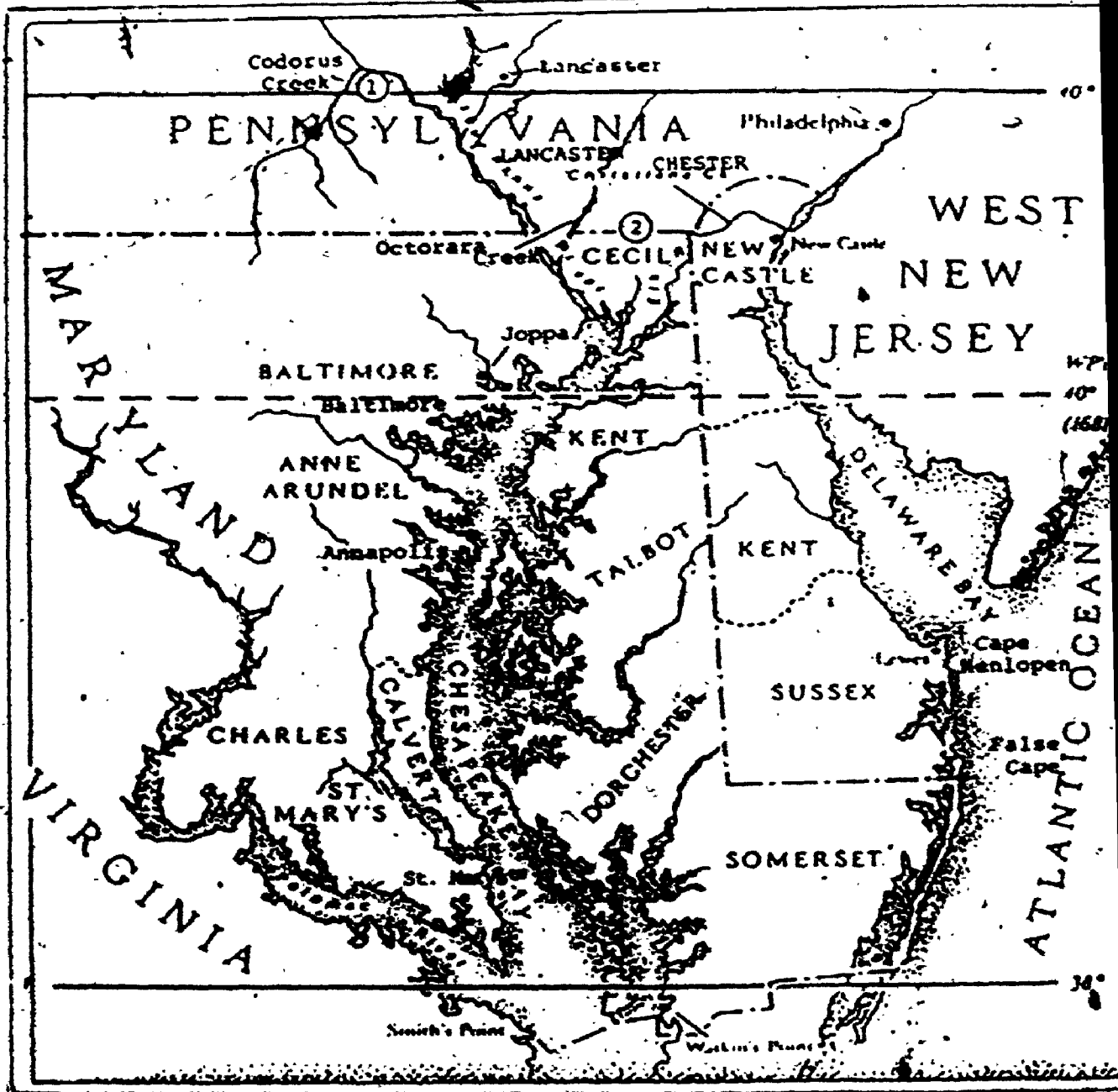
5. Laura Nader and Harry F. Todd Jr. (eds.), The Disputing Process - Law in Ten Societies (New York, 1978), 8. See also J. Van Velsen, "The Extended-Case Method and Situational Analysis," in A. L. Epstein (ed.), The Craft of Social Anthropology (London, 1967).

PART I

A PROPRIETARY DISPUTE

1681 - 1732

THE PENNSYLVANIA - MARYLAND
BOUNDARY DISPUTE. 1681-1738



NOTES:

- ① Codorus Creek Area - Location of Maryland Settlement under Cresap
- ② Nottingham Lots

CHAPTER I

FACE TO FACE ENCOUNTERS ON THE FRONTIER

1681 - 1683

The Pennsylvania-Maryland boundary dispute began with the decision of Charles II to repay a longstanding debt to the Penn family with a grant of a large tract of land in British North America. Soon after the grant received the royal seal, William Penn and his new proprietary neighbour, Charles Calvert, the 3rd Lord Baltimore realized they had a serious difference of opinion over the southern limits of Penn's new charter. Adding to this potentially difficult situation was Penn's claim to much of the eastern side of the Delaware peninsula on the basis of an apparent grant from James, Duke of York.

Grievances do not have to become disputes; disputes do not have to last generations before they are resolved. Given the lengthy nature of the dispute and the growing antagonism of the two proprietors, what led to such a disruption? To understand the intensity and longevity of the dispute, it is first necessary to examine the grievances of the parties, and their

initial attempts to deal with the boundary problem. Were the differences reconcilable during this early stage and if so, what prevented an amicable settlement? On two different occasions, Baltimore and Penn met in their colonies to resolve their differences through compromise. Assuming these efforts were genuine, how did these early face-to-face exchanges aggravate relations between the proprietors to such an extent that both returned to England to seek relief from the Crown?

Within the context of the early 1680s, the boundary dispute was not a conflict between two provinces, but an intensely personal conflict between two of the largest landowners in the English Atlantic world. This personal dimension lies at the heart of a proprietary perspective on the conflict and this was the only perspective which really mattered during this first stage of the dispute.

Charles II received a petition from William Penn, on 1 June 1680, for "a Tract of Land in America lying North of Maryland."¹ Despite his general tendency to centralize and enhance the authority of the Crown, Charles was willing to make an exception for the Quaker courtier. Aware of the strong personal ties between

his brother, the Duke of York, and William Penn, the king also knew of the financial debt owed to the petitioner by the royal family.² Because Charles realized that the Quaker's request might have implications for the Crown and for Penn's potential colonial neighbours, the Duke of York and Lord Baltimore, the proprietors of New York and Maryland, he forwarded the petition to the Committee of Trade and Plantations for their recommendations.³

Two weeks later, William Penn had his first formal meeting with the Committee. He informed the Lords that he would be "satisfied with three Degrees to the Northwards" of the 40° latitude as a limit to this request. Alluding to the debt owed to his family, noting that he was "willing in lieu of such a Grant to remit his debt due to him from His Ma^{ty}," Penn concluded that he was prepared "to stay for the remainder till His Ma^{ty} shall be in a better condition to satisfy it."⁴ In what would become a standard procedure, the Committee ordered copies of the petition sent to Lord Baltimore's agents and to Sir John Werden⁵ for the Duke of York. They were asked to comment on the implications of the petition on the "possessions in those parts" of the Duke and the Maryland proprietor.⁶ If the ambiguity of the Duke of York's claims was not

already suspected, concern about the status of the settlements on the western shore of Delaware Bay would soon be openly expressed.

It was not long before the Committee received replies to their queries. Baltimore's agents wanted to ensure that the southern limit of Pennsylvania was defined as "a direct line between the said Port [Susquehanna] and Delaware River" and that Penn's patent would contain "generall words of restriction as to any Interest granted to the Lord Baltimore and saving to him all rights granted."⁷ Asserting the Duke's claim to Newcastle, Sir John Warden noted the region "hath beene actually under the Governement" of the Duke through his New York grant. He explained that actual possession and prior settlement by the Dutch and Swedes "shewes plainly the Duke's Right Preferable to all Others ... though it should not prove to be strictly with the Limits of the Duke's Patent."⁸ Although Warden indirectly conceded that the Duke's right to land on the Delaware Peninsula was not firmly established by charter, he urged the committee to discourage Penn from seeking control of the settlement at Newcastle. The issue of right of possession by conquest versus right by patent remained a debatable point for some time to come. The Lords of Trade

recognized the delicacy of the problem when they suggested to Penn that he "apply himself to his Royal Highness for adjusting their Respective Pretensions."⁹

About the boundary with Maryland, Penn agreed that Susquehanna Fort would be "the Bounds of Lord Baltimore's Province."¹⁰

It is uncertain whether Penn or the Committee expected a later problem with Baltimore over his claim to the entire Delaware peninsula in the face of the Duke of York's pretension; however, the Quaker courtier left little to chance. Before the end of the summer, he completed a proposed draft for his patent. He also visited the Duke of York, finding him supportive if Newcastle was excluded from the proposed patent.¹¹

Meanwhile, the Attorney General informed the Committee that neither Baltimore's patent nor that of the Duke of York appeared to be compromised by the proposed grant to Penn, but those parts of the Delaware peninsula earlier settled by the Dutch and the Swedes and now under the apparent "Protection of His Royal Highness who took them from the Dutch upon the Conquest of New York, or of the Lord Baltimore near whose borders they are settled," remained a source of uneasiness.¹² The report warned that a grant to Penn might well concern

his proposed neighbours since the jurisdiction of the peninsula remained ambiguous.

Persuaded by the report, the Committee directed William Blathwayt, secretary to the Lords of Trade, to provide the Attorney General with a copy of Penn's draft for comments on "the Powers therein proposed."¹³ As well, Baltimore's agents were supplied with a copy. As an advisor to the Duke of York, Sir John Werden was unwilling to give more than a cautious endorsement of Penn's proposed patent. He believed it was "most proper to have the Advice of Councill Learned in the Laws, for settling the Boundaries of any new Patent, which may be lyable to encroach on those of Another's possession," particularly since it appeared that the "Lines of Longitude (especially) & of Latitude [were] very uncertaine."¹⁴ Werden suggested that Penn's southern boundary be at least twenty or thirty miles north of Newcastle, as he guessed that it would then "reach as far as the begining of the 40th degree of Latitude."¹⁵

Later Penn met Werden and made it clear that if his border began too far up the Delaware River it would dash "the hopes he hath of Improveing the Rest with his Patent." Given the Duke of York insistence upon "some Convenient Distance from Newcastle Northwards for a

boundary," the Quaker petitioner was willing to accept, as a southern boundary, a line beginning twelve miles north of Newcastle. He insisted that this distance would "fall under the beginning of the 40th Degree of Latitude."¹⁶ Although the Duke was willing to accept this twelve mile limit on his Newcastle pretensions, his secretary remained skeptical of the need to specify exact miles in a country "of which we know so little."¹⁷

Apparently, some of Werden's concerns were eased when the Committee asked Lord Chief Justice Francis North to settle the southern boundaries in the proposed patent. Shortly after that, Lord North defined these boundaries to be "a circle drawne at 12 miles distance from Newcastle Northward & Westward then to the beginning of the fortieth degree of Northern latitude & yⁿ by a straight line Westwards."¹⁸ The Committee believed they could now begin detailed discussions and therefore, they arranged a conference with Penn, the agents of Lord Baltimore and Sir John Werden.¹⁹ On 15 January, the Lords of Trade approved the boundaries as stipulated by Lord North and modified by Werden. After some further minor changes, the Committee approved the patent and sent a draft to King on 24 February.²⁰ The name for the proposed patent was left blank for the

King to choose a fitting designation. On 2 April 1681, Charles granted William Penn his patent for the province of Pennsylvania with the boundaries as stipulated in Lord North's settlement. He also sent a message to Baltimore telling him to appoint commissioners to meet Penn's agents to delimit the boundary between Pennsylvania and Maryland.²¹

Upon the receipt of his patent, the new Quaker proprietor immediately wrote to Charles Calvert. His letter contained far more than a simple call for a settlement of the boundaries. In many ways, this early correspondence set the tone for future exchanges.²² The new proprietor did not hesitate to stress his good relations with the King and to impress upon his new neighbour that the King's letter "kindly & amply expresst" his claim. Penn's 'interest' with the King and Duke of York was to loom very large over the next few years.²³ Penn probably recognized that differences existed between the King's letter and Baltimore's patent. If so, this sense of concern may have prompted him to remind Baltimore that "to men of good sense, 'tis enough to be once told of ye matter," and that "ye influence & prevalence" of the King should be enough for "a great & prudent man." If the Maryland proprietor missed the obvious, Penn bluntly concluded

that the Maryland proprietor would surely "act with caution & obedience." When he pleaded with Baltimore to "do to me as thou wouldst be done to," Penn implied that he was willing to be either conciliatory or tough depending upon Baltimore's reactions. If the boundary negotiations proved to be amicable, Penn appeared willing to use his 'interest' with the King to assist the Maryland proprietor. He informed Baltimore that "perhaps there are many ways by w^{ch} I may discharge the service."²⁴ There is no doubt that the Pennsylvania proprietor recognized the importance of settling the boundary question. He instructed William Markham, his deputy Governor, "to settle bounds betwixt me & my neighbours" when he was assured that the inhabitants of the new province recognized Penn's authority. The very fact that this instruction was linked with the order "to Survey, Sett out, Rent or Sell lands" suggests that Penn realized that a boundary settlement was crucial.²⁵

Meanwhile, the new proprietor was aggressively pursuing another patent which he hoped would ensure access to the sea for his colony.²⁶ Penn hoped that the Duke of York would cede to him his rights on the west side of the Delaware, including Newcastle. One of the Quaker courtier's agents, Robert Barclay, discussed the matter with both Sir John Werden and the Duke

himself, but in each instance, he received an unenthusiastic response. Although the Duke apparently supported Penn's ambitions, he felt it was "improper for him to give a grant of what he has not a patent for himself."²⁷ Undaunted, Penn continued to exert pressure on the Duke, possibly alluding to the remaining debt still owing to the Penn family.²⁸

Although his persistence met with little initial success, Penn was convinced that he would be unable to "make money without special concessions."²⁹ Sir John Werden, exasperated with Penn's acquisitiveness, had become a difficult hurdle to overcome. The Duke's secretary pointedly informed the Quaker proprietor to be less demanding in the following missive.

[Y]ou seeme to complain y^t you had noe answer from Me...I really did for you, all y^t I believed necessary for yo^r satisfaction... I told your friends yⁿ w^t I now repeate to you y^t the Duke was not pleased, to come to any resolution as yet in y^r particular.³⁰

Penn himself was not immune to these kinds of rebuffs and confided to a friend that he had experienced the "great opposition of envious g^{rt} men."³¹ His success to date he attributed to God, who "gave it to me over all & great opposition." He only prayed that he "would not abase his love nor act unworthy of his Providence & so defile w^t came to me

clean.⁻³² On the other hand, Penn did not sit back and allow Providence to run its course.

In a manner described by a recent scholar as "uncharacteristically brazen," Penn wrote to six prominent Maryland settlers whose plantations he now assumed to be in Pennsylvania.³³ The recipients of this letter held their lands by grant from the proprietor of Maryland, but a confident Penn felt obliged to caution that "none of you pay any more Taxes or sessa^{ts} by any order or law of Maryland; for if you do it will be greatly to your own wrong as well as my prejudice." Assured of his "powr here with my superiors," of Baltimore's "Prudence," and of their regard for their "own Interests & future good," he requested that these influential planters "Salute me to all yr Neighbours."³⁴

Penn also ordered the creation and publication of "A Map of Some of the South and eastbounds of Pennsylvania in America."³⁵ This map, produced by John Thornton and John Seller, was based upon a map of Virginia and Maryland published by Thornton and Robert Greene some three years earlier. However, in a blatant departure from the 1678 representation of the region, and Augustine Herrman's map of 1673 from which it had been derived, the 40° latitude was placed as far south

as the mouth of Gunpowder Creek, the site of present day Baltimore.³⁶ If this boundary remained unchallenged, about one third of Baltimore's patent would fall under the jurisdiction of the ambitious Quaker proprietor. That Penn was aware of this change seems obvious from the promotional tract that appeared beneath the map. It summarized the primary reason for producing this map as follows:

to correct the Errors of those Maps that have taken in any part of this country; for finding each Map at difference with itself, the Scale with the Latitude, and one Map with another, it was thought necessary to rectifie those mistakes, by a more exact Map which has been performed with as much Truth, Care and Skill as at present can be, leaving room for time, and better experience, to correct and compleat it."³⁷

In fairness to Penn, it was not unreasonable for him to question the accuracy of the earlier Thornton and Herrman maps when they clearly differed from the map by the Dutch cartographer, Nicholas Visscher, which he had in his possession.³⁸ Dutch cartography in the late 17th century was considered the best available. Although Herrman was also Dutch, he had become a Marylander after Baltimore had prevailed upon him to create his map, for which he had received 25,000 acres. From Penn's perspective, Herrman could scarcely be considered a neutral source. Yet Herrman had completed his map long before Penn had made any effort to secure

a grant and it had become accepted practice to place the 40° well north of Chesapeake Bay. No major map published in the 1670s placed this latitude as far south as this promotional map ordered by Penn in 1681.³⁹ It is possible, as noted in the most recent assessment of Penn, that the Quaker proprietor was "particularly confused and misinformed," but it is difficult to accept the suggestion that Thornton and Seller's map was a source for this confusion.⁴⁰ This map had clearly been produced for promotional purposes and to meet the needs as outlined in the short tract that accompanied the map. A more plausible explanation may be that Penn insisted upon Thornton incorporating the latitude as found on the Visscher map with the work of Herrman. Whether wilfully or out of ignorance, Penn had launched into a struggle for possession of territory that he thought crucial to his nascent province.⁴¹

Not surprisingly, Charles Calvert was angry when he received word of Penn's actions. Writing to William Blathwayt, he emphasized his growing displeasure with Penn and his deputy Governor, William Markham. Calvert frankly admitted that Penn's letter had caused "great disturbance in the Upper Countys, the people hoping they shall suddenly be under noe Government."⁴² He

later pointed out that "the inhabitants of Baltimore and Cecell Countys...immediately refused paying their levys" when they became aware of the contents of Penn's letter.⁴³ To William Markham, Baltimore did not hide his fury as he sarcastically paraphrased Penn's earlier maxim, "Do to thy neighbour as thou would he should doo to thee."⁴⁴

Baltimore candidly revealed the "trouble and indeed the sedition" in his upper counties. He had ordered military officers to help the sheriffs in the collection of quitrents, but acknowledged it was only "with great difficulty... that some of the inhabitants were made to comply."⁴⁵ These incidents served to underscore two basic and persistent aspects of the boundary conflict over the next sixty years. First, the boundary dispute would be intimately tied to the question of legitimacy on the frontier; and second, the border was inhabited by people who would seek to express their own sense of meaning and identity. Frequently, this expression would take the form of violence against either Pennsylvania or Maryland authorities. Whether Baltimore privately blamed the recipients of the letter for the unrest in Baltimore and Cecil counties is uncertain, but apparently Penn's message did spread throughout the neighbourhood of the

six planters to whom Penn had chosen to write. It is entirely possible that the growing unrest and Penn's aggressive action were related. If so, Baltimore's jurisdiction was not only being questioned among the poorer settlers but the very edifice of Maryland authority, the county magistracy, was being challenged.⁴⁶

Meanwhile, William Penn had received word from Robert Barclay, whom he had sent to petition the Duke of York for a grant of Newcastle and the surrounding area. According to Barclay, the Duke's secretaries now believed that Penn had trapped their patron into a promise of a grant of the lands in question. Barclay recommended that Penn use his friendship with Lord Hyde to lobby with the Duke to prevent Sir John Werden from putting "a wrong touch" on the matter.⁴⁷ Penn realized that he would have to move more cautiously. On 30 September, only two weeks after his open letter to the six Maryland planters, he wrote to his commissioners in Pennsylvania acknowledging that the settlers in the lower counties had weak land titles, "the D: of Yorke having never had a graunt from The King."⁴⁸

Despite these early difficulties, Penn finally made some progress. He prevailed upon the Duke of York to act before the receipt of a formal patent from the

King. In August 1682, the Duke leased to William Penn, Newcastle, the land encompassed by a twelve mile circle surrounding the town, and those lands south of the twelve mile circle as far as Cape Henlopen.⁴⁹

On 19-August, Charles II wrote to Lord Baltimore directing him to ascertain the boundary between Pennsylvania and Maryland. He indicated that the only certain method was "by an admeasurement of the two degrees North from Watkins Point...according to the usual computation of sixty english miles to a degree."⁵⁰ While this equivalency had been used at the time of the original Maryland grant, it had since been replaced by the more accurate computation of 69 miles to a degree. It is highly unlikely that the king would have made such a pointed reference to an out-of-date method of computation without Penn's influence. The difference between these two methods was an 18 mile wide strip of land encompassing millions of acres!

Baltimore would not have needed to read a letter from the King to know that his territorial pretensions along his northern border and on the Delaware peninsula were in serious question. Although he did not hear of the Duke's lease to Penn of his Delaware claims until the fall of 1682, he had already had enough interaction with Deputy Governor Markham to realize that conflict

might well prove to be his only recourse. Markham had arrived in Maryland in August, 1681. Meeting with Baltimore, he presented Penn's letter of 10 April and Charles II's letter of 2 April.⁵¹ As already noted, the tone of the former letter no doubt left an impression on Maryland proprietor. While conciliatory on the surface, the underlying steely resolve of the proprietor of Pennsylvania was evident.

Nothing came of this first meeting since Markham became ill. Baltimore extended his personal hospitality to the new deputy governor. When he recovered three weeks later, Markham insisted upon a quick departure for Pennsylvania. He assured Calvert that they would meet in mid-October to take measurements "for the ascertaining of the fortieth degree of northern latitude."⁵² However, Markham postponed this next meeting until the spring and by then Penn's letter to the prominent upper county planters had come to Baltimore's attention. He also knew that at least one Pennsylvanian had taken an observation at the head of the Chesapeake and that this observation was favourable to the Maryland patent, despite Pennsylvania disclaimers that the instrument was too small.⁵³

When Calvert sent commissioners to meet with Markham at Augustine Herrman's plantation, the Pennsylvania deputy governor did not arrive. The Marylanders then took several observations and found the Herrman plantation to be well below 40° latitude. They enthusiastically reported that not only would the northern boundary fall "not farr short of Upland," but the settlers in the area "seem much satisfied with your Lordship's proceedings much blaming Mr. Markham that after so many flourishes he should be thus backward."⁵⁴ The commissioners then travelled to Newcastle where, with some difficulty, they obtained the sextant which Markham had requested from New York and which had just arrived.⁵⁵ Taking another measurement, they found Newcastle was also well within the northern bounds of Maryland. Armed with these reports from his commissioners, Baltimore likely believed Markham was deliberately avoiding a conference over the summer months.

While pressures were mounting across the Atlantic, Penn was preparing to embark for his new colony. He had not only received a very large grant of land from Charles II, but had also managed to lease from the Duke of York, a tract of land on the western shore of Delaware Bay. True, the Duke's right to the territory

in question remained problematic, but Penn was optimistic that a patent from the King would be forthcoming. Also, he had a letter from Charles II which supported his position that the northern boundary of Maryland be established by a measurement of two degrees northward from Watkins Point using the standard sixty English miles to a degree. The lease of the Delaware lands and Charles' boundary proposal seemed to assure Penn that his colony would have direct access to the sea. While there had been some mention of Susquehanna Fort as defining the northern boundary of Maryland, this had only been at the level of discussion at the Committee of Trade and Plantation and did not find its way into the formal Pennsylvania patent. It only remained to attend to matters in North America, while his agents lobbied for a royal grant of the Delaware lands to the Duke of York.

Baltimore, on the other hand, had little reason for optimism as he awaited the arrival of the proprietor of Pennsylvania. He may still have been angered at the letter written by Penn in September of 1681 and he had likely heard the rumours that the Duke of York intended to grant the contested Delaware lands to the Quaker proprietor. As valid as his claims may have seemed to him, Charles Calvert must not have

enjoyed the prospect of challenging the King's brother. In addition, the Maryland proprietor's exchanges with Mathews had been unsatisfactory and he may have recognized that his responses to the growing boundary problem could scarcely avoid aggravating the conflict. Whether conscious or not, Baltimore's behaviour suggests that by 1682 he perceived himself to be an aggrieved party. Recent anthropological studies have focused attention on the behaviour of participants at this early 'grievance' stage of a dispute. Baltimore was now forced either to escalate his grievances to a formal conflict stage or accept his weaker position and quietly acquiesce to the impositions on his charter.⁵⁶

II

From September 1682 to early 1684, the proprietors either met each other or their counterpart's deputy on four separate occasions. Each of these meetings was a dramatic encounter, while collectively they illustrate the process by which a set of grievances was transformed into the bedrock of a major conflict. During the summer of 1682, growing concern over the boundary had not yet reached an open conflict stage. Penn's letter of 16 September 1681 had been an irritant to Baltimore, but it did not preclude an amicable resolution of differences. In September 1682,

Baltimore finally met with William Markham to arrange the running of a boundary line between the two provinces. Almost three months later, William Penn made a winter journey to Maryland to negotiate personally with Calvert. The following May, they met again in what became their final effort to resolve their dispute in face-to-face negotiation. In early 1684, George Talbot, Baltimore's deputy had a tense confrontation with Penn, which served to underline the failure of the proprietors to resolve their dispute without recourse to an outside agency.

Before these face-to-face exchanges occurred, the differences between the proprietors did not necessarily have to result in a formal adjudication. After these meetings, it was clear to all participants that their opponents were unwilling to make significant concessions and that their only recourse, apart from open violence, was an appeal to Whitehall for mediation. In little over a year, what had been a grievance became the base for conflict.

* * *

As William Penn and his delegation approached Thomas Taylor's plantation, he may have reviewed various approaches he could use with Charles Calvert.

Presumably, he recalled with satisfaction his last meeting in England with the Maryland proprietor some six or seven years previous.⁵⁷ He had then sought relief for Maryland Quakers who were being forced to swear oaths of fidelity. The meeting had been amicable and the problem resolved when Baltimore had indicated a willingness to accept an affirmation instead of an oath. Penn may have remembered that Baltimore had then been concerned with the Duke of York's pretensions on the Delaware and with the rumour that Penn might accept a grant of these lands from the King's brother. Later, Penn wrote that he had been approached by someone to buy the Duke's interest in the Newcastle area, but he had refused because of Baltimore's claim.⁵⁸ It appears that Baltimore took Penn's comments to mean that Maryland had a rightful claim to the Delaware peninsula.

Penn may also have considered his major priority in the coming negotiations. He needed a secure access to the sea and on this issue, there could be no compromise. Penn could only hope that Baltimore would be responsive to this need. On the boat trip from the upper reaches of Chesapeake Bay to St. Mary's, Penn may have reassured himself by rereading the documents that he would present to Baltimore. The first, his patent

for Pennsylvania, contained a section specifying his southern boundary:

...on the South by a Circle drawn at Twelve [miles distance from Newcastle] Northwards, and Westwards unto the [beginning] of the Fortieth Degree of Northern Latitude and then by a straight line Westwards to the limit of Longitude above mentioned.⁵⁹

The only problem was that, contrary to the claim of his promotional map and to the assurances he had given to Sir John Werden, the 40° latitude fell well above the circle surrounding Newcastle.⁶⁰ William Haig had already taken an observation which appeared to confirm the suspicion that Penn might not have any access to the Chesapeake if the 40° became the boundary.⁶¹ As well, Baltimore was convinced that even Upland was well within his boundary.⁶² While he might dispute the accuracy of quick observations, the evidence must have suggested to Penn that he could not afford to risk a formal settlement of the boundary based upon an observation of the 40° latitude.

For Penn's purposes, a letter from Charles II to Lord Baltimore, was particularly significant. Charles II proposed to the Maryland proprietor that he take "an admeasurement of the two degrees North from Watkins Point...according to the usual computation of sixty english miles to a degree."⁶³ It is probable that

Charles wrote such a detailed proposal only with the help of Penn or his agents.⁶⁴ By such a measurement, Pennsylvania would gain close to twenty miles along its border with Maryland and bring the border into line with the twelve mile circle surrounding Newcastle. Also, the chances were good that access to the Chesapeake would be gained. Both proprietors were no doubt aware of the recent discovery that the distance between degrees of latitude was closer to seventy miles than sixty.⁶⁵ Penn would argue that the original intent of Charles I had been governed by a premise that sixty miles separated degrees of latitude and that this measurement should be used to find Maryland's northern boundary.

One set of documents was not to be used at this meeting. Penn knew only too well that Baltimore did not recognize the Duke of York's pretensions on the Delaware peninsula. While he had managed to secure these lands from the Duke by deeds of enfeoffment, he realized that his claim was shaky. The King had not yet formally ceded these lands to the Duke. But, upon his arrival from England, Penn had demanded and received formal acknowledgement of his claim to this territory.⁶⁶ No doubt, the Quaker proprietor may have pondered how far Baltimore was willing to push his

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claims against those of the King's brother. He decided to avoid discussion of the Delaware lands until they had reached a decision on the boundary. He may well have hoped that, in the meantime, the King would have granted the land to the Duke who, in turn, could ratify his lease to the Pennsylvania proprietor. In this context, Penn completely misjudged the depth of Baltimore's complaint. A settlement of the boundary was inextricably tied to the disputed claims along the western shore of Delaware Bay.

If Penn needed a reminder of Baltimore's probable reaction, he had only to consider the events of September when the Maryland proprietor had aggressively pursued a meeting with William Markham. On 23 September, Baltimore had arrived in Newcastle to find that Markham was in Burlington. There had been little or no fanfare and what was worse no one or no letter to greet him. He must have been somewhat embarrassed in front of his Maryland retinue and the Newcastle onlookers. As he would later write, he had assured himself "that Markham would not be guilty of such incivilities and indecencies."⁶⁷ This reception seemed small thanks for personally lodging Markham for three weeks upon the latter's arrival a year earlier. Seeking to embarrass Markham and restore the legitimacy

of the Calvert claim in the eyes of both Pennsylvania and Maryland observers, Baltimore proceeded to the Deputy Governor's lodgings at Upland with "forty men armed with carbines, pistols and swords."⁶⁸ When Markham had made his appearance he "was not a little amazed...with such a disordered countenance, and odd behaviour as was easily perceived by all the Company."⁶⁹ At least, this was Baltimore's perception while "not seeming to take any notice of the confusion."⁷⁰ Markham later recalled that everyone had "something to say to me" and he feared "they would hardly give me so much time to do it."⁷¹ What did these men say to Markham? If they had all journeyed to Upland from Maryland, they may have been questioning Markham's manners in a boisterous fashion; but, Baltimore's formal party probably included no more than ten or twelve Marylanders with the remainder probably coming from the Newcastle area.⁷² Doubtless, they were most anxious to question Markham's jurisdiction. After Markham had arrived, an observation was taken by the Marylanders which placed Upland at 39° 45', well within the territory claimed by Baltimore. Before returning to Newcastle, Baltimore had publicly declared,

You are sensible, Captain Markham, that by an observation taken yesterday, that this plantation is in thirty nine degrees forty seven minutes and some seconds, and must therefore be sensible that

I Am here about twelve miles to the southward of the degree of forty, which is my north bounds, as the same is Mr. Penn's south bounds. Therefore, afore you and afore all the rest here present I lay claime to this place, and as far further as the degree of forty will reach.

Markham, by his later account, immediately countered that Baltimore "was under a mistake for he was in Pennsylvania," but Baltimore retorted that he would soon settle "some of these people about me here."⁷⁴ When Markham suggested that the King should arbitrate the dispute, Baltimore quickly affirmed that the land was his by patent and he had no need to go before the King. Shortly after that, Baltimore stopped in Chichester to lay his claim, going from door to door cautioning the residents not to pay their quitrents to Penn as they were on Maryland land.⁷⁵ The resulting uproar had kept Markham in some anxiety. Maybe Baltimore had remembered Penn's warning to Maryland planters to avoid paying quitrents and he may have considered the irony of Penn's letter to him in which the Quaker has espoused the Golden Rule.⁷⁶ Clearly in Baltimore's eyes, he was doing unto his neighbour as his neighbour had done unto him.

If Penn was optimistic about his meeting with Baltimore, these thoughts may have tempered his enthusiasm, for the Maryland proprietor was obviously not a person to shun conflict; however, Penn was also

no foreigner to conflict or to confrontation. In some measure, he must have been satisfied at the prospect of meeting a member of nobility on equal terms. In a letter to Philomen Lloyd written over a year later, he would succinctly state, "He is here but a Proprietor, & so an I."⁷⁷ To another Marylander, he noted that in England he had been "perpetually in the Crowd of y^e Great st Court, Council & Parliam^t Inns of Court, etc."⁷⁸ He had even suggested to Baltimore that his 'interest' at Court might be of assistance to the Maryland proprietor.⁷⁹ In some ways, Penn could have argued that he was at least Baltimore's social equal. Except for a brief four year period, Charles Calvert had lived in Maryland since the Restoration. A member of the Irish nobility, he had no claim to the peerage. William Penn also owned extensive property in Ireland, and he was held in high regard at Whitehall, despite his religious persuasion. To the cosmopolitan Penn, Calvert must have seemed provincial. And yet, as shown by his meeting with Markham, Baltimore seemed very conscious of rank. Penn had good reason to ponder how he would deal with such a man.

Penn wanted to negotiate with Calvert in private, but he knew he could not back down if a public meeting was demanded. He had to be very cautious lest this

desire for private negotiations be perceived as a sign of weakness. Both Pennsylvania and Maryland observers might well ask why the Quaker would insist on a private meeting with Calvert. To secure the loyalty of his own following, he must show himself capable of handling Lord Baltimore in a fashion befitting his status as proprietor of Pennsylvania and friend of the royal family. However, compromise solutions could not easily be offered in a public setting, while maintaining an aura of strength. Under no circumstances could Penn afford a repeat performance of the Markham - Baltimore meeting at Upland.

If Penn's primary concerns were guaranteed access to the sea and his status as a proprietary equal, what were the concerns of his opposite, Charles Calvert, the third Earl of Baltimore? Beneath the veneer of polite salutations, there is little doubt that this man harboured deep suspicions about the new Quaker proprietor. Perhaps he too had formed a mental checklist of problems and priorities.

First, he may have reviewed the "unkind and unneighbourly" actions of Penn and his deputy over the past year.⁸⁰ Penn's letter to several of the larger landowners of upper Maryland had not only been presumptuous, it appeared to precipitate a good deal of

unrest in the upper counties. Even Penn's first letter to him seemed to carry with it a veiled threat. It had implied that if Calvert was not prudent and cautious, he might well find himself in disfavour with the King. Also, the actions of William Markham over the past year would have seemed decidedly evasive and unmannerly, but some of these negative feelings might have been abetted in September when he had publicly upstaged the Deputy Governor at Upland.

Far more serious than these irritants, Penn's claim to Newcastle and the surrounding region must have been a concern to Baltimore. By December, the Maryland proprietor may well have received word from his agents in London that, in late August, Penn had obtained deeds of enfeoffment from the Duke for Newcastle and those lands south to Cape Henlopen.⁸¹ Even if he had not had confirmation from England, he knew of Penn's ceremonial possession of Newcastle in October. Here was an issue which had been very close to Calvert since his first days as Governor of Maryland. Unlike Penn, for whom the issues did not have a long history, Calvert had been struggling to retain possession of the entire Delaware peninsula for over twenty years. Where Penn may have perceived a glorious opportunity to secure an open route to the sea when he petitioned the Duke for

his Delaware possessions, Baltimore saw yet another chapter unfolding in a long struggle.

When Charles Calvert had become Governor of Maryland in 1661, he was still in his early twenties. Unlike his descendants, he would bring to the proprietorship in 1674 almost fourteen years of first hand experience in the colony. Throughout those years, he was conscious of the pretensions of first the Dutch and Swedes and then the Duke of York.⁸² In the ensuing years, the issue of prior settlement on the western shore of Delaware Bay became a crucial justification for the Duke's claim to the area and ultimately for William Penn's right to the territory.

Whether the Dutch had an active settlement on the western shore of Delaware Bay before the Calvert family received the Maryland charter in 1632 became a major legal issue. Over the next few years, both Marylanders and Pennsylvanians questioned former Dutch colonists and examined old manuscripts. As early as 1659, the Dutch had argued that Maryland's charter included only those lands "neither cultivated nor planted," and it is possible that Penn heard this argument upon his arrival in America.⁸³ Augustine Herrman had then been a Dutch emissary to Maryland. He had defended the Dutch possession of the western part of the Delaware

peninsula on the same grounds used to justify the claims of other European nations to American lands. "What right had the Kings of Spain, France or England," he asked, "more than the Hollanders or the Dutch to the New World - America?"⁸⁴ The Anglo-Dutch wars that followed in 1665 and 1673 answered this question. The English were to have the right to these lands by conquest and possession. But, as Calvert and the Duke's advisors well knew, there was still a debate regarding which Englishmen possessed the Dutch territory on Delaware Bay.

The Duke claimed the area by right of conquest, while Baltimore insisted that the land had always been part of the Maryland patent. Calvert could point to Nathaniel Utie's mission to New Amstel in the late 1650s, when the Dutch were formally notified of Maryland's claims. Also, he could show that county jurisdiction had been imposed in the 1660s and that Marylanders had taken part in the conflict with the Dutch in 1673.⁸⁵ However, these measures could be challenged by the Duke's adherents, who argued that magistrates had been duly appointed for the region and courts had been convened under the auspices of the Governor of New York.⁸⁶

While these jurisdictional differences were serious, a delicate balance of interests had been in effect until Penn claimed possession of Newcastle. When Baltimore had met with Markham in September, the issue seemed simple enough - one had only to claim to the 40° latitude, but now, Penn claimed much of the western side of Delaware Bay. Baltimore's grievance had become appreciably more serious.

On that December morning in 1683, Calvert probably did not foresee the endless debate over the clause, "hactenus inculta" (hitherto uncultivated) in his patent.⁸⁷ He was convinced that his patent would legally stand against other claimants, but he may also have realized that legalities were sometimes overruled by actual possession. To what extent could he enforce actual possession in the face of the Duke of York's claim which had now been apparently granted to William Penn? This was a question with which he would grapple for some time.

If Calvert had been particularly candid he may have found that despite his noble title and his proprietary power, his position in England was not strong. For a few years, he had spent most of his adult life in Maryland. This province was itself something of an island for Roman Catholics seeking

preferment. Over time, Calvert had further insulated himself from mainstream English politics by surrounding himself with a closely-knit group of officials, inter-related by marriage and sharing a Catholic heritage. He must have known that Penn's 'interest' was very strong, despite his Quaker status. How else could a proprietary colony have been granted when royal officials were seeking to strengthen the Crown's role in colonial affairs? Certainly, the Duke of York was a very formidable opponent. For James to support Penn's first petition and to have ceded his own pretensions in the area to the Quaker must have made Baltimore extremely uneasy. It must have been galling for the Maryland proprietor to accept that the Duke, a fellow Catholic and heir to the throne, was on better terms with a Quaker than with a co-religionist.

When Penn completed his journey on 13 December 1682, the two proprietors quickly addressed the major issues in the growing dispute. A written transcript of the proceedings was made, probably owing to Baltimore's suspicions and possibly to his hope that Penn might be drawn into a documented admission.⁸⁸ The Pennsylvanians later argued they were unaware that a Maryland attendant was recording the conversation and the accuracy of the transcription would be disputed.

However, it is probably an accurate representation of what the Marylanders perceived to be the main elements of the meeting.

According to Penn, Baltimore was quick to play the gracious host to "show me the greatness of his power."⁸⁹ From the onset, Penn impressed upon his host the importance of access to the sea. He argued that this was so critical to Pennsylvania interests that a settlement would be impossible without some accommodation on this issue. In what would become a persistent plea, Penn claimed that the land necessary to assure access to the sea "was ninety-nine times more valuable to [him] than to [Baltimore] - to [Penn] the head and to [Baltimore] the tail."⁹⁰ Marylanders became convinced that Penn already knew that his boundary would fall well above the head of Chesapeake Bay and therefore, that he would never accept an observation of the 40^o, unless he was guaranteed access to the sea. They were also certain that underlying Markham's illness of the preceding summer was an unwillingness to run the boundary line.⁹¹ But, at this first meeting, Baltimore merely indicated that he would need time to consider Penn's urgent request.

Calvert knew that Penn wanted to continue discussing their differences in private, but he

insisted "that an affaire of that concerne to them both, being publicly debated, would give most satisfaction to the inhabitants of both Provinces."⁹² This early debate over method suggests something of the difficulties encountered by the proprietors in trying to defuse the situation. For Baltimore, a public forum in Annapolis offered the opportunity to assert his status. Set against a backdrop of a predominately Maryland audience, Baltimore could play to the crowd, soliciting laughter or concerned rumblings as needed. In this context, strength was to be measured by the lack of concessions and weakness by public offers of compromise. Under these circumstances, it is scarcely surprising that Penn wanted a private bargaining session. On this procedural disagreement, Baltimore had his way and the next day, when the proprietors met for formal discussions, members of both provincial councils were present. As noted above, Baltimore had also placed the clerk of the Maryland assembly in the corner of the room to transcribe the meeting. It is difficult to believe that this clerk would have gone unnoticed by the entire Pennsylvania delegation.

Penn began the proceedings by producing the letter from King Charles II which Baltimore read publicly. It did not take a brilliant strategist to understand

Penn's approach. Penn had presumably heard in the early summer that an accurate observation of the 40° latitude would jeopardize his access route to the sea. Baltimore immediately realized the implications of this proposal and insisted that the King had "received some misinformation."⁹³ Producing copies of both patents, he pointed out that the boundary between the two provinces was, by patent, the fortieth degree. Penn seemed prepared for this reaction. Expressing a willingness to waive the King's letter, he noted that the Lords of Trade had been under the impression that his patent would allow Penn access to the Chesapeake. Naturally, since he had submitted the original proposal, Penn had also been under this assumption and had created a map to support this claim.

Penn then proposed that, unless Baltimore was willing to compromise, they would "wait" the King's leisure for a further interpretation of his grant."⁹⁴ Calvert replied, as he would throughout this first conference, that the line should be run according to an accurate observation of 40° latitude. Despite the appearance of compromise, Penn insisted upon a measurement from a specified southerly point, although he did offer different approaches to this method. For example, he suggested that a northward measurement of

two degrees, fifty-five minutes be taken from the Capes which were commonly accepted to lie at $37^{\circ} 5'$. He followed this with his most attractive offer which was based on a miscalculation of the latitude of Watkin's Point. Assuming that it was situated at approximately $37^{\circ} 30'$ latitude, he offered to allow Baltimore a measurement of two and one half degrees from that location. Actually, Watkin's Point lies just below 38° and therefore, even granting only sixty miles to a degree, Maryland's northern boundary would have reached very close to Baltimore's maximum claim, and would have denied Pennsylvania access to the Chesapeake. This is a clear indication of how little either side really knew of the accuracy of the maps of the region - first, that Penn made such a proposal and second, that Baltimore turned it down.

While Penn tried to hammer out a solution on the boundary line in "the most equal way that can be," Baltimore was more interested in the status of the Delaware peninsula. After Penn did not initiate any discussion on this matter, Calvert asked him directly, "whither you have purchased the Duke's pretensions to Delaware."⁹⁵ Penn acknowledged that he held the Delaware lands as a gift from the Duke of York with half the revenues obtained from land sales and rent to

be reserved for the Duke. He then refused to pursue this issue saying that the boundary line must first be settled. From this moment in the conference, there was no hint of compromise from either side; Baltimore continued to demand an observation, while Penn continued to insist upon a measurement. Again, it is worth noting that Penn's rhetoric suggests a willingness to compromise, but on the significant question of measurement or observation he remained steadfast.

Baltimore tried to introduce what was for him the most pressing problem. It became the crucial turning point of the entire conference.

Lord B. Mr. Penn you did I remember once propose to me in England that you had offers made you of that part of Delaware from his royale Highness which I lay claime to but you would not as you then said accept thereof because you knew it was mine the same I heare you have now possesst yourselfe of I onely desire to know upon what tearmes you claime.

W. Penn. If the Lord Baltimore please I desire we may first conclude our former discourse and then I shall shew myself most willing and ready to give you all satisfaction I can in that point.

Baltimore had as much as accused Penn of duplicity in the acquisition of the western shore of Delaware Bay. It is reasonable to infer that he was unwilling to budge on the boundary question until the Delaware issue was settled. Penn, on the other hand, was not

prepared to discuss Delaware until the boundary arrangements were completed. He later wrote to Thomas Taylor, one of the Maryland Council members present, that Baltimore had deliberately cast him in a poor light. He vehemently reported that "y^e story of y^e Ld Balt; 'tis as false as y^t I am a dead Jesuit." He did acknowledge that an offer was made, but not by the Duke and not to Penn. Instead, he had been requested by one Jonathon Fenwick to offer the Duke £1,000 for Newcastle and area. When he had asked a colleague about the matter he was told that "Baltimore claims it as belonging to him."⁹⁷ Although this account is plausible, Penn's later motives are more of the point. He told Taylor that "finding this place, [i.e. Delaware] necessary to my Province, and y^t y^e Presence of y^e Ld Balt was ag^t Law civil and common, I endeavoured to get it, & have it, & will keep it if I can."⁹⁸ Penn^d first perceived the need and later the justification.

If Penn was willing to respond to one of the Maryland councilors with such directness some six months after the fact, suspicions must have been rampant at the meeting itself. The two proprietors continued to debate the question of an observation of 40^a or a measurement, but it was soon evident neither side would change its position. For Baltimore, the

Quaker was seeking to heap "error upon error," while for Penn, an admeasurement remained the "most equal way" to resolve their differences. Faced by a man who not only did not want to take an observation of the 40° latitude, but who refused to discuss his claims on the Delaware peninsula, Baltimore could be forgiven for failing to see the equity of Penn's proposal. On the other hand, Penn must have experienced a good deal of frustration. By the terms of his original patent, he had assumed access to the Chesapeake and he had every reason to believe that the Duke's claim to Newcastle and surrounding area was valid. Penn must have perceived that Baltimore wanted to place a strangle hold on Pennsylvania by denying access to the sea.

Penn did hint of a possible arrangement, if only Baltimore would agree to "a word or two in private."⁹⁹ Given his public pronouncements, this suggests that Penn was willing to compromise if he could avoid a public appearance of weakness. As Baltimore did not respond to this offer of private negotiations, the meeting ended shortly after that with Penn making a final plea that they "accommodate the business between ourselves."¹⁰⁰

The proprietors would meet again in May, 1683. In the intervening months, little happened to allay their

anxieties. If anything, it appears that neither held any real hope of an amicable settlement and this lack of optimism seems to have guided their actions.

Shortly after Christmas, a Quaker named Robert Hopper was reported to have taken an observation at the head of the Chesapeake.¹⁰¹ While Penn vehemently denied the implication, Baltimore appears to have believed that Hopper acted on Penn's orders. Probably Baltimore wanted to believe the rumour, for it provided him with a justification to send commissioners to the mouth of the Susquehanna River to take further observations.

On 28 February, they reported that they had taken a measurement at Palmers Island finding it to lie at 39° 44'.¹⁰² When he had heard of this venture, Penn wrote to Baltimore for confirmation, "takeing it for graunted That I should have had notice of so near an approach from the Lord Baltmores order."¹⁰³ When Baltimore informed Penn that an observation had been taken, the latter found it difficult to remain calm.

... I should have taken it for a mighty favour to have shared wth my L^d Baltimore in the Private Satisfactⁿ of y^r observation he took at Palmer's Isle ... The Lord Baltimore knows better than any body how much it had been convinceing, & whether the contrary may not leave some jealousy & soreness of minds besides.¹⁰⁴

While addressing the Robert Hopper story, Penn did not hide his fury over Baltimore's venture to Palmer's Island.

I despise the tricks for two reasons, one, that I hate their indirectness, the other, that I never needed them ... This is to let the Lord Baltimore know what I am for a man, & w^h he must expect me to be; one y^e is not often deceiv'd & will not easily be abused as well as y^e I abhor to commit an Injury.

The dispute took on an increasingly personal tone; the two proprietors now had little liking for each other. Although Penn openly abhorred indirect methods, his actions seemed to undercut this claim. Nor was concern limited to the northern boundary line for Baltimore's claim to the entire Delaware peninsula was of even greater significance. William Clark, a Pennsylvania justice of the peace in the Lower Counties, informed Penn that all those authorized to be magistrates had signed a document, attesting to their loyalty. However, there was one exception, Norton Claypoole, who "would not signe pretending the Lord Baltimore [had] a right to the place."¹⁰⁶ Despite Clark's contention that Claypoole represented a minority, Penn must have been concerned about the true feelings of the inhabitants.

Although he had expressed an aversion to an indirect approach, Penn remained conscious of the need

to maintain pressure in England. Writing to Lord Hyde in February, he begged him to use his "benigne influence" with his brother-in-law, the Duke of York, since Penn's agents were having serious difficulties with Sir John Werden. Werden was holding up Penn's draft of a royal patent for the Delaware lands.¹⁰⁷ On another occasion, Penn informed the Marquis of Halifax of the dire economic implications for Pennsylvania, if Baltimore should succeed in his claim.¹⁰⁸

Meanwhile, Baltimore was not willing to place all his aspirations on the successful result of personal negotiations with Penn. While the latter was writing to Hyde, Baltimore wrote to Halifax complaining of the Quaker proprietor's unwillingness to run the boundary line and asking that the conveyance of the Duke's Delaware claims to Penn be delayed until the full dispute was settled.¹⁰⁹ Halifax brought Baltimore's letter before the Committee on Trade and Plantations, together with Baltimore's narrative and transcript of the first Penn-Baltimore conference. In order to provide Halifax with the time to examine the claims of all parties, the Lords recommended that the Duke of York delay the conveyance of his Delaware claim to Penn.¹¹⁰ Shortly after that, the committee invited

Lord Baltimore, through his agent, to petition the King if he had any complaint.¹¹¹

As the time appointed for their second conference drew near, both sides appeared resigned to the probability that the dispute would not be resolved in a face-to-face encounter. Magistrates in the Lower Counties were busy collecting depositions from former Dutch settlers to prove the legitimacy of the Duke of York's claims.¹¹² Baltimore had dispatched his cousin, George Talbot, to New York to search through old Dutch records for documents which would support Maryland pretensions.¹¹³ When Penn received word that Baltimore was planning to go to England, he did not need to be reminded of the implications.¹¹⁴

Finally, Baltimore sanctioned two provincial measures which conveyed the seriousness of his reaction to Penn's claims. First, the Maryland proprietor had a bill introduced in the Assembly which would re-introduce the oath of fidelity and end the affirmation alternative for Maryland Quakers. Those "y^t would not take It [were] to have 30 Dayes to dispose of their Interest here & After y^t time If they were not gone then banishment and forfeiture of their Astates both Personall & Reall" were to be their punishment.¹¹⁵ While the Assembly did not pass this

bill, the message to Penn was unmistakable. It seems that Baltimore had not forgotten the concession he had made at their first meeting and he was unwilling to let Penn forget it either.

Soon after this incident, Baltimore issued a proclamation on land settlement in Maryland. While the standard payment for fifty acres was to be one hundred pounds of tobacco with an annual rent of two shillings sterling, a settler choosing "the Sea bound side or the where hills" could receive the same acreage for half the price and half the rent.¹¹⁶ Coming as it did before the 29 May meeting, this proclamation clearly showed Baltimore's attitude to compromise. As far as he was concerned, there was little or no chance of accommodation while "Prince Penn" continued to act like a landgrabbing 'knaves'.¹¹⁷

On 29 May 1683, Penn met Baltimore eight to ten miles from Newcastle and escorted him back to the town which was to be the site of their second meeting. Despite his Quaker faith, the Pennsylvania proprietor was not to be upstaged by his Maryland counterpart. Accompanied by "about sixty horse men better Armed and Aquitered than [Baltimore's] party; with a Trump^t sounding before [him]; And the greata Guns firing at they Going out and Coming Into the Towne," Penn must

have appeared, a far cry from the humble Quaker he might have wished to be.¹¹⁸ If rumours that later spread through Maryland are even somewhat accurate, this display had a definite effect on Baltimore. William Clark, a local magistrate, reported that the Maryland proprietor "never saw any person carry him self soe lofty and with soe much Ma^{tie} as Govern^r Penn did to him at new Castle; And that [Penn] put as great A salt upon him as if he had bene such [Penn's] Inferiour."¹¹⁹ Rubbing more salt into Baltimore's wounded pride, Penn wrote to Baltimore the day after their meeting that he hoped "y^e Lord Baltimore will please to impute the meanness of his entertain^t to the unexpectedness of the occasion."¹²⁰ Penn may have been a remarkably naive judge of character, but in this incident, he appears a subtle opponent who well knew the importance of unsettling the opposition without appearing to give offence.¹²¹

Upon arriving at Newcastle, Baltimore appears to have sought an immediate private conference, but Penn, complaining of the heat, asked for a half hour postponement to rest. According to the Marylanders, this 'rest' was extended some three or four hours as a ruse to allow Penn to consult with his Council.¹²² As this was not denied by Penn in subsequent letters, it

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is probable that he availed himself of his Council, after first saying he needed some rest. It seems that Penn wanted the two proprietors to sit separately with their Councils and communicate by formal written documents, but Baltimore objected to this approach. That night, they sat down to discuss their differences in private.

The issue of a public or private session is a significant one. Away from the friendly confines of St. Mary's, Baltimore may have felt that he was in a weaker position and, therefore, sought the private meeting. It was surely not coincidental that, at both conferences, the 'visitor' sought a private conference, while the 'host' insisted upon a public forum. The fact that Penn eventually granted Baltimore's request suggests the Quaker was very anxious to reach a compromise solution.

In a disagreement which was fast escalating into a formal dispute, the participants understandably had different interpretations of what happened that night, but certain elements of the encounter emerge with clarity. Penn was willing to concede that the 40° latitude was Baltimore's legitimate northern boundary, but continued to insist on an admeasurement. According to Baltimore, the Pennsylvania proprietor then admitted

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that by taking an admeasurement of the two degrees from Watkins's Point, using the traditional equivalence of sixty miles to a degree, he hoped to gain about twelve to fourteen miles.¹²³ He believed that this, in turn, would give him access to the Chesapeake. Having been so forthright with Baltimore about his needs, Penn then assured him that "he would procure it from his maj^{ty}." Baltimore responded, somewhat prophetically, "that if he could impose his dictates upon the King and Council it would be in vaine for me to hope to have Justice done." With confidence he then concluded that Penn would be unable to "impose in that kind."¹²⁴

This was a significant moment in the lives of these two men, although neither of them were probably conscious of its full implications. For the first time, they openly discussed seeking some form of arbitration. Little did they realize that the dispute would not be resolved for another seventy-five years. Neither party had expected a favourable result at this meeting, but a faint hope of a 'rapprochement' persisted. Acting as though both realized that this would be their last chance to settle their dispute on a personal level, Penn and Baltimore each made one last effort at compromise.

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Having acknowledged the importance of an outlet on the Chesapeake for his province, Penn offered to join with Baltimore in the accurate observation of the 40° latitude as their boundary if Baltimore would, in return, sell him enough land on either side of the Susquehanna River from the Bay to the line of the 40°. Given Penn's insistence on an admeasurement, this was a dramatic departure and one which Baltimore wanted time to consider. Penn wanted a quick response. After some discussion with his Maryland delegation, Baltimore made a counter offer against the advice of his Council. If Penn acknowledged Maryland's right to the two Lower Counties, then Penn might have his Susquehanna outlet.¹²⁵ This was the critical juncture in this early phase of the dispute. Baltimore apparently felt secure in his claim to all land to the 40° latitude with the notable exception of the Lower Counties. As Pennsylvanians would later argue, Baltimore's willingness to barter a Susquehanna 'corridor' for the affirmation of his claim to the Lower Counties suggests that Marylanders were in some doubt about their right to this latter region.¹²⁶ However, they were unwilling to give Penn what he wanted for a confirmation of the true 40° as the boundary, a matter they believed to be beyond dispute. It is noteworthy that in his recollection of the meeting which he sent to the Lords

of Trade, Baltimore did not specifically outline this final offer. By simply alluding to "some other offers which [Penn] thought not good to yield to," Calvert hoped to sidestep the Pennsylvania contention that he doubted his ability to re-establish his claim.¹²⁷ The Maryland Council may have been opposed to Baltimore's offer for precisely that reason; but, Penn rejected this counter offer. Shortly after that, Baltimore claimed he was ill and the conference came to an end. Penn and his associates were probably correct in their assumption that Baltimore's illness was contrived.¹²⁸

Neither side appears to have wanted to escalate the dispute, but neither were they ready to compromise. This being said, it is difficult to isolate this interaction from the later recriminations and conflict. Was the bitterness found in the letters that immediately followed the conference the result of this meeting, or merely a reflection of long held, but suppressed, conviction?

Both Penn and Baltimore had offered substantive concessions suggesting that neither proprietor believed his position to be without weakness. On the issue of the 40° latitude there had been a partial concession by Penn that an observation would benefit Maryland, and he appeared willing to accept this point if he received

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the Susquehanna River as an access route. If William Clark's report of the Maryland counter offer is correct, Baltimore was ready to concede Newcastle.¹²⁹ Penn would then have had two routes to the sea, one via a Susquehanna River corridor to Chesapeake Bay and the other via the Delaware River or Newcastle to Delaware Bay. But, Penn's ardent effort to secure the Delaware counties in the first place was a matter of public record and there was a general expectation that the King would formally confirm the Duke of York's title to these lands. Under these circumstances, it might well have ruined Penn's relationship with the Duke and King to acknowledge Calvert's claim to even two of the Lower Counties. This, in part, may explain Penn's refusal of Baltimore's offer, but it says little of the personal tensions that existed within and between these men.

The question of Penn's motivation is often clouded by contradictions. Humble and proud, placating and tenacious, spiritual and worldly are just a few of the paradoxes with which biographers have grappled. Mary Maples Bunn supplies the best clue to this enigmatic character when she argues for the persistence of a vision through all the vagaries of his behaviour.¹³⁰ While she was alluding specifically to Penn's consistent pursuit of liberty of conscience, her

emphasis on a sense of missionary tenacity is applicable within the context of the boundary controversy. Penn might be opposed to trickery, but he made it clear to any who listened, that he would pursue this matter with an intense commitment founded on practical necessity. Of his apparent right to the Lower Counties, he had succinctly written, "I endeavoured to gett it, & have it, & will keep it if I can." 131

On another occasion, he noted his wish for a balanced settlement, but insisted that "wⁿ y^e terms of it are to cost a man's self, compliance were mean and wittless." He preferred to lose the dispute in a fair contest than "easily deliver up the point." He concluded with an illuminating comment on his personal stake in the contest.

Let it not be a vice to wth stand so great a man; he is here but a Proprietor, & so, as I. I yield to him priority; Superiority not. 132

For Penn, the loss of the Lower Counties without a battle would have been more than a political defeat; it would have been a personal defeat as well. It was not only the value that he had publicly placed on these territories that was at issue. His sense of self-esteem, the desire to be measured as the equal or better of Baltimore, cannot be overlooked. In a period

when political esteem was frequently reflected in the number of personal connections that comprised one's 'interest', here was an opportunity for Penn to demonstrate his real status.

From the beginning, he had not hesitated to remind Baltimore of his powerful connections. The tension must have been high when Penn insisted that the King would support his grant and Baltimore openly challenged the strength of the Quaker's 'interest.' As a committed member of a harried religious sect, Penn appropriately placed great importance on the protective value of his relationship with the Duke of York. In a sense, this strong 'interest' with the Duke of York was a source of legitimacy for Penn. Under no circumstances could he forsake a hard won public example of the Duke's favour. Therefore, political and personal considerations became interwoven in Penn's tenacious defence of his right to the Lower Counties. Although Baltimore needed no further reminder of this dimension, Penn wrote on 6 June 1683 that if Maryland persisted in its boundary demands, contrary to "duty to y^e King," he would be obliged to take his case to England.¹³³

The motivation of Charles Calvert is more difficult to discern. Unlike Penn, the Maryland

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proprietor has not been the subject of intense biographical analysis.¹³⁴ However, his approach to the boundary problem does suggest important aspects of his personality. A Catholic proprietor of an increasingly Protestant colony, Calvert was familiar with the tactics necessary to maintain his hold on provincial authority.¹³⁵ As previously noted, he had spent much of his adult life in Maryland. During that time, he had diligently been building an elite based upon family connections and skilful manipulation of patronage.¹³⁶ By 1683, Baltimore was no stranger to the importance of status and the power of 'interest.' However, there was a major difference between the two proprietors' appreciation of political connections. While Penn had been carefully developing royal favour in England, Baltimore had grown accustomed to dispensing favours in Maryland. Within the context of Maryland and more particularly, among the ruling elite, Calvert's power was strong. Despite this, or maybe because of it, his English connections did not approximate those of Penn. It is possible that, as a result of years of political management, Calvert thoroughly miscalculated his importance relative to Penn. As recent as 1681 he had forestalled the complaints of the Lords of Trade but his placement of Catholics in positions of authority, to the detriment of Protestant Marylanders.¹³⁷ On the

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other hand, he was astute enough to recognize the potential discontent of his Protestant settlers. It is impossible to ascertain how much the disturbances in Cecil and Baltimore counties in late 1681 were caused by Penn's letter. Perhaps general discontent with Baltimore's government was closer to the mark with the letter merely serving as a catalyst.

Charles Calvert was a shrewd and intelligent man. His letters reflect a flair for subtle, yet biting, sarcasm.¹³⁸ If he was naive in his assessment of Penn's connections, he otherwise conducted himself as an experienced political warrior, capable of countering persistent attacks with adept counter measures. It is possible that it was precisely this shrewdness which led him to offer a Susquehanna outlet to Penn in return for the two lower counties. For an access corridor into an interior unsuitable for tobacco growing, he would legitimize his claim to a valuable seaboard territory. His agents had probably informed him of the Duke of York's ever increasing power at Whitehall. Despite his patent and his efforts to prevent the King's grant of the region to the Duke, he knew the Duke would make a formidable opponent. To have Penn concede the two lower counties made good sense.

When Penn immediately refused his offer, Baltimore must have realized that all hope of compromise was gone. His anger was apparent in his letter to Penn some three weeks after their conference. Recalling Penn's letter of 16 September 1681, his bitterness was transparent.

And as till now I have ben also silent in another point of ill neighbourhood; I mean a letter writt by M^r Penn ... that might have bin termed a peece of sedition, had it not come from a Person of that worth, and figure, w^{ch} I esteeme M^r Penn to be. 139

Later in this lengthy letter, Baltimore could not resist returning to what must have been a particularly galling point.

I will waver any answer now to those expectations of M^r Penn w^{ch} can never be brought to pass by him wthout hoping, that he can impose his owne dictates on his Mat^{ty} and Councill ... 'Tis possible that M^r Penn may think it will appeare some affront to the King and duke to [?] deliver me up my Right upon delaware, w^{ch} their goodness upon a presumption of a Title have bestowed upon him. Far be it from me to press you to come und^r so great a displeasure ... 140

On the surface, Baltimore's grievances against Penn were the result of the general lack of accurate maps of colonial America in the 17th Century. When William Penn discovered the problem, he sought a compromise solution; however, over the course of two intensive face-to-face encounters, personal ambition,

the need to maintain a sense of honour before a local audience, and the aggressive behaviour and growing antipathy of the proprietors combined to doom the negotiations. At the crucial stage, neither party was willing to grant the other the minimum conditions necessary to arrange a settlement. Penn assumed Baltimore would realize the Quaker's political interest was sufficient to force a favourable settlement and he did not hide the implicit threat of recourse to the imposition of a royal settlement. Baltimore, out of pride and miscalculation, believed his charter rights would withstand such a blatant political assault. A settlement was within their grasp, but personal negotiations not only failed to address Baltimore's grievances, they made matters worse.

By 1683, Baltimore perceived "Prince Penn" as something of an upstart, while Penn probably saw his counterpart as a provincial despot who needed to be reminded of his lack of status within the English political world. Both men had a vested interest in escalating a conflict which neither party particularly wanted. Face-to-face interaction can frequently diffuse a potentially serious conflict, but the opposite is equally possible. By changing the focus from the issues in dispute to the personalities of the

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participants, the frontier encounters between Penn and Baltimore produced long-lasting animity. A successful result depended upon either the overriding self-interest of one or both of the proprietors, or a mutual compatibility which would have minimized the source of conflict. During the Penn-Baltimore confrontations, neither of these conditions were met.

NOTES - CHAPTER 1

1. Minute of the King's Report on William Penn's Petition, 1 June 1680, Papers of William Penn (Microfilm), Historical Society of Pennsylvania, #2818. See also Richard S. Dunn & Mary Naples Dunn (eds), The Papers of William Penn (Philadelphia, 1982), II (1680-1684), 33-34. For the fragment of the original petition see Petition to Charles II, [May] 1680, ibid., 32-33. The recent publication of the first two volumes of the latter work has in some places updated and revised the earlier microfilm reproduction of Penn's papers by the Historical Society of Pennsylvania. However, the published papers do not include some of the documents available on microfilm. For convenience, when the document has been revised and published in the Dunn edition, it will be so noted. Otherwise, the reference will be made to the microfilm collection. Hereinafter, these sources will be referred to as PWP and PWP(Micro) respectively. Unless otherwise noted, all references to PWP will be to Volume II.

2. See Vincent Buranelli, The King & the Quakers: A Study of William Penn and James II (Philadelphia, 1962) for a detailed discussion of the relationship between the Stuarts and the Penns. Penn had noted, in his petition, that the King consider the outstanding "Debt of, at least 11,000..." (PWP, 32) and a Committee of Trade and Plantation minute recorded that Penn's request was "in consideration of debts due to him or his father from the Crown." PWP, 35. For the relative importance of the relationship on the decision to give Penn his requested patent, see Joseph E. Illick, "The Pennsylvania Grant: A Re-evaluation," PWHS, 86 (1962), 375-396.

3. The Committee of Trade and Plantations had only recently been created to provide the King and Council with detailed reports on colonial affairs. For a detailed discussion of the Committee, or the Lords of Trade as they came to be called, see Ralph P. Bicker, The Lords of Trade and Plantations, 1673-1696 (Allentown, Pa., 1918).

4. Minute of the Committee of Trade, 14 June 1680, PWP, 35.

5. Sir John Werden (1640-1716) was secretary to the Duke of York. The Werden family had long been associated with the Duke's Household. Given his somewhat independent view on the Penn patent, it is interesting to note that in 1688, Werden supported the ascension of William III. For additional information, see DWH.

6. Minute, PWP, 35; see also Committee of Trade & Plantations to Sir John Werden, 14 June 1680, PWP (Micro), #1522.

7. Lord Baltimore's Agents to William Blathwayt, 23 June 2, 1680, PWP, 36.

8. Werden to Blathwayt, 23 June 1680, PWP, 37-38.

9. Minute of the Committee of Trade, 25 June 1680, PWP, 39.

10. Ibid.

11. Werden to Blathwayt, 16 October 1680, PWP, 44.

12. Sir Creswell Levinz to the Committee of Trade, [October 1680?], PWP, 43.

13. Blathwayt to the Attorney General, 9 November 1680, PWP (Micro), #2807.

14. Werden to Blathwayt, 20 November 1680, PWP, 48.

15. Ibid. Werden's guess would prove to be reasonably accurate which suggests that he was well aware of Herrmann's map of 1670. See Appendix A for further information on the maps used by the participants.

16. Werden to Blathwayt, 23 November 1680, PWP, 49. According to Dunn and Dunn, it is quite probable that Penn was familiar with Francis Lamb's map of Virginia and Maryland (1676) which placed that 40° latitude about twelve miles north of Newcastle. See PWP, 49, et. If this is the case, then it underscores Penn's willingness to use whatever map suited his purposes at the time. See Appendix A for further information.

17. Ibid.

18. Lord Chief Justice North's Settlement of William Penn's Boundaries, n.d. [c. December 1680], PWP (Micro), #2815.

19. Minutes of the Committee of Trade and Plantations, 16 December 1680, in William Hand Browne (ed), Archives of Maryland (hereinafter cited as AM), V, 272.

20. For the modifications, see Minutes of Committee of Trade, 22 January 1681, PWP, 57; see also Minutes of the Committee of Trade, 24 February 1681, PWP, 77 and Lords of Trade to King Charles, 24 February 1681, PWP (Micro), #2298.

21. King Charles to Lord Baltimore, 2 April 1681, AM, 273-4.

22. Penn to Baltimore, 10 April 1681, PWP (Micro), #1214.

23. For a full discussion of 'interest' politics and its implications within the broader English Atlantic network, see Michael Kammen, Empire and Interest: The American Colonies and the Politics of Mercantilism (Philadelphia, 1970).

24. Penn to Baltimore, 10 April 1681.

25. William Penn's Commission to William Markham as Deputy Governor & Instructions, 10 April 1681, PWP (Micro), #2129.

26. For a rather critical interpretation of Penn's aggressive behaviour during this period, see Joseph E. Illick, William Penn the Politician: His Relations with the English Government (Ithaca, 1963), especially Chapter II. Illick's treatment should be contrasted with the work of other Penn scholars. For more sympathetic treatments of Penn's political activities, see Catherine Owens Peare, William Penn: A Biography (Philadelphia, 1957) and Mary Naples Dunn, William Penn: Politics and Conscience (Princeton, 1967).

27. Robert Barclay to Penn, 15 April 1681, PWP (Micro), #702. Robert Barclay (1648-1690) was a leading Quaker apologist. At this time, Barclay was trying to secure Scottish land purchasers for Penn. He became a proprietor of East Jersey in 1683. For additional information, PWP, I, 275e.

28. See note 2.

29. Penn to _____, July 1681, PWP (Micro).

30. Hedges to Penn, 16 July 1681, PWP (Micro), #1223.

31. Penn to Thomas Janney, 21 August 1681, PWP (Micro), #2037. Thomas Janney (1633-1697) was a Quaker minister in Cheshire who subsequently emigrated to Pennsylvania in 1683. See PWP, 107n.

32. Penn to Robert Turner, 16 August 1681, PWP (Micro), #7. Robert Turner (1635-1700) was a Dublin merchant who acted informally as Penn's land agent in Ireland. He later emigrated to Pennsylvania and held several offices in the province. PWP, 83n.

33. Illick, William Penn the Politician, 59.

34. Penn to James Frisby, Edward Jones, August; Herman, George Oldfield, Henry Ward, and Henry Johnson, 16 September 1681, PWP (Micro), #1215. James Frisby (c.1651-1704) was a wealthy Cecil County merchant-planter. At the time this letter was written, Frisby was an Assemblyman (1676-1684) and a strong proprietary supporter (BDM, I, 331). Edward Jones was a prominent officeholder who later ran afoul of the proprietor and was removed from office in 1687 (PWP, 114n). Augustine Herrman (c.1623-1686) is best remembered for his map of Virginia and Maryland published in 1673 (BDM, I, 438 and Karel J. Kaasky, "Augustine Herrman: The Leading Cartographer of the Seventeenth Century," MHM, 73 (1978), 352-359). His 25,000 acre plantation, Bohemia Manor, was Baltimore's payment for this service. It must have been particularly surprising to Herrman when Penn informed him that he resided within the bounds of Pennsylvania. His map had placed the 40° latitude north of the future site of Philadelphia. See Appendix A for further information. Of the remaining three planters, Henry Ward and Henry Johnson either had been or would soon be Assemblymen (PWP, 114n).

35. J. Thornton and J. Seller, "A Map of Some of the South and east bounds of Pennsylvania in America, being partly inhabited" (London, [1681]) in Jeanette D. Black, The Blithway Atlas (Providence, 1970), I, Map 15.

36. For information and reproductions of A. Herrman's "Map of Virginia and Maryland" (1673) and J. Thornton and R. Greene's "A Map of Virginia, Maryland..." (1678?) see Appendix A.

37. Thornton and Seller, "A Map... of the South and east bounds..."

38. For reference to and reproduction of Penn's copy of the Nicholas J. Visser's "Novi Belgii" [1651-56], see Edward C. Papefuse and Joseph M. Coale III, The Hammond-Harwood House Atlas of Historical Maps of Maryland, 1608-1908 (Baltimore, 1982), 38-39. A Visser map was also among the collection of maps used by the Lords of Trade. Black, Blathwayt Atlas, I, Map 9.

39. See Appendix A for brief descriptions and reproductions of the relevant maps.

40. PWP, 111-12. Dunn and Dunn place full responsibility for the inaccurate placement of the 40° latitude on Thornton and Sellar.

41. For reference to Penn's insistence on the use of the Visser map during the controversy, see Black, Blathwayt Atlas, II, 74.

42. Baltimore to Blathwayt, 11 March 1682, AM, V, 350.

43. "A Narrative of the whole Proceedings betwixt the Lord Baltimore and Captain William Markham Deputy Governor under William Penn Esqre as alsoe betwixt the Lord Baltimore, and the said Penn," 13 December 1682, AM, V, 375.

44. Baltimore to Markham, 5 June 1682, Calvert Papers (hereinafter CP), Correspondence of the Lords Baltimore, #1071 (MS 174, Maryland Historical Society, Microfilm).

45. A Narrative..., 375.

46. Of the six men addressed in the letter, three had been or were shortly to become magistrates. A fourth was Clerk of Cecil County. Three were Assemblymen. See note 34 and David William Jordan and Lois Green Carr, Maryland's Revolution of Government, 1689-1692 (Ithaca, 1974), 265 and 289-91.

47. Barclay to Penn, 25 November 1681, PWP (Micro), #509. Lawrence Hyde (1641-1711), after 1682 1st earl of Rochester, was the brother-in-law and close associate of James, Duke of York. In 1679, he became first Lord of the Treasury and in 1684, he was made Lord President of the Privy Council and Lord Lieutenant of Ireland. With the accession of James II, he became Lord Treasurer in 1685. DBB.

48. Instructions to William Crispin, John Bezar and Nathaniel Allen for settling the colony, 30 September 1681, PWP (Micro), #2063.

49. James Duke of York Lease for 10,000 Years to William Penn for Town of Newcastle and 12 mile circle, 24 August 1682, PWP (Micro), #2524; James Duke of York, Deed of Feoffment to William Penn for land South of the 12 mile circle, 24 August 1682, PWP (Micro), #2540.

50. Charles II to Baltimore, 19 August 1682, AM, V, 372.

51. A Narrative..., 374.

52. ibid., 375.

53. William Haig, a Pennsylvania Quaker, took the observation. ibid., 376.

54. Extract of letter from Boundary Commissioners to Lord Baltimore, 17 June 1682, AM, V, 369.

55. A Narrative..., 381.

56. The best introduction to the disputing process is Laura Nader and Harry F. Todd Jr. (eds.), The Disputing Process - Law in Ten Societies (New York, 1978), especially the Introduction, 1-40. For related studies, see Donald Black, The Behaviour of Law (New York, 1976) and Donald Black and Maureen Mileski (eds.), The Social Organization of Law (New York, 1973).

57. H. E. Wildes, William Penn (New York, 1974), 111.

58. Penn to Thomas Taylor, 31 July 1683, PWP (Micro), #2172.

59. Charles II to the Inhabitants of Pennsylvania, 2 April 1682, PWP (Micro), #110.

60. Verden to Blathwayt, 23 November 1683, PWP (Micro), #2814.

61. A Narrative..., 375-76.

62. ibid., 377.

63. Charles II to Baltimore, 2 August 1682, AM, V, 372.

64. There is evidence that Penn's agents drew up the patent for the Duke of York's grant to Penn. See Warden to Penn, 16 July 1681, PWP (Micro), #1223; Barclay to Penn, 25 November 1683, PWP (Micro), #505; and Tucker to Penn, 8 January 1683, PWP (Micro), #2026.
65. Charles C. Tansill, "The Pennsylvania-Maryland Boundary Controversy" (Phd. dissertation, Catholic University of America, 1914), 43-44. For a general discussion of 17th Century cartography, see J. N. Wilford, The Mapmakers (New York, 1981).
66. Memorandum of Delivery of Newcastle, 28 October 1682, PWP (Micro), #1446.
67. A Narrative..., 377.
68. Information of William Markham, 432.
69. A Narrative..., 377.
70. ibid.
71. Information of William Markham, 432.
72. A Narrative..., 377.
73. ibid.
74. Information of William Markham, March 1685, AM, V, 432. According to Baltimore, Markham had said nothing in response to the former's claim. See A Narrative..., AM, V, 378.
75. ibid. It is noteworthy that Baltimore's narrative makes no mention of this trip to Chichester. See A Narrative..., AM, V, 378.
76. Penn to Baltimore, 10 April 1681.
77. Penn to Colonel Philomen Lloyd, 24 February 1684, PWP (Micro), #1616.
78. Penn to Taylor, 31 July 1683.
79. Penn to Baltimore, 10 April 1681.
80. Baltimore to Blathwayt, 11 March 1682, AM, V, 349.
81. See note 49.

82. Much of the literature pertaining to the Pennsylvania-Maryland boundary dispute has focused on these pretensions. In particular, see Tansill, "The Pennsylvania-Maryland Boundary Controversy" and Edward Bennett Matthews, "History of the Boundary Dispute Between the Baltimores and the Penns Resulting in the Original Mason and Dixon Line," Maryland Geological Survey [Reports] (Baltimore, 1897-), 7, 105-203. See also, G. A. Weslager, The English on the Delaware: 1610-1682 (New Brunswick, 1967).

83. For examples of depositions acquired by Pennsylvania officials, see the following in PWP (Micro): Harmod Cornelius (#2166), Helmanus Wiltbanck (#2165), Richard Patte (#2168), John Roades (#2167) and the Ancient Swedes (#1542). For reference to the 1659 Dutch delegation, see Augustine Herman, "Journal of the Dutch Embassy to Maryland, 1659" in C. C. Hall (ed.) Narratives of Early Maryland, 1633-1684 (New York, 1910), 329.

84. Herman, "Journal...", 324.

85. Even depositions acquired by Pennsylvania authorities confirmed the Maryland raid on the Whorekills in 1673. See the depositions of Helmanus Wiltbanck and Harmod Cornelius, PWP (Micro), #2165 and #2166.

86. See, for example, Albert Cook (ed.), Records of the Court of New Castle on Delaware 1676-1681 (Lancaster, 1904).

87. For a detailed, if somewhat slanted, analysis of this debate, see Tansill, "The Pennsylvania-Maryland Boundary Controversy," chap. II.

88. Conference between my Lord Baltimore and Mr Penn, 13 December 1682, CP, Pennsylvania-Maryland Boundary Dispute (Chronological); A Narrative..., 377ff; Penn to the Lords of Trade and Plantations, 6 August 1683, Calendar of State Papers, Colonial Series, America and West Indies, 1681-1685 (hereinafter CSP), 11, #1179.

89. Penn to Lords of Trade, 6 August 1683.

90. ibid. For Baltimore's version of this exchange, see A Narrative..., 380.

91. Considerations upon two sheets signed by William Penn Proprietary and Governor of Pennsylvania Entitled

An Answer to a demand made to Nicholas Moore as my Deputy By Coll. George Talbott, CP, Boundary Dispute.

92. A Narrative..., 380.

93. Conference between..., CP.

94. ibid.

95. ibid.

96. ibid.

97. Penn to Taylor, 31 July 1683.

98. ibid.

99. Conference between..., CP.

100. ibid.

101. Penn to Baltimore, 23 April 1683, PWP (Micro), #2345; Penn to Taylor, 31 July 1683.

102. Declaration of James Conway, Alex^s Dennett and Rob Jones, 11 May 1683, AM, V, 394.

103. Penn to Baltimore, 12 March 1683, PWP (Micro), #1217.

104. Penn to Baltimore, 23 April 1683.

105. ibid.

106. William Clark to Penn, 13 January 1683, PWP(Micro), #267.

107. Penn to Hyde, 5 February 1683, PWP (Micro), #2552.

108. Penn to the Marquis of Halifax, n.d., in William R. Shephard, History of Proprietary Government in Pennsylvania (New York, 1896).

109. Baltimore to Halifax, 8 February 1683, AM, V, 392.

110. Journal of the Lords of Trade..., 17 April 1683, CSP, #1046; see also AM, V, 393-94.

111. Journal of the Lords of Trade..., 27 April 1683, CSP, #1055; see also AM, V, 394.

112. See the depositions listed in note 83.
113. Thomas Dongan to Penn, PWP (Micro), #245.
114. ibid.
115. John Pitt to Penn, 12 May 1683, PWP (Micro), #788.
116. Proclamation for letting out the lands, 15 May 1683, AM, V, 394-95.
117. Baltimore to Richard Burke, 7 November 1683, PWP, 625.
118. Clark to Penn, 21 June 1683, PWP (Micro), #2527.
119. ibid.
120. Penn to Baltimore, 30 May 1683, PWP (Micro), #1683; Penn to the Lords of Trade, 6 August 1683.
121. There is a good deal of debate on the paradoxical nature of Penn's character. It seems entirely possible that he could be both naive and subtle. This view of Penn as a somewhat contradictory Quaker courtier is amplified in Illick, William Penn the Politician. A more sympathetic treatment may be found in Dunn, William Penn, Politics and Conscience.
122. The sense and substance of what was argued and spoken by Charles Lord Baltimore and William Penn Esq^r at their Private Conference at Newcastle on Delaware River, 29 May 1683, AM, V, 398.
123. ibid. This was a departure from his offer at the close of their first meeting. At that time, Penn offered to permit Baltimore a measurement of two and a half degrees from Watkin's Point.
124. All quotations in the above paragraph are from ibid., 398-99.
125. Clark to Penn, 21 June 1683. For the opposition of the Maryland Council and further reference to his last offer, see Baltimore to Penn, 24 June 1683, PWP (Micro), #821.
126. ibid.
127. The sense and substance, ..., 398.

128. Penn to Lords of Trade, 6 August 1683.
129. Clark to Penn, 21 June 1683.
130. Dunn, William Penn, Politics and Conscience, vii-viii.
131. Penn to Taylor, 31 July 1683.
132. Penn to Philomen Bloyd, 24 January 1684, PA, 2nd Ser., VII, 5.
133. Penn to Baltimore, 6 June 1683, PWP (Micro), #1219.
134. For the most recent brief summary of Baltimore's career and family relationships, see BDM, I, 187-188.
135. See Carr and Jordan, Maryland's Revolution in Government for an analysis of Calvert's efforts to maintain Catholic dominance in Maryland. D. Owings, His Lordship's Patronage: Offices of Profit in Colonial Maryland (Baltimore, 1953) details the means by which the proprietor maintained his control.
136. David W. Jordan, "Maryland's Privy Council, 1637-1715," in Aubrey C. Land, et al (eds.), Law, Society and Politics in Early Maryland (Baltimore, 1977), 71-75.
137. ibid., 75.
138. His letter to Penn of 24 June 1683 is a classic example. PWP, 405-409.
139. ibid.
140. ibid.

CHAPTER II

FROM THE FRONTIER TO WHITEHALL, 1683-85

With the failure of direct negotiations, Penn and Baltimore considered alternative courses of action. As the willingness to compromise lessened, the demands of the proprietors grew; as the rhetoric became more heated, the personal antipathies of the proprietors increased. Events in the disputed borderlands suggest that both proprietors had their share of difficulties maintaining their authority over a small, but ambivalent local population. How did the local population deal with problems on the frontier? Despite local ambivalence, did the proprietors remain the dominant participants in the dispute?

Baltimore's request that royal approval of York's grant to Penn be delayed until he had a chance to present his objections, amounted to an appeal to the Crown to adjudicate the dispute. Both before and after their return to England to present their case before the Lords of Trade, Penn and Baltimore sought to bring their political interest to bear upon those responsible for hearing their dispute. What do these efforts suggest about the contrasting styles and the relative

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strengths and weaknesses of the proprietors' positions? What strategies did the proprietors use to try to win their case? To what extent could the apparent strength of Penn's political interest overcome the apparent right of Baltimore's title to the disputed regions?

To understand the interplay of changing political circumstance, the vagaries of political interest and Whitehall's approach to dispute settlement, the process of arbitration at the Lords of Trade meetings and the ways in which the prospects of the proprietors were altered during the hearings must be examined. Did the revolving nature of political favour have an impact upon the dispute? To what extent did the death of Charles II influence the outcome? Did the activities of provincial officers have any effect on the delicate balance of interests?

Finally, the Order-in-Council of 1685 appears in retrospect to have been less a settlement of the dispute than a well-spring for further grievance. Was there a genuine attempt by the Lords of Trade to find some middle ground between the politics of interest and the rights of property? And if this was the case, why did these efforts result in a legacy of bitter intransigence?

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The proprietors wasted little time in seeking assistance in their dispute. By coincidence, while Penn and Baltimore were returning to their provincial capitals from their last meeting, matters were already beginning to unfold several thousand miles away. On 31 May 1683, the King in Council, upon reading a petition from Baltimore's agent to stop the grant of the Lower Counties to the Duke of York, ordered the Lords of Trade to review and report on the matter.¹ As noted by his most recent biographer, Charles II was no stranger to disputed land claims resulting from recent royal grants which conflicted with prior land claims.² But, for the time being, Penn and Calvert were unaware of these activities.

Immediately after Baltimore had returned to St. Mary's, he sent William Blathwayt a copy of his reflections on the 29 May meeting together with a letter, pleading: "that if M^r Penn should move for any further order and comands in reference to the Bounde . . . you will please on my behalfe to request I may have time to be heard in person."³ He promised to make every effort to be in England by the following April to defend his claim to the Delaware region. By the next

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day, his expected date of arrival in England had been altered to May or June. Writing to Sir Leoline Jenkins, a Secretary of State, he again begged that no action be taken by the Council until he had been heard.⁴ On the same day, he sent a very respectful letter to the Marquis of Halifax, Lord Privy Seal, with the same request couched in a more self-deprecating style.⁵ It is noteworthy that in none of these letters did Baltimore request active support. The best he could expect was a postponement until he made a personal appeal to the Council.

Baltimore's approach must be contrasted with the more familiar style with which Penn wrote to the Duke of York's brother-in-law, the Earl of Rochester, on 14 June 1683.

. . . I am well though my business wth Ld. B. be yet undetermined. He totally waves y^e K's lett^r, w^{ch} I think neither decent, nor wise; for though he pleads its Disagreement wth his Patent, he must be sensible, y^e Plea will give occasion to say those things of y^e rise of his whole Interest as well as progress, w^{ch} will by no means turn to his account . . . I have descended to y^e utmost expedients . . . if he rejects y^e I shall return, resolving to lay my concerns at y^e K's feet, who, as he only is y^e proper Judge, so I dare venture y^e success.

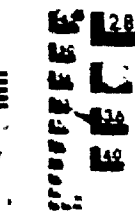
Penn was clearly in his element. The confidence and the condescension with which he viewed Baltimore are

striking in themselves. They are even more apparent when placed beside the feeble efforts of Baltimore.

In the provincial arena, the conflict continued to escalate with reports reaching Penn in late June that Baltimore intended "shortly to com with a Troop of horse to take possession of the Two Lower Countys."⁷ As a result of this threat and Baltimore's proclamation on land acquisition, there was considerable interest in the Delaware region. As Clark pointed out to Penn, "most of the Inhabited Land of the Lower Countys that are seated, are claimed by the same of the Inhabitants of Maryland whoe had pattens for it when the Ld Baltimore had the place."⁸ From Maryland came the news that Quakers were being fined for refusing militia service. Reportedly, Baltimore proclaimed that if Penn could "com with A Trumpt and armed men and five [?] great Guns" then Quakers could hardly "refuse to train."⁹ The symbolic value of appearances had again proven to be important. The pomp and circumstance surrounding Penn's greeting of Baltimore had been firmly registered in the mind of the Maryland proprietor.

Having received a definite confirmation of Baltimore's settlement proclamation, Penn sent three commissioners to Maryland to protest "y^e Wrong & Injury he hath done unto Duke & myself" by violating "our

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MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS
STANDARD REFERENCE MATERIAL 1010a
(ANSI and ISO TEST CHART No. 2)

present amicable Treaty.⁻¹⁰ If Calvert was prepared to be flexible, Penn instructed them to arrange for another meeting between the proprietors. Otherwise, they were to impress upon him that his actions were "an Invasion upon y^e Dukes long, & my late & present quiet possession."⁻¹¹ Interestingly, even if Baltimore were to withdraw his proclamation, Penn was adamant that the Maryland proprietor also publicly disavow comments made by a Major Sawyer about Penn and his "late Entertainm^t." If Calvert refused, it would make "all further Correspondence impossible & impracticable."⁻¹² Such was the importance Penn placed on honour and status.

Throughout July, the Pennsylvania proprietor busied himself with correspondence. Upon hearing that Baltimore was seeking news of Governor Dongan's arrival in New York "y^t he might show him y^e Kindness of an Old acquaintance," Penn urged his agents in New York to delay this message until he could first express his appreciation to the Duke.¹³ Of far greater importance to him, however, was his English correspondence. He thanked Lord Keeper North "for y^e many Favours I rec^d at y^e Ld. Norths hand in y^e passing & great Dispatch of my Patent."⁻¹⁴ A similar note of gratitude was dispatched to the Marquis of Halifax.¹⁵ He again

addressed the Earl of Rochester, complaining of "y^e
most disingenuous, evasive & infurious Practices in y^e
World."¹⁶ He pleaded for Rochester's active support
and hoped that he would assist his personal agent,
William Markham. While a more sophisticated
justification of his position would follow, Penn then
expressed his anxiety in simple terms: "Baut if y^e L^d
Baltimore be permitted to enjoy y^e extent of his
Pretensions, y^e Country will & must come to little, if
to anything, besides immense Charge."¹⁷

His letter to William Blathwayt reflected his
recognition that the Secretary to the Council of Trade
and Plantations was a power in his own right. Assuring
Blathwayt that "no man knows thes affaires better then
thyselpe," he asked that he share his "skill &
Kindness" with Markham. As with his dispatches to
other English dignitaries, Penn included a gratuity or
as he called it, "a poor token."¹⁸

If Penn was anxious to retain the favour of the
Earl of Rochester, he did not hesitate to pursue the
good will of other peers.. From Lord Dartmouth, he
sought "free Access for my Agent & Thy Advice and
Countenance in his Prosecution of my Affaires."¹⁹ Of
greater significance, he perceived the need to attach
himself to the Earl of Sunderland's rising star. He

wrote to Colonel Henry Sidney, in the hope that he would use "y^e mighty influences thou deservedly has upon him" to convince the Earl of the merits of Penn's position.²⁰ Sunderland's secretary was asked to befriend Markham, "few being equally able to direct his endeavours in the Court."²¹ In a classic, and candid statement on the artful pursuit of connection, the Quaker proprietor summarized his perceptions of political survival:

I perceive the Sceen is a little altered since my being in those parts, & a Man may miss y^e poor y^c Knocks by proxy; for Courts, too often like loose grounds, are perpetually to be watcht, & markt; else, all ende yours are but venture.²²

When Penn wrote to Sunderland, he did not hesitate to beseech the Earl "to take me & my poor feeble Concerns into thy protection."²³ In sum, Penn had concluded, by early August, that his dispute with Baltimore would ultimately be settled at Whitehall by those with whom he had a good measure of influence. To a 'Worthy Friend' he confided, "I think I goe upon a bottom, y^c will support my pretentions."²⁴

As already noted, Penn did not rely upon letters alone. In August, William Markham departed for England with detailed instructions to further Penn's case.²⁵ In his letters, Penn had sought to maintain his personal connections and to ease Markham's introduction

to Whitehall. Markham's instructions, on the other hand, detail Penn's thoughts on all aspects of the dispute, leaving the unavoidable impression that the proprietor was preparing a legal brief. In an orderly fashion, Penn outlined the various points which he hoped Markham would raise at appropriate moments. While his letters were general pleas for support, his instructions embody his analysis of the dispute and the means by which he would win. It has been argued by social and legal theorists that an appeal to a 'court' to adjudicate a disagreement assumes that the parties to the dispute are willing to risk everything on a 'win-or-lose' decision. It is precisely because most litigants are unwilling to gamble in an 'all-or-nothing' court case that out-of-court settlements are frequent.²⁶ Penn's instructions suggest that he was prepared to gamble.

At a time when the Maryland proprietor was already under the serious threat of quo warranto, Penn decided to call Baltimore's entire charter into question. In February, 1682, Baltimore had been warned that further examples of abuse of his charter would lead to it being recalled.²⁷ It seems too coincidental that Penn would now send Markham to England to try to provide the government with additional reasons to nullify the

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Maryland grant. Penn believed that the Delaware peninsula had been settled by the Dutch and Markham was, therefore, to question "whether y^e will not vacate y^e very Grant" since it was based on misinformation.²⁸ Even if "he hath y^e King's Right of what y^e Dutch wrongfully settled," Baltimore could still be accused of "Treachery to y^e Crown." Markham had only to insist that the Dutch had been permitted to settle in the region for over thirty years without recognizing the English crown. How could Baltimore be perceived as having fulfilled the requirements of his charter under these circumstances?

Penn assumed that the dispute would not be resolved that easily, but he still instructed Markham to undermine the legitimacy of the Maryland position "on all occasions." It was to be portrayed as "y^e most surreptitious Patent y^t even yet abused the Great Seal."²⁹ Penn also expected his new agent to handle all the rejoinders that Baltimore's agents would present. By stressing the prior Dutch settlements, the lack of any Maryland attempt to extend its authority over the Dutch and Swedes, and lastly the Duke's legitimate possession of the Lower Counties area by right of conquest, Penn hoped that Markham could sidetrack Baltimore's claim. However, Markham later,

conceded to Baltimore's agents that Penn and his Council had expected the Maryland claim to the Lower Counties to be upheld and that "all Penns proceedings hitherto, were but only to make a better bargaine" with Calvert.³⁰

Nor was Markham to neglect the need for a measurement to locate the position of the northern boundary of Maryland. "Importune the King to stick to that way of finding out forty," he urged, "by takeing the Old Ascertained Latitude of the Capes, or finding that of a Watkins point at Least and So measure."³¹

If Markham could convince Whitehall that it was unfair for Baltimore to have his southern boundary established by older inaccurate methods and his northern line by modern accurate observations, then Penn's position would be very secure. Markham was also instructed to persuade the Lords of Trade that the real Cape Henlopen lay several miles south of the Whorekills. When William Markham sailed for England in 1683, it was with the knowledge that the boundary dispute had escalated from a source of grievance for Baltimore to a formal conflict in need of some form of external adjudication or arbitration.

While it had not reached the level of physical violence, there is little doubt that Penn was willing

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to foster the destruction of the Calvert proprietorship. Although the documentation does not provide proof, Penn apparently perceived the growing anti-proprietary feeling within the Committee for Trade and Plantations. To divert attention from Pennsylvania, or at least to assure the committee members of his willingness to support royal interests, it may well have seemed expedient to focus attention on the questionable behaviour of his fellow proprietor in Maryland.

An unexpected opponent of Pennsylvania now emerged to the north. The new Governor of New York, Thomas Dongen, appeared to be "far more enclined to Maryland then Pennsilvania."³² William Haige had overheard him claiming that Baltimore had been wronged by Penn and significantly, that "a stoppe [was] putt to [Penn's] pattent at home by reason of a Caviat putt in against the obtaining of it [i.e. the Lower Counties] by the Lord Baltimore."³³ As an appointee of the Duke of York, Dongen's position on the dispute was a matter of concern. Penn hastened to remedy the situation, but he initially received only lukewarm support. Dongen explained that he was unable to comment on the dispute because the Duke's patent was limited to "y^e East side of Delaware River & bay." Further, he argued that

Baltimore was so tend^r of touch^g y^e Duke's Interest, y^t he will put a stop to proceedings, Untill he know his Roy^{ll} High^{ness} his farther pleasure.⁻³⁴ On the other hand, Dongan advised Penn to retain the Duke's claim until James decided what to do. Meanwhile, Penn was to send Dongan the quitrents collected in the Lower Counties. Dongan maintained his ambivalent attitude over the winter. While he assured Penn that he spoke well of him to the Duke, this was offset by an implicit warning. He "feard [Penn's] coviting [his] neighbors land would do [him] much pruidice."³⁵ Apparently Dongan's aversion to Penn's strategy was partially mitigated by his obligation to support the Duke's pretensions.

In September, Baltimore again journeyed up the Chesapeake to assert his claim to lands already held by Pennsylvania grants. There was even a rumour that he would enter Newcastle without first requesting permission. Penn's Newcastle magistrates admitted there were several inhabitants of the area who would welcome the Maryland proprietor's pretensions.³⁶ Penn's response to these rumours was immediate. The justices of the peace were to ascertain Baltimore's motives, while doing everything possible to convince the settlers that the Maryland claim could not be

substantiated. They were also to protest incursions into Pennsylvania, but avoid recourse to violence since Penn wanted to ensure that Baltimore alone could be accused of violent aggression.³⁷

By the spring of 1684, the questionable loyalty of the planters in the Lower Counties had become a major source of concern. It surfaced when one settler, John Richardson, complained to William Penn that Richard Mitchell, a Deputy Surveyor, had claimed 1000 acres of his land for Penn's manor. In the same letter, he reminded Penn of Baltimore's offer of lower rents by a Maryland land grant.³⁸ The threat was obvious. If Penn was not attentive, many settlers might opt for Baltimore's terms. Richardson and others followed this complaint with a petition to Baltimore "that they were Taxt to much."³⁹ Worse still, one Pennsylvania official noted that most of Kent County was "resolved to revolt because Govr Penn hath broken his Promise by not Entring and clearing y^e Vessells at NewCastle; Also, if they doe it Baltimore will stand by them."⁴⁰ Such to Penn's frustration, the willingness of Lower Counties settlers to exploit both sides in the dispute created a very difficult dilemma. It was doubtful if most of the local settlers would have supported him in a physical confrontation with Maryland. To underscore

this delicate Balance of loyalties in the Lower Counties, the actions of George Talbot, one of Baltimore's chief deputies, served to remind Penn of his awkward position.

In September 1683, Talbot had been commissioned by Baltimore to mark a line from the mouth of Octorara Creek on the Susquehanna River to the Delaware River and then to demand of William Penn,

all that part of land on the West side of the Said river that lyeth to The Southwards of the 40th degree Northerly latitude according to an East Line runn out from two observations the one taken the 10th of June, 1682, and the other the 27th of September 1682 in obedience to his Majesties Commands, Exprest in a letter of 2d April 1681.⁴¹

After Talbot hastily ran an east-west line by marking a line of trees as requested by his proprietor, he presented the demands to Penn's deputy, Nicholas Moore, on 24 September. Penn made a scathing reply by the end of October.⁴² Finding Baltimore's methods reprehensible, Penn made it clear that such demands were intolerable. He argued that the observations had not been joint undertakings as required and that his deputies were not to blame for this. He bitterly accused Baltimore of breaking an agreement to maintain amicable relations while the dispute was being settled. Penn complained of Baltimore's response to his letters regarding the Maryland land proclamation. He accused

the Maryland proprietor of writing "Lett^{rs}" of a very
course Style, such as indeed could not be answerd^{ed} wth
out those terms, w^{ch} unbecome men in our publick
Stations, who in y^e midst of all Disagree^{nts} ought to
manage y^r selves wth Coolness & exact Civility." 43

Penn then proceeded to deny Maryland's claim to
the Delaware region. He argued that, if the land truly
belonged to Maryland then they were derelict in
permitting the original Dutch settlers to remain on the
land without swearing allegiance to the Crown.
Baltimore was no ordinary subject "for he hath Regalia
Principality, though subordinate to y^e King . . . And I
conceive he is bound to keep his Dominions, or else
lose y^m, & if lost to a Forreigner, & taken by y^e
Soveraign, y^e Soveraign hath y^e Right an other
Conqueror could plead." 44 Penn urged Baltimore to
refer the matter to the Duke of York.

This long and acrimonious rebuttal must have given
Baltimore pause to ponder his position. He apparently
asked for comments from his Council for at least one
advisor reviewed the entire dispute, challenging each
of Penn's charges. To the complaint of Baltimore's
coarse letters, the reply was offered that Penn had
initiated this type of communication with letters which
even Markham had "begged my Lords pardon for being the

messenger of some of them."⁴⁵ To the accusations that Baltimore had not shown proper respect to Pennsylvanians at their second meeting, it was argued that Penn's Council had shown their distaste "that the L.B. had brought none but boyos with him (as they were pleased to say) for his Council." ⁴⁶ Clearly the rancor of this dispute was now fueled by councilors on both sides of the border. Baltimore must have found the reactions of his council in keeping with his own, for Talbot was permitted to follow an aggressive course of action in the spring of 1684.

In March, Talbot returned to the Newcastle region with a broad commission to demand of Penn, for a second time, all the land below the fortieth degree of latitude.⁴⁷ He also carried "a generall written Commission to use [his] best Endeavrs to gett the County of New Ireland planted and Inhabited, and to invite people thither from all parts."⁴⁸ He proceeded to incite local residents to recognize Baltimore's rights, claiming there were "better Land and Cheaper rents and greater Incouragements for poore men in Maryland than in Pensilvania."⁴⁹ For those who refused to recognize the validity of Baltimore's claim, his methods were direct. Consider, for example, the following incidents which were indicative of his style.

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These 'scenes' were, in themselves, minor encounters but taken together, they illustrate the dramatic impact of the dispute on the local population.

The plantation of a Widow Ogle was the setting for Scene I. Situated in Newcastle County, this land had been claimed by her late husband who had arrived with the Duke of York's forces.⁵⁰ In early April, Talbot, together with several attendants, took possession of a portion of her land and began to build a rudimentary fort.⁵¹ One of Widow Ogle's neighbours quickly notified William Welch, the local magistrate and Surveyor General of the Lower Counties. As noted earlier, Welch was somewhat dismayed by the lack of response to his call to arms. After summoning the other magistrates to a conference on the matter, Welch eventually rode out to confront Talbot with a posse of seven. Two of these volunteers were Justices of the Peace, another was the Sheriff. The remaining four included the old and the new constables. Only two inhabitants without official rank answered Welch's call for a 'posse comitatis.' Plainly, Penn had good reason to question the loyalty of the Lower Counties and this, in turn, must have accentuated the anxiety over Maryland incursions.

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When Welch arrived at the Widow Ogle's house, he was met by the widow and "4 or 5 ordinary men." Stopping long enough to take depositions against Talbot, the party then went to confront Talbot. Arriving at the partially constructed log house which was to function as a fort, Welch immediately noted that only three or four men, including Talbot, were armed. The remaining fourteen or fifteen attendants were scattered throughout the clearing. Presumably they were busy cutting down trees and building the fort. All eyes were now directed to the chief participants. Welch demanded an explanation for this "unlawful Riotous Assembly."⁵² The men around Talbot raised their weapons. Talbot with a flourish, pulled his commission from his breast pocket. "By orders from the Lord Baltimore," Talbot replied.⁵³ Welch challenged the legitimacy of Baltimore's patent in light of the more recent title to the land from the King and Duke to Penn. Welch then turned to all present and accused them of "a great Invasion" for which they would be held accountable. He proclaimed that they must leave "upon pain of Rebellion & Imprisonment." Obviously no one heeded his advice, for he appears to have demanded a second time that they disperse. When Talbot again defied the Pennsylvania magistrate, Welch directed his parting comments to those who were assisting the

Marylander, warning them of "y^e danger they were in & how severe y^e Lawe were against such offences." -54

Scene II occurred at the same location several weeks later. The widow Ogle and two of her neighbours were confronted by Talbot and three armed attendants. Apparently, the prospect of a Maryland 'fort' on her land had not persuaded Ogle, Jonas Erskin and Andriea Tille to switch allegiance to the Maryland proprietor. They were told that if they did not do so within three weeks, "he would turne them out of their houses and take their land from them." -55 As expected, this encounter heightened the anxiety of these inhabitants, who had remained loyal to the Pennsylvania proprietor. Ogle and her neighbours were probably not the only settlers to inform Sheriff Samuel Land that they had "a minde not to plant any thing moare this yeare nor to tende what Korne as they [had] planted." -56 Was this a plea or a threat to Pennsylvania authority? In so many words, the settlers were saying that if Talbot could do as he pleased, what was the point of maintaining a farm under Penn's jurisdiction. Despite the rhetoric, the participants on both sides appear to have known each other and the threats, while ominous, must be considered within the context of a network of continuing relationships. Sheriff Land talked with

Peter De Marse, one of Talbot's attendants at the Ogle plantation incident. It seemed the Marylanders were talking of war and were demanding oaths of fidelity to Baltimore. But, the impression Land leaves in his letter to Penn. is one of two neighbours having a frank discussion about matters outside their jurisdiction.

Scene III serves to underscore the style of George Talbot and the nature of the dispute as it affected local inhabitants. Talbot's house lay close to or within the twelve mile radial boundary of Newcastle.⁵⁷ John Nomers, a resident of the Newcastle area was on his way to visit a Maryland friend when he passed by Talbot's house. Talbot called to him by name asking, "how his people Did in the fort." Nomers replied that he had not seen them in the past two weeks. At that point, Talbot asked if Nomers was now willing to swear obedience to Baltimore. "To sarve Tow masters," Nomers explained, "I Could not Doe att once Except the king pleases to order [me] to Be the Lord Baltimores tennant and then ... Doe as [my] neighbors Doth." Talbot then threatened to build a fort behind Nomers' house and "pound" his cattle. When asked why he would do this, Talbot replied, "for Eating my grass." Nomers responded, "[T]heire [is] grasse enough for A thousand head of Cattell Besides yo^rs and mine," to which Talbot

exclaimed, "I would have you Bee Better advised."

With this comment, Talbot bid farewell to Nomers.

Taken together these scenes provide the observer with several insights into the behaviour of the inhabitants. First, the participants on each side were familiar with one another. In the border region, this was not a conflict between strangers. Members of the magistracy on both sides knew their neighbours, whether they were planters or tenants. It seems that for those whose lives were most physically effected by the conflict, the web of continuing relationships was strong. Even after a dramatic encounter, inhabitants could be seen conversing with one another without recourse to physical violence. Second, the rhetoric of violence far outstripped the actual events. To be sure, there was a good deal of tension, but both sides seemed to be more concerned with appearances than with realities. Thus, a roughhewn breastwork became symbolic of Maryland authority. The Pennsylvania accusations of invasion and riotous behaviour coupled with threats of imprisonment, became, in reality, ritualistic attempts to re-assert the legitimacy of Penn's pretensions. Third, neither side was particularly strong. While, at first glance, it appears that Talbot possessed the capacity to exert

conformity, he was unsuccessful in swaying steadfast supporters of Penn to his point of view. This was despite the fact that most of their neighbours either remained neutral or openly favoured Baltimore. In at least one face-to-face encounter, an inhabitant successfully resisted the efforts of Talbot to force his compliance. On the other hand, William Welch found that Penn's magistrates were isolated when the possibility of open violence existed. He acknowledged that most of the populace were unenthusiastic about Penn's authority.

The fact that Talbot's position was not as strong as it might appear, ought not to minimize the inherent weakness of the Pennsylvania magistracy. Penn's various instructions to his magistrates illustrates their precarious position. They were "to raise y^e Country ... Suppress all Riotous & Rebellious practices & then to apprehend & imprison" all those who were involved in such activities.⁵⁸ They were also to capture those fellow magistrates who appeared to approve of Baltimore's claims.⁵⁹ It is evident from the incidents just described that Welch and Land had difficulty raising any form of posse to say nothing of a general alarm. The order to arrest wayward judicial colleagues cautiously emphasized the need for secrecy

lest news of the arrests spread through the county. They were to conduct their prisoners to the county court where they were to chastise them publicly for their "Treachery and cowardice in suffering Baltimore's emissaries to go up and down the country to seduce people from their obedience."⁶⁰ Penn then provided his loyal officials with blank commissions so that they could add the names of those they believed to be "most honest and true to our just interest."

Whether conscious or not, Penn's instructions are remarkable admissions of weakness. Unable to curtail the Marylanders directly, he was now adamant that his own officials be arrested. Even one of the sheriffs of the Lower Counties was to be apprehended. But at the same time, Welch and his fellow loyal magistrates were to avoid wholesale judicial proceedings against the general population. If they could isolate the two chief offenders and then make a public show of their trial and punishment, this would serve the purpose. Penn was apparently familiar with the value and limits of ritualized law.⁶¹

Later that month, William Clark, a Penn supporter, did convene a court at Dover River. He harshly criticized the magistrates of the area for their "Low, Treacherous and Cowardly spirit."⁶² For them to

permit, if not support, the visits of Baltimore's agents was intolerable. However, despite this rhetoric, it is more illuminating that Clark felt the need to defend his actions to Penn against the charge that he had told "several Lyes and untruths, Reflecting Upon the L^d Baltimore and his Governmt."⁶³ Clark's actions at Dover River were apparently not well received; he may well have been openly accused of being a liar. Such were the conditions on the border when Penn travelled to Newcastle to receive first hand information from William Welch and his other loyal officials and it was within this context, that George Talbot came to Newcastle in the spring of 1684 to pay his respects to the Pennsylvania proprietor.

Since Talbot had not been commissioned to negotiate with Penn, this meeting between Penn and Baltimore's deputy was not a formal conference. On the other hand, it did provide an opportunity for both sides to test the strength and to ascertain the latest intentions of their opponent.⁶⁴ The discussion focused on three major issues: the implications of the former Dutch settlement on the current dispute; Baltimore's apparent breach of faith; and the immediate potential for physical conflict..

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Penn was most anxious to learn how Baltimore would defend his claim against the Duke's possession by right of conquest. Obviously, both proprietors and their councils had given this question a good deal of thought. Agents had been busy searching through the old Dutch records, magistrates had taken depositions from settlers of the former Dutch colony and presumably, legal opinions had been sought. It now remained to test the results.

At the heart of Penn's case lay the claim "that the Lord Baltimore's right was devolved to the Dutch by their Conquest, and their right to the Duke by his." Talbot countered by first distinguishing between "a real Estate and a Chattell," and then noting that "the property of a real Estate is not soe readily made void as that of a Chattell." He concluded "that real Estates if Conquer'd by Enemies and Recoverd by the Crown are claimeable by the former Proprietors." By way of example, he cited the restoration of real estate but not chattels to the Royalists after 1660. Penn carefully distinguished between the repossession of land by the Cavaliers and the position of Baltimore. In the latter's case, "a great Prince . . . Ought to defend his Territories against forraigners at his owne charge, and if he looses them, and the King recover

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then, they become the King's property and not his." Also since the Dutch were not English subjects, the case could only be tried by civil law, not by common law. One of the principles of civil law was "the right of all conquered Lands to the Conqueror."⁶⁵

As though rehearsed, Talbot then addressed the sensitive issue of the legitimate extent of the Duke's claim, assuming such a claim was found valid. First, he questioned the validity of the latter's claim to the Whorekills region in light of Baltimore's 1673 sacking of that settlement. Second, he wondered how the Dutch possession conveyed the right "to seat St. Jones, St. Georges, the Upper parts of the Christine and the forrests backwards where noe settlements were ever made." With this in mind, how could Penn object to Maryland's "right beyond all others to seat on those parts which do lye in Maryland and never were Cultivated by the Dutch."⁶⁶ These comments may not have echoed Baltimore's own thoughts, but they served as a reminder of the Maryland proprietor's final offer of a Susquehanna corridor for undisputed possession of the two Lower Counties. The Marylanders were probably worried about their legal right to Newcastle; they may have grimly, albeit privately, acknowledged the Duke's claim to that area by right of conquest. Then Talbot's

queries regarding Whorekills and the inland limits of the Dutch settlements may have been attempts to create doubts and possibly, a willingness to compromise in Penn's mind.

If this was the case, Penn's research into the old records apparently dashed the Marylanders' hopes, for he now pointed out that "though the Dutch were not seated in all those places, yet they bought all Delaware river and Bay from the Natives and 3 daies' journey back into the woods, which would take in a good part of Chesapeake bay besides the whole Forrest betwixt it and Delaware bay."⁶⁷ Penn now claimed the entire peninsula as far south as Cape Henlopen! He appeared ready to contest access to the Chesapeake without recourse to a measurement or to a Susquehanna corridor. Penn was skilfully answering Baltimore's demand for all territory south of the fortieth degree latitude with a significant counter claim of his own. The tactics used by the two proprietors suggest that they now perceived themselves as litigants ready to present their substantial claims to arbitration. Penn said as much to Talbot in two different contexts.⁶⁸

On a more personal level, Penn expressed frustration over Baltimore's breach of good faith. He listed Baltimore's further observations at the head of

the Chesapeake and the set of demands that Talbot had delivered to Nicholas Moore as examples of this hostile behaviour. Talbot assured him that Baltimore only sought to prevent new settlers from taking up land under a Pennsylvania grant. He indicated that he had received "noe order from my Lord to turn any out of their houses that are seated already, but I must not permit new seaters on any account." When Penn chided him with implementing illegal orders, Talbot retorted that he was not "Lawyer enough to Judge what orders are legall and what are not."⁶⁹

Questions of legitimacy were seldom far from the surface. The disputed jurisdiction of the Lower Counties was creating rival centres of authority with one province's magistrates becoming the other province's rioters. This confusion did little to assure the local inhabitants that their property rights were safe. While Penn and Baltimore continued their disagreement in a higher court, the local population remained ambivalent. The lack of legal clarity and the need to maintain continuing relationships had to be measured against the prospect of lower taxes and the opportunity to regulate their own interests. A nascent local perspective was far different from that of the proprietors. Those who were caught in the middle, the

provincial magistrates, were simultaneously commanded to maintain some sense of order and to press their proprietor's cause on all occasions. This was a difficult task. It is little wonder that Talbot found the question of legality complicated.

With the end of this meeting, the attention of the participants shifted to Whitehall. Penn soon learned of Baltimore's departure for England and followed later that summer. According to Sheriff Land, Baltimore had "given all our Lands and tenements away to those members of [the Maryland] assembly" who indicated that they were inhabitants of the area. In so doing, he may have hoped to unite the provincial elite behind him.⁷⁰

All hope that the dispute would be resolved by face-to-face encounter had been eliminated by the spring of 1684. The protagonists had met twice with each other and once with their opponent's deputy. The gradual deterioration in relations may be traced through these meetings. The correspondence of the participants grew increasingly harsh in the months following Penn's first visit to his province. The issues at stake had also grown, as each proprietor sought to press for an advantage.

Arbitration presupposes that each party will maximize their demands in the hope that the eventual result will meet their minimum requirements. In this instance, Penn was now claiming most of Delaware peninsula, as well as that region north of what was formerly thought to be the 40° latitude. Baltimore also claimed the entire peninsula north of the Virginia boundary as well as all land south of the true fortieth degree. The earlier offers of compromise appear to have been retracted as the dispute became an increasingly public issue with the proprietors growing more conscious of an audience. In the literal sense, Baltimore had insisted on a public debate at their first meeting, despite Penn's preference for private talks. At their next conference, Penn reversed the tables, calling for formal negotiations between councils over Baltimore's objections.

Both men felt a strong need to legitimize their authority with public displays of power before an audience comprised largely of their own followers. This suggests that neither Penn nor Baltimore were convinced of the support of their own officers. Such recourse to public display was an effort to secure their loyalty. At the same time, both recognized the need for compromise and sought private negotiations as

a way of avoiding any public display of weakness. Each public demonstration by one proprietor induced the other to greater efforts and out of these efforts, a genuine personal antipathy emerged which made further face-to-face encounters counterproductive.

Members of the Maryland and Pennsylvania Councils were active participants in the deliberations. It appears that the increasing acrimony of the proprietors was shared by many of their councilors. There is no doubt that Markham and Haige knew that an accurate observation of the fortieth degree would not be in their proprietor's interest, and therefore, used delaying tactics to avoid implementing the King's orders. Similarly, there is no question that Talbot was a vocal proponent of a tough Maryland stance. Still, neither group of councilors were unanimous in their hostility. Phlogon Lloyd and Thomas Taylor remained on good terms with Penn, while there was some question about the position of Penn supporters from the Lower Counties. At the very least, a good number of magistrates and a sheriff in the Lower Counties were arrested and duly chastized for tolerating Maryland pretensions.

Among the local inhabitants, two themes emerged which persisted throughout the boundary dispute.

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First, most of settlers knew each other and continued to communicate with one another in a very immediate sense. The conflict for these participants must be measured against the ever present need of continuing relationships. Second, even in this early phase of the dispute, local settlers began to see the importance of seeking an independent middle ground between the two proprietors. In a very literal sense, many were prepared to choose whichever side supplied the best deal. Nor would their decision at one moment limit their willingness to change sides later. Throughout the period, there was a strain of localism in the Lower Counties which subsequently developed into outright antipathy to the dominance of Philadelphia. Yet, despite the participation of many local and provincial leaders, this first series of dramatic encounters was dominated by the proprietors and their deputies. The provincial elites were not as yet firmly entrenched and the local population was still sparse. As the proprietors took their cases before the Committee on Trade and Plantations, the conflict moved with them. For the next year, the deliberations at Whitehall provided the central context of the boundary dispute.

When the proprietors set sail for England in 1684, they fully understood that their contest would ultimately be decided by the strength of their 'interest' at Whitehall. As already noted, Baltimore was convinced Penn's connections were not powerful enough to override the Calverts' obvious right by patent.⁷¹ In his letters to Blathwayt, he expressed confidence in his position, but there is a ring of false bravado in his assertion that "Penn hath suggested things so false that I scarcely will believe he will think fitt to appeare with me (as he hath often threatened) at the Councill board."⁷² It is difficult to believe that Baltimore thought his position was that strong. The reality is best reflected in the urgency with which he was proceeding to England. He realized that he had to appear in person before the Board, and bring the matter to a conclusion before Penn could martial an adequate defense.⁷³ Far from being over-confident, Baltimore earlier had confided to Blathwayt that the dispute was "a matter of that importance to me that I dare not Comitt the management of it to the best agents I can procure to act for me in my absence."⁷⁴ He assured Sir Leoline Jenkins,

Secretary of State, that he would effectively counter any evidence Penn might present to substantiate his claim of prior Dutch settlement. Yet, there is a suggestion of anxiety in his claim that "Neither [Penn] nor his agents are as yet able to prove" their case.⁷⁵ Baltimore was not waiting until his adversary found the necessary evidence.

Baltimore arrived in England to find that his urgent requests for time had been favourably received. The Committee for Trade and Plantations, had agreed in February to defer consideration of the dispute until Baltimore's arrival.⁷⁶ This was not necessarily an indication of support for the Maryland proprietor, for when considering matters involving individuals, companies or colonies, the Committee normally granted the interested parties sufficient time to prepare their case. The intervention of a strong 'interest' might lead to a violation of this convention, but such an intervention was unnecessary to obtain a delay.⁷⁷

The Lords of the Committee for Trade and Plantations was a standing committee of Privy Council. Although advisory in nature, its mandate was extensive.⁷⁸ One of its main activities was the generation of reports to the King on particular complaints that were forwarded to the Crown from the

colonies.⁷⁹ The Lords had already suggested to Baltimore that he could petition the King to withhold his seal on the grant of the Delaware lands to the Duke of York. Richard Burke, Baltimore's agent had immediately done so and the Lords of Trade were accordingly instructed by the King to review the case and report their findings.⁸⁰ Insofar as the Lords of Trade reviewed disputes and proposed settlements, they functioned as arbitrators. Their decision was not binding for the King in Council decided whether to accept their recommendations, but committee members were also on the Council. This then was the arbitration board before which Baltimore and Penn were to present their grievances.

Given the emphasis that each of the disputants placed on their connections, it is necessary to examine the composition of the Committee and the possible affect of proprietary interests on the outcome of the Lords of Trade review. This analysis is central to an understanding of the encounters that took place in the Privy Council chamber at Whitehall over the remainder of 1684 and most of 1685.

Between July 1684 and October 1685, the Lords of Trade considered the dispute, or some aspect of it, on fourteen different occasions. During these meetings,

twenty-six Lords reviewed at least some aspect of the conflict, but only half of these counselors could be considered active.⁸¹ The Lords Craven, Rochester, Sunderland, Middleton, Halifax and North were the most frequent recipients of material about the dispute.⁸² Each of these men appears to have had an interest in the eventual result of the dispute. Taken together, the efforts of Baltimore and Penn to maintain their connections with these men provide a good illustration of interest politics at the end of Charles II's reign.

For some time, Baltimore had maintained an active correspondence with William Blathwayt, the Secretary to the Lords of Trade. Though not a formal member of the committee, his influence could be most useful to a petitioner.⁸³ His knowledge of the vagaries of power politics at Whitehall provided the Maryland proprietor with essential information. Thus, Blathwayt notified Baltimore in February 1682/83 that Halifax had been made Lord Privy Seal and Sunderland had been appointed Secretary of State to replace Lord Conway. Of greater significance, he alluded to the growing rift between Rochester and Halifax.⁸⁴ Rochester, brother-in-law of the Duke of York, was one of James' strongest supporters. In light of the Duke's claims to Delaware, Baltimore was safe in assuming Rochester's

predisposition to Penn.⁸⁵ Therefore, the news of this breach between Halifax and Rochester was valuable. Baltimore wrote to Halifax at least twice in the succeeding months, and it was the Lord Privy Seal who presented Baltimore's "Narrative" to the Lords of Trade.⁸⁶

Blathwayt could, however, be more than a source of information on the intricacies of Whitehall politics, for the Committee of Trade and Plantations had its own rhythm of work. Reports were received and read (not necessarily in the order received), recommendations were considered, requests for more information were sent, regular meetings were established. As secretary to the Committee, Blathwayt could directly influence this 'internal clock.' Favourable material could not only reach the Lords of Trade, but could be made conspicuous by the Secretary. Thus, he wrote "that the Papers y^r Lo^p ordered M^r Burck to putt into my hands have from time to time given my Lords of the Committee great satisfaction and assurance of y^r Lo^p's prudent conduct."⁸⁷

A favourably disposed secretary could also act as an informal conduit of information, ensuring that certain members of the Committee received the appropriate materials. When Penn was seeking his

grant, Baltimore conveyed Augustine Herrman's map of 1670 to the Earl of Anglesey and Viscount Fauconburg through the good offices of Blathwayt.⁸⁸ The proprietor also requested that Penn's provocative letter to six influential Cecil County planters, be sent to Lord Anglesey and Sir Leoline Jenkins.⁸⁹ In 1679, he had written to his attorney, Thomas Gilbert, that Robert Southwell "who is Chief Sec^y to the Lords for Plantatione affaires will acquaint you if any thing be moved at that board."⁹⁰ While not alone in his appreciation of Blathwayt's skills, it seems that Baltimore's "favorable acceptance of the profession I make of being," made a particularly positive impression on the young bureaucrat.⁹¹ Blathwayt may generally be seen as a strong opponent of proprietary government, but the evidence suggests that, in his early career, he was willing to deal with at least one proprietor in an amicable manner.⁹² For Baltimore, it was crucial to maintain an active correspondence with him, in order to remain appraised of the activities of the Committee, of the changing fortunes of courtiers, and of any noteworthy action on Penn's part.⁹³

Apart from Blathwayt, Baltimore hoped that his carefully maintained connections with Sir Leoline Jenkins, Viscount Fauconburg and the Earl of Craven

would now bear the stress of his dispute with Penn.⁹⁴ He could no longer count on Lord Anglesey who had been dismissed as Lord Privy Seal in 1682.⁹⁵ Jenkins was a valuable ally. A Secretary of State, he was an active member of the Lords of Trade, attending over 75% of the meetings.⁹⁶ Unfortunately for Baltimore, Jenkins would soon lose favour and resigned a few months after the Maryland proprietor arrived.⁹⁷ The Earl of Craven was a seasoned member of the Lords of Trade, and one of the proprietors of Carolina and of the Bahamas. If regular attendance at meetings, a good grasp of colonial affairs and the personal regard of the King meant something, Baltimore had a useful ally in Craven.⁹⁸ The influence of Viscount Fauconburg, on the other hand, was of questionable value. Of the thirty-five members of the Lords of Trade between 1675 and 1696, only five had a lower rate of attendance than Fauconburg. It is difficult to assess the strength of his support for Baltimore, but it is unlikely that his influence was significant.⁹⁹

If not directly supportive of Baltimore, the ambivalent attitudes of Halifax, Dartmouth and North were also cultivated by the Maryland proprietor. As Chief Justice, Lord North had examined the boundaries of Penn's patent in some detail and at least could

provide new members of the Committee with detailed background.¹⁰⁰ He resigned after the coronation of James II and was therefore unavailable to act as a neutral counterbalance during the critical months of 1685.¹⁰¹ Originally a supporter of the Duke of York, Dartmouth was attempting to take a more independent line by 1684.¹⁰² This may account for his lack of warmth to Markham when the latter had tried to convince him of the merits of Penn's case.¹⁰³ At the very least, he appeared to share Sir John Werden's reservations about Penn's patent and later efforts to obtain the Lower Counties.

The most difficult committee member to gauge was George Saville, the Marquis of Halifax. Halifax became Lord Privy Seal in 1682 and over the next two years he became an increasingly powerful courtier. However, with the accession of James II, his career went into dramatic decline. He was immediately replaced as Lord Privy Seal by the Earl of Clarendon and was offered the titular position of Lord President of the Council. However, this proved to be an interim measure for, by the fall of 1685, he was out of office having fallen from the pinnacle of power in the space of one year.¹⁰⁴ It is uncertain whether Halifax was a supporter of Baltimore or of Penn, but it is known that he was not a

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favourite of the Duke of York and was openly opposed to the latter's return to London in 1682. He also viewed the Earls of Sunderland and Rochester as his opponents. Therefore, for factional reasons extraneous to the dispute, he might have opposed a cause which was actively supported by Rochester, Sunderland and the Duke of York. Yet, on at least one later occasion, he publicly criticized the colonial policy of James II as a matter of principle.¹⁰⁵ Yet, although Baltimore's agent, Richard Burke, considered him to be a valuable friend of his employer, it would be misleading to suggest that Halifax definitely supported the Maryland proprietor. He was first and foremost the King's chief minister and Charles II had recently favoured Penn with the grant of Pennsylvania. Penn's letters to Halifax are far more personable than those written by his Maryland counterpart.¹⁰⁶ In addition, William Markham was quite pleased with his efforts to influence the Marquis.¹⁰⁷ Therefore, it is more accurate to claim that Halifax held an independent view of the dispute. Unlike Dartmouth, he entertained the efforts of Penn's agents.

Whitehall politics, in the last years of Charles II and the early months of the reign of James II might best be described as a carrousel. To the observer,

courtiers appeared to be passing in and out of favour with an all too frequent regularity. Baltimore had pinned his hopes on the outright support, or the open-minded neutrality of several well-placed individuals, but given the changing cast of characters, those in favour today might be out of public view tomorrow.

William Penn faced a somewhat similar task, but with the marked difference that he enjoyed the favour of Charles II and his brother, James, the Duke of York, heir to the throne. Not only was the Duke an admirer of Penn, he was also a major, if indirect, participant. Despite Penn's extensive personal campaign to garner influence, his influence at Whitehall was directly related to the political fortunes of the King's brother and his chief allies.¹⁰⁸

As already noted, Penn had sent William Markham to England in August of 1683 to rescue his English 'interest.' Markham carried with him letters to such key members of the Lords of Trade as North, Halifax, Dartmouth, Sunderland and Rochester.¹⁰⁹ Somewhat belatedly, he thanked North and Halifax for their support of his original grant.¹¹⁰ His letters to Rochester suggest a warmer relationship than is reflected in his correspondence with other

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courtiers.¹¹¹ Rochester indicated to Markham that he "did not expect any present but what service he could due [Penn] he would be very ready."¹¹² However, despite his close association with the Duke of York, Rochester's political fortunes were at a low ebb in 1684. In the factional struggles between Halifax, Rochester and Sunderland, Halifax was the clear victor. Rochester was forced to accept the position of Lord President, instead of the coveted role of Lord Treasurer. While by no means powerless, the relative decline in Rochester's influence was an indication that the Duke of York did not entirely dominate the last year of Charles' reign. If Penn were to succeed in his contest with Baltimore, he would need more than the influence of Rochester alone.

With this in mind, he did not hesitate to write a fawning letter to the Earl of Sunderland. Recently restored to royal favour as Secretary of State, Sunderland was quickly emerging as a counter balance to Halifax, displaying those traits which would lead one historian to describe him as "the Court Artist."¹¹³ Undaunted by the apparent eclipse of Rochester, Penn begged Sunderland "to take me & my poor feeble Concerns into thy Protection."¹¹⁴ While seeking Sunderland's favour and maintaining his connection with Rochester,

Penn also sought to convince Halifax of the justice of his cause. Knowing that Halifax might not be too enthusiastic about the Duke of York's pretensions, Penn emphasized that Baltimore was challenging the King's authority. "He taketh himself to be a prince," he declared.¹¹⁵

Whatever Penn might have said to Halifax, there is no question that his primary source of 'interest' lay with the King's brother, the Duke of York. Weathering the Exclusion Crisis of the preceding years, the Duke had returned to Whitehall in 1682. By 1684, his ascendancy was evident, although Charles II still held the reins of power. Penn sought to allay any concern that the Duke may have had regarding the legitimacy of his claim. He may well have known that Governor Dongan of New York and Sir John Werden, the Duke's agent for New York, questioned the validity of his claim to the west side of Delaware Bay.¹¹⁶

In a remarkable letter to the Duke of York, the Quaker reiterated his position.¹¹⁷ First, he argued that Baltimore's "neglect hath maid his claim void." Then he added that "where there is no Law, there is no Transgression, so where no Bounds are sett after so many Years Pretension ... there can be (wth submission) no Title." Finally, Penn believed that since "y^e Point

in Dispute never cost [Baltimore] anything nor hath he ever received any thing from it, so no Loser, wⁿ he looseth nothing y^t he never had." Against this apparent lack of need, Penn claimed he had "comparatively nothing wth out it." In brief, these were the central points of Penn's case although, in a particularly candid concession, Penn concluded that these arguments might not be sufficient "ag^t undoubted Right." However, he hoped that "Prudent and Proportion" together with his "contrary arguments of Right, will more yⁿ even y^e Scale wth humble Confidence in y^e Duke's Generous & Steady Temper." Thus, with the Duke's influence, Penn believed that the Lords of Trade would choose prudent compromise over the valid claims of Baltimore. The paradoxical Quaker was not above arguing that the power of 'interest' was more significant than the apparent righteousness of a cause.

The major Whitehall figures had been well appraised of the situation before Baltimore made his first appearance before the Lords of Trade. However, the revolving nature of political favour and the death of Charles II altered the prospects of both proprietors while scandalous news from Maryland soon placed Baltimore in a very awkward position. It remains to examine the process of arbitration at the Lords of

Trade meetings within the context of these changing circumstances.

When Lord Baltimore made his first appearance before the Committee of 23 July 1684, some of the Lords of Trade may well have wondered if this would finally mark the beginning of serious discussion.¹¹⁸ It had been over a year since Halifax had first introduced Baltimore's Narrative to the Committee and the councillors had first realized that "a great Conflict" had arisen.¹¹⁹ Since Lord North had approved of Penn's patent when Chief Justice, he had been asked to review and report on the boundary stipulations within the charters of both proprietors. Baltimore and Penn were sent letters urging them to reach a "fair & speedy compromise."¹²⁰ Sir John Werden, no friend of Penn, was asked to represent the Duke.

When the Committee next met, the Lords had considered North's report and had then suggested to Richard Burke, Baltimore's agent, that the Maryland proprietor might represent his grievance "by Petition to His Majesty in Council."¹²¹ Burke had quickly acted upon this advice. He petitioned the King to withhold the Great Seal from the grant to the Duke of the Lower Counties until Baltimore's claims had been duly considered. By 30 May, the Committee had received this

petition with an order from the King to provide him with a detailed report.¹²² The agents and council for the Duke and Penn claimed that the lands were not encompassed by the Maryland charter as there had been prior settlement by the Dutch. Presumably, the arguments based upon possession by right of conquest had been discarded for the moment. The Lords of Trade demanded proofs of this assertion and although these were not immediately forthcoming, the Committee made it clear that the critical question of prior Dutch settlement had to be answered.¹²³ The onus was placed on Penn's agent to prove "whether in y^e year 1632 y^e Dutch wear possessed of y^e Land claimed by M^r. Penn."¹²⁴

The Lords of Trade had held no further discussions on the dispute until the following February when the Committee received requests from both proprietors. Through his agent, Penn sought an early hearing on the dispute.¹²⁵ Baltimore had sent a letter requesting a postponement until he could make a personal appearance before the Committee in the spring.¹²⁶ With only four members of the Committee in attendance to consider these requests, they agreed to postpone further consideration until April when Baltimore could attend.¹²⁷

The April meetings passed without discussion of the dispute; it was not until Sir Edward Herbert's letter was read at the Committee on 7 July 1684, that the Lords were moved to act. Herbert was the Solicitor General and the Duke's counsel. He urged immediate consideration of the dispute, as further delays might be prejudicial to the Duke's interests.¹²⁸ "The Duke," he wrote, "is principally concerned, it being his inheritance and his tenants being disturbed."¹²⁹ The King's brother had now publicly thrown his influence into the dispute, but it is noteworthy that he referred to his inheritance and his tenants. Accordingly, the agents of the proprietors had been informed at the next meeting that all parties were to appear on 23 July to present their arguments to the Committee.¹³⁰

When Baltimore himself appeared at this meeting, it was the turn of Philip Ford, Penn's agent, to plead for a delay.¹³¹ The Duke of York's solicitor, Edward Herbert, was on circuit and Ford complained that he was unable to find an adequate replacement. Having again been reminded of the Duke's involvement in the conflict, the Lords of Trade not surprisingly rescheduled the hearing for 30 September.

When that date arrived, Herbert sought a further postponement. He argued that Penn was expected to

return to England shortly with the necessary proofs of prior Dutch settlement. The Lords granted his request and indicated that they would reconsider the issue on 9 December.¹³² The Duke's solicitor had successfully stalled discussion of the dispute after demanding that the Lords deal with the matter expeditiously. At the same time, Baltimore had to address a new source of potential conflict on the southern border of his colony. Virginia complained to the Lords of Trade of Maryland activities along the Potomac River. Because Baltimore claimed the entire Potomac, Maryland officials were denying Virginia customs collectors the right of access to ships along the river. A dispute with yet another colony was hardly what Baltimore needed.¹³³

Penn arrived in England in early October only to find that he did not have the necessary proofs with him. He immediately wrote to James Harrison complaining that "Phil Lemain has most carelessly left behind y^e York papers y^t T. Lloyd brought." As these were to be "the ground & very strength of my coming," Penn now found himself "wth my finger in my mouth." Concluding that Lemain "could not have done me a worse injury nor balt: a greater service, if he had y^e bribe of 10,000 to do it," he ordered Harrison to send the

affidavits on the Dutch settlements at the first opportunity.¹³⁴ Sir Edward Herbert must have been furious when he was told of Penn's error. "This is a trouble beyond measure to me," Penn exclaimed in a letter to Thomas Lloyd.¹³⁵ He knew that the Duke had already exerted pressure to have the Lords postpone consideration of the dispute until December and he realized that "if I can gett it off till March, 'twill be all I can do."¹³⁶ Conventions aside, further delay would be difficult to obtain.

Despite the obvious embarrassment, Penn still retained enough 'interest' to gain more time. On 9 December 1684, the Lords decided to "put off to another time" further consideration of the conflict.¹³⁷ The cursory nature of the surviving minutes suggests there was little justification for this delay beyond the obvious pressure of Penn's connections.¹³⁸

The extended delay which followed this postponement proved disastrous for Baltimore, although even Penn had some anxious moments. Rumours began to circulate that Charles II was becoming very disenchanted with the two proprietors. The suggestion that "his Ma^{ty} [would] revoake their patents & allow no more such independant Gov^{ts}" was of particular interest to government officials.¹³⁹ It is possible that

Charles was losing patience with the proprietary colonies, but his death in February 1685 forestalled any direct efforts to revoke the Pennsylvania and Maryland charters.

Meanwhile, news had reached England that George Talbot had killed Christopher Rousby, a Royal customs collector, during a drunken argument. As Baltimore's chief deputy, Talbot's behaviour could not fail to reflect poorly upon the proprietor. Whitehall was well aware of Talbot's efforts "to confront & disturb M^r Penn's people from planting in the lands under dispute." Further, information had circulated that Baltimore's nephew had "proceeded barbarously ag^t the Quakers & threatened to roote out such Quaking Scismaticks."¹⁴⁰ At the very time when Penn was trying to prove the unprovoked and illegal nature of Maryland incursions into Pennsylvania, the chief Maryland proponent of these actions had made a dramatic public display of his capacity for violence. Baltimore could scarcely have received worse news. Combined with the accession of James II in February, the Rousby killing and its aftermath placed Penn in an extraordinary position. "I was wth y^e King," he wrote, "he was very kind & familiar as formerly . . . [and] took me into his closet."¹⁴¹ Still, his growing confidence was

partially mitigated by the threat of quo warranto proceedings against Baltimore. He informed Thomas Lloyd that "the designe of takeing away Ld. Balt. Patent swallows up our dispute." He could only wait patiently, for the King had "promest to confirn my graunt."¹⁴² He seemed certain that Baltimore would lose his patent and realized there was "no need of decideing y^e Controversy if his whole be in question."¹⁴³

Since the affidavits on the Dutch possession had still not arrived, Penn was in no hurry to force the issue, but he did seek "an order for quieting all things, to remain as before the dispute began, till formally ended by his Majestie."¹⁴⁴ When the Lords of Trade met in March, they refused to act upon this request, but they did listen to William Markham's defence of his actions while Deputy Governor.¹⁴⁵ In light of the major changes in the composition of the Lords of Trade, the refusal to act upon Penn's request was probably the result of the growing controversy surrounding Baltimore's patent.¹⁴⁶

The coronation of James II, immediately followed by the short-lived Monmouth's rebellion, further delayed the proceedings. Although Penn expressed frustration over the lack of progress, he still had not

received the affidavits at the beginning of July.¹⁴⁷ However, by mid-July he informed his Council that the affidavits had arrived, but were "not of moment in our opinion here, because little or nothing of y^e Dutch planting Delaware; seating it but I hope it will do without much stress."¹⁴⁸ Despite his belief that his proofs would not stand against close scrutiny, Penn had little reason to doubt the success of his claim. He visited James II in July and obtained a royal order that the dispute be heard immediately. The Lords of Trade agreed to hear the case on 18 August 1685.¹⁴⁹ Meanwhile, Baltimore remained under a cloud of "great disfavour." Apparently, customs officers in Maryland continued to be ill-treated, despite the clamour that had followed the death of Rousby.¹⁵⁰

Hoping to produce a speedy conclusion, Penn petitioned the King to distinguish between the boundary dispute which involved land ownership and the quo warranto proceeding against Maryland which was concerned with power. Since the dispute between Penn and Baltimore was "about a Title of Land & not of Power," there was no reason for the Lords of Trade to countenance any further delay.¹⁵¹ When the Lords received this petition from the Earl of Middleton, they quickly agreed to hear the case the following week.¹⁵²

On 26 August, they ordered that Penn and Baltimore should attend the next meeting "without Counsel." ¹⁵³

The reasons for this order are unclear; possibly, the Lords were unwilling to entertain the further delays that lawyers might initiate or they may have been concerned lest their decision be perceived as illegal. Whatever the Lords' intent, the two proprietors agreed to attend the 9 September meeting as instructed.

At that meeting, the committee ordered that Baltimore be supplied with copies of the evidence submitted by Penn. The Maryland proprietor was given three weeks to submit his defence. ¹⁵⁴ Penn expressed his impatience with this delay to Sir William Trumbull, "Tho' our proofs were full & our Adversary the most harmless in his attempt in the world, yet they have given him time to examin the truth of our Dutch Instruments." ¹⁵⁵ In light of his earlier anxiety about the strength of his evidence, his letter to Trumbull suggests that, while he was confident, Penn was far from certain. He thought it was unfair to "putt the proof upon y^e defendant & Possessor" and asked Trumbull to mention this to Rochester, Dartmouth and Halifax. ¹⁵⁶ Despite the influence of James II, Penn detected ambivalence among the Lords of Trade. He wanted civil law arguments to counter Baltimore's possible claim

that English discovery made the Dutch possession unlawful. He confided that he knew "not how untrue our wise Judges may be to their own order."¹⁵⁷ It appears that the Quaker was surprized by the willingness of the Committee to consider further evidence in support of the Maryland position.

On 8 October, Baltimore submitted for his defence two depositions and an uncertified copy of a 1638 report of the Commissioners of Foreign Plantations. The depositions, while attesting to the post-1632 settlement of the Dutch and Swedes, provided only inferential evidence that the Maryland patent predated Dutch colonization efforts on the west side of the Delaware.¹⁵⁸ The 1638 report referred to the Baltimore-Clayborn dispute regarding the ownership of Kent Island. In that instance, the committee concluded that Baltimore's charter claim superseded the claim of prior possession submitted by Clayborn.¹⁵⁹ This last document pricked the interest of the councilors for they asked that an attested copy be presented at the next meeting.

The following week, after Baltimore indicated that he could not find the original of the minutes to attest his copy, the Lords quickly arrived at their decision:

that the Tract of Land now in Difference does not belong to my Lord Baltimore, But in as much as it remains Doubtfull what are the True Boundaries of the Land called Delaware, which their Lord^s now adjudge to belong to his Majesty, Their Lordsh^s will meet again for the settle^mt of their Boundaries. 160

The Committee reconvened two weeks later and proposed that the peninsula be divided equally between the King and Baltimore. Upon request, the latter was given a week to consider this proposal and to offer objections. On 7 November, both Penn and Baltimore commented on the proposed solution. There is no record of what was said but it is unlikely that Baltimore found the experience a pleasant one. The committee then rendered the following decision which was later reported to James:

that the Land intended to be granted by the Lord Baltimore's Patent was only Land uncultivated and inhabited by savages, and that this Tract of Land now in dispute was inhabited and planted by Christians at and before the Date of the Lord Baltimore's Patent as it hath been ever since to this time and continued as a distinct colony from that of Maryland, so that their Lordships humbly offer their opinion that for avoyding further differences the Tract of Land lying between the River and Bay of Delaware and the Easter Sea on the one side and Chespeak Bay on the other, be divided into two equall parts by a line from the latitude of Cape Hinlopen to the 40th degree of Northern latitude and that one half thereof lying towards the Bay of Delaware & the Eastern Sea be adjudged to belong to his Majesty & that the other half remain to the Lord Baltimore as comprized within his charter. 161

When the King approved this report on 13 November 1685, the first phase of the Pennsylvania-Maryland boundary conflict came to an end.¹⁶² Yet, the Crown's order raised as many questions as it resolved. The imposed settlement of the dispute between William Penn and Charles Calvert left a bitter residue which became the wellspring of future conflict.

First, the use of the 40° north latitude as the southern boundary of Pennsylvania appeared to be confirmed by this settlement since the line separating the peninsula into two equal parts was to run to this parallel. While Baltimore might complain about the loss of the Lower Counties, he could hardly be dissatisfied with this outcome. On the other hand, while this stipulation seemed to overrule Penn's claim to a measurement, it did not necessarily rule out this option. Apparently, the Lords of Trade intended this requirement to mean the actual 40° since there was no qualifying reference to traditional maps.

Second, Penn's strategy of linking the Lower Counties to the pretensions of the Duke of York was dramatically affected when James became King. No longer an heir with proprietary interests, James II could now insist upon his right to the Lower Counties as a territory belonging to the Crown. Penn had no way

of knowing in 1685 that the grant of the Lower Counties to him would never receive the royal seal. The Crown's territorial rights, not Penn's, were ultimately confirmed in this settlement. For much of the remaining years of Penn's life, he would be saddled with the vexing question of the limits of his authority in this region.

While the committee fastened upon the issue of prior settlement to justify the proposed division of the Delaware peninsula, the report suggests that this was not the motivating reason for their conclusion. Instead, it was "for avoyding further differences" that the Lords chose to divide the disputed region. Implicitly, they acknowledged that land was being removed from Baltimore's charter grant. They concluded that the west side of the peninsula would "remain to the Lord Baltimore as comprized within his charter."¹⁶³ Baltimore could claim that the decision was not based upon a proper understanding of his charter, but upon the need for a solution that would satisfy Penn and the King.

Baltimore's bitterness over the settlement was evident. He wrote to his Council that the Order-in-Council "was past unknowne to me, I having not had any Summons or the least Notice given me to be)

heard any further in that affaire. -164 This claim is only understandable as a justification to his Maryland followers for his failure to defend his charter. It seems that Baltimore understood that only those lands inhabited by the Dutch or Swedes would be lost and the uninhabited parts of Penn's claim would remain within his jurisdiction. Apparently, many of the Lords of Trade supported this view, but according to the Maryland proprietor, the division into equal parts "was afterward carried by some few against the rest of the board." -165

The vital question of 'interest' that had been raised at the second Penn-Baltimore conference had now been answered. Baltimore was forced to admit to his Council that Penn's connections had prevailed. On the other hand, by maintaining the fiction that the King was neutral, Baltimore could continue to appeal a decision which he argued was based on misinformation. 166

Fostered by the Order-in-Council, Baltimore's resentment was abetted by another aspect of the settlement the problem of implementation. If the Maryland proprietor was patient and filed petitions that could delay the proceedings, he might hope for a more favourable political climate in which to continue

the dispute. In the meantime, he ordered his Council "to prevent Penns people from making any settle^{ts} neere heads and branches of any of the Rivers that fall into Chesapeake Bay."¹⁶⁷ Further, any Marylanders who already had surveyed lands were to be urged to settle on them immediately. Finally, the fort that George Talbot had constructed was to be maintained and Talbot Manor protected against encroachment.¹⁶⁸ In short, Baltimore ordered his Council to continue the conflict on the frontier. He was committed "notwithstanding this ord^r to keepe possession of what is surveyed, and to be on the defensive part, rather than be forced to complaine."¹⁶⁹ Despite the initiation of quo warranto proceedings against his patent and the apparent loss of the Lower Counties by Order-in-Council, Baltimore maintained a defiant, if somewhat defensive stance. While Penn may have won at Whitehall, the conflict along the border was far from resolved.

One final dimension of the settlement deserves attention. As noted above, Baltimore's patent was in serious jeopardy. With Whitehall officials actively seeking to replace proprietary governments with royal officials, Maryland was an obvious target; yet, Baltimore withstood this pressure. In the circumstances, it is remarkable that he retained as

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much of his colony as he did in the dispute settlement. With the King as his adversary, he retained half the peninsula. Penn had argued that Maryland's failure to suppress the Dutch could be used as grounds for revoking the entire charter if the Committee decided that Dutch and Swedish settlements were part of Baltimore's patent. But, the Lords of Trade avoided this route. It could be argued that either the former Dutch title was valid or it was not. In the former case, most of the peninsula south to Cape Henlopen could be claimed by the Crown, while if the latter position was upheld, then the entire peninsula belonged to Baltimore. By avoiding this issue, the Lords of Trade seem to have implicitly assisted the Maryland proprietor. Political reality dictated that the King could not be denied his right to some territory. By dividing the peninsula and confirming the fortieth degree of latitude as the northern boundary of Maryland, they permitted Baltimore to retain as much as was politically possible. Within this context, Baltimore's hope that he might ultimately prevail was not unfounded.

Although at this stage Penn and Baltimore remained the dominant participants, the rowdy behaviour of a

provincial officer like George Talbot could influence the outcome of the conflict. At the very least, the councilors of the two provinces served as the necessary audience for the public displays of proprietary rhetoric as Penn and Baltimore sought to enhance their prestige. The local population was sparse, but the boundary dispute had already uncovered a local ambivalence to the proprietary conflict. Borderers living in the Newcastle area appeared to place greater emphasis on the continuity of relationships than on the conflict, on the rhetoric of violence than on its reality, on the appearance of authority than on its imposition. Throughout this first phase of dispute, the ambivalence of the local population served to emphasize the general weakness of proprietary authority on both sides, even while Penn and Baltimore struggled to gain control over lands that were still part of a 'paper empire'.

The two proprietors approached the adjudication of their differences at Whitehall in different ways. Baltimore appeared anxious, formal and defensive, Penn confident, personable and aggressive; Baltimore depended on the righteousness of his title, Penn on the realities of court favour; Baltimore was legalistic, Penn political. The Order-in-Council of 1685

demonstrated that such a contest was uneven. At least in this contest, political 'interest' mattered more than apparent legal rights. The wheel of political fortune took an especially marked turn in Penn's favour with the death of Charles II and the accession of James II. In the circumstances, it was remarkable that Baltimore retained as much of his colony as he did. Unfortunately, the efforts of the Lords of Trade to arrive at some form of compromise solution only provided a legacy of confusion and bitterness. The 40° latitude was confirmed as the northern limit of Maryland, but whether this was to be interpreted as the actual latitude or as understood when the Maryland charter was granted, remained open to question. The Lower Counties were separated from Maryland, but with the accession of James II, these lands automatically became crown lands. Lastly, the blatant political nature of the Order-in-Council infuriated and humiliated Baltimore, confirming in his mind that he had only to await a further turn of the political wheel of fortune to regain the entire Delaware peninsula.

In the decades that followed this first series of dramatic encounters; these hopes would ebb and flow with the prevailing political climate in England and

the provinces. Over the next forty years, changes in the social and political realities of provincial and metropolitan life would allow the dispute to remain fixed in a web of continuing relationships. By the end of the 1720s, the stage was set for a series of dramatic encounters which would test the legitimacy of proprietary, local, and provincial authority.

NOTES - CHAPTER 2

1. King in Council, 31 May 1683, AM, V, 396.
2. Antonia Fraser, Royal Charles: Charles II and the Restoration (New York, 1980), 373.
3. Baltimore to Blathwayt, 11 June 1683, AM, V, 397.
4. Baltimore to Sir Leoline Jenkins, 12 June 1683, AM, V, 400. Sir Leoline Jenkins (1623-1685) became a Secretary of State in 1680. Just prior to this appointment he had been appointed to the Committee on Trade and Plantations and had become a member of the Privy Council. DNB.
5. Baltimore to Halifax, 12 June 1683, AM, V, 401. For the position of Sir George Saville, Marquis of Halifax, within the inner Court circle during this period, see H. C. Foxcroft, The Life and Letters of Sir George Saville, Bart. First Marquis of Halifax (London, 1898), I.
6. Penn to Rochester, 14 June 1683, PWP (Micro), #2559.
7. Clark to Penn, 21 June 1683.
8. ibid.
9. ibid.
10. Penn to Markham, Harrison and Clark, 2 July 1683, PWP (Micro), #1745.
11. Instructions to Markham, Harrison and Clark, 2 July 1683, PWP (Micro), #1474.
12. ibid.
13. Penn to [Captain Brocles and John West], 3 July 1683, PWP (Micro), #2895.
14. Penn to Lord Keeper North, 24 July 1683, PWP (Micro), #2307a.
15. Penn to Halifax, 24 July 1683, PWP (Micro), #2901.

16. Penn to Rochester, 24 July 1683, PWP (Micro), #2560.

17. ibid.

18. Penn to Blathwayt, 30 July 1683, PWP (Micro), #989.

19. Penn to Lord Dartmouth, 28 July 1683, PWP (Micro), #1571. George Legge (1648-1691), Baron Dartmouth, was a Privy Councilor from 1682 to 1689 and a member of the Lords of Trade from 1683 to 1688. He was a particular favourite of the Duke of York. DNB; Bieber, Lords of Trade, 92.

20. Penn to Colonel Henry Sidney, 24 July 1683, PWP (Micro). Henry Sidney (1641-1704), later Lord Romney, was an early supporter of the succession of William, Prince of Orange. The Earl of Sunderland was his nephew. DNB; PWP, 30n.

21. Penn to William Bridgeman, 1 August 1683, PWP (Micro), #1225.

22. ibid.

23. Penn to Earl of Sunderland, 28 July 1683, PWP, 416. Robert Spencer (1641-1702), second Earl of Sunderland, was the principal secretary of state from 1679 to 1681 and from 1683 to 1688. He had supported exclusion for a brief period and was subsequently out of favour from 1681 to 1683. Restored to the king's good graces in 1683, Sunderland remained one of Penn's staunchest allies within Whitehall. For a detailed study of this shrewd political opportunist, see J. P. Kenyon, Robert Spencer, Earl of Sunderland, 1641-1702 (London, 1958).

24. Penn to "A Worthy Friend," 30 July 1683, PWP (Micro), #807.

25. Penn's Instructions for William Markham concerning differences with Lord Baltimore, n.d. [August, 1683]; PWP(Micro), #1539.

26. Nader and Todd, Disputing Process, 17; Stewart Macaulay, "Contract Law among American Businessmen," in Black and Mileski, Social Organization of Law, 75-94.

27. J. M. Sosin, English America and the Restoration Monarchy of Charles II: Transatlantic Politics, Commerce, and Kinship (Lincoln, 1980), 225.

28. Instructions for Markham..., [August 1683].
29. ibid.
30. Baltimore to Richard Burke, 7 December 1683, PWP, 629.
31. Instructions for Markham... [August, 1683].
32. West to Penn, 28 August 1683, PWP (Micro), #2025.
33. Haige to Penn, 29 August 1683, PWP (Micro), #962. See also Haige to Penn, 4 September 1683, PWP (Micro), #963.
34. Dongan to Penn, 10 October 1683, PWP (Micro), #498.
35. Dongan to Penn, 17 March 1684, PWP (Micro), #501. For a further illustration of Dongan's temporizing approach, see Dongan to Penn, 19 February 1684, PWP (Micro), #779.
36. Walliam and White to Penn, 8 September 1683, PWP (Micro), #1456.
37. Penn to Justices Walliam and White, 9 September 1683, PWP (Micro), #2528.
38. Richardson to Penn, 10 February 1684, PWP (Micro), #811.
39. Council Minutes, 1 April 1684, CRP, I, 101. Four other settlers were mentioned in the minutes.
40. ibid. For another example of disaffection, see Welch to Penn, 18 February 1684, PWP (Micro), #2887.
41. Commission to Coll Talbot to Dem^d of Lands, 17 September 1683, CP, Maryland-Pennsylvania Boundary Dispute (Chronological).
42. Penn had been absent when Talbot had presented Baltimore's demands. An Answer to a Demand made to Nicholas Moore, as my Deputy, by Coll Talbot..., 4 October 1683, PWP (Micro), #2885.
43. ibid. Although Penn strenuously objected to Baltimore's unilateral decision to run a line, this 'boundary' came to be known as 'Talbot's Line' or 'Old Baltimore's Line' and was used to good effect later by Logan to justify the establishment of the Nottingham

Lots. Baltimore apparently intended this line to be the point below which he would tolerate no Pennsylvania settlements. For depositions confirming that Talbot marked a line eastward from the mouth of Octorara Creek, see the testimony of Samuel Preston, John Musgrave and Samuel Hollingworth, The Breviate, PA, 2nd Ser., 16, 529-31. James Logan also testified that the Maryland gentry accepted this line as the northern boundary of their province in 1700. Testimony of James Logan, ibid., 535.

44. ibid.

45. Considerations upon two sheets signed by William Penn...Entitled "An Answer to a Demand made to Nicholas Moore, as my Deputy, by Coll George Talbot...", n.d., CP, Boundary Dispute.

46. ibid.

47. Talbot to Penn, 21 April 1684, PWP (Micro), #1459. Talbot had included in his letter the full text of his commission from Baltimore, dated 19 March 1684.

48. Report of a Conference between Col^l Talbot and William Penn on various matters connected with his Government of Pennsylvania and Col^l Talbot's Interference therein, CP, Boundary Dispute.

49. ibid.

50. Rough Draft of Declaration against Lord Baltimore, 4 June 1684, PWP (Micro), #2794.

51. ibid.; Welch to Penn, 4 and 5 April 1684, PWP (Micro), #1458 and #978. Initial reports placed the number of men with Talbot at forty or fifty, but this was later revised to about twenty. The following narrative of the encounter is drawn from the above sources.

52. Welch to Penn, 5 April 1684.

53. ibid. See also Rough Draft..., 4 June 1684.

54. All quotations in the above paragraph are from Welch to Penn, 5 April 1684.

55. Land to Penn, 30 May 1684, PWP (Micro), #2176.

56. ibid.

57. Deposition of John Nomers, 6 June 1684, PWP (Micro), #2163. All quotations in this paragraph are drawn from this source.

58. Commission to William Welch, John Simcock and James Harrison, 6 April 1684, PWP (Micro), #167.

59. Instructions to John Simcock, William Welch, Jas Harrison and John Cann, 2 April 1684, PWP (Micro), #1209.

60. ibid.

61. ibid. For a insightful analysis of the ritual of law and its relationship to property, see Douglas Hay, "Property, Authority and Criminal Law" in Douglas Hay, Peter Linebaugh, et al., Albion's Fatal Tree: Crime and Society in Eighteenth-Century England (New York, 1975), 17-63.

62. Clark to Penn, [c. April] 1684, PA, 2nd Ser., VII, 8.

63. ibid., 7.

64. Report of a Conference between Col¹ Talbot and William Penn...

65. ibid.

66. ibid.

67. ibid.

68. ibid. In the first instance he alluded to "when the Lord Baltimore and I doe come to tryall." Later, he suggested that the conflict over new settlements on Christiana Creek "be layd aside till the King and Council decide the matter."

69. ibid.

70. Land to Penn, 25 May 1684, PWP (Micro), #1460..

71. Report of a Conference between Col¹ Talbot and William Penn...

72. Baltimore to Blathwayt, 11 March 1684, Blathwayt Papers (hereinafter cited as BP), Vol. 18.

73. Baltimore's letters prior to leaving Maryland persistently plead for sufficient time to make a personal appearance. ibid.; Baltimore to Jenkins, 12 June 1683; Baltimore to Halifax, 12 June 1683; Baltimore to Jenkins, 11 December 1683 and 6 April 1684, AM, V, 403-05.

74. Baltimore to Blathwayt, 7 December 1683, AM, V, 402.

75. Baltimore to Jenkins, 11 December 1683.

76. Minutes of the Committee of Council, 12 February 1684, CP. The Calvert Papers include a certified copy of "all the Minutes of y^e Com^{tee} of Council, Between Baltimore and Penn in y^e years 1683.84.85." He must also have been informed that the ship carrying his letters to Richard Burke, dated 7 November and 7 December 1683, had been wrecked off the English coast. It is less likely that he knew that his letters had been rescued and copied by a local Quaker, John Ellis, who sent these copies to William Markham. Given the frank discussion of tactics in these letters, this accident was clearly a windfall for Penn. For the letters and commentary, see PWP, 624-29.

77. Philip S. Haffenden, "The Crown and the Colonial Charters, 1675-1688: Part I," WMQ, XV(1958), 306-307. For a fuller treatment of the approach taken by the Lords of Trade towards dispute settlement, see Bieber Lords of Trade, Chap. V.

78. The most complete treatment of the Committee is Bieber, Lords of Trade. A briefer assessment may be found in W. T. Root, "The Lords of Trade and Plantations, 1675-1696," AHR, XXIII(1917), 20-41.

79. For a relatively complete list of reports by the Committee to the Crown, see Charles M. Andrews, "List of Reports and Representations of the plantation Councils, 1660-1674, The Lords of Trade, 1675-1696, and The Board of Trade, 1696-1782, in the Public Record Office," Annual Report of the American Historical Association (1913), I, 321-406. Andrews notes that the Lords might initiate such a review and then make a representation or respond to a request by the Crown and submit a report.

80. Minutes of the Committee..., 27 April and 30 May 1683, CP.

81. See Bieber, Lords of Trade, Appendix D, 91-92 for information on overall attendance. For specific meetings relating to the dispute, see Minutes of y^e Com^{tee} of Council...., CP.

82. This inference is based upon the fact that these committee members had the best attendance at those meetings related to the dispute. See Minutes of y^e Com^{tee} of Council...., CP.

83. For an analysis of Blathwayt's role in imperial affairs during this period, see Stephen Saunders Webb, "William Blathwayt, Imperial Fixer: From Popish Plot to Glorious Revolution," WMQ, XXV(1968), 3-21. For a more recent and comprehensive treatment, see Barbara Cresswell Hurison, "William Blathwayt's Empire: Politics and Administration in England and the Atlantic Colonies, 1668-1710," (Phd. dissertation, The University of Western Ontario, 1981). In addition, one should consult Gertrude A. Jacobsen, William Blathwayt, A Late Seventeenth Century Administrator (New Haven, 1932).

84. Blathwayt to Baltimore, 9 February 1683, BP, Vol. 18.

85. J. M. Sosin suggests that Baltimore had been busy establishing connections with Rochester. Sosin, English America and the Restoration, 224. However, his evidence is drawn from letters written in 1679 and 1680, well before Hyde became the Earl of Rochester. In Baltimore to Gilbert, 14 July 1679, CP, the Maryland proprietor does refer to an effort to cultivate the friendship of the Marquis of Dorchester. If Baltimore was also seeking the favour of Laurence Hyde at that time, he clearly lacked the access of William Penn to the Duke of York's brother-in-law.

86. For Halifax's submission of Baltimore's Narrative, see Minutes of the Committee...., 17 April 1683, CP. For examples of Baltimore's correspondence with Halifax, see Baltimore to Halifax, 8 February and 12 June 1683.

87. Blathwayt to Baltimore, 9 February 1683.

88. Blathwayt to Baltimore, 18 March 1681, BP, Vol. 18.

89. Baltimore to Blathwayt, 11 March 1683.

90. Baltimore to Gilbert, 14 July 1683.

91. Blathwayt to Baltimore, 4 November 1680, BP, Vol. 18.

92. Stephen Saunders Webb makes the strongest case for Blathwayt's anti-propietary outlook. See Webb, "William Blathwayt, Imperial Fixer..." For an additional reference to Blathwayt's friendly attitude towards Baltimore, see Jacobsen, William Blathwayt, 116-117.

93. A good example of the type of gossip that Blathwayt dispensed was the reference to Penn's difficulties with the original purchasers of Pennsylvania lands. According to the secretary, Penn was now considering selling his patent because he was unable to provide the lands that his investors had expected. Baltimore was delighted to learn of this. Baltimore to Richard Burke, 7 December 1683, PWP, 628. For other examples of his correspondence with Blathwayt, see Baltimore to Blathwayt, 21 April 1681 and 2 January 1683, BP, Vol. 18.

94. For Baltimore's connection with Arthur Annesley, Viscount Fauconburg, William Craven, Earl of Craven and Jenkins, see the following: Baltimore to Gilbert, 14 July 1680; Baltimore to Blathwayt, 18 March 1680 and 11 March 1682; Baltimore to Burke, 7 November 1683; Baltimore to Jenkins, 12 June and 11 December 1683 and 6 April 1684. In addition to these men, Baltimore also sought the favour of John Grenville, Earl of Bath and Philip Stanhope, Earl of Chesterfield, but little appears to have come of these efforts.

95. Bieber, Lords of Trade, 32.

96. Ibid., 92.

97. Illick, William Penn the Politician, 66.

98. Bieber, Lords of Trade, 30. Baltimore was also on good terms with the Earl of Bath, another proprietor of the Carolines, but Craven was a far more important ally.

99. Ibid., 30, 90-92. Thomas Belasyse, Viscount Fauconburg was related to one of the most established Catholic noble families in England. Whether or not Baltimore used this connection to reach Fauconburg originally remains unclear. DBB.

100. Illick, William Penn the Politician, 67

101. Bieber, Lords of Trade, 91-92.

102. H. C. Foxcroft, Halifax, I, 268, 414-415. Baltimore was quite pleased that North and Halifax had been supportive of appeal to the King to prevent the granting of the Lower Counties to the Duke of York. Baltimore to Burke, 7 November 1683.

103. Markham found "a great want of my Lord Dartmouth to oppose Sir John Werden who seeks all occasions to oppose your interest." Markham to Penn, 27 March 1684, PWP (Micro), #953a.

104. For Halifax's ascendancy and decline, see Foxcroft, Halifax, I, Chapters IX and X. J. R. Jones notes that Charles II used Halifax as a "counterweight" to the Duke of York because he did not wish his brother to be the predominate political force within the Court. J. R. Jones, Country and Court: England, 1658-1714 (Cambridge, 1979), 224.

105. ibid.

106. See, for example, Penn to Halifax, 24 July 1683, PWP(Micro), #2901. For Burke's view, see Baltimore to Burke, 7 November 1683.

107. Markham to Penn, 27 March 1684.

108. Illick stresses the wide range of connections that Penn could marshal, but it is reasonable to conclude that the Duke of York's involvement was a powerful catalyst. Illick, William Penn the Politician, 64-65.

109. Penn to North, 24 July 1683, PWP (Micro), #2307a; Penn to Halifax, 24 July 1683; Penn to Rochester, 24 July 1683, PWP (Micro), #2560, Penn to Dartmouth, 28 July 1683, PWP (Micro), #1571; Penn to Sunderland, 28 July 1683, PWP, 416-418.

110. Tucker to Penn, 8 January 1683, PWP (Micro), #2026.

111. In addition to the letter noted in note 247, see Penn to Rochester, 14 June 1683 and 2 February 1684; PWP (Micro), #2559 and #274.

112. Markham to Penn, 27 March 1684.

113. J. P. Kenyon, Robert Spencer, Earl of Sunderland 1641-1702 (Westport, 1975 reprint), especially 74-110.

114. Penn to Sunderland, 28 July 1683, PWP, 416.
115. Penn to Halifax, 9 February 1684, PWP (Micro) #2305.
116. For a survey of York's fortunes during and after the Exclusion crisis, see Jones Country and Court, 197-225.
117. Penn to York, 2 February 1684, PWP (Micro) #2551. All quotations in the following paragraph are from this source.
118. Minutes of Committee..., 23 July 1684, CP.
119. Minutes of Committee..., 17 April 1683, CP.
120. ibid.
121. Minutes of Committee..., 27 April 1683, CP.
122. Minutes of Committee..., 30 May 1683, CP.
123. ibid.
124. Minutes of Committee..., 12 June 1684, CP.
125. Memorial, 12 February 1684, AM, V, 404.
126. Presumably Baltimore's letters to Jenkins in note 94.
127. Minutes of Committee..., 12 February 1684, CP. There is no record of Blathwayt's attendance, but, as secretary to the Committee, it is likely that he attended.
128. Minutes of Committee..., 2 July 1684, CP.
129. Herbert to Blathwayt, 30 June 1684, AM, V, 417-18.
130. Minutes of Committee..., 16 July 1684, CP.
131. Minutes of Committee..., 23 July 1684, CP.
132. Minutes of Committee..., 30 September 1684, CP.
133. Minutes of Committee..., 30 September, 6 October and 3 November 1684, CP. Sosin notes that Baltimore's difficulties were providing an opening for those who

sought the resumption of his charter. Sosin, English America and the Restoration, 300.

134. Penn to Harrison, 7 October 1684, PWP (Micro), #707. See Nicholas B. Weinwright, "The Missing Evidence: Penn v. Baltimore," PMHB, LXXX(1956), 227-35 for these misplaced depositions.

135. Penn to Lloyd, 7 October 1684, PWP (Micro), #139.

136. ibid.

137. Minutes of Committee..., 9 December 1684, CP.

138. While Rochester did not attend this meeting, Sunderland and the Earl of Middleton were present. Middleton was a staunch supporter of the Duke of York. See George Hilton Jones, Charles Middleton. The Life and Times of a Restoration Politician (Chicago, 1967), 27 and 62.

139. Randolph to Sir Robert Southwell, 29 January 1685, in R. N. Toppan (ed.), Edward Randolph; Including his Letters from the Colonies in America, 1676-1703 (Boston, 1898-99), IV, 4.

140. ibid.

141. Penn to Stephen Crisp, 28 February 1685, PWP (Micro), #50.

142. Penn to Lloyd, 16 March 1685, PWP (Micro), #3014.

143. Penn to Lloyd and the Provincial Council, 17 March 1685, PWP (Micro), #2752.

144. Penn to Blathwayt, 17 March 1685, PWP (Micro), #990.

145. Minutes of Committee..., 17 March 1685, CP. for transcriptions of Markham's Information and testimony, see AM, V, 430-35.

146. Jenkins was no longer on the Committee. Halifax had lost his position as Lord Privy Seal to Rochester, although he did remain on the Committee as Lord President. Godolphin had been appointed by James II. Craven and Fauconberg were the only remaining members to whom Baltimore might turn for support, but neither of these men could begin to match the power of

Rochester and Sunderland. Thus, it was not for lack of connections that Penn's request was denied.

147. Penn to Lloyd, 1 July 1685, PWP (Micro), #288.; Penn to Harrison, 1^r July 1685, PWP (Micro), #711.

148. Penn to Lloyd, Simcock, Taylor, Harrison, and Turner, 13 July 1685, PWP (Micro), #746.

149. ibid.

150. Randolph at Southwell, 30 July 1685, in Toppan, Edward Randolph, IV, 26. For the often tense relations between custom officers and colonists, see Thomas P. Slaughter, "'Every Man Here is Upon an Equality': Robert Stratford Byrne, Customs Collections and Inter-Cultural Conflict in the Colonial Chesapeake," Maryland Historian, 10 (1979), 29-41. The best general treatment is Thomas C. Barrow, Trade and Empire: The British Customs Service in Colonial America, 1660-1775 (Cambridge, Mass., 1967).

151. Penn's Petition to King James, 18 August 1685, PWP (Micro), #1898.

152. Minutes of Committee..., 18 August 1685, CP.

153. Minutes of Committee..., 26 August 1685, CP.

154. Minutes of Committee..., 9 September 1685, CP.

155. Penn to Trumbull, 14 September 1685, PWP (Micro), #2284.

156. ibid. Dartmouth and Halifax did not attend the September 9 meeting.

157. ibid.

158. Minutes of Committee..., 8 October 1685, CP; The Relation of M^r Garrett Vansweeringen..., 12 May 1684, AM, V, 411-17.

159. ibid.

160. Minutes of Committee..., 17 October 1685, CP.

161. Report of the Lords of Trade, 7 November 1685, AM, V, 455-56.

162. King in Council, 16 November 1685, AM, V, 456.

163. Report of the Lords of Trade, 7 November 1685, AM, V, 455.

164. Baltimore to the Deputy Governors of Maryland, 8 December 1685, AM, V, 457.

165. ibid.

166. ibid.

167. Baltimore's opponents were not the only persons accused of making false minutes of the meetings dealing with the dispute. See Jacobsen, William Blathwayt, 117, note 36.

168. Baltimore to Deputy Governors, 1 December 1685.

169. ibid.

CHAPTER 3

CHANGING CONTEXT, PERSISTENT CONFLICT 1685-1732

Over the fifty years from the mid-1680s to the mid-1730s, the boundary dispute remained a persistent source of frustration and confusion. Despite the Order-in-Council of 1685, the issues raised during the first period of conflict remained unresolved for over forty-five years. The dispute grew from a personal contest between two proprietary families to one which involved the lives not only of those inhabitants who were streaming into the disputed regions, but of the emergent elites of Maryland and Pennsylvania as well. With the increase in the number of active participants, the nature of the dispute was gradually transformed to reflect the development of nascent local and provincial dimensions. While the proprietary perspective on the boundary continued to dominate the dispute to the signing of the Agreement of 1732, the new dimensions eventually complicated a series of dramatic encounters played out on a variety of levels throughout the 1730s.

The period from 1685 to the early 1730s incorporated both continuity and change. The development of local and provincial levels of conflict points to the implications of changing structures; the

sustained intergenerational conflict between the Penn and the Calvert families points to the significance of continuity in the boundary dispute. Therefore, it is important to examine each of these elements in turn.

In the first instance, the population of the border regions steadily grew as Welshmen, followed by immigrants from Ulster and the German states, sought out cheap land. Although the most violent incidents of the 1730s did not occur in densely populated areas, the population growth of the 1720s introduced a sense of urgency which had been lacking in the dispute earlier. By the 1730s, a local perspective on the conflict had evolved to the point where it stood in contrast to those of the provincial elites and the proprietary families. The provincial capitals of Maryland and Pennsylvania also witnessed significant changes. Philadelphia became one of the major commercial ports and urban centres of colonial America. Also, native elites joined with traditional placemen to dominate positions of rank and authority in the provinces. Together, they were very conscious of the need to secure or maintain strong links with England, but they also began to look to their hinterlands for wealth and opportunity. If they hoped to enhance their position within the provincial hierarchy, English placemen soon recognized the value of developing a provincial

outlook, while retaining cosmopolitan ambitions. As the boundary dispute remained unresolved at the proprietary level, the implications of this became apparent to provincial leaders in both colonies and a uniquely provincial perspective on the dispute emerged.

To focus on the affairs of the two proprietary families is to focus on the continuity that comes from collective misfortune and failed opportunities. To understand the reasons for the failure of the Penns and Calverts to implement the Order-in-Council of 1685, their collective fortunes and misfortunes over the next four decades will be examined. The proprietors and imperial administrators played out the boundary dispute within an imperial framework that underwent dramatic alteration. Historians in recent years have concluded that the English political and economic world of 1730, within which Charles Calvert, the 5th Lord Baltimore and John, Thomas and Richard Penn manoeuvred for advantage was a far different world from that of their grandfather and father respectively.¹ From the brief, tempestuous years of James II's reign to the entrenchment of Robert Walpole's 'Robinocracy' at Whitehall, the Penn and Calvert families continued a lengthy history of mutual distrust, failed opportunity and acrimonious encounters.

In 1731, the proprietary families resolved to end the boundary dispute and after eleven months of intensive negotiations, they reached an Agreement in 1732. Coming as it did forty-seven years after the original Order-in-Council of 1685, this agreement seemed to mark the end of the long dispute. It also seemed to confirm that the boundary dispute remained a proprietary matter to be either resolved or escalated, at the whim of the Penns and Calverts. Given the long period of hostility, why did the proprietors choose to bring the dispute to an end at this time; and given the later resumption of conflict, were there specific problems in the apparently successful negotiations?

Because the changes and continuities that affected the perceptions and the behaviour of the local settlers, members of the provincial elites and proprietary families during the lifetime from 1685 to 1732 help explain the events of the climactic years from 1732 to 1738, each context will be examined in turn.

I

Over the forty-five years from 1685 to 1730, the population of the border lands increased significantly

and the contours of life in both Maryland and Pennsylvania became more clearly defined. What had been for William Penn and Baltimore an uncharted wilderness separating their two colonies was fast becoming populated by recent immigrants from Ulster and German states. Ethnic diversity with its resultant tensions played an important role in the development of a local perspective on the dispute. Although the heaviest migration occurred after 1730, there were clear indications in the 1720s that the border region was a popular settlement area for Welsh, Scotch-Irish and German immigrants. Between 1690 and 1730, the population of Pennsylvania increased almost five-fold, while that of the Lower Counties grew six times (See Table 3.1). The net population of Maryland did not experience the same general rate of growth, but there were indications that this colony was also expanding. For example, the older colony doubled its population between 1710 and 1730. A comparison of the rate of increase of adult whites reveals that Maryland and Pennsylvania had a similar rate of expansion from 1700 to 1730, almost tripling the numbers in this segment of the population.²

TABLE 3.1

POPULATION ESTIMATES

MARYLAND, PENNSYLVANIA AND THE LOWER COUNTIES
1680 - 1740

	Pennsylvania	Lower Counties	Maryland Total	White
1680	700	1,000	19,000	-
1690	11,500	1,500	25,000	23,500
1700	18,000	2,500	31,000	29,000
1710	28,000	3,600	43,000	36,000
1720	37,000	5,400	62,000	47,000
1730	54,000	9,700	86,500	64,500
1740	83,000	20,000	110,500	82,500
1750	120,000	29,000	139,000	103,500
1760	184,500	34,000	162,000	120,500
1770	240,000	35,500	201,000	150,000

Sources: Historical Statistics of the United States, Colonial Times to the Present, 756; J. Potter, "The Growth of Population in America, 1700-1860," in D.V. Glass and D.E.C. Eversley (eds.), Population in History (London, 1965), 638-639; J.T. Lemon, Best Poor Man's Country, 23; Russell R. Menard, "Population, Economy, and Society in Seventeenth-Century Maryland," MHM, LXXX(1984), 72. The estimates in these sources have been averaged and rounded to the nearest 500. Also, the Maryland white population for the decades after 1730 was estimated on the basis of the ratio of whites to the total population in 1730.

15

Not only was the general growth in population important; its changing composition was also significant since many of the new immigrants quickly made their way in groups to the borderlands. As early as 1705, James Logan reminded William Penn that the Welsh settlers in the Newcastle region were united in their absolute refusal to pay quitrents until the dispute with Maryland had been resolved and their land titles confirmed.³ They proved equally resistant to Maryland authority, seizing the Sheriff of Cecil County after the latter had tried to eject some Welshmen from land claimed by a Marylander.⁴ A few years later, Swedish settlers also acted collectively when they protested the payment of higher quitrents when the authority of the Penns in the border region was in serious doubt. The Board of Property was furious since many of these protesters had held their lands under Pennsylvania title for over twenty years.⁵ By the 1720s, the ethnic composition of the border regions began to change markedly with the influx of Scotch-Irish and German immigrants.⁶

Ethnic and family loyalties proved to be far more important to the border settler than some ill-defined provincial authority which represented the very social structure that many of these men and women had sought

to escape. They also provided security at the local level when broader provincial authority proved ineffective. Older inhabitants of Pennsylvania complained to the Board of Property about these new immigrants, asking that they be prevented from settling in the colony.⁷

Provincial officials were concerned that these new settlers did not exhibit the deference to social superiors that the emerging elite expected.⁸ James Logan spoke for men of property when he bitterly complained about the "impudent necessitous foreigners [who had] throng'd into the Country as a place of common spoil," leaving proprietary affairs "in utmost confusion."⁹ He believed that "not one [German immigrant] in twenty [had] anything to pay with," and the Scotch-Irish were deliberately settling "towards Maryland where no land can honestly be sold till the Dispute with Lord Baltimore is decided."¹⁰ In December of 1727, Logan convinced the Pennsylvania Council to address the Board of Trade in the hope that German migration could be halted. These 'Palatinés', the address argued, "often sett down on any [land] they find vacant without asking questions, threatening those afterwards who offer to disturb them in their possessions." They also maintained their own customs

and tended to settle in groups to defend themselves against any attempt by the provincial government to assert its authority over them.¹¹ The political relationship between the emerging provincial elite and the local settlers on the border was not based upon deference. Indeed, provincial officials had to work very hard to enjoy positions of influence.

Although the Penns promised to help limit the German migration, they informed Logan that nothing could be done about the Scotch-Irish since they were crown subjects. The Pennsylvania proprietors suggested the Germans be given some form of grant instead of allowing them to remain simple squatters and the Ulstermen be required to settle to the west and north away from the disputed region.¹² Despite the efforts of the provincial government to limit immigration, the ships filled with prospective settlers continued to arrive with regularity. By 1731, James Steel, Receiver General of Pennsylvania, informed the Penns that "the back parts of your Province are fill'd with Scotch Irish, Palatines, etc. [who have] settled so close by each other without any Grants, licence or method, that they are now ready to go together by the [Ears(?)] about the Lands to which neither of them hath Right."¹³

Although documentation for specific border encounters is sparse during this period, there is one particular example which provides an excellent opportunity to explore emerging local themes in the boundary dispute. In September 1724, Adam Short, a former settler in the Newcastle-Cecil border region, filed a deposition with Philomen Lloyd who was touring the Lower Counties gathering proof of Pennsylvania encroachments.¹⁴ Even allowing for the obvious bias of the source, Short's deposition yields a good deal of information about the behaviour of border dwellers.

In July 1720, Short bought 160 acres from Alexander Frazier who had purchased it from David Perry. Perry had possessed the land for sixteen years under an original grant from Maryland. Five months after taking possession of the land, Short received a letter from Colonel John French requesting a meeting at Christians Bridge. French, a leading Newcastle resident, had earlier been named 'Lord of the Marches' by the Pennsylvania government. When Short met with French, he learned that Mr. David Evans, a magistrate in Newcastle County and one of the original purchasers of the Welsh Tract, had made out a complaint against him. Evans claimed that Short's land fell within the Welsh Tract, but French assured Short that if the land

lay outside the twelve mile Newcastle circle, the latter's claim was strong. The Colonel indicated that he would confer with Evans and notify Short of the results. Soon after that, French wrote to Short informing him that his land did fall within the Welsh Tract and that he should leave quietly. After several further unproductive meetings with French, Short decided that actual possession enhanced his claim and proceeded to plant his crops, cut timber and build fences. In February, David Evans appeared at Short's plantation with several men armed with axes. When he claimed possession, Short countered that he held his land by right of Lord Baltimore. Ignoring Short, Evans and his crew proceeded to build a house close to Short's dwelling. The beleaguered planter went to find a magistrate, but the local Cecil County justice refused to act on his behalf. When he returned, Evans' men had completed their new dwelling and had left one of their company in possession. Short decided he could not prevent his ejection and withdrew to his plantation on Christians Creek.

Philomena Lloyd believed that this minor border incident was a fine example of the encroachments he wanted to prevent. There was no physical violence and the resolution seemed to be accepted by all the

participants; yet, much can be gleaned from a closer examination of such encounters. The continuity in the relationships of the participants, the obvious attention to the rituals of justice and equity and the ambiguity surrounding the border are striking. Short and French remained friends throughout this incident, despite the fact that French appeared to support Evans' claim. Short quotes French as advising, "Adam, you have the best title to it of any Body I know; however, Mr. Evans and I will consider further of it." Later, French pleaded with Short "as a Friend to go off quietly."¹⁵ Apparently, Short's claim meant very little in the face of the strong objection of a local magistrate, yet French sought to distance himself as much as possible from the ejection. David Evans was an interesting individual. He is probably the same David Evans who had been served with a lease of ejection some fourteen years earlier by a Patrick Murphy of Maryland. Several Welshmen came to his aid and the encounter had ended with the arrest of the Cecil County sheriff by Colonel John French.¹⁶ The David Evans who ejected Short spoke Welsh and his company was comprised of Welshmen. Ethnicity would continue to flavour relations on the border, although the Scotch-Irish, Irish and Germans soon replaced the Welsh as chief protagonists.

If the ejection of Short was accomplished with dispatch, the participants remained attentive to the appearances of equity and justice. David Evans was both a landowner and a magistrate. As a landowner, he insisted that Short was encroaching upon his land and took measures to remedy the situation; as a magistrate, he exercised his authority to legitimize his aggressive actions. He duly warned Short, called upon his company to witness the transaction and then subtly avoided direct violence by constructing a new building. To have forcefully entered Short's house with the owner blocking the doorway would have been a direct confrontation which might well have escalated into a nasty incident. While the presence of a new building beside his dwelling must have been humiliating to Short, he was left little recourse but to accept the eviction, initiate some form of violence or seek a legal remedy. When his attempt to solicit the support of a Maryland magistrate fell upon deaf ears, he discreetly chose to return to his original plantation on Christians Creek, rather than continue to challenge the claim of David Evans. There is no surviving evidence to explain why the Cecil County justice of the peace refused to act upon Short's complaint. Perhaps Short did not really bring his complaint to the Maryland magistrate or the latter may have believed

that the land in question was part of the Welsh Tract. It may have been simply a matter of relative strength. While Evans could call upon several armed Welshmen to support his claim, there is no suggestion that Short had the support of any neighbours. Short was a former Newcastle County resident who had only recently arrived in the area. This would account for his friendship with French and might also partially explain the reluctance of the Cecil County magistrate to become involved.

The ambiguity of land claims in the border region is amply illustrated in this encounter. Short claimed that George Dekeyne, the surveyor of Newcastle County, had assured him that his new property lay outside the twelve mile circle used to define the limits of Newcastle County. Colonel French also seemed convinced that Short's claim by Maryland title was an excellent one. Indeed, the 'Lord of the Marches' did not visit Short at his plantation, preferring to meet at Christiansa Bridge which was within the twelve mile limit. Despite this apparent support, it soon became clear that in a land dispute on the border, the Pennsylvania authorities in the Lower Counties were not willing to support a Maryland claim. The message was unequivocal - friendship mattered, but only so far; if

a settler wanted to retain relationships and avoid risk, he should choose his land carefully.

If settlers like Adam Short had to be careful, they still managed to handle the difficulties of living within a disputed region. In the Lower Counties, a local tradition of independence from the clutches of either province persisted throughout the period.¹⁷ The early history of the Delaware peninsula was, in part, one of settlers insisting that they were first subjects of the Crown and only secondarily under the authority of William Penn.¹⁸ It was also in part, a history of settlers playing one provincial authority off against the other. The influx of new settlers did nothing to counter these tendencies.

In the 1720s, it was commonplace for settlers in the border region to refuse to pay Pennsylvania quitrents. As early as the first decade of the 18th century, provincial officials had discovered that it was impossible to collect rents in either Sussex or Kent Counties. The more established settlers in Kent informed one of Penn's officials that "they repented that they had paid any & given their Encouragement to pay but would pay no more till they see a better Authority from the Crown of Engl^d for it."¹⁹ In another instance, a quitrent collector was "often Tould

to my face that they wondered at my Insolence to demand
Quit Rents, and had no Authority...⁻²⁰ In 1708, Logan
reminded Penn that, without a boundary settlement, "y^e
Rents in y^e lower p^{ts} of Sussex and near 3000 lbs for
purchase Money in Newc: County will scarce ever be
recovered."⁻²¹ To Henry Gouldney, Logan noted that
until Penn and Baltimore negotiated an end to the
dispute, Penn would "be kept out of several thousand
Pounds that are justly due him."⁻²² By 1712, the
Pennsylvania Board of Property was reluctant "to put
their hands to any thing that may be affected by these
Disputes."⁻²³ Several years later, little had changed.
In his usual succinct fashion, Logan summarized the
problem in this way:

The lower Counties, since their Titles have been so
openly disputed, have entirely declined paying any
thing, and, 'till a full settlement, will never be
compelled to it without an armed force, unless all
their arrears, w^{ch} are very great, be wholly
remitted to them.²⁴

The magnitude of the costs of the dispute to the
Penn family in lost revenue from quitrent, and land
sales was considerable. Logan estimated in 1727 that a
settlement "on any tolerable terms" would allow him to
remit to the proprietors \$10,000 over a two or three
year period.²⁵

Although the most common form of resistance was simply to refuse to pay quitrent, there is evidence of other ways in which local settlers maintained a delicate balance between the two provincial authorities. For example, in 1720 George Dakeyne, the Surveyor of Newcastle, informed Logan that he had been offered money by the Maryland government to provide a draught map of the county. According to Dakeyne, his neighbours thought he was "being an enemy to my self in not taking their money." He then ended his letter to Logan with an unobvious request for a grant of 200 Acres for his service to Pennsylvania.²⁶

For much of the period to the mid 1720s, a local inhabitant could measure long term insecurity of land title against the short term benefits of simple possession. Even when he was willing to pay for his land, the local inhabitant often did not have any money to buy it in the first place. If, after a few years, he could sell his improvements on land he had never bought, then he might use this money to buy more land further inland. As Samuel Blunston, a Lancaster County magistrate explained, this course of action was not entirely bad for either the province or the proprietors. To pay for the improvements, the next inhabitant would have to be more financially secure.

In turn, he would be far more likely to get a formal warrant for the land in question and to pay the required fee, rent and taxes.²⁷

Other border dwellers used the dispute to secure promises of formal titles. Hugh Durborow, the Surveyor of Kent County, successfully petitioned the Board of Property on behalf of himself and twenty other settlers for promissory warrants ranging from 100 to 200 acres. The implications of the petition and its successful outcome were clear. These men had settled in the disputed region on their own initiative; they had done their "duty" for Pennsylvania and now expected some form of reward for their efforts. Provincial officials were willing to offer such recognition.²⁸ Another example of local initiative occurred in the Nottingham area. After a local surveyor ran a line from the mouth of Octorara Creek eastward, local inhabitants "discovered" there was now a vacant strip of land about one mile wide between this apparent northern boundary of Cecil County and the southern limit of Nottingham. When the border dwellers petitioned to have this land distributed among them, the Board approved.²⁹

In sum, local inhabitants perceived the boundary dispute as a mixed blessing. More by accident than design, the border lands provided an opportunity for

many to begin their ascent up the economic ladder at a time when that journey was becoming increasingly difficult. Normal warrants were of questionable value and land titles were subject to challenge; however, the jurisdictional confusion resulting from the lack of clearly defined borders also sheltered the inhabitants. Shrewd local settlers, particularly in the Lower Counties, could avoid paying taxes or quitrents, even on land that had been settled for some time. If they reached the disputed border, debtors and runaways in one colony could claim that they were now under the protection of the other province. Under normal circumstances this would not have proved fruitful, but given their growing rivalry for control of the frontier, both Pennsylvania and Maryland magistrates were willing to protect anyone who acknowledged their authority.

II

Although Maryland was fifty years older than its northern neighbour, neither colony developed a self-conscious indigenous elite until the first quarter of the 18th century.³⁰ The upward social and economic mobility that characterized much of the 17th century was gradually replaced by a system in which the opportunity to rise from humble origins to the pinnacle

of provincial society was severely restricted.³¹ For those fortunate enough to be members of the provincial elites, diversification of economic interests proved to be the necessary cornerstone of continued success. As Aubrey C. Land has pointed out, the rising planter class of the northern Chesapeake was comprised of men who were willing to invest in land speculation, merchant enterprises, manufacturing interests, and professional legal careers.³² To these endeavours could be added participation in the proprietary patronage network.³³ For Marylanders like Daniel Dulany, Charles Carroll, Philomen Lloyd, and Benjamin Tasker, economic diversification was the necessary prerequisite to continued success as great planters.

The position of the Pennsylvania elite was similar, although they were more dependent upon trade. They too recognized the need to diversify to secure their economic success as merchants. According to Gary B. Nash, by 1720 the Philadelphia merchant elite had secured provincial power. "The identical men, frequently linked by ties of blood, marriage, business and religion, controlled the Council and Assembly, dominated the Corporation of Philadelphia, sat on the Philadelphia County and City Courts and handed down decisions from the Provincial Appellate Court and Court

of Chancery.³⁴ Although Pennsylvania politics occasionally returned to the respectful style of earlier years, it remained relatively stable during the second quarter of the century.³⁵

One recent historian has insightfully distinguished between the type of changes that were taking place in the frontier border regions and the more developed settlements along the Chesapeake and Delaware. On the borders, the influx of population and the rapid development of the land led to extensive change, a multiplication of traditional agricultural activity. However, among the elites in the more established parts of the colonies, a far more intensive change was taking place as they diversified their economic interests.³⁶

Both Pennsylvanians and Marylanders became increasingly conscious of the hinterland. While continuing to look to England as the source of their well-being, they began to appreciate the need to extend their provincial power base westward. This consciousness was manifested in two distinct yet related ways: first, by investing in an economic network gradually expanding into the hinterland; and second, by extending and legitimizing the means to dominate these outlying regions. For the Pennsylvania

elite, this thrust into the frontier was to the west and south-west, while for Marylanders, the focus of speculation and jurisdictional expansion lay to the north-west. It was within the context of this potentially overlapping expansion, that the boundary dispute came to be perceived by provincial leaders as a good deal more than a conflict between proprietors. What was at stake for leaders of the new provincial elites was the control of the hinterland with all that this implied. Control of trade and mineral resources, land speculation and development, extension and expansion of political authority - each of these issues appear to have had a far more immediate meaning to provincial leaders than to their proprietors.

During the war years that bracketed the turn of the century, Marylanders became extremely conscious of their growing dependence on their upstart northern neighbour for provisions. The decline of the tobacco trade during the war prompted the Philadelphia merchants to tighten their credit arrangements with Maryland planters, forcing them to pay for goods in specie. With the coming of peace in 1714, the credit crisis subsided and trade relations between the two colonies were less strained, but, the war years had taught Marylanders the necessity of economic

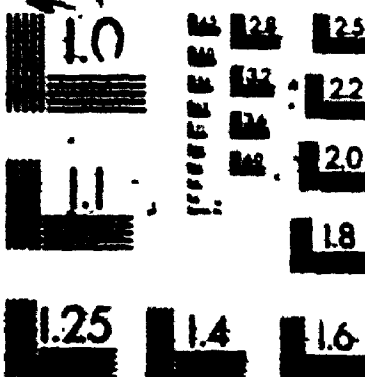
diversification if they were to avoid renewed dependency on the merchant elite of Philadelphia. Over the course of the 18th Century, the preeminence of Philadelphia would be challenged by growth of Baltimore, but during the climactic years of the dispute, the Pennsylvania capital was the undisputed centre of an everwidening economic hinterland that included northern Maryland.³⁷

To members of the provincial elites, their proprietors seemed anxious to avoid the boundary dispute before 1720. During the next decade, expectations of a agreement were raised on different occasions only to be dashed. Both Logan and Lloyd recognized the significance of the hinterland and the implications of a favourable settlement of the boundary question. Whenever possible, Logan reminded the Penns. of some aspect of the dispute. Philomen Eloyd was also given to writing long letters on the subject to the young Baltimore. These two provincial secretaries wrote energetically about the wealth that would be available to whoever controlled land development, mining and trade on the frontier.³⁸ Charles Carroll, Daniel Dulany, Benjamin Tasker and Andrew Hamilton were no less aware of the need to extend provincial control westward.³⁹

Provincial leaders knew the implications of the boundary dispute, but were compelled to watch from afar, while their proprietors appeared to be moving in slow motion to some form of resolution. Although actions were couched in phrases that implied proprietary direction, frequently these instructions took the form of either concurrence with provincial initiatives or agreement with provincial recommendations. Provincial officers often felt compelled to seek proprietary approval after the fact. Thus, Sir William Keith's decision to survey a 75,000 acre manor west of the Susquehanna River in 1720 was made quickly to prevent possible Maryland encroachment and to secure what were believed to be choice mineral lands for himself and the Penns.⁴⁰

Philomen Lloyd's travels through the Lower Counties and the northern borderlands convinced him of the need to begin surveying Talbot's Manor which lay along the disputed Chester-Cecil border before the Pennsylvanians had completely overruled the idea. When Governor Calvert objected, Lloyd procured instructions from England that concurred with his plans. Before the surveyor was sent to the disputed region, Lloyd had felt obliged to indemnify him and to pay the damage of his confinement in case they carried him prisoner to

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Philadelphia." If the surveyor did his job, "it will in some Measure raise our Credit and will convince y^e people y^t we dare run into lands possess by them in Spight of their Guardians." If the Maryland official was seized, so much the better for it would provide Baltimore with a cause to present to the Crown.

Ultimately, Lloyd believed it was time to see if the Pennsylvanians were prepared to call the Maryland bluff, since it was "y^e rewards and Protection they meet wth y^t puts them upon what they do."⁴¹ According to a local resident, he also encouraged Marylanders within Talbot's Manor to warn the Pennsylvanians that the latter had "no land heare and that they [i.e. Marylanders] can leagally take us [i.e. Pennsylvanians] prisoners out of our own Houses, and punish us, for endeavouring to hinder their attempt to Resurvey."⁴²

Lloyd decided to push the Pennsylvanians as far as possible without being accused of outright aggression. By 1723, Marylanders were settling north of the old Octorara Line which Logan had so skillfully argued was the northern limit of Maryland according to the 3rd Lord Baltimore. "The Nottingham people ... threaten very hard about it," noted the Maryland secretary, "however I design to [build a] Workhouse there, if I am not Interrupted wth Power."⁴³

Although Lloyd pressed for a resolution of the boundary conflict, he was a realist. "This dispute however ripe it may be for Determination," he wrote Baltimore, "may still continue for some time without a Decision so y^c y^e Possessing of Remote Parts of y^e Province by his Ld^{ps} own Tenants seems to be most adviseable at this juncture."⁴⁴ In addition to the mining potential in the northwest, Lloyd also understood that expansion had the advantage of promoting agricultural diversification with wheat replacing tobacco as the cash crop on the frontier.⁴⁵ The Maryland secretary did not pretend that his actions were of a purely defensive nature. At the end of a forty-two page analysis of the boundary dispute, he candidly admitted to Baltimore that his initiatives were intended to do to the Pennsylvanians what he perceived they had been doing to Maryland for forty years. He was merely "turning y^e Table upon them."⁴⁶ However, he realized that Maryland had to avoid "doing anything y^c shall give a handle for Complaints of Violence offerd unto his Ma^{tyes} subjects of another Colony." For Lloyd, the border squabbles were still "of small Consequence" compared to the larger issue of Baltimore's general right to the Lower Counties. "Y^e Game is not worth y^e Hazard of Using force to repel them" and since it seemed to Lloyd that Baltimore would

have to petition the Crown for relief, "no Umbrage [was to] be given to our Course of Actions done here y^e are illegal or unwarrantable.

The Maryland secretary may have thought that Maryland actions were beyond reproach, but when Maryland officers arrested Elisha Gatchell, a magistrate of Chester County, and Isaac Taylor, a county surveyor, because the latter were trying to impose Pennsylvania jurisdiction on Maryland settlers, they fell into precisely the trap that Lloyd had been trying to spring on the Pennsylvanians. Governor Calvert and Lloyd met with Logan and Robert Asheton, another member of the Pennsylvania Council, at the Cecil County Court. The Pennsylvanians argued that Taylor had acted out of ignorance, but Calvert insisted that they be bound over to trial. The upshot of the situation was that Pennsylvania acquired a strong case for Maryland aggression, and the Provincial Court of Maryland eventually released the Pennsylvanians.⁴⁸ However, Lloyd remained convinced that Pennsylvania actions were "nothing but Cunning and design backed wth Force. They Insult, we bear it and thus y^e wheel goes round, and thus if we let them alone, they will attach y^e whole countrey & his^e L^{dy} be none y^e better for Treasures w^{ch} Nature seems to have Cast in his Lapp."⁴⁹

When news of the Temporary Agreement of 1724 reached Maryland, Lloyd was dismayed. He outlined why he believed the agreement was an imposition on the Maryland government, while the effect on Pennsylvania expansion was marginal at best.

Pensilvania seems to have gained her point for we have no ways of takeing up lands but by y^r Ld^{PPs} Warr^{ts}, duely granted out of y^e Land Office whilst Pensilvania practiceth by Another rule; & altho their Land Office is now shut-up so y^e no legal warr^t issue, yett for y^e value of five shillings to y^e Office, & y^e Usual fees to y^e Surveyor for entring a Location, they may have a lycence for takeing up what lands they please; & after this manner possess themselves of a large Country, w^{ch} they have no right to; whilst your Ld^{PPs} Tenants, by y^e Stipulations & Rules of Our Land Office, are forced to be lookers on only, whilst y^r Ld^{PPs} Lands are Subjected to purchases, under another right w^{ch} may one day be pleaded ag^t y^e Condicons of Plantacons of this province.

Lloyd was remarkably direct in his criticism of proprietary policy in the 1720s, especially since it appeared that Baltimore, unlike the Penns, had chosen to ignore his provincial advisors. As far as the Maryland secretary was concerned, this was the real reason for Maryland's poor position in the boundary dispute.⁵¹

James Logan was no less frustrated by the inability of the Penns to resolve the dispute in a favourable fashion. He relinquished his role as Provincial secretary, claiming that the Penn's affairs

had taken up far too much of his time for far too little compensation. His decision to resign and his conviction that the Penns had foolishly squandered a glorious opportunity to settle the boundary question when the Temporary agreement lapsed in 1725, reflected his anger that all his efforts in the dispute seemed for naught. Nevertheless, Logan remained a crucial participant in the conflict. With an aging Patrick Gordon replacing the robust and assertive William Keith as governor, Logan needed little convincing to use his position as a senior member of the Provincial Council to direct Gordon's actions within the provincial political arena.⁵²

Over the years, Logan had become compulsive about the boundary dispute. Like Philomen Lloyd, his Maryland counterpart, Logan was convinced that the lack of a boundary and the unclear status of the Lower Counties, were the crucial issues facing the proprietors and the provincial government. He seems to have distinguished between underlying long-term causes of the dispute and the immediate precipitants of the growing border unrest. He believed that William Penn was primarily responsible for the difficulties that faced his sons in the 1720s. According to Logan, the Quaker proprietor had seriously erred in three crucial

ways: first, he had not settled "ye Boundaries wth ye Ld Baltimore when neither he nor any body else imagined the Latitude would carry him so far northwd, and when he accounted ye Lands this way of very liddle value;" second, he had taken possession of the Lower Counties "wthout a sufficient legal title;" and third, he had heaped "things called Privileges...on a People" who now claimed exemptions from almost all necessary responsibilities.⁵³

Bemoaning the proprietors' "Astonishing Neglect of yr own Affairs," Logan distinguished between a proprietary and provincial perspective, or as he expressed it to Thomas Penn, between "all your and our Unessiness."⁵⁴ This distinction was fitting, for when he focused his attention upon immediate causes, he perceived Maryland provincial leaders as the main instigators of the rising tensions of the 1720s. Encroachments were the direct result of the "arbitrary proceedings of some rash ... men of that Province."⁵⁵ Logan believed that the Maryland elite, led by Lloyd, had become aggressively expansionary by the mid 1720s. Yet, in the following passage on the apparent failure of the Temporary Agreement, he unconsciously portrayed the Pennsylvania provincial elite, led by himself, in a similar fashion.

If Maryland once gets the Possession, which with great care and management we gained and have hitherto kept, no time nor diligence may be able to retrieve the loss, and there is now but about two months remaining in the Cession which they well know in Maryland was a great point gained on our side, since by it they agreed in effect to our possession for a time of almost all we want, and whenever their hands are loose again from that, I well know that unless prevented there they will push in a very different manner from what they have done hitherto especially when they know there is no Power exercised for the Families Interest...and the new Commissions are very lately Issued and I might be left out...

Logan's correspondence with local magistrates illustrates even more graphically the initiative of the provincial elite in the boundary conflict. Although he complained of "the Utmost Uneasiness" and that provincial officers were "at a Loss how to bring any action [on the Penns'] behalf," Logan did not hesitate to assert provincial authority in the disputed areas.⁵⁷ He was particularly direct in his correspondence with Samuel Blunston and John Wright who were magistrates living on the Susquehanna River. The Pennsylvanians were to do whatever was thought necessary to remove Maryland settlers who were moving up the west side of the Susquehanna River.⁵⁸ "I wish we could fall on any possible measures to prevent their [i.e. Maryland] settlements," he wrote in 1727, "if you can think of any it would be very acceptable, if at the desire of the Commissioners which you may take as expressed in this letter you would be pleased to put Em in practice." In

late 1729, Logan ordered Blunston and Wright to "discourage it [i.e. Maryland settlement west of the Susquehanna] to the utmost & do thou also survey to perplex Em." -59

There is no question that members of the provincial elites of both provinces were immersed in the boundary dispute. It would have been surprising if, as proprietary officers, they had not become involved. However, what was more crucial for the events of the next decade was the development by 1730 of a distinct provincial perspective on the dispute. This point of view, shared by members of both elites, included a perception that the proprietors had little understanding of their colonies and apparently little interest in resolving the boundary question. Although a Temporary Agreement had resulted from Logan's visit to England in 1724, the proprietors had allowed this opportunity to slip away without reaching a final settlement. This perspective also encompassed a belief that only aggressive provincial action would secure an effective share of the hinterland in the face of increasing expansion by both colonies into a region of overlapping provincial interest. This interprovincial competition combined with the growing pressures of

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local settlement to confound the proprietors as they began serious negotiations in 1731.

III

Although the Order-in-Council of 1685 appeared to settle the proprietary boundary dispute, no line was run during the lifetimes of either Charles Calvert or William Penn. Baltimore gave little indication that he was willing to resume amicable relations with his Quaker neighbour and for his part, over the subsequent decades, William Penn was unable to force Baltimore to comply with the terms of the royal Order. In fact, the Quaker proprietor found himself on the defensive for much of the remainder of his life.

Between 1686 and the 1720s, the proprietary families did little to resolve the impasse that had developed with the Order-in-Council of 1685. This Order had made it clear that the Delaware peninsula was to be divided between the Crown and Lord Baltimore. It also noted that the East-West line separating Maryland and Pennsylvania was to be the 40° north latitude. However, the Order did not specify how the proprietors were to measure the latitude. Also, because James II never officially granted the Lower Counties to William Penn, the latter was placed in the awkward position of

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being unable to force Baltimore to comply with the Order to divide the peninsula. Before James could make a formal grant of the Lower Counties, he was overthrown in the Revolution of 1688. Almost overnight, Penn went from being a most favoured courtier to a man in hiding. A warrant for his arrest was soon reinforced by proclamation. Although the Quaker proprietor escaped unduly harsh treatment for his close association with James II, he was never trusted by William III. Penn lost control of the government of Pennsylvania to the Crown during the early stages of the war with France, but regained enough interest at Whitehall to have his charter restored in 1694.⁶⁰

While Penn struggled to avoid being jailed for treason in the aftermath of the Revolution of 1688, his proprietary neighbour suffered an even greater setback. The overthrow of James II provided anti-proprietary forces in Maryland with an opportunity to depose the Catholic establishment. When the successful Protestant Associates then sought royal sanction for their actions, they were notified in 1692 that Baltimore's charter had been resumed and the province was to receive a royal governor. Baltimore retained his proprietary land rights, but for the next quarter of a

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century, he had no control over the government of Maryland.⁶¹

William Penn must have viewed the introduction of royal government in Maryland as a mixed blessing. To be sure, Baltimore had been removed from centre stage, but he retained his proprietary rights to the land. The Quaker proprietor still needed Baltimore's compliance for a settlement of disputed land claims. Penn might have presumed that the royal governors of Maryland would be predisposed to implement the royal Order of 1685; however, he grew increasingly concerned that a boundary settlement involving a hostile Maryland royal governor be avoided at all costs. In particular, Penn was anxious to defend his claim to the Lower Counties against the efforts of Maryland Governors Lionel Copley and Francis Nicholson who believed that the extension of royal authority over the entire Delaware peninsula was both necessary and justified. The Maryland government was actively supported in this cause by Edward Randolph, Surveyor General of Customs in America, who was committed to the resumption of all proprietary charters. Randolph was convinced that unless the Crown agreed to annex the Lower Counties to Maryland, Scottish "interlopers" would use the region as a staging area for expansion of their trade.⁶²

Royal officials were anxious to resume the Pennsylvania charter for a variety of reasons. They were particularly worried about the lack of military expenditures in Quaker Pennsylvania. With England and France locked in a bitter struggle, called King William's War in North America, customs officers like Randolph and Robert Quarry were convinced that Pennsylvania had become a refuge for smugglers, pirates and deserters. In the circumstances, Penn was forced to defend his colony against increasingly virulent attacks by royal officials. When Nicholson initiated trade sanctions against Pennsylvania and led incursions into the Lower Counties, Penn could only complain without success to the new Board of Trade.⁶³ His cousin, William Markham, plaintively wished "it were reasonable to dispute y^e bounds," but it was obvious to all that the Quaker proprietor was in no position to force the issue.⁶⁴ It appeared that Nicholson would not rest content until Pennsylvania was a royal colony. In a letter to the Board of Trade, Nicholson explained his belief that "it would be for the welfare not only of the king's interest but of both provinces if the boundaries were settled," but he quickly emphasized that "they should not be adjusted until enquiry has been made in these parts, for then the upper part of the bay might be well-seated, and be a check to the

Pennsylvanians." Lest there be any doubt in the minds of Board members, Nicholson made it clear that running out boundary lines according to the 1685 Order might adversely favour a proprietary colony over a royal one.⁶⁵

By the summer of 1697, the Maryland governor was vigorously complaining of Pennsylvania encroachments in the border lands and launched an aggressive campaign to bring the Lower Counties under Maryland control. During this same period, the Board of Trade finally ordered Nicholson to run the lines according to the stipulations of the 1685 Order.⁶⁶ Penn was given cursory notice of this decision. "You are informed hereof," the Board's secretary, William Popple wrote, "that you may give directions for a concurrence in that work on behalf of Pennsylvania."⁶⁷ The implication was clear; with or without Pennsylvania help the boundary lines were to be run. Penn acquiesced, but he remained bitter towards Maryland in general and Nicholson in particular. The royal province was perceived as "an absolute enemy to the Prosperity of Pennsylvania," while Nicholson was accused of "Night-Stabs," and of plotting "secret Designs against me and my Interest."⁶⁸ The ambitious Nicholson was

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certainly not above promoting himself as a potential royal governor of Pennsylvania.⁶⁹

If Penn was worried that the lines would be run without him, his concerns proved groundless for Nicholson had no intention of running lines that might benefit Pennsylvania. A year after the Board issued its directive to establish the boundary, Nicholson wrote that he had been unable to fulfill the order "for King James's Order-in-Council was not with your duplicate nor in Mr. Penn's letter to Colonel Markham." His real reason for the delay appeared later in the letter when he noted the Maryland sentiment that Baltimore had been "tricked by Mr. P about the Order in Council, for according to L.B.'s patent the bounds of Maryland are beyond that line. Whether you will examine further into the affair is not for me to dispute."⁷⁰ The Board was still anxious to have the lines run and with Nicholson leaving Maryland to take up the more lucrative governorship of Virginia, they instructed his successor, Nathaniel Blakiston, to run the lines "esteeming it very necessary for the preventing of disputes between these two provinces."⁷¹

While the Board sought to have the boundary lines run, they were also considering several charges against Pennsylvania presented by Robert Quarry, Vice-Admiralty

Judge of Pennsylvania and a close associate of Francis Nicholson.⁷² Quarry called for the resumption of the proprietary charter as the only solution to the corruption of the Pennsylvania government. To check this threat to his colony, Penn made the voyage to Pennsylvania in 1699. He was obviously seeking to impress the Board of Trade with his ability to deal with problems in his colony and the trip also permitted him to be present for the running of the boundary lines.⁷³

Unfortunately for Penn, the Board of Trade was not easily impressed by proprietary initiatives and Baltimore stalled the running of the boundary lines. While Penn struggled to bring some form of order to the government of Pennsylvania, royal officials were busy preparing a case for the resumption of the proprietary charters.⁷⁴ In the first years of the 18th Century, the Board of Trade was the most visible symbol of the centralizing tendencies within the imperial bureaucracy. Their efforts culminated in reports to both Houses of Parliament calling for the restoration of royal authority throughout the colonies. The unwillingness of Parliament to approve the Board's recommendations has been attributed to the general lack of parliamentary interest in the issue. Although Penn

and his fellow proprietors carefully cultivated their 'interests' with both Tories and Whigs to prevent any precipitous parliamentary action, the resumption of the proprietary charters simply lacked sufficient spark to ignite the spirit of either party in Parliament.⁷⁵ While dispatching letters to England to defend his charter, Penn also found time to begin discussions with Lord Baltimore's land agent, Henry Darnell, and Governor Blakiston regarding the boundary. They were unwilling to establish a commission to recommend procedures for implementing the 1685 Order without instructions from Lord Baltimore.⁷⁶ Penn was probably not far off the mark when he later observed that Baltimore did not want the lines run in his absence.⁷⁷

Despite his successful defense of proprietary privilege, the pressures from Whitehall and from within his colony combined with the mismanagement of his financial affairs began to have a telling effect upon William Penn. First, his colony proved increasingly intractable, with bitter factional politics becoming the rule. The Lower Counties sought and obtained a separate Assembly, a new Charter was created to placate growing anti-proprietary sentiment, and through it all, Penn received little revenue from his colony.⁷⁸ Commissioners of the Treasury also demanded that he

provide them with "an Account ... of the Moiety of all the Rents, Issues and Profitts that have been made by You by Season of the said [Delaware] Lands ... to the end that his Majesty's Dues may be thereupon satisfied."⁷⁹ The net result of this new attack was Penn's concession that the Crown was entitled to one half of the revenues from the Lower Counties and had the right to select the Governor on Penn's recommendation and bond.⁸⁰

In addition to recognizing that the colonists in the Upper and Lower Counties were hopelessly divided, Penn granted the provincial assemblies extensive autonomy. He was forced to accept at long last that his 'Holy Experiment' was a failure.⁸¹ Penn's concessions were a desperate attempt to retain some control of the government. In a revealing letter to his son, the Quaker proprietor explained his perception that ownership of the land and control of government were intertwined:

The Land was but as the shell, or ring & Government the Kernell or Stone, the ring may be worth 20 sh & the stone 100^l yet 'tis called a ring as tother is Property, but still this without powers, is as that without the Diamond a Name and no more.⁸²

No sooner had Penn surrendered some of his power to the Assemblies than the Assembly of the Lower

Counties formally complained, through Robert Quarry, to the Board of Trade that the proprietor was neglecting the military defense of his possessions. In the margin of his copy of their address, Penn ruefully noted, "Have not some of these men bravely rewarded me?"⁸³

Besides these political machinations on both sides of the Atlantic, personal finances became an increasing source of anxiety for Penn. Between 1697 and 1699, Penn had foolishly allowed his former agent, Philip Ford, to hold first a mortgage on Pennsylvania in lieu of an outstanding debt and later a receipt for the province itself.⁸⁴ By 1705, the unpaid debt to the Ford estate had grown to £6900 and the Ford family entered a Bill of Complaint against Penn seeking to obtain the Quaker's colonial holdings for nonpayment.⁸⁵ Although the intervention of several influential Quakers helped Penn escape this litigation with his colony still intact, his financial circumstances remained tenuous. The situation became so bad that in 1708 the largest landowner in British North America found himself in debtors' prison. Eventually, several London Quakers, including Joshua Gee, refinanced William Penn so that he and his family no longer had to face such acute embarrassment. Nevertheless, the Penn

family did not manage to free itself from the father's debts until the late 1720s.⁸⁶

In light of these circumstances, it is understandable that the Quaker proprietor began to reconsider his situation. By the winter of 1702/03, Penn admitted to James Logan that he "never was so low & so reduced."⁸⁷ To his old friend, Lord Romney, he complained that his colony had cost him £20,000, aside from the original release of the £16,000 debt owed to the Penn family by the Crown. For these expenditures, he had received £1600.⁸⁸ Finally, Penn decided to surrender his charter to the Crown if some reasonable arrangement could be negotiated. Begun in 1703, these discussions did not reach an apparent conclusion until 1712 when Queen Anne agreed to the negotiated terms and ordered an immediate payment of £1000 to Penn until the formal surrender could be signed.⁸⁹ Unfortunately, Penn fell seriously ill and never fully recovered before his death in 1718. The surrender was left for Hannah Penn to complete, but by the 1720s, the Crown was no longer anxious to finalize the surrender and the agreement remained in limbo.⁹⁰

While he was still healthy, Penn repeatedly defended his inactivity on the boundary. In 1705, he believed that he should be present before any line was

run, but affairs in England made it impossible for him to leave.⁹¹ A few months later, he assured his provincial secretary that "the neglect of the division of the boundaries lies not at my door. I have already pressed the Lords of Trade about it and will again, tho' I had rather it was done while I was on the spot."⁹² However, Penn's justification for the inactivity sometimes amounted to little more than lame excuses.⁹³ The real problem was that he was simply too pressed by other matters.

The one exception to his preoccupation with finances and the negotiations for the surrender of the colony to the Crown was a series of encounters which began in 1707 with an address from the Maryland government to the Crown requesting the running of the lines and ended in 1709 with the confirmation of the 1685 Order-in-Council. Since this was the most serious confrontation between the proprietary families before the 1730s, it is worth examining in some detail.

By the late spring of 1707, the Maryland Council and Assembly had grown impatient with the lack of progress in the boundary dispute. As a result, they agreed upon a joint address to the Queen requesting the lines be run immediately so that Maryland land purchasers would "be safe in their graunts."⁹⁴ The

address was referred to the Board of Trade which met to consider the matter in early 1708. Baltimore attended the first meeting and supplied the Board members with a copy of his Narrative outlining what had happened in 1681-82. The Board quickly decided that Penn should also attend the meetings.⁹⁵ The only problem was that Penn was then under confinement in debtors' prison and was therefore unable to present his case.

Begging for time to make a personal appearance before the Board, Penn delayed the hearing until April 1708 when he attended with Baltimore and Colonel Blakiston.⁹⁶ The Committee read the 1685 Order, Baltimore's narrative, the letter from Charles II to Baltimore, and the Maryland address. Baltimore petitioned that the letter he received from the King be used for the running of the boundary, while Penn naturally insisted upon compliance with the 1685 Order. The Quaker also suggested that the two Proprietors should meet to settle their differences privately and then submit their agreement to the Board. When Baltimore agreed, the Board appointed the following week to receive notice of their agreement.⁹⁷ They waited in vain. Not surprisingly the proprietors were unable to resolve their differences in a week, but when they did not submit an arrangement to the Board by late

summer, the Board grew restive. Popple informed the proprietors that, unless the Agreement was submitted to the Board by 12 October, they would be compelled to make their report to the Queen.⁹⁸ Baltimore appeared before the committee in December and notified the members he planned to take immediate action on the dispute.⁹⁹

In January, Baltimore petitioned Queen Anne "that the said Orders [of 1685] ... be sett aside and that the boundarys of the said two Provinces may be ascertained pursuant to his Majestye Gracious Letter dated the 2nd of April 1681." He accused Penn of "surreptitiously" procuring a second letter from Charles that was based upon willful "misrepresentation." Lastly, he argued that the Order had been enacted "without y^{our} Petitioner being ever heard to or having notice of such order to deprive your Petitioner of his inheritance."¹⁰⁰ At the Board of Trade, Baltimore indicated that he had met with Penn on numerous occasions to no avail and insisted that his patent be the basis for the boundary settlement. Penn adamantly refused to consider any alteration to the Order of 1685, arguing that the Board could not be "proper Judges, or shape a definitive order or sentence of King & Council."¹⁰¹ He also complained directly to Lord

President Somers and Lord Sunderland, Secretary of State, who agreed that the Board was not the proper body for such a consideration. With their concurrence, the Quaker proprietor quickly sent his own petition to the Queen. As a result of this speedy response, Baltimore's petition was revoked because the issue "had been heard and settled" on 7 November 1685.¹⁰²

Penn was justifiably pleased with his success in preventing Baltimore's attempt to overturn the Order of 1685. Despite his financial difficulties, he still showed his political acumen and his capacity to marshal a strong 'interest' at Whitehall. According to Penn, even William Blathwayt indicated that the incident was a major victory for the Quaker.¹⁰³ "One would think," Penn reflected in a letter to Logan, "such a quick & thorough turne of ill endeavours should convince our enemyes there, we are not left a prey to their designs."¹⁰⁴ Using addresses from assemblies of both provinces as the justification, Penn then tried to follow up this success with an Order from the Queen to run the boundary lines.¹⁰⁵ He reminded the Lord President that if Baltimore were ever to succeed in his attempts, "it wou'd be an absolute acquisition to him, but a most severe loss to me & the Crown also."¹⁰⁶

Surprisingly, Penn's petition did not result in a formal order. Baltimore successfully sidetracked the issue with another petition claiming that, because of the dismissal of his earlier petition, he was now "wholly Destitute and remediless of means to Assert his property and prove his Rights."¹⁰⁷ Although this petition was dismissed because both proprietors had been heard "divers times before the making of the Order [of 1685] complained of," no further Order on the boundaries was forthcoming.¹⁰⁸ Still, Penn was heartened by the Queen's action, believing that her Order-in-Council of June 1709 effectively confirmed that legitimacy of the original Order of 1685. Beneath the gentle appearance and failing health of the Quaker courtier lay a hardness that was kept hidden from most. "Can my wicked enemys yet bow," he confided to Logan, "They shall or break & be broaken to pieces before a year from this date."¹⁰⁹ Baltimore was not "broaken" within the year. Indeed, it is likely that Penn only succeeded in 1709 because of the pending negotiations for the surrender of his charter to the Crown. He had already indicated that he preferred that the boundary lines be run only in his presence and his health and financial situation precluded an immediate journey to the colony.

With her husband progressively debilitated after 1712, Hannah Penn, the proprietor's second wife, had to assume much of the responsibility for proprietary management. While Logan continued to press her for a settlement of the boundary question, she was unwilling to force the issue when not only the family's personal affairs were in a state of confusion, but the surrender of the charter seemed to be close at hand and the Calverts' fortunes appeared to be rising. "We neither forget the division line nor the Lower Counties," she admonished Logan, "but we conclude 'tis better not to stir than to stir to no purpose, and therefore I am advised to be quiet."¹¹⁰ Hannah must have recognized that Logan would be unable or unwilling to let the matter rest. She conceded that the boundary question "sticks on my mind as much, or more, than any other outward concern, . . . but as it has been put off from time to time till now, and that I now conclude nothing can be done but by a fresh application and order from the King [George I], I cannot think 'tis fit for me as I am to push myself into such a hazardous undertaking." Nevertheless, she called upon Logan to prepare the "necessary instructions or precautions about the Division Line" so the family could act quickly if the opportunity arose.¹¹¹

Hannah Penn tried to maintain the family's position, working hard to prevent an attempt in 1717 by the Earl of Sutherland to secure a charter from the Crown for the Lower Counties. With increasing desperation, she also tried to arrange the surrender of the government to the Crown and to settle Penn's contested estate.¹¹² When Penn died in 1718, the legality of his will was called into question. The government of Pennsylvania and the Irish estate were bequeathed to William Penn, Jr., his eldest son by his first marriage, while his land in the colony was granted to Hannah Penn and her children. Although friends of the Penns on both sides of the Atlantic tried to resolve the family rift that resulted from Penn's will, it remained a persistent problem for the proprietary government of Pennsylvania whose very legitimacy was called into question by the lack of a clean cut division of authority. Hannah's sons, John, Thomas and Richard Penn, eventually secured the title to both the proprietary government and lands in 1731, but Hannah did not live to see the settlement of the family dispute.

Little is known of Baltimore's activities during the period after the Glorious Revolution.¹¹³ Like Penn, he was accused of treason and outlawry, but these

charges were later dropped. Although he was deemed incapable of governing his proprietary colony, he did manage to achieve military promotions under both William III and Anne. By 1704, the Catholic Baltimore had become a major general in the English army. Apart from the futile endeavour in 1708/09 to have the 1685 Order-in-Council overturned, the records suggest little about Baltimore's last years. Apparently, the Calverts never gave up hope that the government of Maryland would someday be restored to the family. In 1711 and again in 1712, Baltimore petitioned the Crown to restore the Maryland charter to his family, although he also showed a willingness to sell his proprietary rights to the Crown as an alternative.

Charles remained a steadfast Catholic, despite the political disadvantages, but his son and heir, Benedict Leonard, broke with the family and converted to the Church of England. Disowned by his father, Benedict Leonard quickly procured a £300 annual income from the Crown and had enough influence at Whitehall not only to secure the appointment of Captain John Hart as the royal governor of Maryland, but to prevent his father's efforts to sell the colony as well.¹¹⁴ Hart had agreed to send Calvert an annual payment of £500 as

payment for his support. In 1714, Benedict Leonard became a Tory M.P. for Harwich in Essex and with the death of his father in 1715, he became the 4th Lord Baltimore. Although the way was now clear for a restoration of the proprietary government under a Protestant Lord Baltimore, Benedict Leonard only survived his father by a month. When the restoration occurred a few months later, the new proprietor was a youth of sixteen, Charles Calvert, the 5th Lord Baltimore. He remained a minor under the guardianship of Francis North, 2nd Baron Guilford, until 1720.

Up to the Hanoverian succession, and the restoration of Maryland to the Calverts, the boundary dispute at the proprietary level was played out within a setting of political and personal crises, which frequently upstaged any effort to bring the matter to a conclusion. To be sure, successive royal governors in Maryland wrote to the Board about the growing problems along the disputed border and Penn's provincial secretary, James Logan, began to write of the need to settle the conflict soon after his arrival in Pennsylvania. Yet, with the notable exception of the 1708 and 1709 confrontations, the dispute did not appear to attract the undivided attention of the proprietary families. Those living on the English side

of the Atlantic perceived a different rhythm of dispute settlement than their provincial associates. The early 1720s was not a time for Whitehall to be preoccupied with a dispute between two proprietary families who were only of marginal direct political influence. In the early years of their rise to power, Walpole and his friends were simply too preoccupied with the consolidation of their position to spend time considering a dispute between peripheral players on the imperial stage. As one Penn associate noted in 1720, "I see no Remedy [to problems in the Lower Counties] but that they must remain in the State They are till the contents about the Limits be determined, which I hope we shall get done when the ministers are at leisure to take that ...into consideration."¹¹⁵ The problem was finding the leisure time.

Hannah Penn did petition the Crown for an Order to execute the decree of 1685, but when it was referred to the Board of Trade, the petition was tabled since Baltimore was still considered to be a minor.¹¹⁶ With pressures from both border settlers and provincial officials mounting, the proprietary families remained reluctant to arrive at a mutually acceptable compromise. In early 1724, however, they did agree to halt all settlement in the disputed lands and to permit

all border dwellers to maintain their possessions undisturbed for 18 months to lessen the potential for an open border war and provide themselves with enough time to resolve their differences.¹¹⁷

James Logan went to England to assist Hannah Penn and her sons during their discussions with Baltimore. His letters had become increasingly strident since the restoration of proprietary government in Maryland. His persistence was not only a crucial factor in the arrangement of this temporary agreement, it may also have had a good deal to do with the failure of the proprietors to reach a lasting settlement. Charles Love, Baltimore's principal secretary, thought the Penns were "wholly guided" by Logan and believed the prospects of a settlement were slim because Logan was "very tenacious in his own Opinions."¹¹⁸ According to Love, the Penns were willing to concede the 40° as the northern line of Maryland, but they insisted that the 1685 Order-in-Council had to be implemented "as it is mark'd down on their old Mapp." This meant the Calvert family had "not only that Order to struggle with, but their Interpretation of it, as Penn has mark'd it on his mapp." Without a willingness on the part of the Penn family to deviate from this critical point, Baltimore's principal secretary perceived little of

lasting consequence would come from the negotiations.¹¹⁹

Philomen Lloyd also appears to have dedicated himself to the vagaries of the dispute. He believed that the Agreement enhanced the legitimacy of Pennsylvania claims in the disputed area and that the Pennsylvanians had embarked upon an aggressive policy of encroachment. He urged Baltimore to avoid entrapment in an unfair agreement, but suspecting his proprietor had already been duped in the negotiations with Hannah Penn, Lloyd could only hope that Baltimore would begin to listen to his provincial advisors.¹²⁰

Led by their controversial and colourful governor, William Keith, the Pennsylvania government had staked out a large claim west of the Susquehanna River in 1720.¹²¹ Both Maryland and Pennsylvania officials believed there were good possibilities for mining in this region. In fact, provincial leaders in both provinces soon invested in the mining and production of iron. At the same time, inhabitants in the Nottingham area of Chester county had received Board of Property approval to continue their southwestward settlement pattern.¹²² The situation in the Lower Counties remained fluid with officials from both provinces competing for the recognition of local inhabitants.¹²³

Much to Logan's frustration and to Lloyd's apparent delight, the Temporary Agreement did not lead to a permanent resolution of the boundary dispute. Talks between the families continued to suffer from an apparent unwillingness or inability of the parties to sustain negotiations. One moment Baltimore appeared "Desirous to make some end of that Dispute," but then he would insist "so much on his old opinion of the Latitude" that only a petition to the King in Council appeared to offer any hope of relief.¹²⁴ At another point, the Maryland proprietor offered to send the dispute to an independent arbitrator for settlement, but the Penns rejected this alternative. Despite the fact that Logan was now back in Pennsylvania, his presence was still felt. His reasons for opposing private arbitration shed much light on the influence of this wily provincial merchant and politician. If Baltimore could be convinced that he had no right above the peninsula, he might be willing to accept a Penn concession to the west near the Potomac. His own words are eloquent testimony to his Machiavellian approach to the world of politics.

[At least Baltimore] would be very cautious how he ventured upon a Decision by the Crown But it will be no easy matter to find private persons who will enter so fully into this kind of reasoning, for such will always judge it very right that every man should hold as much as he can by the King's

Grant while his Ministers will Reason just ye contrary way, and on these considerations I think there will be some hazard in leaving ye matter to a private determination and therefore you should endeavour to bring it to an accommodation if possible between yourselves.¹²⁵

However, Joshua Gee, one of the mortgage holders on Pennsylvania was convinced that Baltimore would not try to end the dispute until he saw that the Penns were serious about taking him before the Crown.¹²⁶ The Attorney and Solicitor Generals had already informed the proprietors that only the King in Council had jurisdiction in their dispute.¹²⁷

Logan was influential, but only to a point. As long as the proprietors controlled the pace of negotiations, their provincial officers were unable to force the issue. When the Pennsylvania secretary returned to the colony, he left behind a divided family, still preoccupied with their internal problems and the effort to surrender their charter. Baltimore, on the other hand, was still a young man who only began to appreciate the full implications of the boundary dispute when he turned his attention to his revenue system.

When the Temporary Agreement lapsed in 1725, the provincial governments again were faced with the prospect of violence along the disputed border. The

situation in the colonies was now far different from what it had been when the proprietors had first confronted each other in the early 1680s. Although the Penns and Baltimore probably did not fully appreciate the changing circumstances within their colonies in 1725, a second attempt by the Earl of Sutherland to acquire a charter for the Lower Counties seemed to invigorate both proprietary families. They immediately requested detailed evidence from their provinces to prove their right to the Lower Counties.¹²⁸ Logan later complained that the Penn strategy of setting Baltimore against Sutherland backfired because it simply confirmed in Baltimore's mind that his claim to the Lower Counties was defensible.¹²⁹ Earlier the Penns had chosen the aging Patrick Gordon to replace Sir William Keith as governor. They were blunt in explaining the rationale for their choice of Gordon. The new governor had extremely good connections, particularly through the Scottish Lords, the Duke of Argyle and the Earl of Islay. With this support, as well as that of the Quaker lobby, the Penns were confident that they would not only overcome Sutherland's petition, but would also secure their own title to the Lower Counties. However, not even this support moved the Walpole ministry.¹³⁰

While Logan fretted in Pennsylvania, the Penns reassured him that they were doing all they could to arrange a settlement with Baltimore. John Penn believed that the Maryland proprietor would not proceed until the Penns filed a petition with the Crown and resolved their internal family dispute.¹³¹ The problem was a lack of money. A petition to the Crown required money which the debt-ridden Penns were simply unable to secure and to make matters worse, Logan kept reminding them there would be no further money until the boundary question was resolved.¹³² On several different occasions, John Penn indicated that the family was planning to propose a treaty to Baltimore, but there was always some pretext for the failure of these talks to materialize.¹³³ Two themes emerge from the Penn correspondence of the late 1720s: first, the family did not have a firm and consistent policy on the boundary dispute, and second, they permitted their provincial officials to take the initiative in dealing with Maryland.¹³⁴

With the Penns struggling over internal family divisions and their financial problems, Baltimore emerged from the Sutherland hearings with a renewed sense of confidence in his territorial claims. He sent his brother, Benedict Leonard Calvert, to Maryland as

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governor with orders to follow a more aggressive policy against perceived Pennsylvania encroachments.¹³⁵

Provincial officials were encouraged to settle as many Marylanders as possible in the disputed region and to prosecute vigorously all Pennsylvania encroachers in order to strengthen and legitimize Baltimore's claim.¹³⁶ He also ordered his lawyers to prepare a lawsuit and asked Philomen Lloyd to come to England with all the proofs of possession that were available.

By 1731, Baltimore appeared ready to launch a lawsuit in England and was supporting a more aggressive provincial role in the dispute. For their part, the Penns finally paid off the mortgage on their colony and resolved their family dispute. Early in that year, Baltimore accidentally met Fernando John Paris, who had been working as a legal advisor for William Penn Jr. According to Paris, the Maryland proprietor mentioned that both the Calverts and the Penns had "greatly suffered" from their long dispute. When Baltimore expressed an interest in a settlement, Paris offered to act as an intermediary believing that such a settlement would lead to a favourable settlement between John, Thomas and Richard Penn and his client, William Penn Jr.¹³⁷ Baltimore presumably accepted Paris' offer for

the proprietors began negotiations at the "Ship Tavern" on 3 June 1731.

Over the next eleven months, there were five lengthy meetings between the Penns and Baltimore and several more discussions between their lawyers.¹³⁸ Although it later became a matter of concern which party initiated the negotiations, it appears that both families were keen to end their long dispute. As the hinterlands of the two provinces began to attract recent immigrants, even preoccupied proprietors recognized the value of extending responsible authority over their lands. Baltimore probably already had the re-introduction of quitrents in mind and it was clear from the Penns' difficulties that the sale of property and the regular collection of quitrents depended upon the issuance of uncontested official land titles. The alternative to a peaceful solution was violence and according to Fernando John Paris, it was precisely the Penns' "Inability to War" that added impetus to their desire for a settlement.¹³⁹

At the 3 June 1731 meeting, both the Penns and Baltimore produced maps which appeared to have "no material Difference." The debate centred on two issues: Baltimore's claim to the Lower Counties and the northern limit of Maryland. Paris later claimed that

Baltimore drew an east-west line on his map across the Delaware peninsula and added a line from the mid-point of this east-west line up the peninsula to a point north of the Newcastle circle from which he then drew a line due west. When the Penns placed similar lines on their map, "a very long Debate and Argument arose...at what Distance South of the City of Philadelphia, the Foot Line of Pennsylvania...should run."¹⁴⁰ The Penns insisted that the line be twenty miles south, while Baltimore adamantly demanded that it be only fifteen miles. During a second meeting on 11 June, Baltimore threatened to take "some adversary Measures" if the Penns did not accept his claim to a fifteen mile distance.¹⁴¹ When the Pennsylvania proprietors still refused to consider this proposal, negotiations were broken off and a couple of weeks later, Baltimore petitioned the Crown to order the Penns "to join with him in settling and ascertaining the said boundaries." If the Penns refused to comply, or if there was no settlement in twelve months, Baltimore requested that "the King should hear the Matter in dispute, and give such Determination, touching the same, as to His Majesty should seem meet."¹⁴²

Baltimore's willingness to test his claim before the Crown apparently led the Penns to reconsider their

position. After discussing the implications of Baltimore's petition with Paris and William Penn Jr., they agreed to have another meeting with the Maryland proprietor. Late into the evening of 20 July, the proprietors argued over the location of the east-west line. The Penns offered to run the line eighteen miles south of Philadelphia and then seventeen, but Baltimore held firm. Paris later testified that he then took John Penn outside and urged him to accept Baltimore's proposal. Paris argued that the Penn brothers now had an agreement with William Penn Jr. and it was also time to end the fifty year dispute with the Calverts. After the Penns had tried several other inducements which fell on deaf ears, they reluctantly accepted Baltimore's demand that the line be run fifteen miles south of Philadelphia. With the major stumbling block overcome, the two parties celebrated the settlement, leaving the specific details for the next meeting.

Samuel Ogle, who was about to be appointed Lieutenant-Governor of Maryland, later claimed that Baltimore had publicly indicated his ignorance "of the Subject Matter in Dispute," but one of the Penns had then assured the Maryland proprietor that they were "all Ignorant alike." According to Ogle, the Penns also suggested that both proprietors were operating "a

good deal in the dark, but it may as well for one Party as the other. -143

When the proprietors met for a fourth time two days later, Baltimore read a paper which he believed expressed the key elements of the agreement. Paris and John Sharpe, Baltimore's solicitor, were instructed to use this document to prepare a formal draft of the agreement to be signed by the proprietors. However, by the end of October, a thorny problem had arisen which threatened to scuttle the entire agreement.

Baltimore had inserted the qualification that the east-west line was to be run fifteen statute miles south of Philadelphia and the circle around Newcastle was to be twelve statute miles from the town. The proprietors may have been uninformed about the geography of the border region, but they immediately recognized the importance of this qualification. Over the length of a fifteen mile measurement, the difference between statute and geographical miles was 2.26 statute miles. If one then extends this difference over the approximate length of the east-west line, Baltimore stood to gain almost 300,000 acres.¹⁴⁴ The Penns were furious and another proprietary meeting was arranged; however, Baltimore continued to insist on the use of statute miles and eventually the Penn

brothers conceded. With this obstacle eliminated, the solicitors completed the draft of the Agreement and sent the map used by Baltimore to John Senex for engraving.

On 10 May 1732, the proprietors ended almost fifty years of conflict with the signing of the Agreement. They had agreed to the following terms: first, Baltimore relinquished his claim to the Lower Counties and a boundary was to be run westward from Cape Henlopen to a mid-point of the peninsula where a tangent line was to be run northward to the westerly edge of a twelve mile circle around Newcastle; second, the east-west line separating the two provinces was to be run from a point fifteen miles south of Philadelphia; third, all titles granted before 1724 would either be honoured or the equivalent amount of land guaranteed elsewhere within the province, if the landholder accepted the jurisdiction of his new proprietor, paid the required fees and received a new deed from the appropriate land office; fourth, all settlers who had taken out titles with both land offices "under which they have sheltered themselves by turns against each of the said Proprietors" or who had simply settled without any title from either province received no guarantees except a promise of moderation;

fifth, provincial commissioners were empowered to run the line by no later than 25 December 1733 with a forfeit penalty of £5000 for non-compliance with the terms of the agreement.¹⁴⁵

Given that the agreement was all but destroyed within a few short months, the negotiations that led to the agreement, and the final terms must be evaluated. Were there any indications of the problems that soon proved so provoking when both proprietary parties so clearly wanted an end to the dispute by 1731? Baltimore became so insistent that he petitioned the Crown to fix a time limit on the negotiations. The Maryland proprietor had begun to assert himself in the affairs of his colony and with a settlement of the boundary, he planned to restore the quitrent system in Maryland.¹⁴⁶ The Penns and Baltimore had several long and heated meetings which does not suggest a cavalier attitude to a settlement. Both sides took matters seriously; both sides could legitimately argue that genuine compromise had occurred and that significant benefits had been achieved. The Penns had received uncontested control of the Lower Counties as far south as Cape Henlopen and had clear jurisdiction to the south-west of Philadelphia in an area which was daily becoming more populated. Baltimore had achieved

his minimum condition that Maryland's northern line be run fifteen miles south of Philadelphia, assuring his greater interior landholdings for future development. If one assumes that the Penns' original offer was a line running twenty 'geographical' miles south of Philadelphia, then the difference between this and the eventual agreement on fifteen statute miles was over 1,000,000 acres.¹⁴⁷ The Penns, on the other hand, now had uncontested jurisdiction over a similar amount of land in the Lower Counties.¹⁴⁸

The most controversial decision involved the use of Baltimore's map as the basis for the agreement. Similar in almost every detail to the Penns' map, it was presumably a copy of a map created in Philadelphia and used by the Pennsylvania proprietors. A Maryland official had apparently used this copy to mark out information on the boundary question. The only problem was that it placed Cape Henlopen over twenty miles south of where it should have been. There is no question that it was inaccurate, nor is there any doubt that several maps were available that placed Cape Henlopen in its proper location. It may well have been created by James Logan, or at his request, to reflect his understanding of earlier Dutch maps and the intent of the original Dutch settlers.¹⁴⁹ Its origin,

however, is beside the point; what is significant is that Baltimore believed it to be accurate and insisted upon its use. The Penns knew that other maps contradicted their representation and probably would have accepted Baltimore's terms if the latter had insisted upon the proper placement of Cape Henlopen. Although they may not have deliberately sought to defraud Baltimore, they were certainly not prepared to insist that the Maryland proprietor was undermining his calculations by using a faulty map.¹⁵⁰

When Thomas Penn and Lord Baltimore set sail for their colonies, they believed a genuine and binding agreement was in place. If Baltimore and the Penns recognized that local border dwellers and members of the provincial elites had brought new perspectives to the boundary conflict, they still assumed that proprietary action was all that was necessary to quiet their colonies. They believed the problems that had plagued their two families since 1685 and had prevented an earlier settlement of the dispute, had now been overcome.

Given the significance of face-to-face negotiations as a means of resolving the dispute, the

fact that the two initial antagonists, William Penn and Charles Calvert, 3rd Lord Baltimore lived until 1715 and 1718 respectively helps to explain the failure of the two families to reach a settlement during the first thirty years after 1685. However, the intensely personal antipathy between William Penn and Charles Calvert, 3rd Lord Baltimore had been removed with their deaths and Penn's sons and Baltimore's grandson had no personal animosity to overcome.

In 1732, the Penn family for the first time in decades was free from the heavy debts which had forced William Penn to mortgage his colony. They were no longer anxious to surrender their charter, a preoccupation of the Penn family since 1703. The long and debilitating illness of their father, the estate dispute that followed his death and the subsequent death of their mother were now behind them. John, Thomas and Richard Penn appeared ready to reap the hitherto untapped revenues of their colony.

For his part, by the end of the 1720s, Charles Calvert, 5th Lord Baltimore was ready to re-assert the proprietary charter rights which had been restored to the Calverts in 1715, after a twenty-five year period of royal government. The bitter family dispute which had pitted his grandfather against his father was now

in the past. Although he had been receiving a steady revenue from Maryland, Baltimore was preparing to exact greater revenues from his proprietary domain on the Chesapeake.

By the end of the 1720s, the disputed border lands had become a primary destination for the growing numbers of Scotch-Irish and German immigrants who were arriving in Philadelphia. Despite Logan's warnings, the Penns were pleased that the hinterland population was growing. They had little appreciation for the problem of maintaining authority as these immigrants often occupied the land without formal warrant. For both the Penns and Baltimore, the disputed region remained the difference between two lines on a map. While the proprietors appreciated the importance of actual possession of the disputed lands through settlement, they did not recognize that these new borderers developed their own ways of dealing with the insecurity associated with living in a disputed region. Borderers avoided quitrent payment in the Lower Counties; they opted for whichever province seemed to provide the best terms; they considered ethnicity more important than provincial affiliation.

If provincial leaders knew with certainty that they were at the pinnacle of their society, over time

these same men came to perceive that they were different from their counterparts in England. Indeed, it is ironic that the very process by which they sought to emulate English culture in their colonial setting also served to underscore their uniqueness. Despite their success in the new world, they remained colonials within an imperial context. Just as the border dwellers were living on the periphery of provincial life, so too the provincial elites of Annapolis and Philadelphia were secondary players in the cosmopolitan world of the empire. Much to their growing frustration, the provincial elites of North America continued to be cast in this role throughout the first half of the 18th century. If they admired English law and custom, they still harboured resentments at the slights they received. Perhaps more than anything else, they resented being ignored by seemingly indifferent English officials and placemen. In Pennsylvania and Maryland, the need for recognition led different provincials along divergent paths, some choosing to work closely with their proprietor in a 'court' party, while others opted for the negative recognition that came from leadership of the 'country' party. In both Maryland and Pennsylvania, there are strong indications that the colonial elites were

seeking an aura of legitimacy for their new found wealth and growing power.

The presence of an urbane, merchant elite in Philadelphia became the source of growing frustration for the planter gentry of Maryland. The economic rivalry between the merchants of Philadelphia and the planters of the northern Chesapeake aggravated the differences over the disputed boundary. By the late 1720s, the extension of the social and economic hinterland of Philadelphia had met with the conscious resistance of the planter elite of Maryland. For the Maryland elite, Pennsylvania encroachments along the border were persistent reminders that Marylanders had to develop their own hinterland or face the prospect of renewed dependency on Philadelphia. Reared in an atmosphere where military prowess was important, it is not surprising that the Maryland elite began to advocate an aggressive response to Pennsylvania by the close of this period.

By the beginning of the 1730s, provincial leaders were already developing their own agendas for government action. In large measure, the proprietary agreement was a response to this growing provincial power. Both families put aside personal antipathies when they realized that a compromise on the boundary

was necessary to lay the groundwork for a reassertion of proprietary authority. It was not to celebrate the Agreement of 1732 that both Thomas Penn and Lord Baltimore arrived in their provinces within the year; rather, the Agreement and the subsequent visits signalled an effort by both families to regain the political initiative within their provinces. The boundary dispute had developed by the late 1720s into the most glaring example of proprietary impotence. The proprietors sent instructions regarding ways to deal with the border conflict, but they also appear to have deferred to provincial leaders in the formulation of measures to achieve these instructions. In a very tangible sense, the boundary dispute from the early 1720s to the Agreement of 1732 demonstrates that the new generation of proprietors had little understanding of the realities of life in their provinces. Comfortable in a cosmopolitan world of interest politics, polite discourse, and courtly disputes, Baltimore and the Penns perceived their dispute in terms of family inheritance. Although Logan and Lloyd expressed the concerns of provincial leaders on both sides of the border, it was only with the events that followed the agreement that the proprietors realized provincial and local perspectives on the boundary conflict mattered.

Notes - Chapter 3

1. For the "determinative role" of extra-parliamentary interests by the 1730s, see Michael Kammen, Empire and Interest: The American Colonies and the Politics of Mercantilism (Philadelphia, 1970), esp. chap 3. For two excellent studies of interest politics in the 18th century, see Alison G. Olson, "Parliament, The London Lobbies, and Provincial Interests in England and America," Historical Reflections / Reflections Historique, VI (1979), 367-386 and _____, "The Board of Trade and London-American Interest Groups in the Eighteenth Century," The Journal of Imperial and Commonwealth History, VIII(1980), 33-50. For changes in the style of administration, see James A. Henretta, 'Salutary Neglect': Colonial Administration under the Duke of Newcastle (Princeton, 1972) and the relevant essays in Alison Gilbert Olson & Richard Maxwell Brown (eds.), Anglo-American Political Relations, 1675-1775 (New Brunswick, 1970). For two recent surveys of the changing political world of the period, see J. R. Jones, Court and Country: England, 1658-1714 (Cambridge, Mass., 1979) and W. A. Speck, Stability and Strife: England, 1714-1760 (Cambridge, Mass., 1979). One of the best studies of the earlier part of the period is J. M. Sosin's three volume English America. The classic treatment of the underlying changes that ushered in the Walpole era may be found in J. H. Plumb, The Growth of Political Stability in England, 1675-1725 (London, 1967).

2. The figures for white male population have been extrapolated from a table on the ratios of representatives to adult white males in Jack P. Greene, "Legislative Turnover in British America, 1696-1775: A Quantitative Analysis," WMQ, XXXVIII (1981), 446-47. These figures suggest that the Lower Counties had an even greater rate of growth during the same period, having almost four times as many adult white males in 1730 as in 1700.

3. Logan to Penn, 11 February 1705, PWP (Micro) #1162 and _____ to _____, 17 May 1705, PA, 2d Ser., 7, 20-29.

4. Minutes of the Pennsylvania Council, 19 August 1707, CRP, II, 409. See also Charles Carroll to Carpenter,

Hill, Norris and Logan, 9 June 1713, PA, 2nd Ser., 19, 562-64.

5. Minute of the Board of Property, 14 September [1709], Minute Book 'G', PA, 2nd Ser. 19, 501.

6. For general surveys of the Scotch-Irish and German migrations, see James G. Leyburn, The Scotch-Irish: A Social History (Chapel Hill, 1962), esp. 178ff; Dieter Cuns, The Maryland Germans: A History (Princeton, 1948); A. B. Faust, The German Element in the United States (New York, 1909), vol. I. R. J. Dickson examines the Scotch-Irish migration from an Imperial point of view in Ulster Immigration to Colonial America 1718-1775 (London, 1966). For an integrated analysis of the immigration patterns, see James T. Lemon, Best Poor Man's Country: A Geographical Study of Early Southeastern Pennsylvania (Baltimore, 1972), Chap 1 and 2. See also Marianne Wokeck, "The Flow and the Composition of German Immigration to Philadelphia, 1727-1775," PMHB, CV (1981), 249-278 for a recent analysis of the lists of German immigrants entering Philadelphia. She estimates that between 1727 and 1732, at least 5,065 Germans entered Pennsylvania through Philadelphia, while from 1733 to 1738 another 7500 Germans migrated to the colony (p.260).

7. See, for example, Minute of Board of Property, 20 August 1724, Minute Book 'I', PA, 2nd Ser., 19, 723.

8. For an interesting discussion of a typology of power relations which sees deference, influence and coercion as part of a common continuum, see Joy B. and Robert R. Gilsdorf, "Elites and Electorates: Some Plain Truths for Historians of Colonial America," in David D. Hall, John M. Murrin and Thad W. Tate (eds.), Saints and Revolutionaries: Essays on Early American History (New York, 1984), 207-44.

9. Logan to Springett Penn, 24 November 1725, LP, II, 285-86.

10. Logan to J. Penn, 25 November 1727, James Logan Letterbook (1726-28), 150-64. Hereinafter cited as JLLB. For reference to the Irish flocking to "the Contested Lands," see Logan to J. Penn, 11 September 1728, ibid., 196-98. For Pennsylvania becoming a German colony, see Logan to [J. Penn], 23 September 1727, ibid., 144.

11. Memorandum from Pennsylvania against the Palatines, 6 December 1727, PP, Penn & Baltimore, Penn Family 1725-39. For Logan's influence in the drafting of the document, see Logan to J. Penn, 25 November 1727. Compare the following text with the Memorandum: "Both these sorts [i.e. Scotch-Irish and Germans] sitt frequently down on any spott of vacant Land they can find, without asking questions..."

12. J., T., R. Penn to Logan, [1729], PA, 2nd Ser., 7, 138-146. The Penns seem to have had a favourable view of the Germans. See J. Penn to Logan, 10 February 1728, Penn Papers, Penn Family to James Logan, II, 21. Hereinafter cited as PP(JL).

13. James Steel to J., T., R. Penn, 2 August 1731, James Steel Letterbook, II, 25.

14. Deposition of Adam Short, 21 September 1721, AM, 25, 369-372. This deposition was read at the Provincial Council meeting of 21 October and was considered on 3 November.

15. ibid.

16. Pennsylvania Council Minutes, 19 & 28 August 1707, CRP, II, 409-411.

17. For a recent overview of the development of the Lower Counties, see John A. Munroe, Colonial Delaware: A History (Millwood, 1978). The independent behaviour of the three Lower Counties is discussed in detail in Robert W. Johannsen, "The Conflict Between the Three Lower Counties on the Delaware and the Province of Pennsylvania, 1682-1704," Delaware History, V (1952), 231-43.

18. For the inhabitants' perception of themselves as Crown subjects, see Johannsen, 106.

19. [?] to Penn, 7 September 1703, PWP (Micro) #1343. Those claiming by Maryland right did not have to pay any rent to the proprietor until 1733, when Baltimore restored the system. For more information on the reintroduction of quitrents in Maryland, see Chapter IV.

20. James Greenwood to Secretary Logan, 19 April 1712, PA, 2nd Ser., 7, 38.

21. Logan to Penn, 22 November 1708; PWP (Micro) #1195.

22. Logan to Henry Gouldney and Silvanus Grove, 19 December 1711, PA, 2nd Ser., 7, 30-33.

23. Logan to Penn, 4 July 1712, PWP (Micro) #1560.

24. Logan to Clement, 13 May 1719, PA, 2nd Ser., 7, 69-70. For further references to the refusal to pay quitrents in the disputed region, see Logan to H. Penn, 23 February 1713 in Sylvia H. Drinker, Hannah Penn and the Proprietorship of Pennsylvania (Privately Printed, International Printing Co., 1958), 39; Logan to J. Penn, 24 October 1727, LP, 10, 44.

25. Logan to [J. Penn], 10 July 1727, JLLB (1726-28), 135-41.

26. George Dakeyne to Logan, 12 May 1720, PA, 2nd Ser., 7, 71-72. This is the same surveyor who advised Short that his property was within Maryland. See note 14.

27. Samuel Blunston to T. Penn, 15 August 1734, Lancaster County Papers, 1722-1772, 7. Hereinafter cited as LCP. Although there is no quantitative proof that this process took place, recent studies have pointed to the high degree of transiency as settlements moved into the hinterland. See, for example, Lemon, Best Poor Man's Country, Chap. 3. For the latent volatility of this transient population, see Edmund S. Morgan, American Freedom American Slavery: The Ordeal of Colonial Virginia (New York, 1975), especially Part III.

28. Minute of Board of Property, 20 November 1722, Minute Book 'I', PA, 2nd Ser., 19, 717-18.

29. Minute of Board of Property, 17 November 1720, ibid., 705. The case of Dr. Mordecai Moore is an interesting example of the way in which a potential member of the provincial elite could acquire land on the disputed border. In early 1714, Moore moved from Maryland to Philadelphia. He sought and received a grant of 3000 acres on Duck Creek in the Lower Counties, despite the concern of the Board of Property. Apparently, the importance of the Doctor's proposal overcame the Board's reticence. Moore and his heirs were to pay "one penny sterling p. acre till such time as a line shall be run by due authority dividing the said counties from Maryland." Moore or his heirs would then be required to pay \$300 sterling "or proportionately [at \$10 per 100 acres] for so much thereof" as remained within the Lower Counties.

Finally, "for so much of the sd 3000 as shall be cutt off to Maryland, the like Quantity shall be added out of what shall be left Vacant in the said Mannor, if any such shall be left" on the same terms. Minute of Board of Property, 20 January 1714, Minute Book 'H', PA, 2nd Ser., 19, 573-574.

30. David W. Jordan, "Maryland's Privy Council, 1637-1715" in Land, Carr, and Papenfuss (eds.), Law, Society, and Politics, 65-87 and _____, "Political Stability and the Emergence of a Native Elite in Maryland," in Tate and Ammerman, The Chesapeake in the Seventeenth Century, 243-273. See also Carol Shammas, "English Born and Creole Elites," in ibid., 274-296 for a discussion of the rise of a native elite in Virginia. For the relationship between political stability and elite formation in Pennsylvania set within a comparative framework, see James LaVerne Anderson, "The Governors' Councils in Colonial America, A Study of Pennsylvania and Virginia, 1660-1776" (Ph.D. diss., University of Virginia, 1967). See also Tully, Legacy, 53ff.

31. Russell R. Menard, "From Servant to Freeholder: Status Mobility and Property Accumulation in Seventeenth Century Maryland," WMQ, 3rd Ser., XXX(1973), 37-64; Lorena S. Walsh, "Servitude and Opportunity in Charles County, Maryland, 1658-1705," in Land, Carr, and Papenfuss (eds.), Law, Society, and Politics, 111-133 and Lois Green Carr and Russell R. Menard, "Immigration and Opportunity; The Freedman in Early Colonial Maryland," in Tate and Ammerman, The Chesapeake in the Seventeenth Century, 206-242. For the decline in upward mobility set within the overall social context of early Maryland, see Gloria L. Main Tobacco Colony: Life in Early Maryland, 1650-1720 (Princeton, 1982), especially 106-123.

32. See Aubrey C. Land, "Genesis of A Colonial Fortune: Daniel Dulany of Maryland," WMQ, 7(1950), 355-69; _____, "Economic Behavior in a Planting Society: The Eighteenth-Century Chesapeake," Journal of Social History, XXXIII(1967), 469-485; _____, "Economic Base and Social Structure: The Northern Chesapeake in the Eighteenth Century," Journal of Economic History, XIV(1965), 639-654; and _____, "The Planters of Colonial Maryland," MHM 67(1972), 109-128. For the development of the legal profession as a dimension of economic diversification, see Alan F. Day, "Lawyers in Colonial Maryland, 1660-1715," The American Journal of Legal History, XVII(1973), 145-165. Studies of land

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speculation include Aubrey C. Land, "A Land Speculator in the Opening of Western Maryland," *MHM*, XLVIII(1953), 191-203; and R. Bruce Herley, "Dr. Charles Carroll - Land Speculator, 1730-1755," *MHM*, XLVI(1951), 93-107. For a general treatment of speculation within the context of western development, see Paul W. Gates, "The Role of the Land Speculator in Western Development," *PMHB*, LXVI(1942), 314-331.

33. See Donnell MacLure Owings, His Lordship's Patronage. Offices of Profit in Colonial Maryland, (Baltimore, 1953) for a discussion of the relative economic returns that members of the provincial elite could obtain from participation in the proprietary system.

34. The best analysis of the emergence of a provincial elite prior to 1730 is Gary B. Nash, Quakers and Politics: Pennsylvania 1681-1726 (Princeton, 1968), 322ff. The quotation in the text is from p330. The classic treatment of the Philadelphia merchant elite remains Frederick B. Tolles, Meeting House and Counting House. The Quaker Merchants of Colonial Philadelphia, 1682-1763 (New York, 1948). See also _____, James Logan and the Culture of Provincial America (Boston, 1957); James G. Lydon, "Philadelphia's Commercial Expansion, 1720-1739," *PMHB*, XCI(1967), 401-418; Francis P. Jennings, "The Indian Trade of the Susquehanna Valley," Proceedings of the American Philosophical Society, 110(1966), 406-424. For a very critical of Logan's business practices, see Joseph E. Illick, Colonial Pennsylvania. A History (New York, 1976), 165ff. According to Illick, Logan "had found in apparent chaos a source of private aggrandizement." (175) In addition to being a highly successful lawyer, Andrew Hamilton also speculated in land and was particularly successful in holding the land upon which Lancaster was built. See Jerome S. Wood Jr., "The Town Proprietors of Lancaster, 1730-1790," *PMHB*, XCVI (1972), 346-368.

35. Nash, Quakers and Politics, 331. The perception that Pennsylvania political life was stable during the second quarter of the 18th Century is cogently argued in Tolly, Legacy.

36. James Henretta, "Wealth and Social Structure," in Jack P. Greene and J. R. Pole (eds), Colonial British America. Essays in the New History of the Early Modern Era (Baltimore, 1984), 262-289, esp. 273.

37. For an analysis of the early years of Pennsylvania-Maryland economic antagonism, see Gary B. Nash, "Maryland's Economic War with Pennsylvania," *MHM*, LX (1965), 231-244. For the later rivalry between Philadelphia and Baltimore and the overall importance of Philadelphia in the economy of northern Maryland, see Clarence B. Gould, "The Economic Causes of the Rise of Baltimore," in Essays Presented to Charles McLean Andrews by His Students (New York, 1931), 225-251. Nash notes that Pennsylvania merchants demanded specie payment for their goods during the 1690s and early 1700s. This demand did not necessarily end with the return of peace. In 1727, the Maryland partners of the Baltimore Company were required to pay £250 in "copper cash," Pennsylvania currency and bills to construct a forge. See Keach Johnson, "The Genesis of the Baltimore Ironworks," Journal of Southern History, XIX (1953), 177.

38. See, for example, Lloyd to Baltimore, 11 September 1722, CP (Correspondence to the Lords Baltimore).

39. For references to the westward vision of these important members of the Pennsylvania and Maryland elites, see notes 32 and 34. See also Jerome S. Wood, Jr. Conestoga Crossroads: Robert D. Mitchell, Commercialism and Frontier: Perspectives on the Early Shenandoah Valley (Charlottesville, 1977); James T. Lemon, "The Weakness of Place and Community in early Pennsylvania," in James R. Gibson (ed.), European Settlement and Development in North America: Essays on Geographical Change in Honour and Memory of Andrew Hill Clark (Toronto, 1978), 190-207; Aubrey C. Land, The Dulans of Maryland: A Biographical Study of Daniel Dulany, the Elder (1685-1753) and Daniel Dulany, the Younger (1722-1797) (Baltimore, 1968 repr.); Frank W. Porter III, "From Backcountry to County: The Delayed Settlement of Western Maryland," *MHM*, 70 (1975), 329-343; _____, "The Maryland Frontier, 1722-1732: Prelude to Settlement in Western Maryland," in Robert D. Mitchell and Edward K. Muller (eds.), Geographical Perspectives on Maryland's Past (College Park, 1977); and W. Stitt Robinson, The Southern Colonial Frontier, 1607-1763 (Albuquerque, 1979), 150ff.

40. Provincial Council Minutes, 16 April 1722, CRP, 3, 160-61. For the earlier meeting between Governors Keith and Hart to defuse the growing conflict, see CRP, 3, 60-61 or AM, 25, 407-08. The Pennsylvania Board of Property was upset by Keith's preemptive action on the

frontier. Minute of the Board of Property, 16 April 1722, Minute Book 'I', PA, 2nd Ser., 19, 712-13.

41. Lloyd to Beake and Lowe, 8 October 1722, CP (Correspondence to the Principal Secretaries).

42. ibid.

42. Abraham Emmitt Jr. to Logan, 4 October 1722, Society Collection (HSP).

43. Lloyd to [Baltimore], 4 November 1723, Dulany Papers (hereinafter cited as DD).

44. Lloyd to Baltimore, 3 July 1721, DD.

45. ibid. The importance of the relationship between crop diversification and expansion into the hinterland was also recognized by Charles Carroll. Carroll to Ogle, 17 February 1731, MHM, XIX, 291-293. The shift from tobacco to grain production in the 18th Century is analyzed within the broader context of the Atlantic economy in Paul G. E. Clemens, The Atlantic Economy and Colonial Maryland's Eastern Shore: From Tobacco to Grain (Ithaca, 1980). Although Philomen Lloyd recognized the mining potential of the Susquehanna region, he did not join Charles Carroll, Daniel Dulany, Benjamin Tasker and Dr. Charles Carroll when they formed the Baltimore Iron Company in 1727. Within ten years, this company had a significant capital investment of £14,835 sterling and £2873 local currency. Because they situated their ironworks in a region that did not have a large urban population, the Marylanders concentrated on the production and export of pig iron to England. See Keach Johnson, "The Genesis of the Baltimore Ironworks," Journal of Southern History, XIX (1953), 157-179; and _____, "The Baltimore Company Seeks English Markets: A Study of the Anglo-American Iron Trade, 1731-1755," WMQ, 3rd Ser., XVI (1959), 37-60.

46. Lloyd to Baltimore, 18 February 1722, DD.

47. [Lloyd] to [Baltimore], 5 April 1721, DD.

48. Lloyd to Baltimore, 11 September 1722, CP (Correspondence to the Lords Baltimore); "The Case of Isaac Taylor and Elisha Gatchell, Two Officers of Pennsylvania, made Prisoners by the Government of Maryland," Printed Broadside (Philadelphia, 1723), MHS; Minute of Maryland Council, 4 November 1722, AM, 25.

395-96; Minute of Pennsylvania Council, 19 November 1722, CRP, 3, 216.

49. Lloyd to Beake and Lowe, 8 October 1722.

50. Lloyd to Baltimore, 8 June 1724, DD.

51. ibid.

52. The best analysis of this period may be found in Tully, Legacy.

53. Logan to T. Penn, 22 February 1726, JLLB (1724-1726), 294.

54. The first quotation is from Logan to 'Hond Mistress' [i.e. Hannah Penn], 1 January 1726, JLLB (1724-1726), 287 and the second quotation is from Logan to T. Penn, 22 February 1726.

55. Logan to Thomas Bordley, 23 July 1723, JLLB (1717-1731), 328. Bordley, a successful Maryland lawyer, supported Taylor and Gatchell when they were seized by Maryland. He was dismissed from the Maryland Council in 1721 and became a leader of the anti-proprietary party in Maryland in the 1720s. BDM, I, 147-48.

56. Logan to J. Gee, 4 June 1725, JLLB (1724-1726), 276-78.

57. Logan to T. Penn, 19 & 29 December 1730, PP, Official Correspondence, II, 145 & 147; Logan to J. Penn, 6 December 1727, JLLB (1726-1728), 164-68.

58. Logan was careful to avoid responsibility for local violence that was initiated at the request of the provincial government. Thus, Samuel Blunston felt called upon to defend himself in 1735 by quoting extensively from letters Logan had sent to the magistrates but which he had not written in his voluminous Letterbooks. Blunston to T. Penn, 9 April 1735, LCP, 19.

59. For extracts from Logan to Blunston and Wright, 30 October 1727 and 29 November 1729, see Blunston to T. Penn, 9 April 1735. See note 58 for an explanation. For direct evidence, see Logan to Wright, 19 April 1731, JLLB (1728-1732), 175. In this letter, Logan suggested to Wright that if the Lancaster magistrate could "fall on any possible measures to prevent their

actual settlements, I request you to prevent them in earnest for it will be of fatal Consequence to suffer such Incroachments." Finally, Samuel Blunston directly implicated Logan in an attempt to seize Thomas Cresap, the leader of the Maryland settlers. Samuel Blunston to Robert Charles, 3 October 1731, PA, 1st Ser., 1, 295.

60. The best treatment of Penn's checkered relations with the English government during this period is Illick, William Penn the Politician, esp. 103-128. Illick concludes that in 1694 Penn was "simply fighting to maintain the status quo." (128).

61. For a complete treatment of the years following the Revolution of 1688, see David William Jordan and Lois Green Carr, Maryland's Revolution of Government, 1689-1692 (Ithaca, 1974). A detailed examination of the royal period may be found in David William Jordan, "The Royal Period of Colonial Maryland, 1689-1715," (PhD diss., Princeton University, 1966).

62. E. Randolph to Wm. Blithwayt, 12 May 1692, BP, Vol. 3 and _____ to the Commissioners of Customs, 7 December 1695, CSP, 14 (1693-1696), #2187. For Copley, see BDM, I, 234. For Randolph, see BDM, II, 672-73 and Michael G. Hall, Edward Randolph and the American Colonies, 1676-1703 (Chapel Hill, 1960).

63. For reference to Nicholson's actions and Penn's response, see Address of Pennsylvania Assembly to Penn, 7 November 1696, PWP (Micro), #697; Penn to Popple, 9 December 1696, PWP (Micro), #1237; and "Penn's Proposals to the Lords Committee", 11-27 March, 1697, PWP (Micro), #1240. For Nicholson, see BDM, II, 613-14 and Stephen Saunders Webb, "The Strange Career of Francis Nicholson," WMQ, XXIII(1966), 513-548.

64. Markham to Penn, 22 February 1697, PWP (Micro), #2867. For additional information, see _____ to _____; 1 March 1697, PWP (Micro), #1730.

65. Nicholson to the Committee of Trade and Plantations, 27 March 1697, CSP, 15 (1696-1697), #862.

66. Minute of Board Meeting, 23 August 1697, ibid., #1262.

67. Popple to Penn, 24 August 1697, PWP (Micro), #822. For Penn's acknowledgement and concurrence, see Penn to Popple, 24 August 1697, PWP (Micro), #1734 and _____

to Markham, 1 September 1697, PWP (Micro), #1735. There is no evidence to suggest that the friendship between Penn and William Popple had an impact on these matters. Popple had sheltered Penn during the early 1690s when Penn was out of favour. See Caroline Robbins, "Absolute Liberty: The Life and Thought of William Popple, 1638-1708," WMQ, 3rd Ser., XXIV(1967), 190-222, esp. 203-205.

68. Penn to Francis Jones, 13 November 1697, PWP (Micro), #1740 and Penn to Nicholson, 22 November 1697, PWP (Micro), #146.

69. The career of this flamboyant aggressive Imperial official has been detailed in Webb, "The Strange Career of Francis Nicholson. Webb's controversial thesis that royal governors like Nicholson gave a military and imperial definition to the English Atlantic political economy from the very beginning is argued in Stephen Saunders Webb, The Governors General: The English Army and the Definition of the Empire, 1569-1681 (Chapel Hill, 1979). The pursuit of preferment and advancement were certainly important aspects of Governor's perspective.

70. Nicholson to the Council of Trade and Plantations, 20 August 1698, CSP, 16 (Oct. 1697-Dec. 1698), #760.

71. Council of Trade and Plantations to Blakiston, 20 September 1699, CSP, 17 (1699), #798. For Blakiston, see BDM, I, 136-37.

72. "Col. Quarry's Charges Against Wm Markham," [c.1699], PWP(Micro) #1969; Quarry to the Lords of Trade, 18 May 1699, PWP(Micro) #1611. For Quarry's relationship to Nicholson, see BDM, II, 670.

73. Penn to Secretary Vernon, 26 February 1700, PWP (Micro) #1250. Penn made peaceful overtures to Blakiston in order to lay the groundwork for an amicable settlement of the boundary. See Penn to Blakiston, 13 December 1699 and 13 January 1700, PWP (Micro) #325 and #326.

74. For a thorough analysis of the efforts of the Board of Trade to push the resumption of the proprietary charters through Parliament see I.K. Steele, Politics of Colonial Policy: The Board of Trade in Colonial Administration, 1696-1720 (Oxford, 1968), Chap IV. See also Alison Gilbert Green, "William Penn, Parliament, and Proprietary Government," WMQ, XVIII(1961), 176-195.

75. Steele, Politics of Colonial Policy, 79-81.

76. For the unwillingness of the Maryland government and Baltimore's agent to act without instructions from Baltimore to the latter, see Lords of Trade to the Maryland Council, 3 December 1700, AM, 25, 109. For reference to communications between Penn and Maryland officials, see Note 12 as well as Penn to Blakiston, 6 March and 23 May 1701, PWP (Micro) #370 and #383. See also Penn to Logan, 14 September 1705, PWP (Micro) #904.

77. Penn to Logan, 14 September 1705.

78. For a thorough analysis of Penn's relations with the Lower Counties, see Johannsen.

79. Commissioners of the Treasury to Wm. Penn, 27 March 1701, PWP (Micro) #791.

80. Penn to Lords of Trade, 30 November 1702, PWP (Micro) #1301; [Popple] to Penn, 1 December 1702, PWP (Micro) #1302.

81. For the impact of Pennsylvania reality on Penn's idealism, see Edwin B. Bronner, William Penn's 'Holy Experiment': The Founding of Pennsylvania, 1681-1701 (New York, 1962).

82. Penn to Wm. Penn Jr., 2 January 1701, PWP (Micro) #1631. Twenty shillings was the equivalent of one pound sterling. Penn presumably thought the contrast needed emphasis.

83. Representatives of the Lower Counties to the Board of Trade, 25 October 1701, PWP (Micro) #1910.

84. Summary of Philip Ford's Claim Against Wm. Penn, [post 1 April] 1697, PWP (Micro) #2042; Philip Ford's Agreement with Wm. Penn, 10 April 1697, PWP (Micro) #2043. For a brief summary of Penn's problems with the Ford family set within the broader context of Pennsylvania relations with Whitehall, see J.M. Sosin, English America and Imperial Inconstancy: The Rise of Provincial Autonomy, 1696-1715 (Lincoln, 1985), 111ff.

85. Philip Ford, et al: Bill of Complaint, 31 October 1705, PWP (Micro) #2386. See also Penn's Case Against Philip Ford, n.d., PWP (Micro) #2045.

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86. John Woods & Joshua Gee to Logan & others, 14 March 1729, Logan Papers, I, 122.

87. Penn to Logan, 24 January 1703, PWP (Micro) #933.

88. Penn to Romney, 6 September 1701, PWP (Micro) #678.

89. The discussions involving the surrender were long and subject to frequent lapses due to more pressing concerns. For the critical moments in the surrender discussions, see Penn to Council of Trade, 11 May 1703, PWP (Micro) #1320; "William Penn's Surrender Proposals," 18 June 1703, PWP (Micro) #1328; Penn to Council of Trade, 2 January 1705, PWP (Micro) #1345; "Draft of Proposed Surrender," 5 April 1705, PWP (Micro) #1354; Penn to Council of Trade, 29 January 1707, PWP (Micro) #1378; Popple Jr. to Penn, 12 May 1707, PWP (Micro) #1379; Penn's Memorial to the Queen (re Surrender of his Government), 31 July 1710, PWP (Micro) #1405; Minute of the Treasury Board (re: Penn's Surrender), 17 July 1712, PWP (Micro) #2270; and Queen Anne to Robert Harley, Earl of Oxford, 9 September 1712, PWP (Micro) #2271.

90. For John Penn's confusion on the issue, see J. Penn to Logan, 11 July 1721, PP(JL), 2, 7.

91. Penn to Logan, 14 September 1705.

92. Penn to Logan, 7 February 1706, PWP (Micro) #909.

93. See, for example, Penn to Logan, 9 February 1706, PWP (Micro) #910 and Penn to Richard Hill, 22 July 1707, PWP (Micro) #250.

94. Seymour to the Council of Trade, 10 June 1707, CSP, 23, 975.

95. Minutes of Board of Trade Meetings, 5 and 23 February 1708, Journal of the Committee of Trade and Plantations (April 1704 - February 1708/09), 460, 465. Hereinafter cited as JCTP.

96. For Penn's failure to attend and the Board's reaction, see Popple Jr. to Penn, 20 February, 3 March and 23 March 1708, PWP (Micro) #1383, #1383, and #1386. See also Minutes of Board of Trade Meetings, 2 and 23 March 1708, JCTP, 467, 476. For Penn's request for a delay, see Penn to [Popple Jr.], 3 March 1708, PWP (Micro) #1385; and Penn to Popple, [c. 29 March 1708], PWP (Micro) #1387.

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97. Minute of Board of Trade Meeting, 26 April 1708, JCTP, 483.

98. Minute of Board of Trade Meeting, 29 April 1708; JCTP, 486; Popple to Lord Baltimore, 24 August 1708, CSP, 24(1708-09), #115.

99. Minute of Board of Trade Meeting, 17 December 1708, JCTP, 570.

100. The Humble Petition of Charles, Lord Baltimore of the Kingdom of Ireland, Proprietor of Your Majestys Province of Maryland, [c.9 January 1709], CP, Pennsylvania-Maryland Boundary Dispute (Chronological).

101. Penn to Logan, 27 February 1709, PWP (Micro) #61.

102. Order of Queen in Council, 27 January 1709, CSP, 24, #334. See also Minutes of Board of Trade, 5, 11, and 18 January 1709, JCTP, 572, 575, 577. For Penn's submission to the Board of Trade, see Penn to Council of Trade, 12 January 1709, PWP (Micro) #2854.

103. Penn to Logan, 27 February 1709.

104. Penn to Logan, 3 March 1709, PWP (Micro) #924.

105. William Penn's Petition to the Queen, 16 April 1709, PA, 2nd ser., XVI, 428.

106. Penn to Somers, 31 March 1709, PWP (Micro) #2362.

107. Petition of Charles Lord Baltimore to the Queen, [c.19 May, 1709], CP, Pennsylvania-Maryland Boundary Dispute (Chronological).

108. Order of Queen in Council, 23 June 1709, PWP(Micro) #2856.

109. Penn to Logan, 26 June 1709, PWP (Micro) #925.

110. H. Penn to Logan, 22 January 1715, PP(JL), I, 63.

111. H. Penn to Logan, 24 February 1715, PP(JL), I, 65-66.

112. For references to the efforts of the Earl of Sutherland to obtain a charter for the Lower Counties, see H. Penn to Logan, 12 February 1717, PP(JL), I, 74; Mr. Attorney & Solicitor Generals Report on the Earl of Sutherland's Petition, Penn Miscellaneous Papers, Penn

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& Baltimore, Penn Family 1683-1724, 88. For Hannah's effort to secure the surrender, see Hannah Penn et al., Petition to King George, n.d., ibid. John Gordon, (fifteenth or) sixteenth Earl of Sutherland (1660?-1733), a stalwart supporter of the William III became a member of the Privy Council and a Scottish peer during Anne's reign. In 1716, he helped suppress Mar's Rebellion for which he received an annual pension of £1200 from George I. He presumably believed his interest with the king was sufficient to obtain a charter for the Lower Counties. See DNB, VIII, 217.

113. The information in the following paragraph is drawn from the following sources: BDM, I, 185-188; Owings, His Lordship's Patronage, 113-114; and Sosin, English America and Imperial Inconstancy, 77 and 88-90.

114. Benedict Leonard feared that, if allowed to sell his rights to the Crown, Baltimore would bequeath the proceeds to his new wife. One of the major strains in the relationship between father and son was Baltimore's continued hostility towards Benedict Leonard's deceased mother and his decision to marry for a fourth time at the age of eighty-five. Sosin, English America and Imperial Inconstancy, 89-90.

115. Simon Clement to Logan, 30 May 1720, Logan Papers, I, 121. Hereinafter cited as LP. For the classic introduction to the growth of political stability in England under Walpole, see J.H. Plumb, The Growth of Political Stability. See also _____, Sir Robert Walpole: The King's Minister (London, 1960).

116. The Humble petition of Hannah, the widow of William Penn, Esq., the late proprietor and governor of the province of Pennsylvania to their Excellencies, the Lords Justices of Great Britain, September 1720, Penn Papers, Boundaries, 17. For reference to the minority of Baltimore, see Mabel Pauline Wolff, The Colonial Agency of Pennsylvania 1712-1757 (Philadelphia, 1933), 15.

117. Agreement between the Right Honble Charles Lord Baltimore, Proprietor of Maryland & Hannah Penn Widow & Executrix of William Penn Esqr. late Proprietor of Pennsylv. and Joshua Gee & Henry Gouldney of London in behalf of themselves and the rest of the Mortgages of the Province of Pennsylvania, 17 February 1724, CRP, 3, 231-32. For proprietary concerns prior to the agreement, see Thomas Penn to John Penn, 11 June 1723, PP, Private Correspondence, I, 87.

118. Charles Lowe to Benedict Leonard Calvert, 10 June 1724, in Bernard C. Steiner, "Benedict Leonard Calvert, Esq., Governor of Maryland, 1727-1731," *MHM*, III (1908), 222. For Hannah Penn's instructions to Logan for his return to Pennsylvania, as well as her gratitude for his diligence and expertise in the boundary dispute, see H. Penn to Logan, PP(JL), I, 81. There are many examples of Logan's persistence. See "Statement of the Case...", 17 August 1715, Penn Miscellaneous Papers, Penn & Baltimore 1653-1724, 85; Logan to [?], 15 October 1715, PP, Three Lower Counties; Logan to Clement, 13 May 1719, PA, 2nd Ser., 7, 69-70; Logan to Clement, 22 November 1721 and 27 December 1722, Logan Letterbook (1717-31), 228-32, 306-07; Logan to Joshua Gee & the Trustees for Pennsylvania, 10 [-16] September 1722, *ibid.*, 289; and Logan to Henry Gouldney, 9 April 1723, PA, 2nd Ser., 7, 75-78. The fact that Logan found it necessary to write to a variety of people in England is suggestive of the lack of clarity in proprietary affairs. Logan Letterbooks hereinafter cited as JLBB.

119. Lowe to B. L. Calvert, 29 July 1723, in *ibid.*, 205-206.

120. [Lloyd] to [Baltimore], 5 April 1721, DD; Lloyd to Baltimore, 3 July 1721, 18 February 1722, DD; _____ to _____, 19 July and 11 September 1722, CP (Correspondence to the Lords Baltimore); Lloyd to Beake and Lowe, 8 October 1722, CP (Correspondence to the Principal Secretaries); Lloyd to [Baltimore], 4 November 1723 and 8 June 1724, DD.

121. Council Minutes, 16 April 1722, CRP, 3, 160-61. Warrant for the Survey of Springetsbury, 18 June 1722, *ibid.*, 184-85.

122. For an example of southward expansion in the Nottingham area in 1720, see Minute of Board of Property, 17 November 1720, Minute Book 'I', PA, 2nd Ser., 19, 705.

123. For example, see Abraham Emmit Jr. to Logan, 1 September 1722, Logan Papers, I, 83 and Lloyd to Beake and Lowe, CP (Correspondence to the Principal Secretaries).

124. J. Penn to Logan, 10 November 1724 and 3 March 1725, PP(JL), I, 120-21. For further evidence of Baltimore's apparent vacillation, see J. Penn to Logan,

3 August and 23 September and 19 November 1725, PP(JL), II, 8-10.

125. Logan to J. Penn, 30 October 1724, JLLB (1724-1726), 235-36. For a similar assessment, see _____ to S. Clement, 30 October 1724, ibid., 236-37.

126. J. Penn to Logan, 3 March 1725.

127. Opinion of Solicitor General Clement Wearg, 11 April 1724, DD; Attorney General B. York's opinion, 23 May [1724], DD.

128. Charles Love to Lloyd, 22 March 1726, CP, Correspondence from the Principal Secretaries; J. Penn to Logan, 21 April 1726, PP(JL), 2, 12-13.

129. Logan to J. Penn, 17 October 1726, JLLB, 1726-28, 91.

130. For Gordon's interest and the importance of the London Quakers, see J. Penn to Logan, 21 April 1726. A year later, John Penn admitted to Logan that "the Ministry are to busy now. There is nothing to be done with them." J. Penn to Logan, 17 April 1727, PP(JL), 2, 19.

131. J. Penn to Logan, 27 July 1727, PP(JL), 2, 20.

132. Logan to J. Penn, 10 May 1727, JLLB, 1726-1728, 132-34; _____ to _____, 20 July 1727, ibid., 142; _____ to William Aubrey, 7 October 1728, JLLB, 1717-1731, 542-543;

133. J. Penn to Logan, 10 February 1728, PP(JL), 2, 21; _____ to _____, 31 January 1729, ibid., 25; J., T., R. Penn to Logan, n.d. [c. 1729], PA, 2nd Ser., 7, 138-146, and _____ to Steel, 9 February 1730, Penn Papers in boxes. At one point, the Penns gently chided Logan for thinking they were ignoring his letters. T. Penn to Logan, 9 September 1729, PP(JL), 2, 43.

134. A good example of the Penns' indecision and of provincial initiative may be found in Proprietaries to Logan, 11 November 1728, Governors of Pennsylvania, Gratz Collection, Case 2, Box 33. They agreed with Logan's suggestion to discourage settlement near Maryland; however, "what to do with those already there we cannot tell, but we think the best way will be to lett them alone..."

135. Baltimore to Governor Benedict Leonard Calvert, n.d.[c.1730], CP, Correspondence from the Lords Baltimore. For one of Benedict Leonard Calvert's first acts, see the Proclamation of 10 November 1727, AM, 25, A88. Soon after Calvert arrived in Maryland, rumours reached Philadelphia that "he comes with full orders from their Ld Proprietor to doe themselves Justice upon us without any further delay." Logan to [J. Penn], 10 July 1727, JLLB, 1726-1728, 135-41. For further indications of Baltimore's aggressiveness, see Additional Orders and Instructions to be observed by Nicholas Lowe, our Agent & Receiver General in Maryland, 27 September 1728, CP, Correspondence from the Lords Baltimore; and Instructions to Mat. Tilgman Ward Esq. Agent, 19 July 1730 and 29 January 1731, ibid.

136. Charles Lowe to [Lloyd], 27 September 1727, DD; Baltimore to Lloyd, n.d.[c.1730], CP, Correspondence from the Lords Baltimore.

137. Testimony of F. J. Paris, The Breviate, PA, 2nd Ser., 16, 561.

138. The material for the substance of the meetings has been drawn largely from the testimony of one of the interested parties, Fernando John Paris. Where possible, I have tried to corroborate his description with those of John Sharpe, Baltimore's solicitor, and Samuel Ogle, who was about to become Baltimore's Lieutenant-Governor. Otherwise, I have taken his bias into account. For the testimony, see The Breviate, PA, 2nd Ser., 16, 560ff, 749ff.

139. ibid., 764.

140. ibid., 562.

141. ibid., 563.

142. Petition of Lord Baltimore, 1 July 1731, ibid., 445.

143. ibid., 761.

144. The difference between an English statute mile (5280') and a geographical or nautical mile (6076.1') is 796.1'. The resulting difference in the radius of the Newcastle circle was 1.8 miles. Unless otherwise stated, 'mile' will hereinafter mean an English statute mile.

145. Articles of Agreement, PA, 2nd Ser:, 16, 449-460. The quotation is from 460.

146. This subject will be examined in greater detail in the next chapter. It is evident that Baltimore's revenue, if less than he desired, was also less dependant on the combination of land sales and quitrent collection in the hinterland than that of the Penns.

147. This assumes a line running approximately 200 miles. At the time of the Agreement, Baltimore likely anticipated that the western limit of Maryland would extend much further.

148. The present state of Delaware has an area of slightly over 2000 square miles or approximately 1,280,000 acres.

149. See the map attached to Logan's Arguments Against Lord Baltimore, 29 May 1724, Cadwalader Collection, Thomas Cadwalader Coates List #62.

150. For a discussion of the Senex map in the context of other maps of the period, see the commentary in Appendix A, Map 12. For a thorough discussion of the problem of Cape Henlopen, see Nicholas B. Wainwright, "Tale of a Runaway Cape: The Penn-Baltimore Agreement of 1732," PMHB, LXXXVII(1963), 251-293. Although Wainwright concludes that Baltimore had no one to blame but himself for his loss of the lands south of the real Cape Henlopen, it is improbable that the Penns were faultless.

EMPIRE, PROVINCES, FRONTIER
PERSPECTIVES ON THE PENNSYLVANIA-MARYLAND
BOUNDARY DISPUTE

Volume II - Part II

by

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PART II

A CONTEXTUAL WEB: THE BOUNDARY CONFLICT,
1732 - 1738

CHAPTER IV

THE PROPRIETARY PERSPECTIVE SUSTAINED 1732-1738

When Charles Calvert and Thomas Penn embarked for their colonies they did so with the expectation that the boundary dispute was no longer a matter of concern. They may well have believed that some of their provincial officers would be displeased, but nothing prepared them for the angry reaction of Maryland officials to the news of the agreement. The proprietors responded in different ways to different situations within their provinces. But, if the Penns and Baltimore approached the resumption of conflict in distinct ways, did these differences have a significant impact upon the dispute?

To argue that new perspectives complicated the dispute is not to say that the proprietary view was displaced. Instead, the proprietors were now forced to take provincial and local participants seriously. Unlike the clash between William Penn and the 3rd Lord Baltimore in the 1680s, this new round of conflict clearly demonstrated that the boundary dispute could no longer be resolved by proprietary declarations alone. After 1732, a chastened but still volatile and distinct

proprietary perspective remained; however, the proprietors learned that local and provincial views could not be ignored. Nor could they ignore the wishes of the Crown. How did Whitehall react to the renewal of the contest? Was the political interest of the proprietors significant to the outcome? Was the Crown responsible for the cessation of the border warfare and if so, why was royal intervention effective in the late 1730s when it had proved so unsuccessful in 1685? With these questions in mind, the efforts of the Penns and Baltimore to deal with the boundary conflict during the climactic years from 1732 to 1738 will be examined.

Writing to his brother Thomas in the spring of 1733, John Penn expressed his amazement that "my Lord Baltimore & his Commissioners continue to act a part so different from what I expected by the behaviour of his Lordship in London." He hoped that his brother would find some way to end the renewed conflict "in a friendly manner."¹ What had happened in so short a time to cause such concern? The recently signed agreement had seemed to be satisfactory to both families; commissioners had been designated and Lord Baltimore and Thomas Penn had immediately left for their provinces. John Penn had every reason to be

shocked and dismayed by the disturbing news of continued conflict between the two proprietary provinces.

With Thomas Penn's departure, John optimistically turned to arrangements for the sale of large tracts to prospective German developers. From one particular deal involving 100,000 acres, he hoped for enough profit to pay off all the family debts and still have £125 sterling annual quitrent.² Even after the first reports of the Maryland Commission's reluctance to run the lines reached England, John remained optimistic that the arrival of Lord Baltimore would quickly quiet the concerns of the Maryland gentry. "Unless I am very much deceived," he wrote his brother, "his Lordship will not nor Cannot go from the agreement."³ John Penn assured an increasingly worried Thomas Penn that the agreement would "hold good against my Lord in all Courts should they Incurr the forfeiture by neglecting to appear at the places & times appointed."⁴ Even if Baltimore chose to pay the forfeit "merely to keep open a dispute that he so much desired to close," Fernando John Paris argued with prophetic accuracy that the conflict would have to be resolved "sometime or other, in the very manner agreed upon by the Articles."⁵ When word reached England that the Agreement was perceived

by provincial leaders as particularly advantageous to Pennsylvania, John Penn was elated for he still believed that Baltimore could not "come off honourably without complying with an Agreement which was his own proposal."⁶ However, he cautioned his brother in strong terms not to angle for a further advantage "for the Agreement must be comply'd with, let what will be the consequence."⁷ By April 1733, the reality of the renewed conflict finally struck the eldest Penn, but he remained certain that responsibility for the "non performance" of the Agreement would rest with the Maryland Commissioners.⁸

Brimming with optimism, Thomas Penn arrived in Philadelphia with instructions to arrange profitable land sales and the immediate establishment of higher quitrents.⁹ He carried Baltimore's instructions for the Maryland boundary commission which he quickly dispatched to Governor Ogle with the expressed hope that the Agreement could be implemented "in the easiest & most amicable manner."¹⁰ However, these hopes were soon dampened by the behaviour of the Maryland commissioners for it became apparent from the first meetings of the joint commission at Newtown and Newcastle that the Marylanders were intent upon obstructing the agreement. They immediately questioned

the validity of the Pennsylvania commission; they were unwilling to agree to the keeping of joint minutes of the meetings; and they expressed an unwillingness to begin running the Newcastle circle until October only to argue then that the agreement had not specified a centre of the circle and therefore, the line could not be run until Baltimore was consulted.¹¹

The Maryland proprietor arrived in his colony in December 1732 with every intention of fulfilling the Agreement.¹² If he was wholly ignorant of the objections being raised by his provincial officers, it was not because of their reluctance to point out their objections to him. The provincial secretary, Philomen Lloyd, had been persistent in his efforts to convince his proprietor to take a more aggressive stand against the Penns. Baltimore was also aware of Ogle's cautionary views, and he knew his brother had "talked exceedingly against any manner of agreement with the Penns."¹³ In a clear case of a provincial officer taking the initiative, Ogle had stated unequivocally that if the agreement had been signed and it turned out to be a poor one, he would "try to mind the letter of your Treaty by the spirit of it if there should be occasion, as there will be room enough to do so in the

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execution of matters in which there must of course occur many difficulties."¹⁴

A normally careful man, who paid attention to the reports of his provincial subordinates, Baltimore had curiously ignored the warnings of his Maryland secretary. He admitted as much to Daniel Dulany, one of his new provincial officers. Dulany could only ascribe this lapse to the fact that Lloyd "had such a prolix (& perhaps perplexed) way of writing that his Lordship had not the Patience to read, much less to consider his Letters, with the Attention the Importance of the Subject invited."¹⁵

Probably upset over his failure to heed the warnings he had received, the Maryland proprietor soon took out his frustration on Pennsylvania. Events on the frontier gave him an immediate opportunity to express his displeasure. In late November, Maryland settlers living west of the Susquehanna River had been arrested by Lancaster County warrant. Shortly after that, an incident occurred along the border of the Lower Counties which supplied Baltimore with still further ammunition.¹⁶ His letters grew strident as he demanded that those responsible for the 'riots' be arrested and handed over to Maryland for trial.¹⁷ For its part, the Pennsylvania government adamantly refused

to acknowledge Maryland authority west of the Susquehanna or accept that their magistrates had exceeded their jurisdiction. To resolve the incident in the Lower Counties, Governor Gordon offered to arrange for a joint tribunal to question the participants and witnesses; but, Baltimore was no longer interested in finding some accommodation with the Penns.¹⁸ To Gordon's "elaborate" arguments, he responded that he would "not trouble You or myself with a particular answer," as he was confident the King would view his conduct as exemplary.¹⁹

Realizing the seriousness of the situation and suggesting that "Endeavours had been us'd to beget Misunderstandings between Us and our Governments," Thomas Penn sought a face-to-face meeting with the Maryland proprietor.²⁰ To this blatant accusation that members of the Maryland provincial elite had persuaded him to resist the Penns, Baltimore replied there was no reason for a meeting, adding a warning that he would protect land inhabitants "to the utmost of [his] power." In a postscript, he angrily came to the defense of his provincial commissioners. "It is very Kind in thee to send me Minutes of the Proceedings of the Comissers, but upon Enquiry I find Comissers capable of taking Notes for themselves."²¹

While relations between the two provinces deteriorated, Baltimore moved quickly to re-establish firm proprietary control over his province. As one historian has noted, his short stay in Maryland inaugurated the 'second restoration' of the Calverts in Maryland.²² Quitrents were re-introduced, the fee structure upon which the patronage system rested was secured and some of the leading provincial spokesmen were brought into the proprietary orbit.²³ His instructions for the settlement of the frontier were explicit and clearly point to a more aggressive approach to land development.

The renewal of the quitrent system in Maryland had significant implications for the boundary dispute. Soon after the restoration of proprietary government in 1715, the proprietor and the provincial assembly had agreed to a tax on tobacco in lieu of the quitrent. With the growth in population and the gradual extension of the hinterland, Baltimore and his advisors no longer perceived this tax as beneficial. Quitrents now appeared a far more attractive alternative, if they could be collected. To this end, an elaborate collection system was devised through which provincial collectors stood to gain in direct proportion to increases in the total amount of collected quitrent.²⁴

Unlike his counterparts in Pennsylvania, Baltimore was willing to allocate to his provincial officers a significant percentage of his gross revenues to ensure a steady return of net profits. While the Penns complained of sparse returns from their province, Maryland's proprietor began to enjoy an increase in net revenues.²⁵

The renewal of quitrents did not deter frontier expansion. On 2 March 1733, Baltimore issued a proclamation which greatly eased land acquisition between the Potomac and Susquehanna rivers. In the short term, individual settlers were offered 100 acres "in fee Simple Without paying any part of the forty Shillings Sterling ... payable to Us by the Conditions of Plantations, And without paying any Quit Rents in three Years after the first Settlement, and then paying four Shillings Sterling for Every hundred of Acres to us or our Heirs for every Year after."²⁶ In the long term, the proprietor hoped to gain from the rapid, but organized extension of the settlement.

With this shift in the methods of revenue accumulation, perceptions of the relative value of the northern and eastern boundaries also changed. Yet, while it might have been in Baltimore's interest to extend Maryland jurisdiction as far as possible, he had

contemplated a return to quitrents before his departure from England and this had inspired the agreement with the Penns. Baltimore was well aware of the difficulties that would result from an effort to collect rents in areas where the legitimacy of Maryland authority was in doubt. With clearly defined boundaries, jurisdiction would be unquestioned and the authority to impose and collect the quitrent assured. Still, his proclamation of 2 March 1733 suggests that he was willing to forgo immediate returns from the frontier areas preferring to secure these regions from Pennsylvania first. The shift to quitrent collection was consistent with a more expansionary settlement policy, but did not preclude modifications to entice border dwellers to opt for Maryland jurisdiction. However, the connection between a new revenue system, frontier expansion and the boundary agreement is not enough to explain Baltimore's behaviour.

An alternative explanation of Baltimore's anger rests more in the realm of social interaction than economic self-interest. While not a major figure at Court, the Maryland proprietor was a particular favourite of Frederick, Prince of Wales. The object of Horace Walpole's wit and Harvey's biting sarcasm, Baltimore was a man preoccupied with appearances.²⁷

There are several references in the Penn correspondence to Baltimore's persistent need to maintain the appearance of a gentleman.²⁸ James Logan, himself no stranger to the need for status, concluded that loss of face was behind the growing hostility. "He has sworn never to forgive the family," Logan wrote in May 1733, "...[and] complains he has been impos'd on and I think in one part it may be true."²⁹ If status was so important to Baltimore, how then must this confidante of the Prince of Wales have felt when he was informed by his provincial officers that he had been duped by a shrewd and manipulative gentry family and their Quaker supporters? Worse still, his apparent gaffe was now public; provincial subordinates witnessed his humiliation. Baltimore's behaviour becomes more comprehensible for he was convinced that he had been made to look the public fool in both Annapolis and Philadelphia. The desire to restore his sullied reputation accounts, in large measure, for his provocative responses to overtures from Pennsylvania.

Baltimore demanded that the Pennsylvania Governor arrest and turn over to Maryland authorities those 'rioters' responsible for the capture of several Marylanders west of the Susquehanna.³⁰ Not content with this diplomatic manoeuvre, a proclamation was

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posted the day before his first letter to Governor Gordon offering a \$10 reward "as a further Encouragement to Apprehend and bring to Justice Each and Every" rifter.³¹ By March, the reward had been raised to \$50.³² While the two governments negotiated the resumption of Commission meetings, Baltimore again went on the offensive, proclaiming throughout the Lower Counties border region that "All Takers-up of Land within the Province of Maryland, who may pretend, to hold them by virtue of any Grants or Patents, not deriving the same from the present Proprietor or his Ancestors, will be intitled to no Benefit thereby."³³

There is no question that Baltimore fully supported the efforts of his Commissioners to void the agreement by permitting the time period for running the lines to expire. However, both he and Samuel Ogle were anxious to avoid the \$5000 forfeit penalty, and therefore tried to place the onus of non-performance on the Pennsylvania commissioners.³⁴ When this effort appeared too contrived, they then insisted that the Commissioners meet at Joppa in Baltimore County.³⁵ The Marylanders secured another adjournment after the Pennsylvanians attended these meetings to avoid the accusation of non-performance. During the interval

between meetings, Baltimore visited Philadelphia where, according to James Logan, "no manner of Notice was taken of him or his Company."³⁶ It was reported that Baltimore "admired at the Gentlemen of the place that none of them would come near him."³⁷ For their part, the Pennsylvanians hoped that Baltimore's visit would signal a meeting between the proprietors, but insisted the Maryland proprietor make the initial overture. Logan probably spoke for the rest of the Pennsylvania Council when he wrote to Thomas Penn, "'tis clear the L.B. view in coming to this town and spending so much time in it, was in hopes of falling in with a party here and making himself an interest amongst the people in opposition to thee."³⁸ Baltimore's visit suggests that within the provincial world, it was possible to appeal to those who did not share a proprietary perspective. Logan's response indicates that provincial leaders were capable of drawing their own conclusions and allying themselves with their proprietor in the face of a common enemy. With his return to England, Baltimore made it abundantly clear to friend and foe alike that the boundary dispute at the proprietary level was far from over.

While Baltimore was restructuring his revenue system and turning his attention to the expansion of

the Maryland frontier, the Penns were far from idle. Unlike Maryland, a large part of settled Pennsylvania fell within the disputed region and the renewal of the boundary controversy therefore posed a far greater threat to the Penns than to Baltimore. It was precisely the agreement on the boundaries which had led the Penns to believe that they might finally begin to receive their quitrents. Now, with an angry Baltimore on his way back to England, these expectations were about to be dashed. To counter this prospect, the Penns gradually developed a set of tactics. First, they sought to formulate a compromise to save the agreement; second, Thomas Penn reluctantly began to assume an active, if cautious and indirect role in the border hostilities west of the Susquehanna; and lastly, they began to marshal political support in England to safeguard their interests should Baltimore choose to take his case before the Crown.

On the question of compromise, the Penns decided that they would permit the Maryland commissioners to establish the centre point of the circle around Newcastle.³⁹ This offer came to nothing when the Maryland commissioners, presumably with Baltimore's approval, insisted on a circle with a twelve mile circumference instead of radius.⁴⁰ Of greater

significance, the Penns were willing to reconsider the southern boundary of the Lower Counties. Even Logan now admitted the 'Cape Henlopen' line was difficult to justify.⁴¹ Unfortunately, in addition to amount of land lost by moving the proposed line northward, the new placement might also have an impact on the subsequent running of the north-south tangent line from the mid-point of the east-west line. If, for example, the Delaware peninsula was narrower at the point of compromise, then over the length of the tangent, the Penns stood to lose substantial acreage. Even so, John Penn had already cautioned his brother against sending surveyors into the area "in a private manner [as] it may do much mischief if Discover'd."⁴² These concerns were not put to the ultimate test since Baltimore, by then in England, was unwilling to listen to the overtures of Fernando John Paris, who had now become the Penns' agent.⁴³

Shortly before Baltimore's departure, Thomas Penn received word that Maryland officials had arrested two Pennsylvania residents on the west side of the Susquehanna opposite Hempfield Township and had threatened at least two others.⁴⁴ His response to this information established a pattern of behaviour that would persist throughout the period of border conflict.

First, Penn was convinced that the struggle was legal in nature; the legitimacy of Pennsylvania authority remained for him the critical problem. He reacted to the arrests with the comment that "it may be a good opportunity of knowing whether the [Maryland] Court will support that fellow and his Accomplices in such Violence."⁴⁵ His primary source of information on the conflict west of the Susquehanna and the man to whom he sent his directives was Samuel Blunston, a Lancaster County magistrate. He wanted to know if the local Maryland leader, Thomas Creep, had the same commission as other Maryland justices of the peace and if the Marylander had qualified to take a seat on the bench. Upon receipt of this information, the proprietor would then "consider whether any method can be fallen upon to oblige those Insolent Fellows to keep better order."⁴⁶ Under no circumstances were Pennsylvanians to recognize the authority of the Maryland courts. Arrested settlers "were not to appear to value their commitment or any wise Anxious to be bailed."⁴⁷ If brought to trial, they were to insist on a discharge from "attending on a Court to which they do not belong, and under whose Jurisdiction they don't live."⁴⁸ They were to claim that the acceptance of bail was not an acknowledgement of Maryland authority, but was accepted "only on Condition to answer generally to such Matters

Things as should be objected against them on the King's, or, more likely my Lord's Behalf.⁴⁹ If the court would neither discharge nor indict them, Penn expected them to accept imprisonment instead of bail; if indicted, they were to avoid entering any plea, including 'not guilty'.

Penn's preoccupation with legal subtleties was consistent with his cautious approach and his concern with appearances. As a proprietor, he believed that he should not be perceived as being directly involved in the escalation of the conflicts and therefore rejected the high profile leadership role that the conflict presented. Thus, he retracted his decision to provide direct financial support to the arrested settlers and their families. Instead, Blunston was to pay their expenses and then be quietly reimbursed.⁵⁰ Despite the latter's pleas, Penn also refused to make a public appearance in the disputed region.⁵¹ On the other hand, appearances aside, Penn did support action against Maryland. In the months that followed, he had a warrant issued for Thomas Cresap's arrest and ordered Blunston to begin issuing land licenses to settlers west of the Susquehanna.⁵² The Blunston Licenses were essentially promissory notes, to be replaced by official grants when the boundary dispute was

resolved.⁵³ In sum, Thomas Penn's strategy to deal with the local implications of the dispute emphasized the illegitimacy of Maryland actions, and the appearance of proprietary detachment. Even at this stage, Penn may have thought that the dispute would ultimately be heard by the Crown, in which case it was critical that Baltimore appear to be the aggressor and the Penns his victims. However, in choosing not to assume a strong visible leadership role, Thomas Penn lost a splendid opportunity to strengthen the proprietary government of Pennsylvania.

The last element in the Penn strategy was the careful development of an effective 'interest' to counter whatever influence Baltimore had established at Whitehall. To this end, John Penn and Paris used the approbation of Governor Gordon as the pretext for private meetings with the Duke of Newcastle, the Earl of Wilmington, Sir Charles Wager, and Sir Robert Walpole. Paris cautioned the Penns to say nothing to these powerful men of the dispute with Baltimore at this stage for these discussions were solely to lay the foundation for later requests.⁵⁴ The Penns appear to have been satisfied with these preliminary efforts to strengthen their interest at Court. John Penn wrote to his brother that Newcastle had received him "with a

great deal of Friendship" and had assured Penn that "he would always do anything ... desired of him." Although Wager and Wilmington were also seen to be very supportive, the meeting with the Walpoles was merely noted, which suggests that Penn did not expect too much support from the First Lord of the Treasury.⁵⁵ Richard Penn was particularly impressed by Wilmington, the Lord President, "who said that He should always be glad to do us any service that lay in his power." The Penns were to have "free Access to him when ever [they] wanted his assistance." Despite his enthusiasm, the youngest Penn remained well aware of the vicissitudes of 'interest' politics. He pointedly observed that the brothers had "Greater Reason to believe [Wilmington], than the Generality of those great Men's promises."⁵⁶

These direct efforts to solicit support in high places were augmented when the Penns enlisted the services of the prospective Attorney and Solicitor Generals, John Willes and Dudley Ryder. They apparently had hoped to retain the current Solicitor General, Charles Talbot, but he had already been "fee'd by My Lord Baltimore." Talbot was expected to be made the Master of the Roles, making room for Ryder.⁵⁷ The favour of the Earl of Islay, who together with the Duke of Argyll controlled Scottish patronage, was also

sought. Throughout much of the Penn correspondence, Islay was referred to as "Mr. X" which suggests that the Pennsylvania proprietors were nervous that information about their efforts would find its way to Baltimore. Convinced that Islay had far more interest at Court than Lord Baltimore, the Penns asked David Barclay, a wealthy Quaker merchant to be their contact and were willing to pay heavily for his support.⁵⁸ They were also willing to buy off the young Lord Sutherland who again seemed "Determined to push his Interests in order to gett a Grant of the Lower Counties." John Penn informed his brother that "for a Sum of Money [Sutherland] will part with it to us, or Rather use his Interests to gett us a grant for a Sum in hand."⁵⁹

The Penn family was willing to explore every possible means to strengthen their Court connections in anticipation of a Baltimore move to bring the dispute to Whitehall. However, to say that the Penns had developed a strong interest is an overstatement. Unlike their father in the 1680s, the younger Penns were far removed from the heart of power and their approach to 'interest' politics reflects this basic change in the family's political fortune. If it were not for the support of the London Quakers, it is

unlikely that the brothers would have even gained access to the Walpoles. John Gurney, a noted Quaker woolen merchant, was a close friend of the First Minister and it was to him that the Penns directed their concerns.⁶⁰ As already noted, David Barclay was the critical contact person in the attempt to gain Barclay's assistance. To these individual examples, the collective political importance of the London Quaker community can be added. John Penn had the presence of mind to ask his brother to send him a petition from the Lower Counties' Quakers indicating their unwillingness to live under Maryland jurisdiction. He believed the London Meeting would actively help the Penns upon receipt of this petition. In light of the crisis over the Excise Bill, Penn knew that the Ministry might need the Quaker interest in an election. As events unfolded, the political pressures exerted by this group proved to be significant.⁶¹ However, in the short term, even Quaker assistance provided no assurance of success and the Quakers acted not on direct behalf of the Penns, but because of a petition from their co-religionists in the Lower Counties.

As a further indication of the relative weakness of the Penns, they had made Patrick Gordon their governor not because of his abilities but because of

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his connections with Islay and this did not prove strong enough to assure the active support of this Scottish noble. When Islay finally returned from Scotland, Barclay reported that, while the Earl was willing "to Do ... all the Service he can," he would "not be Concern'd as the Principal Person or Take what was design'd him."⁶² Within two weeks, John Penn received a second setback. Gurney informed him there was no possibility that the Walpoles would support a Penn petition for confirmation of the Lower Counties, "the Great Man's enemys being very strongly att work against him."⁶³ At the same time, the Attorney General, John Willes, gave Penn legal opinion that the brothers should take Baltimore to Chancery immediately "to Compell his Lordship to run the Lines," since a specific agreement was at issue and the King and Council could not therefore become involved.⁶⁴ "This," John Penn wrote, "with Mr Gurneys opinion has so alter'd our Scheme that we cannot att Present tell how to Proceed."⁶⁵

With the efforts to preempt Baltimore apparently in serious jeopardy and Paris convinced that a "long tedious Chancery suit" loomed on the horizon, John Penn was despondent.⁶⁶ He informed his brother in Pennsylvania that he "never had so much uneasiness in

all [his] life.⁶⁷ He wondered if it would be better "to allow the Cape now call'd Cape Hinlopen as the True Cape," especially since the land "att the Bottom of the Lower Counties ... [was] very Indifferent Sandy ground." In a revealing statement, John concluded that it was "a very great fault that so great a Stress was Laid on the false Cape."⁶⁸ They may have believed that they were acting in good faith during the negotiations but the Penns had been well aware of the nature of the 'false' Cape before the agreement! As the weeks wore on, John's mood darkened still further. "It is Impossible," he wrote in May 1734, "for us to live any Longer under the Continual Pressure we now Suffer." Family debts were mounting, creditors were becoming more anxious, only meager financial returns were coming from Pennsylvania, and the situation offered little hope of change. John and Richard Penn, and Fernando John Paris, were convinced that Baltimore would not accept a compromise proposal and although a Chancery suit seemed to be the only alternative, the Penns could not afford to commence proceedings. Therefore, John and Richard Penn decided to sell their interest in Pennsylvania. By the terms of the agreement between the three brothers, they were required to offer their holdings to Thomas Penn. They assessed the value of the proprietary interest at 450,000 and therefore,

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expected Thomas to pay \$25,000 to John and \$12,500 to Richard.⁶⁹ Possibly the brothers in England thought that Thomas would balk at this offer, or John may have had second thoughts. In either case, John decided not to send this letter, but to visit Pennsylvania instead.

The initial reactions of the Penns to the failure of the 1732 agreement had been shock, anger and some internal recrimination. As their efforts to regain the initiative stumbled on the realities of English politics and interprovincial rivalry, a sense of despair replaced the shock and anger. While Thomas Penn became increasingly conscious of growing unrest along the border and of the general deterioration in interprovincial relations, his brothers were fast coming to the realization that their political 'interest' was not as solid as they had hoped. John and Richard Penn were now convinced that a long and expensive Chancery suit was their only alternative to a humiliating new settlement with Baltimore. In light of their financial situation, litigation seemed to be an equally disastrous course of action and they decided to sell their proprietary interest, with Thomas having the first option to purchase. They may well have believed that they were no longer in control of the situation, that events were rapidly pulling them ever deeper into

the quagmire of the boundary conflict. It was with these thoughts in mind that John Penn journeyed to Pennsylvania in the summer of 1734.

If Penns were despondent over the lack of progress in settling the boundary dispute, what was Lord Baltimore's state of mind upon his return to England? Regrettably, the Calvert Papers do not provide the reader with the same type of direct evidence that the Penn Papers yielded for his counterparts. If anything, the lack of references to the dispute in Baltimore's correspondence from the summer of 1733 to August of the following year suggests that the Maryland proprietor was preoccupied with other matters. Still, it is possible to catch glimpses of Baltimore's behaviour and from the picture which emerges, his attitude toward the conflict with the Penns can be inferred.

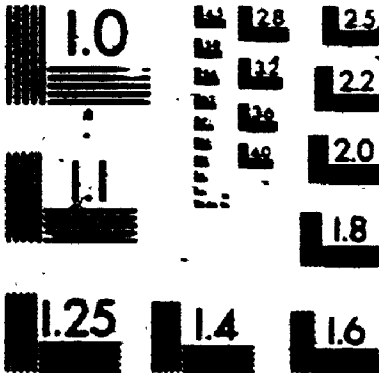
Upon his return to England, the Maryland proprietor intimated to the Clerks of the Council that Pennsylvania had "levy'd War upon His Majestys Subjects of Maryland," but beyond this comment, he made few moves to escalate the dispute.⁷⁰ Instead, he seems to have wasted little time in re-establishing his position at Court. It must have been unsettling for Richard Penn to observe Calvert riding by his house "a Stag,

hunting with the King.⁷¹ The Penns expected Baltimore to wait until the agreement lapsed in December before complaining to the Council of the border 'riots' and of the Penns' lack of authority to grant warrants, but when the time arrived, the Maryland proprietor did not pursue this course of action.⁷² It is possible he was told by his advisors that to bring the dispute before the King in this fashion would play right into the hands of the Penns.

Throughout the spring of 1734, Baltimore maintained his image as a courtier. When Parliament was considering the imposition of taxes on the American colonies, he was quick to approve of this proposal.⁷³ But it was his relationship with the Prince of Wales that occupied most of his attention. Baltimore's lawyers complained to Fernando John Paris that their employer apparently was so preoccupied with the heir that he had no plan to deal with the Penns.⁷⁴ In 1731, Baltimore had become a Gentleman of the Bedchamber to the Prince and he remained a faithful, if somewhat "mediocre and self-effacing" adherent of the Prince's party throughout the 1730s and 1740s.⁷⁵

There is no evidence that Baltimore sought the favour of the Walpoles, the Duke of Newcastle, or Lord Wilmington, but this was probably because he believed

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his 'interest' was sufficient to sustain his pretensions in the boundary dispute. Fernando John Paris was the most astute judge of Baltimore's behaviour during this period when he speculated that the Maryland proprietor was waiting for a fortuitous accident to overtake the King. With Baltimore's patron as King, the conflict with the Penns would obviously take on a new dimension.⁷⁶ Baltimore's rejection of an overture by Paris that presumably hinted at concessions on the southern boundary of the Lower Counties was not the action of a man who was worried about his relative strength at Whitehall.⁷⁷ Despite his anger at the Penns, it is highly unlikely Baltimore would have brushed aside this effort to appease him, if he was not confident that his next course of action would result in the complete defeat and humiliation of the Pennsylvania proprietors.

On 8 August 1734, Baltimore petitioned the King to reverse the Order-in-Council of 1685. Specifically, he requested a favourable reinterpretation of the phrase 'hactenus inculta' (hitherto uncultivated), so that jurisdiction over the Lower Counties would be restored to the Calvert family.⁷⁸ This manoeuvre was a clear acknowledgement that as far as Baltimore was concerned, the agreement with the Penns was void. It is somewhat

ironic that the Order of 1685 was again the focus of debate for it had been the result of an inability to resolve the boundary issue by face-to-face encounters. Now, almost fifty years later, sons and grandson had also failed to end the dispute by either informal or formal negotiations and once more the Privy Council and the Board of Trade were being asked to intervene. Whether Baltimore deliberately tried to take advantage of the absence of John and Thomas Penn remains open to question. The Penns argued that such was the case, but given Baltimore's apparent lack of strategy in the preceding months, it is equally plausible that he acted on impulse. In any event, Fernando John Paris proved to be a very capable advocate of the Penn cause.⁷⁹

By the summer of 1734, Baltimore was prepared to raise the stakes in the dispute. Two days after filing his petition, Baltimore instructed Samuel Ogle to extend frontier settlement in the border region. The Governor was to allow as "many Such Settlers as you think fitt" to take up proprietary lands on or near the Susquehanna "without any caution-mony." Even the rent was not to "commence or be payable untill the Settlement of the Boundarys in those parts." The only stipulation was that "the persons taking them must (if you can prevail with them) enter into some

Acknowledgment of my Right under their Lands."

Baltimore hoped that this proviso would make the Settlers "lyable to a penalty in case they should not always behave themselves as my Tenants, or not act in support of my Government."⁸⁰ After a year of inaction, Baltimore was anxious to put the Penns on the defensive not only in England, but in the border region as well. Baltimore had originally sought an accommodation with the Penns to secure his frontier for economic development. Now, he was actively promoting the expansion of settlement to secure an unstable frontier. Economic remuneration was to be delayed for the time being.

Baltimore's petition was referred to the Board of Trade where it was received and read on 28 August.⁸¹ No doubt the Maryland proprietor was pleased with this arrangement for Colonel Martin Bladen, one of the key members of the Board, was a firm supporter of Baltimore.⁸² Paris notified John Penn that "Mr. Dominique alone at the Board seemed to be your Friend."⁸³ Anxious to proceed, Baltimore and his lawyers attended the 16-October Board meeting, but Paris effectively secured delay of the hearing until 20 December! These delays gave the Penns' agent the

opportunity to mount a counter-offensive against Baltimore.⁸⁵

Paris proceeded carefully for he was convinced that the Maryland proprietor had a virtual strangle hold on the Board of Trade through his strong interest with Martin Bladen. He believed that a report favouring Baltimore was a foregone conclusion, regardless of the merits of the case. "I wish we had nothing to fear but their skill," he wrote to John Penn, "I should think we sho'd do well enough then, but my Lord's Interest (Especially at the Board where we now are) gets over many things."⁸⁴ Using another approach, Paris diligently lobbied the London Meeting of Sufferers, "night & day . . . 4 or 5 times a week & particular members almost every hour of the day." Through these efforts, the Penns' agent obtained from the Quakers a commitment to attend the 20 December Board meeting "in a Body."⁸⁵ Even allowing for exaggeration, this strenuous activity illustrates Paris' key role in the dispute as well as the general reluctance of the London Quaker community to act on behalf of the Penns.

Doubtless prompted by Paris to lay the groundwork for the agent's proposed actions at the Board hearing, the day before the meeting Richard Penn petitioned the

King to confirm the Penns' right to the Lower Counties against Baltimore's earlier petition.⁸⁶ Although this petition was not referred to the Board as promised by Lord Wilmington, it still provided Paris with an opportunity to claim that the Penn case was being heard at another level.⁸⁷ Since the King, in his wisdom, had chosen to refer the petition to a different committee, the Board could not expect the Penns to state their proofs before a body not specified by the King.

On 20 December, the room where the Board of Trade met "was thronged with [Penns'] Friends like the Exchange at two o'clock, which visible damped the Spirits of Baltimore & his Board of Trade." Paris was not averse to the use of melodrama to further his clients' interest. The agent was "pretty well baited for about 3 hours," but, remained firm in his contention that no proofs could be furnished while the Penn petition was before another committee. The real reasons, which he shared with Richard Penn and the Quaker leaders, were "that no Proofs, if ever so full would alter ... [the Board of Trade's] fixed Resolution" and that "any Report they could now make would be only ex parte and [the Penns] would always be at Liberty to be heard, against it."⁸⁸ Confronted by

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these tactics, the Board appointed 31 December as the day to hear Baltimore's case.

When the Board met on 31 December, Paris was an uninvited and unwelcome spectator. Although he was convinced that the result of the Board meetings would be a report favourable to Baltimore, he was unwilling to miss any opportunity to unsettle the Maryland proprietor. When asked why he chose to be present, he argued that his business frequently brought him before the Board and it was necessary for him to know as much about their methods as possible. He insisted on remaining at the meeting unless "Expressly ordered ... out of their Room." The irrepressible agent confided to John Penn that the real reason for his presence was to make "a Farce" of the proceedings.⁸⁹

Martin Bladen, Baltimore's brother-in-law, was quick to come to Baltimore's aid when it appeared that John Strange was making a poor presentation of his client's case. For example, Bladen pointed out that the critical phrase, 'hactenus inculta', was merely a polite form of expression used in discourse between one head of state and another. Paris concluded that it was a "lame meeting & as lame a Report." Based on his experience, he believed the Penns had little to fear

from the Board report, despite its clear support of Baltimore's petition.⁹⁰

As expected, the Board report of 16 January 1735 vindicated the Maryland proprietor's claims. "[T]he Lands in Question," the Board wrote, "appear to them to be included in the Limits granted . . . to the Lord Baltimore's Ancestors." Bladen's influence is evident in the specific references to 'hactenus inculta.' The Committee agreed "that notwithstanding these Words are in the Preamble, yet they are not inserted by way of Restriction in the Body or Granting Part of Lord Baltimore's Charter." They recommended that the emphasis be placed upon the intention of the original charter and not upon the subsequent Order of 1685. Lastly, they noted that the Penns had declined to present their claims before the Committee, but "if it should be determined that the Right to the Lands in Questions still remains in the Crown, . . . the Lord Baltimore hath very just Pretensions to your Majesty's Favour."⁹¹

Baltimore had succeeded in placing the Penn family on the defensive. His interest at the Board of Trade had proven strong and this body now supported his claims; however, to conclude the Penns were in desperate shape would be to misread the relative

importance of the Board in the mid-1730s. Although Bladen was definitely a strong ally, the Board no longer exerted the influence upon the Council that had once been its hallmark. No longer a dominant force in colonial administration, the Board had "joined merchant groups, colonial agents, and patronage hunters around the periphery of the small circle of politicians who exercised effective authority."⁹² As has been noted by one historian, the relative importance of the board can be obscured by "the overwhelming collection of well-organized papers, which show neat and efficient progression from information to report and to approving Order-in-Council."⁹³ The Penn-Baltimore dispute was a case in point. Baltimore's influence was strong and the Board could exert pressure, but from the behaviour of Paris and the Quakers before the Board, it is equally evident that this body was not to be feared. For the Penns to refuse to present their case before the Board is conclusive. The Board clearly did not have the power to demand compliance, and the Quaker presence at the first Board meeting seems, in retrospect, to have been less an attempt to influence the Board and more a demonstration to Baltimore that the Penns could call upon a powerful pressure group to act as a counterbalance to the Board. As Alison G. Olson has recently noted, by the second quarter of the

18th Century, the role of the Board had become one of balancing the interests of various lobbies.⁹⁴ In this instance, instead of balancing interests, they had set themselves in opposition to possibly the most effective lobby group of the Walpole-Newcastle era. Paris was originally upset when the Penn petition of 19 December was referred to the Committee on Plantations, but Wilmington, as Lord President of the Council, was well aware of the balance of political interests when he assured the erstwhile agent there was still plenty of time to consider the Penn petition after receiving the Board report.⁹⁵

When the Board's report was read before the Council on 16 January, it was immediately referred to the Committee on Plantations to be reviewed together with Penn's earlier petition. A petition from the London Quakers prepared by Paris and supporting the Penn claim was also sent to this Committee. A Committee of Friends followed up this petition with a visit to Wilmington, Islay, Weger and Hardwicke. Paris publicized the counter attack by publishing the 1732 Agreement "to expose Baltimore's unjust attack" upon the Penns in their absence.⁹⁶ Instead of resolving the dispute, the Board report was, in practical terms,

relegated to the same status as the petitions of the Penns and the London Quakers.

Although John Penn was still in Pennsylvania, he wasted little time in renewing his efforts to garner support from Islay, Newcastle, Wilmington and Wager. In separate but similar letters, he reminded them that an agreement had been signed by both parties in the dispute. He insisted that the agreement was still binding and begged the Council to allow time for the Penns "to try our title in a Court of Equity before a Grant passes to my Lord."⁹⁷ John Penn had decided to take the case to Chancery, although he had already expressed serious misgivings. The Penns now realized that their strongest claim to the Lower Counties probably lay in Baltimore's concessions in the agreement of 1732. If they could prove that the Agreement was still binding, then Baltimore would have no recourse to his original charter. Although this course of action would be long and expensive, John and Thomas Penn were confident that it would at least prevent an immediate Baltimore victory. "We cannot think," they wrote to their younger brother, "he will be able to Carry his design before our Right is Try'd in Chancery."⁹⁸ The Quaker interest again supplied the necessary channel to the powerful as David Barclay

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personally conveyed John Penn's letter to the Duke of
Newcastle.⁹⁹

If the Board report of 9 January 1735 favoured
Baltimore, the deliberations of the Committee on
Plantations effectively dashed the Maryland
proprietor's hope for a quick and favourable resolution
of the conflict. The Committee reported to the King
that an agreement to settle the boundary problem had
been signed in 1732 by both proprietary families, but
some question regarding its validity had arisen. They
recommended that "the said Report and Petitions should
be adjourned until the end of Michaelmas Term, in order
to give an opportunity to the said [Penns] to proceed
in a Court of Equity, to obtain Relief upon the said
Articles of Agreement, so insisted upon by them."¹⁰⁰

If the Penns did not choose to enter a Chancery bill
within this specified time limit, then either party
could again apply to the Committee for consideration of
their case. The King readily approved of this report
and the Penns, with little real choice, filed a Bill
against Lord Baltimore in the Court of Chancery in the
following month.¹⁰¹

The fact that neither the Penns nor Baltimore
obtained outright relief through Whitehall was a clear
indication that in an arena governed by competing

political interests, neither party could generate enough support to defeat their adversary. Whatever interest they could garner was of a defensive nature; that is, it could prevent or stall an opponent's ambitions, but was insufficient to permit outright victory. The Penns had managed through the Quaker lobby to prevent a royal grant of the Lower Counties to Baltimore, despite the latter's support in the Board of Trade. However, the onus now fell upon them to begin an expensive Chancery suit. While Baltimore must have been discouraged, this latest setback was not without potential benefit. As a Member of Parliament he could exert parliamentary privilege to delay judicial proceedings and as a close associate of the heir to the throne, extensive delay might well result in a major shift in his political 'interest'. The costs of a Chancery suit could be borne with less inconvenience by the Maryland proprietor than by the Penn family. As the dispute at the proprietary level deteriorated into a long and costly legal 'war of attrition', Baltimore had some reason for hope that the Penns might be brought to their knees.

The motives underlying the behaviour of the Committee on Plantations are difficult to ascertain. The circumstances surrounding this dispute were unique.

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This was not a boundary dispute between royal colonies or between a proprietary and royal province. Instead, with two proprietary families locked in conflict, to favour one over the other would be a clear sign of government favour. Neither proprietary family had enough influence to gain outright government support and neither colony provided a source of patronage appointments for the ministry. However, their allied interests were not marginal, particularly in the political climate of the mid-1730s; rather, they neutralized each other. Whether the Penns realized it or not, their request to delay proceedings to allow them time to begin a Chancery suit was precisely the type of face-saving device which appealed to men like the Duke of Newcastle. While neither party would be completely satisfied, neither would they be humiliated. Therefore, the ministry did not risk the alienation of those who supported the proprietors. A minister of the crown never knew when he might have need of the patronage network of these proprietary provinces or, more to the point, of the proprietors' friends. Within the context of dispute settlement, the King and his Council had been placed in a position of binding arbitrators; a role which they quickly sought to avoid. Unwilling to make a decision, they preferred to have the conflict resolved in a legal forum which minimized

political implications. Because no royal province was involved, there was no apparent need for immediate action.

When the Penns filed their Chancery Bill on 21 June, 1735 they began a procedure which was different from the standard practice of common law. The express purpose of the Court of Chancery was to permit the Chancellor "to create rights and remedies 'de novo' as justice required."¹⁰² A formal writ was unnecessary, and the bill or petition did not have to meet particular procedural standards. The plaintiff was granted a wide latitude in the presentation of his case as was the defendant in his answer, although this latter response was required by writ of subpoena. Both plaintiff and defendant could and did introduce a wide range of issues, while the Chancellor could and did exercise discretionary power in making his decision. Affidavits replaced witnesses, since the actual hearings before the Chancellor dealt only with the legal arguments. When he had heard both sides, the Chancellor handed down his decision. In theory, these procedures were simple and flexible, but reality was a different matter. Designed to eliminate the intricacies and loopholes of common law, over time the procedures became increasingly formalized and the

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process itself was at least as arduous as a common law case, and undoubtedly longer and more expensive. John Penn's concern over a lengthy court battle was a valid one. The Penn vs Baltimore case lasted fifteen years, the final decree being issued in May, 1750. In its own way, the suit took on a momentum of its own, meandering through a seemingly endless series of branch arguments and counter arguments. This point is illustrated by the fact that the Penn's case included twenty-nine separate branches. In each instance, formal written depositions were required and these, in the main, had to be obtained in Pennsylvania and Maryland.

The central thrust of the Penn case lay in the non-performance of the Agreement of 1732. Their primary concern was to prove to the Chancellor's satisfaction that the agreement was valid and remained binding. If the Chancellor agreed, then Baltimore would be held to the agreement. For the Maryland proprietor, the strategy was to undermine the validity of the agreement for if he could prove that he had been intentionally deceived by the Penns, and that he had a clear right to the disputed region, then the Chancellor could render the agreement void in the interest of equity and justice.

Some six weeks after the Penns had filed their Bill, Baltimore obtained an order to review the Penns' Bill "for scandal and impertinence."¹⁰³ He listed thirty specific objections, each of which were then reviewed, in a separate hearing, but in each instance, Baltimore's contention was denied.¹⁰⁴ Yet, by February 1736 John Penn, who had since returned to England, was again depressed by the future prospects. Now that Baltimore had apparently resolved "to Make the utmost delay," the eldest Penn felt trapped in the procedural web of this new stage in the disputing process.¹⁰⁵ He informed his brother that,

my lord being in Parliament nothing can be done to Compell him to Proceed till 40 Days after the Parliament Rises which will be about Midsummer, & as all Causes are very long in Chancery so we doubt not but this will take double the time it otherwise would had not Lord Baltimore been in The House for they will always find ways to Delay us on Acct of Parliamt before we can hope for a conclusion."¹⁰⁶

The return to England had lessened the impact of whatever powers of persuasion Thomas had used to convince John not to sell his share of Pennsylvania. John was now more adamant than ever. An offer of £60,000 for the entire interest led him to believe that it was possible to get £80,000, and he asked his brother to consider it.¹⁰⁷ He was tired of worrying about Richard who was "a Continuall load" upon him and

more significantly, he no longer wished to be "the Packhorse on this side of the water."¹⁰⁸ Over the next few months, the eldest Penn's depression became more pronounced. The offer to buy their interest had been withdrawn and he now realized that, by the terms of the family agreement, the brothers were not at liberty to dispose of the entire province which seriously lessened the value of their interest.¹⁰⁹ To make matters worse, Baltimore had gone to France when Parliament had recessed and apparently intended to visit Maryland. Although Baltimore's objections had been deemed unwarranted, the Court decided that the Penns' Bill "might have been drawn in Better Terms."¹¹⁰ Baltimore was still incensed and was threatening to appeal directly to the Chancellor. Since each of his objections would then have to be heard before the Lord Chancellor and if any impertinence was found in the wording of the Bill, the Penns would have to pay all the costs and since the proceedings would have taken up to two years, John Penn offered amendments which John Sharpe, on behalf of Baltimore, accepted after a few further alterations. These final changes were approved by the Penns on the promise that Baltimore's answer would be forthcoming.¹¹¹

From Baltimore's point of view, the spring of 1736 also seemed bleak, but for different reasons. With the marriage of the Prince of Wales, the rumour now circulated that Frederick had "not so much occasion for my Lord as formerly." It was further reported that the Maryland proprietor was "disgusted on not being made Master of the Horse to the Prince," but he appears to have been at least partially placated when he was made Lord Warden of the Stannarys.¹¹² This latter office hastened his return from France and instead of going to Maryland he spent the summer in Cornwall.¹¹³ It is possible that his preoccupation with the apparent waning of his influence with the Prince prompted him to accept the alterations to the Penns' Bill instead of appealing directly to the Lord Chancellor.

While Baltimore and John Penn were confronting the vagaries of English political and legal realities, Thomas Penn remained preoccupied with the local and provincial implications of the dispute. He was skeptical of his brothers' claims that the Chancery suit would take years to be resolved. John Penn responded with a lengthy but pointed review on the complexities of equity proceedings.

[I] have never heard of any Suit of Consequence that was ever determined under 7 years tho the Parties & Effects Lay in London; and my Lord may

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now delay four or more years before he puts in his answer, tho I hope he will not, but I fully believe he would had I stay'd till this time in Philadelphia for were his objections to our Bill to be argued Before my Lord Chancellour it would take up two, & after that he might file a Cross bill, which has been talked off, to which he must have your answer, & on receiving that if he pretends it is not a full one, the Court may Indulge him with time for you to Inlarge Your answer, on which the Meritts of that Bill & answer must be Consider'd, before he will give in his, & then Vast numbers of Witnesses must be Examined both here & on your side, & arguments on Each of those Examinations pleaded before my Lord, with Five hundred Tricks that thank god I am not yett acquainted wth. I heartily wish I may be wrong in my Calculation, but I am still of the same opinion.¹¹⁴

By the fall of 1736, Thomas Penn returned to the possibility of a compromise on the boundary. Convinced by his brother that the suit would be a lengthy one, he suggested that the Indian River be the new southern boundary of the Lower Counties and that four or five miles of territory be conceded along the line running west of the Susquehanna River.¹¹⁵ To the concern over a prolonged litigation in Chancery, Thomas added the fear of open violence on the frontier.¹¹⁶ During the summer, some fifty disenchanted German settlers holding land west of the Susquehanna by Maryland right had opted to claim their holdings under Pennsylvania. Maryland had responded by sending a large armed force into the region. They also sought to entice recent Chester County arrivals to take up the German settlers' lands under Maryland protection.¹¹⁷

If Thomas Penn sought a compromise, James Logan was only concerned that something be done quickly. He forwarded to Paris a petition from the Council and Assembly to the King and Council outlining the "Abuses heaped on us by the Govt or rather the Govr of Maryland." He also sent a petition to the King from the German settlers west of the Susquehanna. Logan was uncertain whether the petitions should be sent directly to the King or some measure be introduced through Chancery to end the border conflict, but he urged some form of immediate action.¹¹⁸

It is easy to imagine the consternation of John and Richard Penn over the contents of the correspondence from Pennsylvania. On the one hand, their brother was now advocating major concessions to Baltimore, while on the other hand, petitions were submitted by provincial authorities and local settlers which must have made the notion of compromise particularly unattractive. John and Richard Penn had serious doubts about the possibility of compromise, despite a report they had received from Mr. Sharpe, Baltimore's solicitor, that the Maryland proprietor was as anxious as the Penns to resolve the dispute. The brothers were confident that the petitions would lead the King to issue an Order-in-Council to quiet the

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border until the Lord Chancellor made his decision in Chancery.¹¹⁹ They regretted that Thomas had not sent a petition from the Philadelphia or Chester meetings on behalf of the Quakers living in the disputed areas without which they did not expect to gain the full support of the London Quaker interest.¹²⁰

Thomas had anticipated this need and had already sent a letter from the Philadelphia meeting to the London Friends. As he noted in a letter to Paris, "I dont know how proper it may be for my Brothers & myself to apply to the King for any orders as we have commenced a suit in Chancery yet if any application is to be made I conceived ... Friends appearing in it might be of great use in hastening the orders desired."¹²¹ His earlier appeals for compromise were replaced by a strong hope for royal intervention. To maintain the legitimacy of the Penns' jurisdiction, he believed he had to arm and defend the settlers west of the Susquehanna, but the situation on the border was rapidly deteriorating. Thomas Penn scarcely concealed his fear that unless Paris successfully petitioned the King, "more blood may be shed which may be of the utmost ill Consequence to us."¹²²

Unable to proceed in Chancery until Baltimore submitted an answer to their Bill and faced with the

very real possibility of a border war with Maryland, the Penns had little choice but to send the petition of the Upper and Lower Houses of Assembly to the King.¹²³ The petition was, in turn, referred to the Committee on Plantations which then ordered a copy be sent to Baltimore.¹²⁴ The Maryland proprietor was placed in an awkward position, for while he had commended the zeal of his provincial officers in their aggressive efforts to Pennsylvania settlement west of the Susquehanna, he could not appear to be supporting any acts which seemed to endanger the King's peace, especially now that an accusatory Pennsylvania petition was before the Committee on Plantations.¹²⁵ Nor would his lack of a formal answer to the Penns' Chancery Bill be perceived in a favourable light, if he remained in this defensive posture. At this juncture, there was a new development which supplied Baltimore with an effective means of presenting the Maryland case, while appearing to support the Pennsylvania request for quieting the border.

Governor Patrick Gordon had died during the preceding summer, but it was not until April 1737 that the Penns presented George Thomas to the King for confirmation. The Pennsylvania proprietors filed the necessary declaration reaffirming the Crown's right to

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the Lower Counties and a list of names of those who would act as surety for Thomas.¹²⁶ Shortly after that, Baltimore submitted a petition opposing the approbation of George Thomas as Deputy Governor of the Lower Counties. In his review of the entire situation, Baltimore claimed that the Penns had "most grossly deceived and Imposed upon" him during the negotiations for the 1732 Agreement. He argued that the agreement had fortunately been voided by a time clause, and now only the Crown could dispute Maryland's claim to the Lower Counties. Citing the recent violence as a further indication of Pennsylvania bad faith, he asked that "some Indifferent person" be chosen by the Crown as Deputy Governor until the dispute was settled. If this was not possible, then Thomas should receive a separate commission for the Lower Counties directly from the Crown.¹²⁷

The Committee on Plantations decided to transfer consideration of the entire problem to the Board of Trade. They returned the Board's report on Thomas' approbation, the petition of the Pennsylvania Houses of Assembly, the petition of Lord Baltimore, the latter's answer to the Pennsylvania petition, and a series of documents that Baltimore had presented to support his answer and petition.¹²⁸

Although the proprietary families were involved in formal litigation in Chancery, events in North America now forced them to return to the political arena. Whether either side perceived this as an opportunity to circumvent the tedious legal alternative is difficult to ascertain. John Penn certainly believed Baltimore was using his petition against Thomas' approbation as an appeal from Chancery.¹²⁹ It is clear, however, that the proprietors were now responding to a situation over which they had little control.

With the prospect of another round of Board hearings eminent, John Penn returned to the London Meeting of Sufferings to seek their support. He felt handicapped by the lack of a letter from one of the provincial meetings to the London Meeting, but emphasized the violence of the Maryland attacks and the involvement of the Maryland commissary. Since Quaker principles precluded the formation of a viable militia, Quakers on the border were the chief sufferers at the hands of the Marylanders. Significantly, the Quakers were far from unanimous in their support, but a formal petition from the Pennsylvania Quakers to their London counterparts seems to have overcome any collective misgivings about supporting the Penns.¹³⁰

As the Board meeting approached, John Penn believed that Baltimore's opposition to the Thomas approbation would be easily overcome, although he realized that if Baltimore's position was upheld by the Board it would be in the Maryland proprietor's interest "never to End the Law Suit."¹³¹ Yet, the eldest Penn was optimistic for if the Board of Trade was not directly disposed to the Penn interest, at least Lord Baltimore no longer had an obvious strangle hold on the members. According to John Penn, the new president of the Board, Lord Fitzwalter, "a man of Strict honour," would insist that the members "Act on a principle of Justice."¹³²

When the Board agreed to report to the Council in favour of the Penns, Baltimore gained a further delay by submitting two new petitions which decried the treatment Marylanders had received in the Pennsylvania Supreme Court and called for an order to quiet the border region. Baltimore's submissions introduced the Board to some of the frontier participants in the dispute. Thomas Cresap, leader of the Maryland supporters west of the Susquehanna, his brother-in-law William Cannon, and William Runsey, a Cecil County surveyor, were highlighted, and a list of the local Pennsylvanians who had participated in the burning of

Cresap's house was included.¹³³ The Maryland proprietor was shrewd enough to realize that any order for quieting the borders that implied that Maryland was the aggressor had to be avoided. Accordingly, Baltimore emphasized that he, together with the Assembly and Council of Maryland, also strongly desired such an order.¹³⁴

John Penn later noted that Lord Baltimore submitted his new petition "at a time when he knew there would be no Council for some weeks, & that it was impossible to have another hearing & Confirmation thereon before the Committees broke up, which they always do the beginning of Augt for two or three Months."¹³⁵ It is possible that Baltimore appreciated the probability that further delays would result from his submissions. Maybe Penn was correct in his belief that the prospect of further delay was Baltimore's prime motive, but there is another plausible explanation for the Maryland proprietor's behaviour. As already noted, he did not want to be perceived by the Council as the aggressor in the border war and his submissions clearly portrayed the Pennsylvanians as active protagonists in the conflict. However, Baltimore may also have understood one of the more

subtle implications of presenting such an urgent request when the Council was in recess.

The Lord President had the power to act in an executive fashion during the summer months. If a matter was deemed of critical importance, he could have an order drafted which could then be sent to the King for signature. The drafting of such an order under these circumstances implied that the Clerk of the Council had a greater chance to influence the tone and content of the order than might have been the case when the Council was in regular session. It so happened that the Clerk of the Council was the brother of Baltimore's solicitor, John Sharpe. Thus, through his solicitor's connections, Baltimore had an opportunity to influence the nature and tone of an order if it was issued during the summer.¹³⁶ Over the summer of 1737, the Lord President of the Council held an ad hoc meeting on the Penn and Baltimore petitions. He later explained to the Penns that he believed the resultant order to quiet the borders had not been intended to prejudice either proprietary party, but to afford them the opportunity to be heard by the Council in the fall without having to worry about continued border violence.¹³⁷ The Penns were taken by complete surprise. Even Paris who was normally aware of the

internal manoeuvres of the Council, had been unable to gain access to the report of the Lord President's ad hoc committee. Only after the Order had been signed by the King did the Penns have the opportunity to review the contents.¹³⁸

The Order called for the Governors of Pennsylvania and Maryland to prevent any further riots on the pain of incurring the King's "highest Displeasure." No land was to be granted in the disputed area, including the Lower Counties and settlers were to be prevented from removing to the border regions.¹³⁹ What was of particular concern to the Pennsylvania proprietors were the stated reasons for the order. There was no mention of the Pennsylvania petitions; the King was apparently acting solely at the behest of the Governor, Council, Assembly, and clergy of Maryland. Specifically, the burning of the Cresap's House became the focus of attention. The Penns were probably correct in perceiving the hand of John Sharpe in the drafting of this order. The delay that had resulted from Baltimore's late submissions had permitted the Penns to be "Jockey'd" by supporters of the Maryland proprietor. The tone and intent of the order were not the only problems that the Penns faced, for despite the Lord President's claim that the order affected both sides

equally, the inclusion of the Lower Counties weighed heavily against the Penns. The Pennsylvania western settlement pattern was also far more directly and immediately disrupted than the north-westerly movement from Maryland. Although John Penn believed the order might only last until October, it was obvious to him that a quick remedy was imperative. Realizing that once an order was enacted there remained the possibility that it would be continued, the eldest Penn assured his brother and Logan that he would do all in his power to have the order repealed and a more favourable one enacted.¹⁴⁰

Over the next two months, the Penns were forced to bide their time as the Council Committee considered more pressing matters. On 20 November, the day appointed to hear their case, the Queen's death brought all government business to a halt. She was not buried until 17 December and with the onset of the Christmas season, the Penns found themselves still bound by the Order of 18 August 1737.¹⁴¹ Meanwhile, John Penn read the Ogle-Logan correspondence that had been sent to England. To his surprise, he found that Thomas Penn and Logan had proposed or agreed that no more Lands should be sold or Settled in the disputed Bounds till the Difference was determined.¹⁴² Here then was a

possible way the Council could argue that the 18 August order had been precisely in keeping with the wishes of the Pennsylvania government.

While the petitions before the Council remained in political limbo, the Chancery suit moved to the next stage when Baltimore submitted his formal answer to the Bill. Although they had serious problems with the answer, the Penns and Paris agreed that no objections would be filed "because of losing time." Baltimore might have expected the Penns to amend their Bill in response to his answer which in turn would have allowed him the opportunity to amend his answer. Given the two years he had taken to file his first answer, Baltimore might well have taken at least as long to return a revised version.¹⁴³ Having decided to avoid this potential trap, John Penn now asked his brother for a list of persons who would take evidence for the suit as a formal request to have commissions granted for such purposes was the next step in the Chancery process.¹⁴⁴

From the proprietary perspective, the boundary dispute had reached crisis proportions. Petitions had been sent to the King by the proprietors and their provincial governments and the Order-in-Council to quiet the borders had resulted in a further petition

from the Penns; both proprietary families had received information from North America that the border troubles were continuing unabated; and Baltimore's continued opposition prevented the approval of George Thomas as Governor of Pennsylvania.

By February 1738, the strain of the conflict began to show as both Baltimore and John Penn changed their tactics and considered future prospects. First, Baltimore surprised the Penns, and the members of the Committee on Plantation Affairs, by requesting permission to withdraw his petition opposing Thomas' approbation.¹⁴⁵ It was reported that the Lords were upset and although they recommended that Baltimore's request be granted, the Committee apparently believed that the Maryland proprietor had intentionally used his original petition for the sole purpose of delaying the activities of the government. This was a reasonable suspicion, yet the question remains, why would Baltimore deliberately embarrass himself before such an august body? Presumably, any embarrassment that resulted from the last minute withdrawal of his petition seemed less odious to Baltimore than an official rebuff through an unfavourable report from the Committee. The Penns heard that John Sharpe had bluntly informed his employer that his case was

extremely flimsy and that the only way to avoid a committee reprimand was to withdraw his petition. Ten days after Baltimore's surprise move, an Order-in-Council was issued approving the appointment of Governor Thomas, much to the delight of the Penns.¹⁴⁶ In a letter to Andrew Hamilton, John Penn noted that Baltimore's actions "must appear to be giving up the Right he had asserted in those petitions." He exclaimed to his brother that the Maryland proprietor had now conceded the right of the Penns to nominate a Governor of the Lower Counties "which is what he nor his ancestors never did before."¹⁴⁷

When the Committee met to consider the Penns' petition against the 18 August 1737 Order-in-Council, Baltimore received a second setback. Indicating that the Lower Counties had not experienced the type of border violence which the Order had sought to quell, the Committee ruled that the jurisdictional restrictions imposed by the Order did not apply to that area. Thus, the Penns' right to grant lands in the Lower Counties was restored. The Lords also ordered the proprietors to come to some temporary agreement on the east-west border and present this agreement to the Committee for ratification. Here was a significant

departure from previous Committee deliberations. The courtiers may have finally grown impatient with the apparent inability of the two largest landholders in North America to resolve their differences; or perhaps they simply, but emphatically, wished to avoid making a decision in this dispute, while securing the restoration of order in the provinces. To ensure proprietary action, they informed the Penns and Baltimore that the restriction on land sales and settlement in the disputed region would remain in force until a temporary agreement could be formulated and approved.¹⁴⁸

Given the sequence of events, it is not surprising that Baltimore began to make conciliatory overtures to the Penns through intermediaries. As their lawyers began to hammer out a temporary agreement for their employers, the proprietors themselves seemed to realize that a final resolution of the conflict might be close. John Penn was informed by his friends, Richard Low and Peter Collinson, that they had been approached on different occasions by Lord Jersey and the merchant Samuel Hyde with proposals from Baltimore to end the conflict. The Maryland proprietor now wished to avoid the continued loss of money and time by putting all their outstanding differences before an arbitration

board. He was willing to agree to almost any composition that satisfied the Penns, although he recommended that three to five persons be chosen from the Privy Council, the legal profession or the London merchant group.¹⁴⁹ Indirect negotiations continued for a year, but the focus of the proposed arbitration remained a major sticking point. Baltimore insisted upon a review of all outstanding differences and sought to avoid all reference to the 1732 agreement, while the Penns insisted that the arbitrators should attend to the differences as highlighted in the Chancery suit.¹⁵⁰

Since arbitration still implied a win-or-lose outcome, Baltimore's proposal was simply seeking a means to avoid the costly and lengthy process of legal adjudication, while achieving a similar result. Thomas Penn seems to have favoured arbitration, but he saw the 1732 agreement as the point of departure. Presumably, he believed that to re-open all differences between the two proprietary families ran too high a risk. John Penn, on the other hand, had a growing conviction that the whole point of the Chancery suit, that is, the non-performance of the 1732 Agreement, was wrongheaded. He argued that the agreement had conceded "a vast Tract of valuable Land, which he can have no pretence to but under the Agreement, which is from the west side of the

Potomack river to the west bounds of Pennsylvania.⁻¹⁵¹

He listed the same arguments that Captain Fayr Hall had presented to Thomas Penn a year earlier. Baltimore, by his original grant, was entitled to no lands beyond the 39⁰ complete. Longstanding possession and the 1732 Agreement were the only possible justifications for Maryland to retain territory north of this latitude.

If the Penns were to withdraw their suit, void the agreement, and enter a new bill in Chancery calling for a precise delineation of Baltimore's grant, they stood to gain an enormously valuable tract of land. At worst, Baltimore's grant "Can never bring him above the Isthmus & the Lower Countys will most Infallibly be adjudged to us." As a result, Baltimore would lose "a Country half as big as Maryland" on the Western frontier which was far more valuable than the disputed Lower Counties.¹⁵² John Penn may be forgiven for his failure to recognize that much of the western land in question was mountainous and unsuitable for farming.

To what extent this idea influenced John Penn in his decision to avoid arbitration is difficult to assess. He definitely tried to convince his brother of the merits of this new approach, but in the end he accepted his brother's insistence that they abide by the 1732 Agreement.¹⁵³ Thomas had written to Richard

Penn that he would not join with his brothers in presenting a new bill against Baltimore. He was "well enough satisfied" with the Agreement and although Hall's arguments were technically correct they did not allow for the intent of the grant. Thomas was certain that Baltimore could prove beyond a doubt that the Crown had intended him to have two full degrees and their father had acknowledged as much.¹⁵⁴ There is no record of Thomas correcting his brother's misperception of the quality of the land west of the Potomac.

Although the Penns were very conscious of the negative aspects of the judicial process, they were not ready to forgo litigation in favour of arbitration if the risks were too high. They believed they stood on firm ground with the suit for non-performance.

Although a new suit held out the prospects of greater gain, it also implied that the agreement was void and therefore created higher risks as well. If arbitration dealt solely with the agreement, it remained a valid alternative, but Baltimore was of a different mind. Unlike the Penns, he was willing to risk everything on an arbitration settlement; however, he insisted that the agreement of 1732 be dropped from consideration. Baltimore remained convinced that he had been deliberately deceived by the Penns about the position

of Cape Henlopen and therefore, was unwilling to discuss any matters directly pertaining to the agreement. He was obviously unwilling to begin an arbitration having already conceded the Lower Counties.

While the proprietors were reconsidering tactics, their lawyers, Murray and Strange managed to arrive at the basis for a temporary agreement.¹⁵⁵ First, they reiterated that the governments of the two provinces continue to prevent any further outbreaks of violence on the borders. This was followed by a proviso confirming the Committee's previous ruling that the Lower Counties should no longer be held under the restrictions of the 18 August 1737 Order-in-Council. Each proprietor would be able to grant lands and collect rents within their temporary jurisdiction if they retained an account of all income generated in the disputed region. If the final settlement altered the line, these funds could then be remitted to the rightful proprietor. With such a good beginning, Murray and Strange then turned to the thornier issues of the actual temporary line and the status of settlers already in the disputed area. Murray was prepared to grant Maryland a concession of half a mile west of the Susquehanna, if Baltimore would agree to permit the line established in the 1732 Agreement to be run east

of the Susquehanna.¹⁵⁶ Although a record of their deliberations is unavailable, it appears that the Penns gained more than they had expected. Worried about the position of the Nottingham Lots, they were willing to give Baltimore a further quarter of a mile west of the river, if the line on the other side could be run fifteen and a quarter miles south of Philadelphia. As it turned out, Murray proved a skillful negotiator. Although the Penns had been willing to extend Maryland jurisdiction to fourteen and one quarter miles south of Philadelphia west of the Susquehanna, the agreement garnered a line fifteen and one quarter miles south of Philadelphia to the Susquehanna and fourteen and three quarter miles beyond the river. However, the sense of victory proved illusory. After the news of the agreement reached Pennsylvania, John Penn was informed that the map upon which he had based his request for the additional quarter mile had been faulty. Far from encompassing the Nottingham lots, the temporary line fell two miles short.¹⁵⁷

Appearances demanded both parties receive something and the agreement be different from the 1732 agreement in some way. Adding a quarter of a mile to Pennsylvania jurisdiction east of the Susquehanna River and to Maryland on the west side was a marginal

compensation to Baltimore for the lands below the real Cape Henlopen that remained under Pennsylvania authority. It also reinforced the chances of Maryland securing land to the west of the Potomac River, even if it was too mountainous for agriculture.

The final item in the agreement was the most difficult. Baltimore insisted that all persons currently holding their lands by Maryland title be permitted to continue their allegiance to his province, even if their lands were north of the temporary line. For the Maryland proprietor, this was absolutely non-negotiable, but John Penn was aghast. He knew that feelings were very strong in Pennsylvania against Cresap and the other Maryland 'ruffians' living well north of the proposed line, but the agreement hinged upon the willingness of the Penns to permit these men and women to retain their status as Marylanders, despite living some twenty miles above the temporary line. The eldest Penn was partially placated by the realization that this concession could work both ways. All Pennsylvanians, especially those in the Nottingham area, could retain their provincial affiliation even if their land was below the line.¹⁵⁸

Although John Penn tried to put this clause in its best light, the decision to permit inhabitants on

either side of the temporary line to continue to recognize the jurisdiction of the province under whose right they had first settled was very troublesome. He believed that it would be possible for the Marylanders to control trade along the Susquehanna. For example, they could place cannon at the location of Cresap's plantation and deny passage to Pennsylvania. "My Lord says his people will be displeased, For what? because he does not Support them in their Extravagance, what will ours think? if we agree to my Lords Continuing his Garrison's amongst them & Give up any Jurisdiction we have over them."¹⁵⁹ Maryland provincial officials introduced the idea of permitting borderers to continue to hold lands by either province regardless of location until the boundary dispute was resolved and the Pennsylvania government had concurred, except for Cresap and the other Marylanders living in the Codorus area. When the Marylanders had insisted on this point, interprovincial negotiations had ended.¹⁶⁰ After his apparent disregard of provincial opinion during the negotiations before the 1732 Agreement, Baltimore was understandably reluctant to undercut them again and John Penn ultimately accepted the necessity of this clause. It was, after all, a face-saving device for Baltimore, who had gained little else beyond the quarter mile west of the Susquehanna and this had been

minimized by a similar concession to the Penns on the east side of the river. On the other hand, Pennsylvania jurisdiction over the Lower Counties had been secured and the way was now open for the Penns to collect their long overdue rents.

The agreement presented by the proprietors for ratification by the Crown did little to change the general lines of agreement that had been negotiated in 1732. The significant new element was the provision for persons to continue to hold their lands and to recognize the jurisdiction of the original granting province even if those lands fell within the other province's jurisdiction. The Crown issued an Order-in-Council ratifying the agreement on 25 May 1738.¹⁶¹

John Penn was unhappy about certain aspects of this agreement, but he was generally pleased with the process. It suggested to him yet another means to arrive at a lasting resolution. Instead of a quick but risky arbitration, he now proposed to Baltimore that Murray and Stradge continue to negotiate the differences. They could be given permission by the proprietors to foster an open and free exchange of ideas on the dispute and then report to their clients on the areas where compromise was necessary to effect a

general agreement. John Penn believed that the lawyers would be able to settle most if not all points, by Consultation & Giving us their Real opinion, without Leaving it to an arbitration."¹⁶² Baltimore agreed to this shift from arbitration to negotiation, but continued to insist that the subject of consultation be "the Merits of the Cause in General" instead of "the objections we have to the articles of agreement of 1732."¹⁶³ When the Penns countered that the phrase "in General" be switched to "in Chancery," Baltimore "Grew very Cool & Proposed the Law Suite might go on notwithstanding our Leaving anything in Difference ... to the Consideration of our Council."¹⁶⁴ Unwilling to permit this dual process, the Penns introduced a motion in Chancery that the Commissions for examining witnesses be established. Baltimore responded by ordering Sharpe "to make all the opposition he possibly could."¹⁶⁵

The expectations of early 1738 that a quick end to the dispute would be forthcoming proved to be overly optimistic. Although the proprietors seemed genuinely interested in ending their conflict, they were unable to overcome their deep-seated suspicions and fears. First, arbitration was considered and abandoned because John Penn perceived the risks to be too high. A

negotiated settlement through intermediaries seemed particularly possible after the temporary agreement was jointly submitted to the Council in May 1738. However, the willingness to compromise ended when the issue became the validity of the 1732 Agreement. Yet, under penalty of incurring further royal displeasure, the proprietary families did reach agreement on a Temporary Line which became the substance of the Order-in-Council of 25 May 1738.

Although the dispute continued for several more years at the proprietary level, this agreement to run a temporary boundary line with the approval of the Crown re-asserted a semblance of authority on the frontier, allowed provincial leaders in both colonies to save face and secured the landholdings of local settlers regardless of provincial affiliation. The Chancery suit continued for another twelve years and the proprietary families did not reach a final agreement until 1760, but the unique interplay of local, provincial and proprietary conflict which resulted in a crisis of legitimacy on the frontier proved far less dramatic in the years following 1738. There were other occasional acts of violence on the border and the continued intransigence of Baltimore may be ascribed to his concern about the attitude of provincial leaders to

proprietary government; however, in practical terms, the conflict had been played out between 1732 and 1738. The Chancery suit provided a face-saving, if costly, device for both proprietary families. To back away from the suit under circumstances which could be construed as humiliating was intolerable to Baltimore. Following the 1738 agreement, the Penns refused to continue negotiations on the 'general' issues in conflict, forcing Baltimore's hand. He clearly wanted some mechanism which would be face-saving yet resolve the dispute. His willingness to agree to a line within a quarter of a mile of the line proposed in 1732 suggests that he had no real problem with the major items in that earlier agreement. However, in light of his public outcry against the duplicity of the Penns, he perceived himself to be honour bound to avoid sanctioning the actual agreement. The Penns, on the other hand, were willing to negotiate a final settlement only if the terms of reference were limited to difficulties in implementing the 1732 agreement. Ironically, if Baltimore had entered into such a process, he may well have gained significant concessions along the southern boundary of the Lower Counties, as well as along the east-west line on the west side of the Susquehanna River. As it turned out, the proprietors did not pursue negotiations, allowing

formal litigation to remain the primary disputing mechanism.

When the Lord Chancellor found in favour of the Penns in 1750, the Calvert family simply continued to use the tactic that they had used so successfully since 1735 - avoidance. The death of Lord Baltimore before the Calverts had complied with Hardwicke's order permitted his son's guardians to petition for further delays until Frederick could assume his full responsibilities. This was then followed by Frederick's successful claim that the 1732 agreement had been binding only on his father. With the efforts to reach an adjudicated resolution stalemated, the proprietors again began to negotiate. For reasons that seemed inexplicable to his uncle, Frederick quickly arrived at an arrangement by which the 1732 agreement would be the basis of a settlement if the Penns agreed to accept their share of the costs of the Chancery suit. Richard and Thomas Penn approved this bargain and a final agreement was signed in 1760.

Of critical importance for the resolution was the death of Charles Calvert, Lord Baltimore. A principal actor in the conflict for over twenty-five years, he became trapped by his roles as a proprietor and courtier in a dispute which as an individual and large

landowner he would have preferred to resolve. A wealthy man, with an annual return from his province in excess of £10,000, his income depended upon the continued deference of his provincial hierarchy to his authority. The agreement of 1732 with the Penns had been a major blow to his prestige, one which he would spend the rest of his life trying to overcome. Many of his provincial officials clearly demanded and expected a more aggressive expansion to the north and west. To secure their continued support and to restore his tarnished reputation, he found himself forced into a non-negotiable position on the 1732 agreement. While the 1738 Temporary Line points to his willingness to negotiate an agreement which would approximate the 1732 arrangement, he could not accept the Penns' insistence upon using it as the formal point of reference for later arbitration or negotiation. At the same time, the Temporary Agreement did secure a more stable northern frontier which, in turn, helped Maryland officials responsible for the sale of land and the collection of quitrents. If Baltimore's role as proprietor restricted his range of options, his status as courtier in the household of the Prince of Wales placed further limits on his options. The court wits were well aware of Baltimore's pretensions. To compound this with evidence of having been duped by

commoners must have been extremely embarrassing. The playwrights of the 18th Century made short shrift of cuckolds, of those who proved too gullible or who fell prey to the shrewd. As a member of the Court, Baltimore would have been well aware of the rumours that might have circulated about his apparent victimization by the shrewd Penn brothers.

Given these perceptual limits, Baltimore was faced by a serious obstacle when the Penns demanded compliance with the agreement. After Baltimore had tried to use his Court interest to gain a favourable decision at the Board of Trade, he learned that the Penns' Quaker interest was a force that could neutralize his influence. Therefore, Baltimore resorted to two interrelated tactics. On the home front, he effectively used his parliamentary privilege and any other tactics available to delay the proceedings of the Chancery suit begun by the Penns. At the same time, he condoned the aggressive and expansionary policy of his provincial officials. As will be seen, the activities of the Maryland government precipitated the border crisis which culminated in the 1737 Order-in-Council and the later Order of 1738 imposing the Temporary Line. In the end, the tactics of delay suggest that Baltimore was trying to avoid the

Penns and the 1732 Agreement, while placating an increasingly self-conscious provincial elite. Avoidance is fundamentally a defensive method which betrays either inherent weakness or the recognition that greater advantage may come from the lack of a resolution. It presupposes the inability to resolve the conflict in any other fashion. Baltimore apparently assumed that the conflict would either eventually disappear or the political wheel of fortune would come to rest at a particularly favourable place. The tactic worked, but not in the way Baltimore expected. After his death and his son's success in avoiding the strictures of the Chancery decision, the negotiations ultimately reinstated the 1732 Agreement as the final settlement.

The collapse of the Agreement of 1732 prompted the Penns and Baltimore to consider different ways to deal with the renewal of conflict. Angry over the failure of the settlement and despondent over the family prospects, John and Richard Penn wanted to sell their interest in Pennsylvania. On the other hand, Thomas Penn believed the colony would begin to generate revenue if the Penns conducted proprietary affairs in a businesslike fashion. Unfortunately, Thomas Penn did

not couple this belief with a firm, commanding presence. Although Thomas Penn was in the colony during these climactic years, he did not exploit this opportunity to assume leadership. He advocated a cautious, legalistic approach to the border unrest and was very reluctant to make an appearance in the disputed region.

Lacking the political and economic resources of their proprietary opponent, the Penn brothers had to resort to a Chancery suit in 1735 to avoid a Whitehall adjudication favourable to Baltimore and to force the Maryland proprietor's compliance with the terms of the Agreement of 1732. Their predicament is well illustrated by their efforts to secure a strong political interest at home. They were forced to appeal to the Quakers in Pennsylvania and the Lower Counties for letters to the London Meeting of Friends in order to secure the active support of the powerful Quaker lobby. With the capable Fernando John Paris, the London Quakers offset Baltimore's interest at the Board of Trade. The Penn brothers had to choose between a long and costly Chancery suit or an admission that the Agreement was void. If they chose the latter course of action, then a political solution would be required and Baltimore would have the initiative. In the

circumstances, the Chancery suit was understandable, but also underscored the weakness of the Penns' position.

As a favourite of the Prince of Wales and with strong support on the Board of Trade, Baltimore was more interested in a political solution to the dispute. When his efforts to overturn the Order of 1685 and prevent the approbation of Pennsylvania's Governor Thomas were thwarted, Baltimore was willing to wait for the political wheel of fortune to take a favourable turn. If the Prince of Wales had become king, then Baltimore's interest would have reached to the pinnacle of power, just as William Penn's interest had peaked fifty years earlier with the accession of James II. The irony of the circumstances probably went unnoticed by the participants and in any event, Baltimore's political wheel of fortune failed to turn. During the 1730s, his interest had more potential than actual power. Nevertheless, the timing and wording of the Order of 1737 proved that Baltimore could indirectly influence Whitehall. By portraying Pennsylvanians as aggressors in the capture of Cressop, this Order to quiet the border was a disaster for the Penns. To provincial Pennsylvanians, the Penns had not only

failed to counter the claims of the Marylanders, but had paralyzed provincial affairs as well.

During his brief visit to Maryland, Baltimore accepted the Maryland elite's interpretation of the agreement and with his departure, he delegated the responsibility for expanding and securing Maryland authority to Samuel Ogle. When Baltimore left Maryland, it was clear that compliance with the Agreement was impossible if he hoped to retain his honour in the eyes of the Maryland provincial elite. By 1738, Baltimore and the Penns. accepted under duress a temporary boundary similar to the line proposed in the Agreement of 1732. Yet, the proprietors could not bring themselves to settle their differences by building upon these temporary arrangements. The Penns insisted upon compliance with the original agreement, while Baltimore adamantly refused to acknowledge the legitimacy of the 1732 settlement. The temporary line satisfied the royal demand to quiet the border region, it satisfied provincial leaders on both sides of the border, and lastly, it satisfied proprietary honour.

With the Orders-in-Council of 1737 and 1738, royal intervention in the boundary dispute successfully brought the border unrest to an end. Although the local borderers, provincial leaders and proprietors had

their priorities in the conflict, these royal edicts mattered. British America in the 1730s may have been experiencing the dynamism associated with an expanding frontier and an emerging provincial leadership, but in this instance, imperial intervention was not only invited, it was successful.

Notes - CHAPTER 4

1. J. Penn to T. Penn, 23 April 1733, Thomas Penn Letterbook (hereinafter TPL), I, 81-82.
2. J. Penn to T. Penn, 1 October 1732, TPL, I, 63-64. As this deal received no further mention; one can only assume that the selling price prompted the buyer to seek land elsewhere. In particular, the Penns faced stiff competition and possible encroachment from Virginia where one Jacob the Switzer received a large grant very close to the projected border of the Quaker colony. In the same letter, John urged Thomas to run the east-west line as far as possible to avoid further encroachment.
3. J. Penn to T. Penn, 28 January 1732/33, PP, Penn Family 1732-1767, 4 and 6. For an early allusion to possible complications, see J. Logan to J. Penn, 10 November 1732, JLLB, 1731-32, 89.
4. ibid. See also J. Penn to J. Logan, 28 January 1732/33, PP(JL), 2, 30 and J. Penn to P. Gordon, 28 January 1732/33, TPL, I, 73 for similar comments.
5. Paris to T. Penn, 29 January 1732/33, PP, Penn Family 1732-1767, 7.
6. J. Penn to J. Logan, 28 January 1732/33.
7. J. Penn to T. Penn, 28 January 1732/33.
8. J. Penn to T. Penn, 23 April 1733.
9. J. and R. Penn to T. Penn, 20 May 1732, TPL, 54-56. See also J. Penn to T. Penn, 20 July 1732, TPL, 56-59 for a further indication of the Penns' optimism about the expected financial returns from Pennsylvania.
10. T. Penn to S. Ogle, 19 August 1732, PP, Penn vs Baltimore, II, 2. Hereinafter cited as PVB.
11. Transcriptions of the relevant minutes of the Maryland and Pennsylvania commissioners and numerous depositions by the participants may be found in The Breviate, PA, 2nd Ser., 16. The relevant minutes may be found on 165-173 and 462-467. These meetings will be discussed in detail when the provincial perspective is examined in Chapter 6.

12. "The Defendant's Answer," 15 June 1737, ibid., 133-134. See also the deposition of Samuel Ogle, ibid., 773.

13. As noted in Chapter 3, Philomen Lloyd had pleaded with his proprietor to take a more aggressive stance. For further reference to Lloyd's concerns as well as those of Benedict Leonard Calvert, see Ogle to Baltimore, 10 January 1731/32, CP, Correspondence to Lords Baltimore. See also Lloyd to Baltimore, 15 August 1732, ibid., for a final summary of Lloyd's objections.

14. ibid.

15. [D. Dulany] to Cecilius Calvert, 26 December 1752, Letterbook of Daniel Dulany, 1752-53, DB. For Baltimore's normal attention to detail see Aubrey C. Land, Colonial Maryland, a History (New York, 1981), 146.

16. These incidents will be analyzed in the following chapter.

17. Baltimore to Gordon, 15 December 1732, Penn Manuscripts, Pennsylvania Miscellaneous Papers, Penn and Baltimore, Penn Family, vol 2 (1729-1735), 105. For the growing harshness of Baltimore's responses see Baltimore to Gordon, 24 January 1732/33, ibid., 115; and Baltimore to Gordon, 15 February 1732/33, ibid., 121.

18. Gordon to Baltimore, 28 March 1733, ibid., 127-129.

19. Baltimore to Gordon, 3 April 1733, ibid., 129.

20. T. Penn to Baltimore, 7 January 1732/33, PVB, II, 5.

21. Baltimore to T. Penn, 24 January 1732/33.

22. Land, Colonial Maryland, 149 and 155-56.

23. ibid., 147-48. See also Barker, Background, 134-35; and Bond, Quit-Rent System, 188-90 and 197-98.

24. For the reorganization of the quitrent system, see Land, Colonial Maryland, 152-153 and Bond, Quit-Rent System, 186-187. Charles Albro Barker argues that this was the primary reason for Baltimore's journey to Maryland and that from the 1730s through to the

revolution, it was the most effective system in North America. Barker, Background, 135 ff.

25. The following table of Baltimore's gross and net income is derived from Barker, Background, 143-44.

CALVERT'S ANNUAL PROPRIETARY INCOME

YEAR	GROSS INCOME (STIRLING)	NET INCOME (STIRLING)	COSTS AS % OF GROSS INCOME
1731	6620	5055	24%
1733	8091	5969	26%
1748	11,652	9880	15%
1754	16,440	14,960	9%
1760	17,422	14,828	15%

Beverley W. Bond notes that the Penns did not begin to keep a general quitrent roll until 1757. He also points out that they were never able to collect rents effectively in the Lower Counties. Using as his source the sworn statement of Edmund Physick (1779), Bond notes that in 1733 the Penns' annual nominal quitrent income was just over £567, while in 1762 it had risen to almost £3500. Physick estimated in 1779 that the total quitrent due the Penns for the years 1700 to 1779 was close to \$182,250 of which only \$63,580 had been paid. A return rate of just over 34% on quitrent revenues does not compare favourably with Baltimore's net revenue. If the management of the quitrent system is a reasonable measurement of proprietary success, the Calverts were far more successful than the Penns. Not only did the Maryland system provide a steady source of income for the Calvert family, it also provided the proprietary revenue officials with a substantial complement to their income. Bond, Quit-Rent System, 157-58, 161, 169-72, 188ff. For the allocation of portions of the Maryland revenue to provincial officials, see Owings, His Lordship's Patronage, 74ff.

26. Proclamation of the Land Proprietary Baltimore, 2 March 1732/33, AM, XXVIII, 25-26.

27. See John, Lord Hervey, Some Material Towards Memoirs of the Reign of King George II Romney Sedgwick, III, edited by Romney Sedgwick (New York, 1970). Hervey's description of Baltimore in 1737 is scathing. "[T]here is my Lord Baltimore, who thinks he understands everything, who wants to be well with both courts, and is well at neither end, entre nous, is a

little mad." (817). Horace Walpole described Baltimore as "a very good natured man, but unhappy in his English, he always used patriarchs for patriots, area for era, idioms for ideas, etc." See Walpole's explanatory note for his poem 'Patapan', in W. S. Lewis (ed.), The Yale Edition of Horace Walpole's Correspondence, Vol. 30 (New Haven, 1961), 304n.

28. See, for example, John Penn to James Logan, 28 January 1732/33, Penn Papers, Penn Family to J. Logan, vol 2, 30; J. Penn to T. Penn, 23 April 1733, TPL, I, 82-82; J. Penn to T. Penn, 17 July 1733, TPL, I, 83; J. Penn to Colonel Gordon, July 20 1733, TPL, I, 93-94 and R. Penn to T. Penn, 31 August 1733, Gratz Collection, Case 2, Box 33.

29. Logan to Paris, 20 May 1733, JLL 1732-34, 29-30, 33-34. See also Logan to Paris, 12 July 1733, ibid., 36-38; and John Georges to Thomas Penn, 28 January 1732/33, PwB, II, 5.

30. See note 17.

31. Proclamation of the Lord Proprietary Baltimore, 14 December 1732, AM, 28, 21-22.

32. Proclamation of the Lord Proprietary Baltimore, 9 March 1732/33, ibid., 22-23.

33. Order of the Right Honourable the Lord Proprietor, 21 March 1732/33, PA, 2nd ser., 16, 478.

34. This inference is drawn from Ogle to Baltimore, 25 August 1733, CP, Correspondence to the Lords Baltimore.

35. The Penns were convinced that this was the case and they were probably correct. See The Breviate, PA, 2nd Ser., 16, 57.

36. Logan to Paris, 30 May 1733, JLLB (1732-34), 29-30 and 33-34.

37. Logan to T. Penn, 20 May 1733, PA, 2nd ser., 7, 152. Logan was quoting a comment ascribed to Samuel Chew, a former Marylander who was then residing in Philadelphia, but who retained many contacts with Annapolis.

38. ibid.

39. J. Penn to T. Penn, 17 July 1733.

40. See the Minutes of the Maryland Commissioners, 3 April 1733, PA, 2nd ser., 16, 178-183. For J. Penn's reaction, see J. Penn to Isaac Morris, 22 January 1733/34, TPL, I, 109-110. Given the wording of the agreement, the Maryland interpretation is difficult to justify.

41. Logan to Paris, 30 May 1733.

42. J. Penn to T. Penn, 28 January 1732/33.

43. See J. Penn to T. Penn, 4 March 1733/34, PP, Penn Family Correspondence, 1732-1767, 21 and J. Penn to T. Penn, 12 May 1734, TPL, I, 118. The last letter was not sent since John Penn elected to journey to Pennsylvania.

44. Blunston to T. Penn, 2 June 1733, LCP, 1.

45. T. Penn to Blunston, 7 June 1733, Penn Manuscripts Unbound. Hereinafter cited as PP(Unb).

46. T. Penn to Blunston, 7 July 1733 (#1), PP(Unb).

47. T. Penn to Blunston, 7 July 1733 (#2), PP(Unb).

48. T. Penn to Blunston, 1 August 1733, PP(Unb).

49. ibid.

50. See T. Penn to Blunston, 7 July 1733 (#2)

51. See Blunston to T. Penn, 22 June 1733, LCP, 1.,

52. T. Penn to Blunston, 10 January 1733/34, PP(Unb).

53. For a complete compilation of these licenses see George P. Donehoo (ed.), A History of the Cumberland Valley in Pennsylvania (Harrisburg, 1930), Vol I, 39-72.

54. J. Penn to T. Penn, 17 July 1733 (3 August postscript), PP, Penn Family, 1732-1767, 14. This letter was dated 7 July in TPLB, I, 83.

55. ibid.

56. R. Penn to T. Penn, 31 August 1733, Gratz Collection, Case 2, Box 39.

57. J. Penn to T. Penn, 17 July 1733.

58. ibid., 3 August postscript.
59. J. Penn to T. Penn, 28 September 1733, PP, Family Correspondence 1732-1767, 16.
60. For references to Gurney's role, see J. Penn to Gordon, 22 January 1733/34, TPL, I, 111; J. Penn to T. Penn, 24 January 1733/34, PP, Family Correspondence 1732-1767, 20; Paris to T. Penn, 28 January 1733/34, PP, Penn-Bailey Collection.
61. Fernando John Paris dealt extensively with the experience the Quakers could bring to bear on the Ministry. See Paris to J. Penn, 7 November 1734, quoted in Wolff 61-63; and _____ to _____, 28 January 1733/34.
62. J. Penn to T. Penn, 24 January 1733/34.
63. Paris to T. Penn, 28 January 1733/34.. See also 4 February postscript to J. Penn to T. Penn, 24 January 1733/34.
64. J. Penn to T. Penn, 24 January 1733/34, 4 February postscript. For a similar recommendation from the Solicitor General, see J. Penn to T. Penn, 4 March 1733/34.
65. ibid.
66. Paris to T. Penn, 28 January 1733/34.
67. J. Penn to T. Penn, 4 March 1733/34.
68. ibid. Given Logan's many letters on the subject, one can safely assume that Penn is criticizing the provincial secretary.
69. J. Penn to T. Penn, 12 May 1734. For a discussion of how the Penns' revenue returns compared with those of Baltimore, see note 25.
70. J. Penn to T. Penn, 17 December 1733, PP, Family Correspondence 1732-1767, 7. See also J. Penn to Isaac Morris, 22 January 1733/34, TPL, I, 109-110.
71. R. Penn to T. Penn, 31 August 1733.
72. Paris to T. Penn, 20 July 1733, PP, Pennsylvania Miscellaneous Papers, Penn & Baltimore 1725-1739, 131.

73. J. Penn to T. Penn, [?] 1734, TPL, I, 123.
74. Paris to T. Penn, 27 February 1733/34, PP, Family Correspondence 1732-1767, 11.
75. John B. Owen, The Rise of the Pelhams (New York 1957, reprinted 1971), 321 and 79-80 (quotation).
76. Paris to T. Penn, 27 February 1733/34.
77. ibid.; J. Penn to T. Penn, 4 March 1733/34.
78. Petition of Charles, Lord Baltimore, 8 August 1734, PA, 2nd Ser., 16, 483-485.
79. The Breviate, ibid., 67, 150-151. For a detailed analysis of Paris' role, see Wolff, 61 ff.
80. Additional Instructions to Samuel Ogle, Esq., 10 August 1734, CP, Correspondence from the Lords Baltimore.
81. Order-in-Council, 8 August 1734, Board of Trade Papers (Proprieties) 1697-1776, 13 (1730-37), S43. Hereinafter cited as BTP.
82. Bladen's son, Thomas, was Lord Baltimore's brother-in-law. Both had married daughters of Sir Theodore Jansen. See Edward C. Papenfuss et al (ed.) A Biographical Dictionary of the Maryland Legislature, 1635-1789 (Baltimore, 1979), 135-136. For a brief analysis of Bladen's importance within the Whitehall bureaucracy, see Henretta, Salutary Neglect, 95 ff.
83. Paris to T. Penn, 7 November 1734, quoted in Wolff, 62.
83. Journal of the Commissioners for Trade and Plantations (London, 1920-28), vol. 6, 1729-34, 413.
84. Paris to J. Penn, 7 November 1734, quoted in Wolff, 62.
85. Paris to J. Penn, 28 January 1734/35, PP, Pennsylvania Miscellaneous Papers, Penn & Baltimore 1724-1739, 135.
86. For the petition and the Order-in-Council referring it to the Committee on Trade and Plantations, see PA, 2nd Ser., 16, 486-491.

87. Paris to J. Penn, 28 January 1734/35.
88. ibid.
89. ibid.
90. ibid.
91. Report from the Lords of Trade to the King, January 16 1734/35, PA, 2nd ser., 16, 492, 494.
92. For the decline of the Board of Trade, see Henretta, Salutary Neglect, 23 ff. (quotation from 27)
93. I. K. Steele, Politics of Colonial Policy, the Board of Trade in Colonial Administration, 1696-1720 (Oxford, 1968), 172.
94. Alison G. Olson, "The Board of Trade and London-American Interest Groups in the Eighteenth Century," The Journal of Imperial and Commonwealth History, VIII(1980), 33-50.
95. Paris to J. Penn, 28 January, 1734/35.
96. ibid.
97. J. Penn to the Earl of Islay, 9 March 1734/35, TPL, I, 125. See also J. Penn to the Duke of Newcastle, 9 March 1734/35, CSP (Col.), XLI (1734/35), 390. For an indication that similar letters were written to Wilmington and Sir Charles Wager, see TPL, I, 127.
98. J. & T. Penn to R. Penn, 10 March 1734/35, TPL, I, 127-29.
99. ibid.
100. Report from the Committee of Council, 10 May 1735, PA, 2nd ser., 16, 495-96.
101. For a complete transcription of the Bill which was filed in Chancery on 21 June 1735, see ibid., 1-83.
102. R. J. Walker & M. G. Walker, The English Legal System, 3rd ed. (London, 1972), p. 32. This paragraph and the next borrow heavily from Chapter 2 of this work.
103. The Breviate, 83.

104. J. Penn to Logan, 4 February 1735/36, TPL, 1, 140-141. Logan's opinions on the Chancery Bill had already been sought. See Jt Penn to Logan, 24 September 1735, PP(JL), 2, 32. For an additional reference to the Baltimore objections, see J. & R. Penn to T. Penn, 5 February 1735/36, TPL, 1, 130-36.

105. J. Penn to T. Penn, 4 February 1735/36, TPL, 1, 136-40.

106. J. & R. Penn to T. Penn, 5 February 1735/36.

107. ibid.

108. J. Penn to T. Penn, 4 February, 1735/36.

109. For the withdrawal of the offer to purchase, see J. Penn to S. Penn, 18 March 1735/36, TPL, 1, 145-147. The problems relating to the value of their interest may be found in J. Penn to T. Penn, 31 May 1736, TPL, 1, 148-153. Apparently, John Penn thought that after their cousin died without a male heir, the entire province would automatically be vested in the three brothers. However, he was informed that, after the male issue of the brothers, the province once again was vested in their cousin's general heirs. Thus, the interest could never be sold.

110. J. & R. Penn to T. Penn, 31 May 1736, TPL, 1, 154-57.

111. J. Penn to T. Penn, 20 July 1736, TPL, 1, 158-61.

112. J. & R. Penn to T. Penn, 31 May 1736.

113. J. Penn to T. Penn, 20 July 1736.

114. J. Penn to T. Penn, 3 August 1736, TPL, 1, 164-167.

115. T. Penn to J. Penn, 10 September 1736, PP, Penn Family, 1732-1767.

116. T. Penn to J. Penn, 24 November, 1736, PP, Penn Family, 1732-1767; 27.

117. These events are discussed in detail from a local perspective in Chapter 5 and from a provincial perspective in Chapter 6.

118. J. Logan to Paris, 28 November 1736, JLL, 1726-1743.

119. J. & R. Penn to T. Penn, 17 February 1736/37, TPL, I, 181-187. See also J. Penn to Andrew Hamilton, 17 February 1736/37, TPL, I, 190-192 and J. Penn to Logan, 17 February 1736/37, TPL, I, 188-190.

120. ibid. See also J. Penn to J. Logan, 12 March 1736/37, PP(JL), 2, 35.

121. T. Penn to Paris, 12 February 1736/37, PP, Pennsylvania Miscellaneous Papers, Penn & Baltimore 1725-1739, 165.

122. ibid. Thomas Penn committed himself and his government to defend the German settlers "as far as it is possible". He informed Samuel Blunston, that he would "provide for all Expences which may arise on such a Defence". T. Penn to [Blunston], 20 January 1736/37, PP(Unb). Please note that this letter has been filed under the date, 20 January 1735/36, but the content of the letter clearly points to the date cited above.

123. For the text of this petition, see PA, Ser. 4, I, 589-596.

124. W. L. Grant and James Munro (eds.), Acts of the Privy Council of England, Colonial Series, III (1972-1745), 336-337.

125. Baltimore's Answer to the Addresses of the Upper & Lower Houses of Assembly, 10 January 1736/37, CP, Correspondence from the Lords Baltimore.

126. For the petition to have Thomas confirmed, the declaration on the Lower Counties and the submission of sureties, see BTP, 13 (1730-1737), 382-384.

127. *Memorial of Charles, Lord Baltimore, 19 April 1937, BTP, 13 (1730-37), 385.

128. BTP, 13 (1730-1737), 386-393. The annexed documents included: A relation of the Case of Thomas Cresap of Baltimore County; Governor Ogle to the Pennsylvania Council, 1 December 1736; Meml of E. Jennings & D. Dulany to the President & Council of Pennsylvania, (7) December 1736; J. Logan to D. Dulany & E. Jennings, 10 December 1736; A list of those persons involved in the burning of Cresap's house and in the murder of Loughlin Malone; Minutes of the

Supreme Court of Pennsylvania. See also, Grant and Munro, Acts of Privy Council, III, 338.

129. Penn to J. Logan, 12 March 1736/37, PP(JL), 2, 35.

130. See ibid. for Penn's concern about the lack of a petition from the Pennsylvania Quakers. See also J. Penn to Friends for the Meeting of Sufferings, 18 March 1736/37, TPL, I, 194-196 and J. Penn to Logan, 22 May 1737, TPL, I, 200-201. Although the London Meeting did help the Penns, they did not consider the troubles of the Quakers in the Lower Counties and Maryland serious enough to mention in their epistles to the quarterly and monthly meeting throughout the British provinces. See Epistles from the Yearly Meeting of Friends, Held in London, to the Quarterly and Monthly Meetings in great Britain, Ireland and Elsewhere from 1681 to 1857 Inclusive (London, 1858), Vol. I.

131. J. Penn to Logan, 22 May 1737.

132. J. Penn to T. Penn, 4 June 1737, TPL, I, 203.

133. ibid.

134. J. & R. Penn to T. Penn, 25 May 1737, TPL, I, 198-200. For the address of the Assembly and Council of Maryland to Lord Baltimore which was received by the Board in February but not read until June 8, 1737, see BTP, 13 (1730-1737), S93.

135. J. Penn to T. Penn, 10 August 1737, TPL, I, 212-216 especially 212.

136. For a discussion of this implication, see J. Penn to T. Penn, 6 September 1737, TPL, I, 220-21.

137. J. Penn to T. Penn, 29 August 1737, TPL, I, 218-19.

138. For the reference to Paris, see J. Penn to T. Penn, 6 September 1737, TPL, I, 220-221.

139. The Order-in-Council of 18 August may be found in CP, Correspondence from the Lords Baltimore and in BTP, 14, T1. See also AM, 28, 130-31.

140. J. Penn to T. Penn, 6 September 1737.

141. J. Penn to T. Penn, 29 August and 6 September 1737; J. Penn to Logan, 6 September 1737, TPL, I, 221-221 1/2.
142. J. Penn to T. Penn, 17 December 1737, TPL, I, 223-224.
143. J. Penn to T. Penn, 18 October 1737, TPL, I, 221 1/2-222 1/2.
144. J. & R. Penn to T. Penn, 30 January 1737/38, TPL, I, 227-230.
145. See J. Penn to T. Penn, 18 October and 17 December 1737.
146. Order of Council, 5 February 1737/38, BTP, 14, T5.
147. J. Penn to Alexander Hamilton, 7 February 1737/38, TPL, I, 241-242 and J. Penn to T. Penn, 8 February 1737/38, TPL, I, 242-243.
148. J. & R. Penn to T. Penn, 25 February 1737/38, TPL, I, 245-46.
149. References to Baltimore's proposals may be found in J. Penn to T. Penn, 9 March 1737/38, TPL, I, 247-248; J. Penn to T. Penn, 17 April 1738, TPL, I, 253-254.
150. See J. Penn to Peter Collenson, 30 April 1738, TPL, I, 254-55; J. Penn to S. Penn, 1 May 1738, TPL, I, 255-56; J. Penn to J. Logan, 5 May 1738, PP(JL), 2, 39; J. Penn to S. Penn, 23 May 1738, TPL, I, 259-260; J. Penn to Peter Collenson, 29 June 1738, TPL, I, 264-65; J. Penn to T. Penn, 23 July 1738, TPL, I, 265; J. Penn to T. Penn, 27 August 1738, TPL, I, 266; J. Penn to T. Penn, 14 February 1738/39, TPL, I, 282-286; and J. Penn to Alexander Hamilton, 4 April 1739, TPL, I, 290.
151. J. Penn to T. Penn, 18 March 1737/38.
152. ibid.
153. J. Penn to T. Penn to J. Penn, 27 August 1738.
154. T. Penn to R. Penn, 11 June 1738.
155. For this agreement, see "Agreement of Ld Baltimore & Messrs Penn presented to the Council," 4 May 1738, CP, Correspondence from the Lords Baltimore. For the

report of the Committee for Plantation Affairs, see Acts of the Privy Council (Colonial), III, 1720-1745, 340-341.

156. J. Penn to T. Penn, 17 April 1738. The day before John Penn had argued that the Penns should demand as far south on the east side as Baltimore demanded north on the west side of the Susquehanna. Still, as late as 1 May, John believed Baltimore would receive a half mile concession on the west side while the line east of the Susquehanna would remain, as in the 1732 agreement, fifteen miles south of Philadelphia. It was only somewhat later, that John was able to inform his brother that the line was more reasonable than expected. See also J. Penn to T. Penn, 16 April, 1 May and 23 May 1738.

157. J. Penn to T. Penn, 14 February 1738/39.

158. J. Penn to T. Penn, 17 April and 5 May 1738.

159. J. Penn to T. Penn, 16 April 1738.

160. These negotiations are detailed in Chapter 6. For reference to the provincial correspondence and negotiations on this issue, Logan to Ogle, 5 & 22 March 1736/37, 30 April 1737, PA, 4th Ser., 1, 607-637; Ogle to Logan, 11 March 1736/37, CRP, 4, 167-71; to , 29 March 1737, PvB, LI, 189; and Report of S. Preston & J. Kinsey, 14 June 1737, CRP, 4, 210ff.

161. Order-in-Council, 25 May 1738, BT, 14, T7, as well as AM, 28, 145-148.

162. J. Penn to T. Penn, 28 August 1738.

163. J. Penn to T. Penn, 6 January 1738/39.

164. J. Penn to T. Penn, 14 February 1738/39.

165. ibid.

CHAPTER 5

CONFLICT & LEGITIMACY ON THE FRONTIER: A LOCAL PERSPECTIVE, 1732-1738

For much of the 1730s, life in the disputed border region was punctuated by a series of violent acts which, taken together, marked a serious crisis of legitimacy on the frontier. Viewed from Annapolis or Philadelphia, the border unrest was perceived as a threat to provincial authority in the developing hinterland; but how was the conflict perceived by the borderers themselves? Is it possible to discern in depositions, in the related court materials, and in the correspondence of local leaders, a distinct level of conflict, a local dimension to the dispute? If border inhabitants had a different perception of authority than their provincial leaders, if they became involved in the dispute for reasons that differed from their provincial leaders, if they acted independently during these confrontations, then the jurisdictional confusion on the disputed border should serve to highlight these differences. Finally, an analysis of the border incidents may point to ways in which local Marylanders used different tactics than their ~~Pennsylvania~~ neighbours to 'solve' the boundary problem.

It was a long way from the chambers of Whitehall to the one and two room cabins scattered throughout the disputed border region. A very different picture of the conflict emerges when the focus of attention shifts from the high style culture of the English social and political world to the rugged subsistence that was the reality for most of the border dwellers. While the proprietors might bemoan the cost of the legal process or a loss of political interest, it scarcely affected their lifestyle. On the frontier, by contrast, some participants had good reason to fear for their very lives. Acts of violence were not infrequent. The legal system might well attempt to resolve disputes, but within the context of the border strife, it could also easily ruin men like John Hendricks, Knowles Daunt, Edward Murphy or Jacob Loughman.

Although the disputed border region included millions of acres, there were only a few serious flashpoints where settlers from both provinces came into direct confrontation over land claims and the jurisdiction of local magistrates. By the 1730s, Marylanders were moving across the Delaware Peninsula into Kent and Sussex Counties. Another area was just west of Newcastle where the border between Cecil County

and Chester County remained undefined. A third arena of conflict lay west of the Susquehanna River, close to the 40th parallel, on the lands claimed for the Penna in 1721 by Governor Keith. Still further west, settlements with conflicting provincial loyalties were emerging near the Potomac River and between Codorus Creek and Conawaaga Creek. Of these locations, the Susquehanna River region was by far the most volatile.¹

It is difficult to estimate the population of these regions. Apart from the lack of census data at the subregional level, squatters do not appear on tax lists or in the land records.² However, it is possible to infer crude approximations of the scattered population in ascending order of volatility. The inland parts of the Lower Counties and the Maryland counties of Dorchester and Somerset were sparsely populated, but between 1730 and 1734, there was a significant increase in the volume of Maryland land transactions in the area. The following table illustrates this point.

TABLE 5.1

VOLUME OF MARYLAND LAND TRANSACTIONS IN THE LOWER COUNTIES

	Newcastle	Kent	Sussex
Prel 1725	7	22	102
1725-29	-	-	42
1730-34	-	-	109
1735-39	-	-	29
1740-44	-	-	67
1745-49	-	4	122
1750-54	-	1	73
1755-59	-	-	97
1760-64	-	-	91
1765-	-	-	30
Totals	7	27	762

Source: Index to the Land Records, Hall of Records (Annapolis).

The Nottingham Lots, warranted in 1702 under Pennsylvania right, lay on both sides of the proposed boundary between Chester and Cecil Counties as outlined in the Agreement of 1732. The population here was far denser than the inland sections of the Delaware peninsula or the area west of the Susquehanna River. By 1735, approximately hundred and seventy families lived within a few miles of the western shore of the Susquehanna River. Another thirty to forty resided near present Bay Hanover in or near a large tract patented in 1735 by the Marylander, John Digges.

The volume of Maryland land transactions in the southernmost of the Lower Counties indicates that Marylanders residing in Sussex County continued to

conduct their land transactions through Annapolis until the Revolution. Although this business may have involved only that land which had been warranted and surveyed by Maryland officials before 1738, it suggests that many local settlers were unwilling to transfer their provincial affiliation. Since there is little evidence of conflict in this region after the 1730s, it is reasonable to assume most border inhabitants could and did live amicably with neighbours who claimed their land by a different province (see Table 5.1).

The ethnic composition of the borderers varied across the border region. English settlers formed the majority in the Lower Counties, although there were small pockets of Swedes and Welsh. Scotch-Irish and English settlers dominated the Cecil-Chester border, while on both sides of the Susquehanna River, close to the 40th parallel, Germans outnumbered both the English and the Scotch-Irish.⁶ Several incidents point to ethnicity as a significant factor in the conflict. It is noteworthy that the area that had the least incidence of violence was the most homogeneous, while the most volatile was also the most heterogeneous. Both James T. Lemon and Alan Tully have noted the cultural differences between the German and Scotch-Irish immigrants who were flooding into

Lancaster County.⁷ Until 1736, most of the Germans who crossed the Susquehanna River were only too willing to accept Maryland jurisdiction. Land payments were low, surveys were made, and official patents appeared to be forthcoming. By contrast, Lancaster County magistrates had little difficulty in forming posses of Scotch-Irish settlers to impose their authority over the Germans. When some fifty German families decided, in August of 1736, to revoke their earlier affiliation with Maryland, the situation was quickly reversed. In what became known as the Chester County Plot, several Scotch-Irish migrants were persuaded by Maryland officials to leave Chester County and dispossess the Germans west of the Susquehanna River. One local Pennsylvania leader then ruefully noted that he could no longer count upon the Scotch-Irish to provide armed resistance to the Marylanders because they would not fight their countrymen.⁸

The term 'local' belies the fact that significant social stratification existed in the border region. This was particularly evident among the Pennsylvanians involved in the struggle for control of the area west of the Susquehanna River. Samuel Blunston and John Wright were acknowledged to be the leaders of the local Pennsylvanians on both sides of the river. Lancaster

County magistrates, they were also members of the provincial assembly at various times and frequent correspondents with Thomas Penn.⁹ John Emerson, a local ferry owner, was also a successful Philadelphia lawyer and Assemblyman.¹⁰

Each of these men had substantial landholdings in Hempfield Township on the east side of the river opposite to the contested region. Although formal warrants had not been issued, Blunston and Wright also claimed land on the west side of the river.¹¹ John Wright placed his son on land on the west side of the river and the latter quickly became an active participant in the confrontations with the Maryland settlers in the 1730s.¹² The Paterson family, besides claiming land on both sides of the river, was heavily involved in the Indian trade. On the local level, they echoed provincial concerns about the impact of Maryland encroachments on Pennsylvania relations with the Indians.¹³ Edward Smout, who became increasingly enmeshed in the border violence, was another Lancaster County magistrate with large landholdings on the east shore.¹⁴ Clearly local Pennsylvania leaders were removed from the subsistence living that was typical for most of the border inhabitants, regardless of provincial affiliation.

Those who carried out the orders of the Lancaster County leadership and who bore the brunt of the violence, came largely from this latter group. Tenants, servants, and labourers who could not do otherwise, frequently found themselves facing men and women of similar social and economic status and for whom they might have a good deal of sympathy. In the council minutes and depositions of this period, there was not a single reference to the participation of slaves or free blacks in the border conflict. With certain notable exceptions, the people who participated in the various 'riots' on the border were from the social class that members of both provincial elites perceived as 'trash', 'ruffians', and 'rabble'.¹⁵

In marked contrast to the social framework of Lancaster County, there was little to distinguish the leaders of the Maryland settlers in the Codorus Creek area from their followers. Thomas Cresap and his family had encountered frequent economic setbacks before their move up the Susquehanna River.¹⁶ Lured by the prospect of cheap land, Cresap was quick to grasp the broader implications of the Maryland proprietor's policy. Within a couple of years, he was surrounded by his father-in-law and several brothers-in-law, together with their families.¹⁷ This group formed the nucleus

of Maryland support in the disputed area. Yet, despite his frequent visits to Annapolis and the later conferral of a Commission of the Peace upon him, he can hardly be compared to Samuel Blunston and his associates. Whereas the Pennsylvanian commanded respect based upon his status within his local and provincial community, Cresap's leadership rested upon the steadfastness of his kinship network and his willingness to use direct threats of violence to achieve his ends. On the other hand, it would be inaccurate to portray Thomas Cresap as simply an opportunistic bully. There are indications that many settlers on the east side of the river perceived him as a kindred spirit, one who was successfully challenging the authority of the local elite. While he and his followers remained free to act in direct opposition to the recognized Lancaster County authority, Cresap received tacit support from many nominal Pennsylvanians.¹⁸

Most of the local participants in the conflict were primarily farmers or farm labourers. Throughout the depositions on the dispute, there are repeated references to yeomen and servants as well as tradesmen who might fit either of the major categories.¹⁹ Thomas Cresap hired several landless labourers for the express

purpose of forming an armed posse. For £12 per annum and the prospect of free land, former indentured servants were only too willing to risk physical violence. Loughlin Malone had been granted his freedom and the £12 annual salary on his promise to support Cresap against the Pennsylvanians. Unfortunately, whether out of commitment to his obligation or from fear of Thomas Cresap, Malone continued to support Maryland claims until he was killed by the Pennsylvanians who captured Cresap in late 1736.²⁰

The conflict was not, however, limited to male participation. Many depositions attest to the active involvement of women. Hannah Cresap was at least as vehement as her husband, and her sister, Elizabeth Lowe, was considered by Samuel Blunston to be one of the Maryland ringleaders.²¹ There is strong evidence to suggest that it was through the women that the Marylanders had advance knowledge of Pennsylvania plans. For example, John Emerson instigated several unsuccessful attempts to capture Thomas Cresap. Each time the Marylander slipped through his net. After Emerson's death, his wife refused to sign an oath of allegiance to the Penns and publicly proclaimed her support for the same Cresap that her husband had tried so hard to capture. She was later implicated in an

attempt by one of Cresap's followers to kill John Ross, who had replaced Emerson as the leader of the Pennsylvania militants.²² Hannah Cresap was Mrs. Emerson's friend and primary contact among the Marylanders.

A further illustration may be found in the family of John Hendricks. One of the first Pennsylvanians to be arrested by Cresap, Hendricks was eventually fined by the Provincial Court of Maryland for his resistance to that province's pretensions. Although he continued to espouse the Pennsylvania cause in public, it appears that he began to have second thoughts. It was probably not coincidental that these second thoughts became outspoken concerns when Samuel Blunston and John Wright were trying to acquire his land at what he considered to be an unfair price.²³ The Lancaster County magistrates were convinced that Hendricks' wife was behind his apparent swing to the Maryland side. Again, it was Hannah Cresap who was on good personal terms with Mrs. Hendricks. Eventually, John Hendricks paid the price for his flirtation with the Marylanders when he was arrested by the Pennsylvanians.²⁴ Throughout the conflict, women could move about with relative impunity and their influence on the course of events was considerable. Although Pennsylvania accounts of

the Maryland women must be treated with caution, their collective description leaves little doubt that they were perceived to be prime instigators in the conflict.

If women played a significant role in the border drama, so too did the children. For the sons of James Paterson, John Wright and John Lowe, the potential loss of the lands west of the Susquehanna River was a direct threat. In the mid-1730s, John Wright Jr. had settled on land his father had purchased on the west side of the river and both he and James Paterson Jr., whose father was involved in the Indian trade, perceived the influx of "homeny" claimants in a similar light. Daniel and William Lowe actively supported the aggressive tactics of their father and their uncle, Thomas Cresap. These young men seemed to enjoy baiting each other at every opportunity. In a sense, the border conflict provided them with an opportunity to prove their manhood and to shape their own destiny.²⁵

The courts continued to function regularly, despite the fact that the guardians and agents of legitimacy encountered a good deal of opposition. The Lancaster County Court Quarter Sessions met throughout the 1730s as did its counterpart in Chester County. Both the Baltimore and Cecil County courts also remained active.²⁶ It was not the lack of arenas

for formal dispute resolution that made the imposition of formal authority such a thorny problem; instead, it was the jurisdictional conflict between the legal authorities of the two provinces that precipitated the recourse to open violence. James Logan summed up the dilemma best when he noted that the Marylanders west of the Susquehanna River would prove more difficult than regular squatters: "We know not how to make war with them," but he continued, "[it was] intolerable to be thus insulted" by the encroachments.²⁷ Logan saw no problem in the harsh treatment normally accorded squatters because the legitimacy of the Pennsylvania action was uncontested. But with the Marylanders, the situation was complicated by their ability to call upon another jurisdiction for protection.

Wherever the authority of the two provinces appeared to overlap, the shrewd local settler stood to gain, although the risks were high. If he could avoid being drawn directly into conflict and was willing to do so with less security, he could take advantage of cheap land prices and the postponement of quitrent payments. There was a strong incentive simply to take possession of land without warrant. Both provinces soon accepted the inevitable and permitted people to settle in the disputed region without a formal title,

and with little or no payment. For those who believed they were being poorly treated by the province, the option of changing provincial loyalty must have been tempting. At the very least, it gave some settlers an opportunity to bargain even if the lack of security did lead other inhabitants to abandon the region. For example, Thomas Reid was permitted to relocate his settlement as he had been the object of much abuse from his Maryland neighbours "near ye borders at his first settlement."²⁸ It was assumed by Samuel Blunston that many of the poorer settlers of Lancaster County would move within a few years.²⁹ The presence of a long disputed border acted as an incentive for those who either had enough assets to gamble on the result or who had so little that the prospect of avoiding expensive payments proved to be particularly attractive. Whatever the motivation, the influx of migrants into the disputed border areas placed a significant strain on the legal process.

Anthropologists and sociologists interested in the social dynamics of law generally agree there is a 'direction' to the behaviour of law.³⁰ In particular, Donald Black has emphasized that this direction incorporates two vectors. The first moves from the top of the societal structure downward and the second moves

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from the centre to the periphery.³¹ Within the context of the boundary dispute, formal law based on a hierarchical conception of society, moved downward from the Crown to the proprietors, then through the providicial elite to the local inhabitants and emanated outward from London to Philadelphia and Annapolis and from these provincial capitals to their hinterlands. Given this directional aspect of legitimacy, it could be argued that local magistrates and sheriffs were merely agents of the provincial elites. However, this would be an oversimplification. Most of these men lived in the local environment and while they might have access to the provincial seats of power, their behaviour was largely defined by the local character of a dispute. Although sensitive to the authority emanating from the provincial capitals, magistrates were also community leaders and the jurisdictional conflict can be linked to their exercise of day-to-day informal authority.

There has been a good deal of recent research devoted to the local community as an alternate source of authority. It was precisely this latent ability of the local communities to provide their own basis of legitimacy that permitted border inhabitants to develop their own perspective on the boundary dispute.³²

Still, it is reasonable to associate the activities of the various courts with efforts to extend provincial authority; many of the cases involving border unrest were heard before either the Maryland Provincial Court or the Pennsylvania Supreme Court and when the cases were handled at the county level, there was still a good deal of input from the provincial level.³³ From 1734 to 1738, over forty border dwellers were forced to appear before a formal court on charges directly stemming from the boundary dispute. Over two hundred local men and women were specifically named in depositions, court minutes, Council minutes or correspondence as being either directly or indirectly involved in the dispute from 1730 to 1738.³⁴ Those who had the misfortune of being seized on warrants from either Pennsylvania or Maryland became pawns in an interprovincial game of power politics in which the stakes were high and the interests of the local inhabitant were frequently sacrificed for strategic advantage.

In June of 1732, Charles Carroll and John Ross journeyed up the west side of the Susquehanna River to an area a few miles south of Codorus Creek and very close to the 40th parallel.³⁸ They intended to locate a warrant for 10,000 acres issued by the Maryland Land

Office. What these two members of the Maryland gentry saw when they arrived was a sparsely settled, fertile region particularly suited to wheat farming. They chose to stay at the house of one John Hendricks, who called himself a Pennsylvanian, but whose loyalties were mixed and who would, at various times, manage to alienate both Marylanders and Pennsylvanians alike in the growing border conflict. Not far to the north of his plantation lay the Yarn of Joshua Minshall, the only other outspoken Pennsylvanian west of the Susquehanna River. Just south of the Hendricks settlement, Carroll and Ross had to pass the rough hewn cabins of several recent arrivals from Maryland. Led by a brash and defiant Thomas Cresap, this latter group was quickly becoming the focal point of the border dispute. Unlike the many squatters that Carroll and Ross may have observed in the area, Cresap and his fellow migrants held formal patents for their lands and were openly defying the Lancaster County inhabitants across the river who refused to recognise the Maryland land claims.³⁶ If they took the time to ask Hendricks, the two travellers might have also discovered that John Wright, a Lancaster County magistrate, was planting crops on the west side of the river. They might also have learned of the growing feud between Cresap's followers and James Paterson, a

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Lancaster County resident who lived on the eastern shore of the river. A licensed Indian trader, Paterson owned several horses which were allowed to roam free on the west side. That these animals would frequently trample the crops of the Marylanders seemed of little consequence to Paterson since he perceived them as squatters. Cresap and his family responded by regularly killing as many of Paterson's horses as they could find.³⁷

While news of the proprietors' agreement was making its way across the Atlantic and astute provincial gentry were beginning to look to the hinterland as an investment, local inhabitants on the Susquehanna had taken to shooting horses and damaging crops. With each ensuing encounter, the level of conflict grew. In the preceding year, a runaway indentured servant had agreed to work with Cresap on the latter's ferry. Cresap threatened to shoot any Pennsylvanian who tried to retake the servant. Convinced that the Marylander's actions in protecting a runaway called for a drastic response, two Pennsylvanians tried to capture him, but their efforts proved fruitless. Not only did Cresap escape, but he made a formal complaint to a Lancaster County magistrate who eventually had to fine the two

offenders.³⁸ To local Pennsylvanians like James Peterson Jr. and John Wright Jr., this must have been especially galling. They were probably aware of the efforts of the Lancaster County magistrates who were seeking permission from Philadelphia to arrest Thomas Cresap.³⁹

By the summer of 1732, German settlers began crossing the Susquehanna River, despite Pennsylvania efforts to prevent the settlement of the west shore until a satisfactory arrangement could be made with the Indians. Although Governor Ogle of Maryland later argued the Germans had not been granted patents during that summer, at least fifty of these families had agreed to claim land under Maryland jurisdiction by 1736.⁴⁰ Eventually, Samuel Blunston, a Lancaster County magistrate, was given permission to counter the Maryland initiative by granting licenses to settlers instead of formal patents.⁴¹ However, by that time, the west side of the Susquehanna River opposite Hempfield Township was largely inhabited by those who accepted Maryland jurisdiction either openly or tacitly.

It is not surprising, in light of these circumstances, that the proposed attempt by Carroll and Ross to locate a 10,000 acre grant in this vicinity was

viewed by Pennsylvanians as a critical threat. The two visitors were soon confronted by ~~armed~~ posse from Lancaster County who ostensibly came with a warrant for one John Tradane, a runaway debtor now claiming to be a Marylander. Clearly, the Pennsylvanians had far more on their minds than the capture of Tradane. The arrest of Tradane was a thinly ~~disguised~~ attempt to incite the 'homeny' gentry. According to Hendricks, if either Ross or Carroll had protested the arrest, they would have been seized. John Wright Jr., son of a Quaker magistrate, taunted the Marylanders with threats to carry them off like common criminals to prison where "the Beat of their Homeny Gentry in Maryland should not get them out."⁴²

With James Paterson Jr. shouting defiantly that he would "fight to ye Knees in Blood before he should loose his Plantations on either side of the River," this little encounter must have had a significant effect upon the local witnesses.⁴³ Observers must also have wondered whether John Wright Jr. was echoing his father's sentiments when he summarily informed one of the richest men in Maryland that he would "teach them to come to take up their Lands and that neither they nor their Marylanders should come there to make a Homeny Country of their Lands."⁴⁴ Carroll and Ross

wisely opted for discretion and did not challenge the Pennsylvania jurisdiction, although they did ask Paterson some questions. Carroll later claimed that James Logan was behind the Pennsylvania actions. Paterson had referred to a letter from Logan which had urged the local settlers "to stand up Manfully for Pensilvania against the Marylanders."⁴⁵ In response to a further question from Carroll, Paterson candidly admitted that he had neither a patent nor warrant for his land, but remained convinced that Logan would support his claim.

When Carroll and Ross returned to Annapolis, they quickly petitioned the Governor and his Council. In this petition, Charles Carroll, a man with strong business connections in Philadelphia, openly called upon the Governor to resist the "pretended Power of Pensilvania." Although not a method he found personally appealing, Carroll believed that Maryland would settle the north-west frontier only by fighting "Force by Force."⁴⁶ To restore the balance of force west of the Susquehanna, Crasap had already served a warrant on William Humphrey, an employee of John Rendricks. Just as Tradane's plea to be taken before a Baltimore County justice of the peace had fallen upon

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deaf ears, so now Humphrey's request to be heard by a Lancaster County magistrate was treated with disdain.⁴⁷

In sum, when the news of the agreement of 1732 reached Annapolis and Philadelphia, the border region had already begun to witness the dramatic encounters that would heighten tension between the two provinces. Still largely symbolic in the sense that the transactions implied rather than embodied violence, the confrontations on the west shore of the Susquehanna River clearly indicated a distinctly local perspective on the boundary dispute had developed. In particular, the lack of deference and the intensity of feeling are striking. Beneath the surface of the transactions, there was a hidden agenda. James Paterson Jr. or John Wright Jr. would probably not have behaved as they did if they had been dealing with Pennsylvania gentry; however, given that they were dealing with outsiders who were threatening their well-being, the mask of deference normally worn before one's betters, was permitted to slip off.⁵¹ The jurisdictional confusion allowed local inhabitants on both sides to deride provincial officers and 'gentlemen'. Both sides argued loudly that their actions were legitimate, but the very process undercut the deference upon which authority was based. For men like Thomas Cresap and James Paterson

Jr., the conflict provided a rare opportunity to confront authority figures in an open arena.

If challenges to authority and indirect assaults on deference became underlying themes in the local conflicts, there also remained the very real issue of property rights. Without formal land patents and surveys, a border dweller relied on the willingness of his neighbours to accept the boundaries of his landholding. Even squatters needed some form of arrangement with fellow inhabitants to respect mutually defined borders. Where the jurisdictional claims of Maryland and Pennsylvania overlapped, the prospects of amicably settling property disputes were more tenuous.

The conflict between the Patersons and the Cresap family intensified as the Marylanders continued to shoot the horses that grazed on their lands. The Patersons refused to recognize the Maryland land claims and the apparent loss of their holdings west of the river. They appealed to Samuel Blunston and John Wright who signed warrants for the arrest of Daniel and William Lowe, nephews of Thomas Cresap, for assault and for killing the Patersons' horses.⁴⁹ Charles Jones, a constable of Lancaster County, led a small posse on a night raid across the river. Breaking into the Loves' cabin, they overwhelmed the father and

captured the sons. An attempt to rescue the Loves was rebuffed, but Cresap evened the score a few weeks later when he seized, beat and held James Paterson Jr. Claiming that he held a Commission of the Peace from Lord Baltimore, Cresap insisted that he now had orders to arrest any Pennsylvanian who crossed the Susquehanna River.

By the summer of 1733, John Hendricks and Joshua Minshall were the only settlers living on the west shore of the Susquehanna who openly adhered to Pennsylvania and they were under great pressure to shift their allegiance.⁵⁰ Minshall was arrested together with three others, but the Baltimore County court released them.⁵¹ This provincial action must have been a bitter disappointment to Cresap, for it appeared to undercut his local authority. Nevertheless, the introduction of local courts as arenas for the boundary dispute forced the Pennsylvania government to develop a set of tactics to deal with this innovation. Thomas Penn believed the court hearings were a test of Maryland intentions. As noted earlier, Blunston was to inform the families of the defendants that the court costs would be covered by the Penns, although the magistrate was not to disclose his proprietor's direct involvement and the defendants were

to refuse to enter a plea. This tactic became a cornerstone of Pennsylvania strategy as more local settlers were brought before Maryland courts.⁵²

The unwillingness of the Baltimore County magistrates to support Cresap's actions against the Pennsylvanians was not the only embarrassment suffered by the Maryland frontiersman. To defend their arrest of the Loves, the Lancaster County justices had been busy collecting depositions to support their charges. One of their best witnesses proved to be Cornelius Comages, a servant of Thomas Cresap. He stated that his master had, on several occasions, publicly admitted to shooting Paterson's horses. While they were still on speaking terms, Cresap berated John Emerson with the accusation that the Pennsylvanians had forced Comages to make a false declaration. On that occasion, Emerson turned to the servant and asked him to verify his earlier statement. Comages again implicated his master. There is no record of what became of Cornelius, but it is easy to imagine the harsh treatment he received from Cresap after Emerson left.⁵³

During the winter of 1733/34, Samuel Blunston heard reports that the Germans who had settled under Maryland jurisdiction west of the Susquehanna River were having second thoughts. They resented the

requirement that one of their number was to act as Constable with a penalty of 500 pounds of tobacco for noncompliance.⁵⁴ The Germans may also have been informed of the resumption of the quitrent system and in light of Cresap's frequent surveys, some of them must have begun to wonder why they had not received official patents for their lands.

With the circulation of such rumours and with strong inferences of support from Philadelphia, the Lancaster County leaders decided to act decisively. Learning that several of Cresap's hired hands were working on land claimed by John Hendricks, a Pennsylvania posse crossed the river and quickly captured eight of Cresap's men. The prisoners were kept in Lancaster County jail for ten days, but were released without having an indictment or an information presented against them, although they were brought before the court on two occasions. This use of the court to legitimize the detention of local inhabitants without formal indictment was yet another indication of the difficulties faced by those charged with protecting their proprietor's interests on the frontier.⁵⁵

The Pennsylvanians left a small garrison on the west bank with a warrant for Cresap should he appear. By evening, bolstered by Hendricks' rum supply and no

doubt assuming they were acting with the tacit permission of the Lancaster County authorities, this garrison decided to capture Cresap at his home. The attack ended in disaster as Knowles Daunt, one of John Emerson's servants, was mortally wounded by Cresap.⁵⁶ Samuel Blunston was appalled and quickly disavowed the rashness of the confrontation, but the magistrate faced a dilemma.⁵⁷ How could he chastise the very men who provided the main resistance to Maryland pretensions west of the Susquehanna River? Blunston was also aware that Cresap and his brother-in-law, John Lowe, had immediately left for Annapolis to complain to the Provincial Council. He had no doubt that further violence would erupt upon Cresap's return and therefore cautioned against punishing the Pennsylvanians involved in the attack.

The Maryland reaction was swift. Returning with the under-sheriff of Baltimore County and an armed force of some twenty-five men, Cresap quickly seized John Hendricks and Joshua Minshall on warrants issued by the Council and carried them off to Annapolis.⁵⁸ Both provinces were now actively challenging the others' right to control the territory west of the Susquehanna River. Indirect pressure had proved futile; neither party was willing to step back from the dispute as the

stakes had grown too large. The only alternative to outright border warfare appeared to be the use of the courts. Arrests, confinements, court hearings, postponements and bonds became the accepted provincial methods of dealing with local inhabitants who challenged the legitimacy of either of the governments.

Although the Susquehanna River region was the most volatile arena of conflict, the Lower Counties and the Cecil-Chester border were not without incident. In late 1732, one John Newton was arrested by the sheriff of Donchester County for failure to pay his quitrent. He had originally held his land by a Maryland patent, but had later filed a claim with the Pennsylvania land office. Several Kent County residents pursued the sheriff into Maryland and after a scuffle rescued Newton. Like most of the other local incidents, this became the focus of an increasingly vitriolic correspondence between Governors Ogle and Gordon.⁵⁹

Shortly after that, Samuel Muncey, another self-styled Kent County resident, was captured by the undersheriff of Donchester County and placed in irons, first in Cambridge and then in Annapolis. Muncey later charged that he was never examined by a court official, presented with a warrant or informed of the charge against him. This was similar to the treatment

received by Marylanders arrested and imprisoned by Lancaster County officials.⁶⁰

In April 1734, two tenants of James Steele, the Receiver General of Pennsylvania, were arrested by the sheriff of Cecil County in a land dispute between Steele and James Heath. The latter denied that he had initiated the seizure of Jared and Thomas Rothwell. Instead, he claimed that the order to arrest the brothers came directly from the Governor.⁶¹ If there were any doubts among Pennsylvanians that Marylanders were now pursuing an aggressive policy of arrest and seizure, they were removed with the arrest of Edward Murphy for felling timber on the lands of William Runsey, the Surveyor of Cecil County. The Pennsylvanians responded by capturing Runsey and bringing him before the Provincial Council on charges of assaulting Murphy and burning his fences.⁶² Each arrest by one side was immediately perceived by the other as an escalation of the conflict which had to be matched.

Not all the conflicts on the border involved disputed land ownership. On 27 April 1735, several Kent County settlers seized Patrick Thomas at his house, which was acknowledged by all concerned to be within Maryland, and was taken to Dover jail where he

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was held for a month. Thomas was a runaway servant who presumably thought he would be safe in Maryland. When his former master heard of his whereabouts, he simply went and got him. There are indications that the Kent County magistracy was aware of this venture and had even given their tacit permission to cross the border. As might have been expected, the Maryland government used this incident as a further example of Pennsylvania aggression.⁶³ However, this confrontation was an exception. Apart from the violence west of the Susquehanna River, this was the only recorded occasion when a disputed land claim was not of central importance. Yet, even in this case, the question of jurisdiction was critical.

While confrontations along the entire disputed border occupied the magistrates of both provinces, it was the area west of the Susquehanna River that remained the location of the most dramatic and significant encounters. Samuel Blunston grew increasingly exasperated with Thomas Penn's apparent failure to recognize the gravity of the situation. The Lancaster magistrate had received reports that the Marylanders were quickly trying to consolidate their control of the settlements to the north of the Potomac River. Some forty inhabitants of this area petitioned

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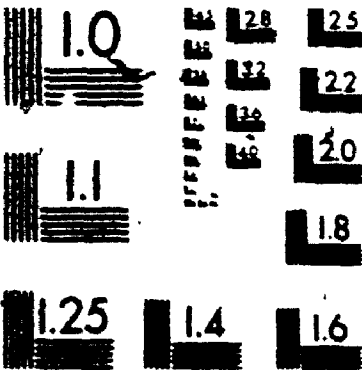
Blunston for Pennsylvania licenses. They informed him that Maryland tax collectors had already appeared. Edmund Cartledge, a Pennsylvania Indian trader and former associate of both Blunston and James Logan, had accepted a Maryland Commission of the Peace. Blunston now argued that Penn had to act "Either to Save them to us or let them know they may shift for themselves." -64

The erstwhile magistrate was nothing if not pragmatic. He explained the stark realities of western settlement to his seemingly indifferent proprietor. He acknowledged that the frontier was overrun with poor "trash," most of whom would be unable to pay for their land, though Penn had granted them seven years of possession before payment was required. Still, Blunston argued, it would be disastrous for Pennsylvania to insist upon resurveying land already settled in order to establish a payment schedule. Because new boundaries would be unacceptable to the local population, only general warrants incorporating the land already claimed would suffice. Blunston believed it was essential that this motley group of local inhabitants be supported by the Pennsylvania government. His reasons for this policy were twofold. First, in seven years, most of the current settlers would have moved farther west and those who bought

their improvements would probably be able to pay for the land. Second, at the very least, these poor subsistence farmers provided a critical buffer against Maryland encroachment. According to Blunston, Pennsylvania stood to gain in both the short and the long term, if the government actively supported the penniless migrants who were settling the western border region.⁶⁵

A third reason, albeit unstated, was the preservation of Blunston's position as local leader. Not only was the legitimacy of provincial authority at issue, the magistrate's future was tied to the outcome of the border conflict as well. Unlike some of his colleagues in Philadelphia, Blunston understood the political necessities of maintaining a strong personal following at the local level. As Tully has pointed out in his study of provincial politics during this period, Blunston and John Wright emerged from the 1730s as leaders of a new anti-proprietary party whose support was based on a loose coalition of Quakers and the German and Scotch-Irish inhabitants of Lancaster County.⁶⁶ This potential local alliance between the Quaker gentry and the poor "trash" was precisely what Blunston was seeking to forge against Maryland. The elimination of the Greasy settlement was of paramount

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MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS
STANDARD REFERENCE MATERIAL 1010a
(ANSI and ISO TEST CHART No. 2)

importance to Blunson for as long as the Marylander controlled the western shore of the Susquehanna River, communication with settlements further west was hindered and, with each passing month, Pennsylvania authority was further undermined. Even the possibility of the German migrants returning to Pennsylvania jurisdiction was contingent upon an effective demonstration of authority by Lancaster County officials.

The local Pennsylvania leaders appeared confident that the discontented Germans on the west side would soon reject Maryland jurisdiction, but a series of events during the late summer and early fall of 1735 must have generated some ambivalent feelings. In August, Governor Samuel Ogle of Maryland visited the settlements west of the Susquehanna River. He was accompanied by his Surveyor General and the sheriff of Baltimore County. With a trumpeter riding before them, the Governor's company sought, by its very presence, to impress upon the local inhabitants the pomp and majesty of Maryland authority.⁶⁷

Dining with the representatives of the local German population, Ogle informed them that Cresap's surveys were invalid and that all their holdings would have to be resurveyed. If the Germans were displeased

with this news, a still ruder shock followed. The Governor emphasized that to obtain a legal title, they would have to be naturalized at a cost of 50 shillings per man. Ogle appears to have blithely misread the choices available to the Germans, for he adamantly refused to listen to their complaints about Cresap. It seems that the latter had a patent disregard for local land claims and was not against dispossessing a German to make room for one of his entourage. Admittedly the only record of this incident is found in the correspondence of Samuel Blunston who obviously received his information secondhand. Given his natural bias, his recollections must be treated with caution, but it seems the situation on the western shore of the Susquehanna remained unstable, despite the preponderance of Maryland claimants.

Many Germans were clearly unhappy with the behaviour of Thomas Cresap, Maryland's chief local representative. Ogle compounded this problem in two ways. First, he undercut Cresap's authority by invalidating his surveys. He then made it more difficult for Cresap to maintain whatever support he retained among the Germans by insisting upon their naturalization and the need to resurvey their lands. It is worth noting that it was precisely this type of

provincial insensitivity to the local context that Samuel Blunston resisted in his correspondence with Thomas Penn. Blunston persistently argued against any form of resurvey that might alienate his local support when so much was at stake in the boundary dispute.

Despite their displeasure with what they had heard, the Germans still must have been impressed by the Governor's visit. While Blunston continued to plead in vain for Penn to visit the area, Ogle had taken the initiative with his journey to Codorus Creek. Although Cresap's authority may have been tarnished, the Governor had clearly indicated to the Germans that the Commissioner of the Peace would retain his position. The primary significance of the visit was symbolic. The Governor had shown the local population that he had a personal interest in Maryland's northwest frontier and that his government was prepared to support its claim to the region with force if necessary. That he did not appreciate the parochial aspects of the dispute may be attributed to the quality of the local Maryland leaders. Lacking the stature and the political acumen of Samuel Blunston, Thomas Cresap could only convey his complaints to the Provincial Council. Whereas Blunston had frequent correspondence with Thomas Penn, Cresap was scarcely

literate. The Pennsylvanian was not afraid to point out to his proprietor the potential drawbacks of the latter's plans to combat Maryland pretensions. Cresap, on the other hand, had no such access to the pinnacle of authority. When Penn made his appearance on the Susquehanna in the following year, Blunston prevailed upon him to avoid Ogle's mistakes.⁶⁸

A few weeks after Ogle's tour of the region, Robert Buchanan, the sheriff of Lancaster County, crossed the Susquehanna River with warrants for the arrest of Jacob Loughman, Francis Clapsaddle and Andrew Magill. He was accompanied by the under-sheriff, John Powell, and four deputies. They found Magill working with two Marylanders, Patrick Connor and Joseph Ogle, in the latter's field. According to Connor and Ogle, the Pennsylvanians tore down their fences, trampled the corn and assaulted Magill. When Joseph Ogle demanded the reason for this action, Buchanan showed him a writ. Magill said he would not willingly surrender to Pennsylvania authority as he now paid taxes to Maryland. If he owed money to someone in Pennsylvania, then the proper Maryland authority should be contacted. Given the fact that Thomas Cresap represented Maryland authority in the area, it is hardly surprising that Buchanan scoffed at this suggestion. Stating that this

entire region was part of Pennsylvania, the sheriff ordered two of his deputies to take Magill to the Lancaster jail.⁶⁹

It was one thing to arrest an Irishman; it was another matter to take a German. The next day, Buchanan sent his brother and another deputy to Jacob Loughman's house. Unfortunately, the only record of what happened is Loughman's deposition, but in its detail this account is revealing.⁷⁰ According to his testimony, the two Pennsylvanians approached the house in a friendly manner. When they asked him if he could shoe their horses, Loughman responded that he could not; they then asked for some tobacco. The German agreed to this request, but as he was cutting the tobacco, Buchanan and his under-sheriff arrived. The sheriff informed him that he had a writ for him at the suit of two Philadelphia merchants. Loughman claimed that he had already paid his debt to these gentlemen; however, Buchanan insisted that he had to come with them. The German tried to resist to no avail and when his wife came to his aid, she was whipped by the Pennsylvanians. Seeing his wife being so treated, prompted Loughman to go peacefully with Buchanan. He asked the sheriff why his apparent creditors had not filed suit through a Maryland court since he was now a

Marylander. In response, the Pennsylvanians gave him another beating and refused to permit him to post a surety for his appearance at court.

On the road they met Peter Gartner, another German settler. Buchanan indicated that he would be willing to take Gartner as surety, but Loughman, speaking in German, told his countryman not to accept the offer. Gartner then explained to Buchanan that Loughman had a brother-in-law on the east side of the river who would act as surety. Gartner must have run off to warn his neighbours of what was happening because shortly thereafter, the Pennsylvania posse was met by an angry group of Germans. Loughman deposed that only five of his countrymen were present, but John Powell placed the figure at over twenty.⁷¹ According to the latter's subsequent testimony, the Buchanan party, with Loughman in tow, was stopped by Mark Evans, an individual with some standing among the Germans. Evans had originally been a Pennsylvanian, but when that province had denied his request for a grant west of the Susquehanna River, he had turned to Maryland. He had then received a Commission of the Peace from his new province.⁷² Buchanan explained to him that they were taking Loughman to jail, to which Evans responded that he was certain bail could be found. At this juncture several

Germans, including Francis Clapsaddle and Michael Risenar, appeared on the scene. As noted above, the Pennsylvanians had a writ for Clapsaddle. Risenar was an employee and stalwart supporter of Thomas Cresap.⁷³ Matters became heated, one of the Pennsylvanians struck a German, and a general brawl ensued. The upshot of this confrontation was that Loughman was freed and Robert Buchanan was taken as a prisoner to Annapolis.

Given the biased nature of the witnesses, it is difficult to assess the implications of these dramatic encounters; however, some observations are possible. First, if the backgrounds of Magill, Clapsaddle and Loughman represent at least some of their neighbours, then many settlers perceived the boundary dispute as an opportunity to avoid former creditors. Evans' reasons for becoming a Marylander were also significant. As long as Pennsylvania was not prepared to offer land grants west of the Susquehanna River, then Maryland authority would be accepted and incursions by Lancaster County officers resisted.⁷⁴ Generally, some agents of provincial authority were not viewed with a particular sense of deference. If the Germans complained about Cresap's behaviour, they also violently resisted one of the chief representatives of Pennsylvania authority in the region.

With both sides insisting their actions were legal, the legitimacy of provincial authority was in a shambles. A sheriff in one province was seized and imprisoned in another province by the very people he was sent to arrest. Magistrates in one jurisdiction were seeking a warrant for the arrest of a magistrate in another jurisdiction on a charge of murder. Rewards were being offered for the seizure of the chief legal officers in the region. These were hardly the circumstances that would bespeak an extension of legitimacy on the frontier. If local inhabitants argued that Cresap was scarcely more than a brigand, they also had some justification for perceiving the brash Robert Buchanan as a poor symbol of authority. Samuel Blunston thought that Buchanan's behaviour not only undermined the Pennsylvania position west of the Susquehanna River, but was unbecoming for a provincial officer and the impetuous sheriff soon lost his position.⁷⁵

A final observation on this incident relates to the ethnic character of the conflict. Buchanan would probably not have suffered the indignity of being carried off to Annapolis like a common criminal if he had not sought to arrest a German. The seizure of Andrew Magill did not result in armed intervention;

however, the arrest of Loughman was another matter.

There are clear indications that the Marylanders who confronted Buchanan on the road were Germans. It was as fellow countrymen, not as Marylanders, that they rescued Loughman. Whether openly complaining to Governor Ogle about Cresap or seizing Buchanan, the German settlers displayed ethnic solidarity. As a group, they were apparently unimpressed with the pretensions of both provinces. If they followed a course of economic self-interest in the boundary dispute, they also acted in a collective fashion. For the German migrants, family and ethnic ties were far more important sources of legitimacy than local representatives of some distant, alien, hierarchical authority.

Despite their lack of enthusiasm for either province, the Germans did espouse the jurisdiction of Maryland when they perceived it was in their collective best interest. When they began to entertain the prospect of becoming Pennsylvanians again, they did so as a group. Mark Evans, one of the leaders of the assault on Buchanan, defended his decision to disavow Maryland by arguing that all his countrymen had decided on this course of action and he could hardly have done otherwise. Peter Gartner and Jacob Loughman also

switched sides. Both Evans and Loughman were later seized by a Maryland posse, but not surprisingly, they denied becoming Pennsylvanians.⁷⁶

By August 1736, the Germans came to a collective decision that their interests would be better served under Pennsylvania jurisdiction. Several crossed the river to discuss with Samuel Blunston the prospect of taking out licenses for their land. Although Blunston denied that he made any effort to solicit the Germans, his actions and his express purpose belie this disavowal. Shortly after their meeting, fifty Germans signed a letter to a Baltimore County official in which they informed the Maryland government that they now recognized their error in claiming lands under Maryland jurisdiction. The letter explained that the German settlers now understood their lands lay well within the boundaries of Pennsylvania and they were therefore withdrawing their allegiance to Maryland and accepting Pennsylvania authority.⁷⁷ Naturally, this turn of events dramatically altered the balance of power west of the Susquehanna River. Instead of receiving support from one or two loyal west bank inhabitants, the Lancaster County magistrates now had the public endorsement of most of the settlers on the west side of the river.

If the German borderers thought that their difficulties were over, they were quickly disabused of this notion. In early September, Maryland escalated the conflict in dramatic fashion. William Hammond, the sheriff of Baltimore County, and Nathaniel Rigby, a Baltimore County justice of the peace, led some three hundred Maryland militia on an expedition to the Codorus Creek region. Their express purpose was to restore Maryland jurisdiction over the German population and to leave no doubt that those who refused to rescind their earlier decision to accept Pennsylvania authority would lose their lands. With trumpets sounding, drums beating ominously, and flags flapping in the breeze, the show of strength seemed to impress witnesses. Given such a large armed force, there was remarkably little violence. One settler was held for fourteen hours and the militia raided a couple of cabins, helping themselves to the rum supply of one unfortunate German.⁷⁸

A series of letters passed between Hammond and Samuel Smith, the new sheriff of Lancaster County.⁷⁹ Smith led a group of defenders who were underarmed and outnumbered. While militiamen nervously confronted one another, a meeting was arranged between Hammond and the leaders of the German 'revolt'. The Marylander

demanded that the Germans return to Maryland jurisdiction within two weeks or face eviction. He received a promise from the Germans that they would reply to this threat within the allotted time. Whether Hammond believed the Germans is unknown, but their answer supplied him with a means to withdraw his forces without a pitched battle. The evidence suggests that neither he nor his militia were particularly enthused about this venture. There were reports of serious dissatisfaction within the ranks and Hammond made his distaste for Thomas Cresap abundantly clear. When the latter saw the Pennsylvanians crossing the river, he called upon the militia to open fire on them. Hammond and Rigby quickly overruled him and Cresap bemoaned the cowardly behaviour of the militia.⁸⁰ Apparently, Cresap was perceived by the leaders of Baltimore County as someone who had to be controlled lest he embroil them in an violent border war. Given Cresap's attitude to the militia, he was probably aware of their efforts to curtail his authority. Therefore, despite the appearance of the Baltimore County militia, the local supporters of Maryland were in disarray.

Bolstered by the promises of the Lancaster County magistracy and possibly sensing the reticence of Hammond and Rigby to begin hostilities, the local

German population did not bow to the pressure exerted by the arrival of the militia. The Maryland expedition returned to Joppa with little to show for their effort. To be sure, they had made a symbolic gesture. A couple of minor raids and the brief detainment of one inhabitant seem, in retrospect, to have been motivated more by the need to show their superiors in Annapolis that something had been done to strike fear into the hearts of the local settlers than by a desire to fight Pennsylvanians. The eventual response of the Germans to Hammond's ultimatum suggests that they were unimpressed by the show of force. They informed the Maryland government that their decision to return to Pennsylvania jurisdiction remained firm.⁸¹

The Lancaster magistrates quickly informed their proprietor of the confrontation. Both John Wright and Samuel Blunston pleaded for more arms, arguing that they had been forced to watch the Marylanders do as they pleased for lack of weapons.⁸² Within a week, Thomas Penn sent a supply of arms for he perceived the threat to dispossess the Germans as far more serious than the seizure of vacant land.⁸³ Blunston also pointed out that the Germans were in an awkward position since they held no legal title to their lands and therefore, could not formally appeal to the

magistrates of Lancaster County to protect their property. In response, Penn requested the names of all those who had proclaimed their rejection of Maryland jurisdiction. When he received them, he ordered licenses to be issued.⁸⁴

While the Baltimore County militia returned to their homes, new developments in southern Chester County had ominous implications for those living west of the Susquehanna River. For some time, James Logan and James Steele had been unhappy about the influx of Scotch-Irish immigrants into southeastern Pennsylvania.⁸⁵ Unable to afford the price of land, many Scotch-Irish simply settled on reserved acreage without warrant. Steele found that even those who had a title to their land refused to pay the quitrent.⁸⁶ In the fall of 1736, Logan feared that an insurrection might well be brewing along the southern border of Chester County.⁸⁷ This was an overreaction, but it illustrates Logan's keen awareness of the tenuous nature of Pennsylvania authority, particularly in areas where Maryland agents had been active.

Led by the Reverend Jacob Henderson, Commissary of Maryland, and Benjamin Tasker, a member of the Maryland Council and Lord Baltimore's land agent, Maryland agents had been active among the Scotch-Irish of southern

Chester County. In what was later called the 'Chester County Plot', the Marylanders enlisted the services of Henry Munday to gather a large group of Chester County settlers willing to dispossess the Germans west of the Susquehanna River and hold their lands under Maryland law.⁸⁸ With promises of arms and protection, several of them had already visited the Codorus Creek area.⁸⁹ Munday was not the only potential leader of the discontented settlers of southern Chester County.

Charles Higgenbotham, like Munday, received a promise of a stipend for each settler he brought to the Codorus region.⁹⁰ In a short time, the prospect of obtaining 200 acres of improved land at a cheap price attracted the attention of over sixty Chester County inhabitants.⁹¹ Warned by Samuel Blunston of this new Maryland tactic, Pennsylvania authorities acted quickly to prevent the threat. Munday was arrested and brought before the Council, but Higgenbotham and many of his followers escaped and made their way west of the Susquehanna River.

The possibility that Maryland would use Scotch-Irish settlers to dispossess the Germans deeply concerned Samuel Blunston. Sensitive to the ethnic dimension of the conflict, he urged Penn to do all in his power to block Irish Newcomers or other

Disaffected persons" from moving into the area "for if they should get strength enough to Dispossess the Dutch It might be Difficult to get the Donegal people to go against their Countrymen."⁹² Although the changing ethnic composition of the participants and the ensuing rivalry may not have triggered the violence of the 1730s, it does suggest a general precondition for the heightened conflict.

Given the prospect of losing their strongest support against the Marylanders, the Lancaster County magistrates decided upon a drastic course of action. Late in November 1736, Sheriff Samuel Smith led a group of some twenty armed men, most of whom were Scotch-Irish, across the Susquehanna River. Cresap and five of his followers barricaded themselves in a cabin which the Pennsylvanians then surrounded.⁹³ Throughout the day, several more inhabitants from the east shore joined the besiegers. Finally, the Pennsylvanians set fire to the house. When Cresap and the others tried to escape, the Marylander was captured and Loughlin Malone, one of his supporters, was mortally wounded. The subsequent uproar over this recourse to violence gave the Maryland Council a good pretext to petition the King.⁹⁴ Recognizing the need to establish the credibility of their particular interpretation of the

incident, both provinces rushed to get as many depositions as possible. Of all the examples of conflict on the border, the capture of Thomas Cresap yields the best evidence of the local perspective on the boundary dispute. Accounts of the participants and observers are highly partisan, but they remain a rich source to explore the social context of conflict and legitimacy on the frontier.⁹⁵

On the surface, Samuel Smith was the leader of the Pennsylvanians. As sheriff of Lancaster County, he was responsible for the enforcement of legitimate authority. His presence alone guaranteed that the Pennsylvanians who seized Cresap were acting within apparent legal limits. Yet, the depositions suggest that Smith's control over his assistants was tenuous at best. Throughout the day, he struggled to counter the determination of men like David Priest and John Ross to take Cresap by any possible means.⁹⁶ Ross had taken possession of John Emerson's land and was quickly emerging as the most militant local spokesman for Pennsylvania expansion west of the Susquehanna River, while Priest, an early recipient of a 'Blunston License', was no stranger to physical violence.⁹⁷

The decision to burn Cresap's cabin clearly did not have Smith's support. He repeatedly pleaded with

the Marylander to surrender, but when Cresap continued to refuse, Smith was reticent to escalate the confrontation. When Cresap's mother-in-law, Francis Foy, appeared on the scene, the sheriff asked her to persuade her relatives to surrender. Foy claimed that such an attempt would be a waste of time as Cresap would never surrender.⁹⁸ As evening approached, it became clear to everyone that Smith had no intention of ordering Cresap's cabin set ablaze. There is evidence to suggest that the sheriff was compelled by his deputies to remain at the scene until they received further orders from Samuel Blunston.⁹⁹

Smith seems to have been conscious of the weak legal justification for burning the house of a man who held a Commission of the Peace. Possibly he was surprised to hear Cresap reading from Hawkins' Pleas of the Crown the proper section on the penalties for "breaking in or Offering so To Do or Destroy or Burn Houses."¹⁰⁰ One can well imagine the consternation with which Smith would view a man like Cresap who, at one and the same time, could quote precedent from an English law book and vilify his opponents as "Damn'd Scotch Irish Sons of Bitches" and the Pennsylvania leadership as "Damn'd Quaking Dogs."¹⁰¹

Smith had to use all his persuasive skills to prevent several onlookers from being forcibly detained by Priest and other, like-minded members of the Pennsylvania party. His conversation with Cresap's mother-in-law, Francis Foy, reflected his fear that matters might get out of hand. Only a direct order from the Lancaster County magistracy as represented by Edward Smout overcame his steadfast refusal to be a party to the burning of Cresap's house.¹⁰² In sum, the depositions detail the difficulties encountered by a county official as he tried to control his followers. A lack of deference to one's supposed superiors was reflected in the behaviour of Smith's assistants. As long as he was willing to take Cresap, they were willing to defer to him, albeit somewhat reluctantly; however, when it became clear that Smith did not intend to force the issue, his assistants simply overrode his authority. In this instance, Blunston's order to burn the cabin appears to be less an initiative and more a response to an action which was going to happen anyway.

If one turns from the Pennsylvania besiegers to the Marylanders within the cabin, one finds further illustrations of the ambiguous nature of authority and legitimacy in the border region. With Thomas Cresap and his wife were Miles Foy, George Bare, Jacob

Minshaw, Michael Risener, Loughlin Malone and Daniel Southerland. Foy was Cresap's father-in-law and his presence underscores the importance of the kinship network. As already noted, the most vocal and visible supporters of Cresap throughout this period were his relatives, but most of them were either in jail or getting supplies from the south.¹⁰³ The Pennsylvanians could scarcely have picked a better time to make their attempt to capture Cresap.

Of the others in the cabin, Jacob Minshaw was former servant of John Emerson who had apparently indentured himself to Cresap. Later testimony revealed that, in return for his freedom, he planned to kill John Ross who had bought Emerson's farm. The remaining men had agreed to help Cresap against the Pennsylvanians for an annual salary of £12 and their freedom. Southerland was a carpenter whom Cresap had originally hired to build a new cabin. This man had no particular interest in fighting the Pennsylvanians and when Smith offered amnesty for anyone who gave himself up, he escaped through the chimney. Such was Cresap's confidence in this motley group that he threatened to shoot anyone who would not fight.¹⁰⁴

Fear and family solidarity, not a sense of deference, formed the basis of whatever authority

Cresap exercised. To be sure, the formal source of legitimacy for his actions rested in his Commission of the Peace, and his militia rank, but it is equally true that, unlike the local Lancaster County or Baltimore County gentry, Thomas Cresap lacked the social and economic stature to command the respect and deference needed to legitimize his actions.¹⁰⁵

Another aspect of the dispute was the element of continuity found in the relationships of the participants. Most of the persons involved in this dramatic encounter were well known to one another. The Maryland women recognized most of the key members of the Pennsylvania party. Francis Foy had a conversation with Samuel Smith that was amicable, given the circumstances. When Joseph Ogle arrived at the house, he was immediately threatened by John Ross; however, the Marylander also recognized John Ellison among the besiegers. After exchanging greetings, they went for a walk by the river. Ellison reviewed the day's activities for his friend and when Ogle suggested that the Pennsylvanian should leave before Cresap was killed or Ellison would be hanged, the latter acted surprised. He said that the sheriff had assured him there was nothing to fear.¹⁰⁶ Earlier in the day, another Marylander came to Cresap's plantation to borrow some

iron chains. Henry White had consistently paid taxes to Maryland for several years and yet, upon his arrival, he received a friendly handshake from Michael Atkinson and Ned, one of John Wright's servants. Apparently, the Marylander spent some time among the Pennsylvanians without being threatened. Before a Baltimore County justice of the peace, White later testified that he had felt uneasy and was "Afraid to Ask any Questions."¹⁰⁷

During the siege, Arthur Buchanan, the brother of the former sheriff of Lancaster County, engaged in a fascinating conversation with Loughlin Malone, one of the Marylanders within the house. Malone called out to Buchanan that he remembered visiting the latter's home when they had both lived in Ireland. In a paternalistic fashion, Buchanan chided Malone for supporting Cresap, to which the Marylander replied that he had taken an oath before Governor Ogle to assist Cresap against the Pennsylvanians. In return, the former indentured servant had been granted his freedom and an annual salary of £12. Malone was probably an Irish Catholic, while Buchanan was a Protestant. Apart from the information imparted about Malone's background, this transaction is remarkable. Why would a frightened labourer, surrounded by an armed group of men and in the presence of his employer, begin a

conversation with one of the leaders of the besiegers? For that matter, why did Buchanan respond as he did? Is it possible that neither participant realized the gravity of the situation? Maybe it was merely a case of false bravado, but there is another possible explanation. In the midst of a very volatile situation, here were two men who appeared to be more interested in talking than in fighting, more conscious of memories shared than impending conflict.¹⁰⁸

These conversations in themselves suggest little, but taken together, they present an aspect of the dispute which is often overlooked. Several of these men had relationships that remained stable, despite the confusion generated by the boundary conflict. Men could array themselves on opposite sides in the controversy and remain on amicable terms. Although this attitude may not have been pervasive, it did exist, particularly among those participants who shared either a common ethnic background or a similar socio-economic status.

After Cresap and his followers were captured, the Lancaster County magistrates quickly decided to send the Maryland leader to Philadelphia. On the journey to the provincial capital, Cresap was apparently open to conversation with his captors. According to Robert

Buchanan and George Aston, Cresap was in good spirits as they conversed with him about the events leading to his capture.¹⁰⁹ Buchanan blamed the Marylander for the violence that had occurred west of the Susquehanna River and lamented the fact that Cresap had not used other means to secure his goals. Upon seeing Philadelphia, Cresap exclaimed in an often quoted remark, "Damn it, Aston, this is one of the Prettiest Towns in Maryland." Strangely, little historical attention has been paid to his subsequent comments. He admitted that over the past few years he had "given a good deal of uneasiness...to the Pennsylvanians, but in this last affair, & what had happened thereon, he had done a notable Jobb." Then in an offhanded fashion, Cresap explained that his motive had been to make "a present of the Provinces to the King, & if the People found themselves in a better condition by the Change, they should thank Tom Cresap for it."¹¹⁰

This statement is both astonishing and frustrating. If Buchanan and Aston accurately reported the transaction, it reveals a depth of political subtlety not normally attributable to the brash and outspoken defender of proprietary interests on the frontier. Regrettably, there is no other direct evidence to corroborate the testimony of these two

Pennsylvanians, although some anti-proprietary parties in the two provinces might well have found a glorious opportunity in the boundary difficulties of the Penna and Calverts. Yet, as Alan Tully has suggested, the boundary dispute remained, at least on the surface, more cohesive than divisive.¹¹¹ Circumstantial evidence does not prove that men like Dulany, Ogle or Carroll sought the resumption of the proprietary charters; however, it seems unlikely that Thomas Cresap would have developed such a Machiavellian plan in isolation. To express such a scheme to Robert Buchanan and George Aston suggests that Cresap believed that these men were sympathetic to anti-proprietary views and that, on this crucial issue, they shared a common hope. Lastly, it is important to note that Cresap later became an anti-proprietary Assemblyman. If Cresap was exploiting the boundary dispute, in concert with certain members of the provincial elite, to bring down both proprietary governments, then much of his provocative behaviour throughout the 1730s takes on an entirely new meaning.

A final observation on the Cresap capture concerns those who were not present during the encounter. The absence of Cresap's brothers-in-law has already been noted, but there were others whose presence one might

have expected. Tensions had been accentuated by the shifting loyalties of the German population west of the river, yet the list of Pennsylvania participants compiled by the Maryland government does not include one of the Germans who were involved in the 'Revolt of the Dutch'.¹¹² No doubt, they were aware of the 'Chester County Plot'. Why would the very people who had the most reason to see Cresap seized, scrupulously avoid participation in his capture? Although the Maryland efforts to dispossess the Germans led to the capture of Cresap, this was not the reason most of the Pennsylvanians had acted. Some, like John Ellison and John Wright's two servants, had simply been conscripted, but others were concerned about their own landholdings. David Priest, William Clarke, and John and James Patten had recently received licenses from Samuel Blunston for lands west of the Susquehanna River.¹¹³ John Ross had acquired John Emerson's farm on the east shore, but had to deal with the former owner's widow, who openly supported Cresap. According to Blunston, most expected to receive a substantial reward.¹¹⁴ It was not warm regard for the Germans that led these men to heighten the conflict. The Cresap capture does not support the view that ethnic considerations dominated the behaviour of the borderers; however, the lack of a German presence at

the capture suggests that ethnicity remained an unstated concern. Acting as a group, the Scotch-Irish of Donegal Township assisted the sheriff for their own reasons and also acting as a group, the Germans avoided the conflict for their own reasons. Presumably, Samuel Blunston knew it was far better to keep the 'allies' at arms length than to insist upon a joint attempt to take Cresap.

If the Germans were noticeable by their absence, so too was Samuel Blunston. He made the final decision to take Cresap and supplied the Pennsylvanians with arms. He also provided Smith with the warrant and sent Smout across the river with direct orders to set Cresap's cabin ablaze if the Marylander refused to surrender.¹¹⁵ His correspondence with Thomas Penn both before and after the incident, provides further illustrations of his involvement.¹¹⁶ As a Quaker magistrate and an aspiring politician at the provincial level, Blunston had to appear to be above such matters and he therefore avoided any overt action. Direct participation might well have led to a lessening of the status necessary to sustain his provincial ambitions. It would most certainly have proved an embarrassing contradiction to his Quaker principles. Still, it was important to show the local inhabitants that he was

interested in their well-being. Blunston did not hesitate to supply the posse with arms and to defend their actions when the Pennsylvania government sought to dissociate itself from the incident; but, he was unwilling to lead the posse, which would have enhanced his local reputation to the probable detriment of his provincial ambitions. As it turned out, he managed to avoid losing his local support, while he fended off the provincial accusation that he had aggravated the boundary dispute by an over zealous approach to his duties. Blunston walked a very thin line as he sought to balance local and provincial interests, but when forced to choose between the two, the Lancaster County magistrate opted to secure his provincial interests.

Samuel Blunston had hoped that Cresap's capture would defuse the crisis on the west side of the Susquehanna River, but he was quickly disabused of this notion. Although the Pennsylvanians had moved rapidly to end the 'Chester County Plot', several of those who were implicated managed to make their way to the Codorus region. Charles Higgenbotham was granted a Commission of the Peace by Maryland. Accompanied by some fifteen other former residents of Chester County, he moved quickly to restore Maryland control over the region. Within a few months, he and his associates had

captured several of the Germans who had shifted their allegiance to Pennsylvania.¹¹⁷ In early January 1737, John Ross led an armed group to Higgenbotham's camp.¹¹⁸ According to Blunston, the group "threatened, promised rewards to make a Defection, ... but to no purpose." The Marylanders dared the Pennsylvanians to burn the house as they had done to seize Cresap. Since Blunston had given them direct orders not to burn any homes, Ross and his associates soon departed.¹¹⁹ Either then or shortly after that, Higgenbotham and Ross exchanged letters, which the latter then had published in The Pennsylvania Gazette. In his letter, Higgenbotham openly declared his intention "to take, apprehend and seize as many of the late Conspirators, Incendiaries and Abettors, as we shall be able to detect, and them to deliver up to the Law."¹²⁰ Both his letter and Ross' response went to great lengths to explain the legal justifications of their own actions, while castigating the behaviour of their adversaries.

Despite the arrival of one Solomon Jennings from Philadelphia with enough arms and money to maintain a garrison of Pennsylvania Germans on the west side of the river, the situation remained highly fluid. Members of Higgenbotham's group roamed freely on the

east side of the river, forcing Blunston, John Wright and several others to maintain a constant guard. As Blunston had suspected, the Scotch-Irish of Donegal Township could no longer be depended upon to resist their countrymen. He believed that with effective leadership, the Germans "might make a pretty good Defence," since there was "no doubt but the people on this side [were] pretty well tyred in giveing such repeated attendance." However, even with Jennings assuming a leadership role, the Germans were not strong enough to counterbalance the force of Higgenbotham's well-armed associates.¹²¹

In the spring of 1737, Blunston informed Penn that only one fortified residence on the west shore remained in Pennsylvania hands.¹²² The relationship between the Lancaster County magistrates and the Pennsylvania Council grew increasingly strained as it became clear that the latter was dissociating itself from what Logan described as the "wild & unjustifiable" behaviour of those living along the Susquehanna.¹²³ Blunston's correspondence with his proprietor betrayed his testiness. "You certainly do not apprehend the necessity of Dispatch," he chided Penn, "or it [i.e. support] would not have been thus Delayed."¹²⁴ It is not difficult to imagine his reaction if he had learned

that Penn was not overly anxious to provide bail for the Germans imprisoned in Annapolis, although the proprietor had been quick to remind the prisoners that "they should be very frugal."¹²⁵ Blunston complained to Penn that not "one word" regarding the condition of the Germans had been sent to him. He calculated that about half the Germans had now been seized by Higgenbotham. If Penn did not soon secure their bail, Blunston suspected that they would "work their own Release by such Terms as ~~may~~ Totally Destroy all your pacifick Measures."¹²⁶ While Blunston remained outwardly loyal to the Penns ~~until~~ the end of the boundary crisis, it is likely the anti-propietary views expressed in the 1740s had their basis in his experience as a magistrate during the boundary conflict of the 1730s.

For men like Jacob Loughman, Jacob Grabill and Reynart Hamar, the vicissitudes of the border war called for yet another shift in allegiance. Brought before the Maryland Council, Grabill acknowledged signing the letter renouncing Maryland jurisdiction, but pleaded "that he was prevailed on to set his Name by their telling him it was only about their land" and that when he wrote his name on the paper there had been "no Other Writing...than some Dutch names." He

indicated that "he would have paid" his taxes to Maryland, "if he had had it."¹²⁷ Hamar went one step further. He denied that he "signed or gave Leave to any Person to sign any of the Papers now shewn to him."¹²⁸ Jacob Loughman was the same man who had been seized by Sheriff Robert Buchanan in 1735 and then rescued by several of his countrymen. Although he had not signed the incriminating letter, he had barred his door against Higgenbotham. He now brazenly claimed before Governor Ogle that he was a Marylander and that he had mistaken Higgenbotham for a Pennsylvanian. According to Blunston, this was a boldfaced lie, but it secured his immediate release.¹²⁹

With each passing month, the morale of the local Pennsylvanians on either side of the Susquehanna River continued to drop. In April, Edmund Smout and John Ross felt compelled to stay with Samuel Blunston for protection. None of the Pennsylvania leaders could "stir from home" for fear that they might be seized by Marylanders who now frequented the west side of the river.¹³⁰ By contrast, Higgenbotham and his associates were confident enough to petition the Maryland Council for the rewards promised in the proclamation. They informed Governor Ogle that unless they received the promised reward for those they had captured, they would

"relinquish the Government's Interest."¹³¹ The Council bowed to this pressure, ordering the immediate payment of the rewards and the prosecution of the prisoners.¹³²

John Charlton, who replaced Higgenbotham as Captain of the Codorus Creek 'militia', proved to be even more aggressive than his predecessor. Blunston noted the manner in which the Marylanders now moved about freely on the east side of the river, openly daring the Lancaster County officials to arrest them.¹³³ The Maryland 'garrison' also began to circulate among their former neighbours in Chester and Newcastle Counties. One such venture is highly suggestive of the tenuous nature of authority on the border. Charlton and four others stopped at a tavern in East Nottingham, where they demanded and obtained beer, despite the tavernkeeper's initial refusal to serve members of the 'Maryland garrison'.¹³⁴ Elisha Gatchell, a local Quaker and Chester County magistrate, happened to be in the room. The magistrate "asked them why they went about this Country thus armed" to which they responded, "for their Pleasure and Safeguard."¹³⁵ James Barrysford, one of the Marylanders, then grabbed Gatchell with the exclamation, "Damn you old Dog, I have a great mind to carry you to Annapolis."¹³⁶ When the Pennsylvanian commanded them to keep the peace,

another Marylander pointed a gun to his chest shouting, "God damn you, your Peace & your Master too,"¹³⁷ The exchange grew more heated and within minutes, Gatchell was beaten, tied to a horse and carried off to Baltimore County.

Thomas Hughes, the tavernkeeper, had the presence of mind to rush to the nearby plantation of John Copson, a member of the Maryland Provincial Court. Copson immediately saddled his horse and together with Hughes, pursued the Marylanders across the Susquehanna River. The next day they found Charlton and the others, with Gatchell still in tow, at another public house. The Provincial Justice demanded to know by whose authority they had seized "Justice Gatchell ... especially in a place, that to his ... knowledge had for nigh these twenty years been allowed to be in Pennsylvania."¹³⁸ Charlton and Joseph Parry replied that they had acted on the express orders of Governor Ogle, but when Copson asked to see the orders, they indicated that it had been a verbal communication. The Justice angrily accused them of lying and was prepared to bind them over to the next court. Nathaniel Rigby was called upon to confirm Charlton's story. Although the Baltimore County magistrate knew nothing of an order to take Gatchell, he did request a private

conference with Copson. Rigby informed the Provincial Justice that he had witnessed an information against Gatchell that had been presented to Ogle. Gatchell had been accused of saying that Lord Baltimore had "run to France" to avoid answering the Penns' Chancery Bill. Copson finally decided to bind over both the Marylanders and Gatchell and the latter, having arranged for the \$200 security, was released.

Here then was yet another example of the delicate balance between the provincial and local outlook on the dispute. Copson was clearly opposed to the behaviour of the Maryland 'garrison' and he was concerned that a fellow justice would be so treated. His immediate reaction to Charlton's explanation was based on the conviction that Ogle would never have supported such a blatant disregard for authority. For Charlton, Parry, and Barrysford, like many others before them, the boundary dispute had provided an opportunity to flaunt traditional deference and to challenge authority figures with relative impunity. It had not simply been a matter of attacking a particular individual... Barrysford spoke for many of the local protagonists; when he damped not just Gatchell the man, but his "Peace" and his "Master" as well. For those who could not aspire to the provincial elite, it must have been

exhilarating to ride up to a local tavern with a county justice of the peace tied to one of the horses.

Charlton was undaunted by the obvious displeasure of yet another "Master." In October of 1737, he led a successful raid on the Lancaster County jail, freeing four Marylanders who were being held on various charges.¹³⁹ Accompanying Charlton was Francis Lowe, one of John Lowe's daughters. Like her mother and aunt, she proved invaluable. On her frequent visits to the jail to see her brother, she had managed to discover where the keys were hidden.¹⁴⁰ This action symbolized the low ebb of Pennsylvania authority in the Susquehanna region. In the weeks immediately preceding the announcement of the King's Order-in-Council, Blunston feared for the worst. He expected that an attempt would soon be made to rescue Cresap and if the Marylander were to escape, either the entire region would be lost to Maryland or "open war" would follow.¹⁴¹ In early December, the Lancaster County magistrates began to hear rumours regarding the Order-in-Council, but were obviously perturbed that they had to hear this news from Marylanders. Charlton openly crossed the river, inviting the Pennsylvanians to arrest him. Blunston and Wright were perplexed and demanded information.¹⁴² Within a few days, Penn

ordered the magistrates "not to Grant lands on the disputed Borders."¹⁴³ Blunston and his fellow magistrates were to ensure no further settlement west of the Susquehanna River unless it was well beyond Maryland claims. They were to do all in their power "to prevent any occasion of complaint."¹⁴⁴ After years of frustration trying to maintain a Pennsylvania presence on the west side of the river, it is unlikely that Blunston was pleased with his proprietor's assessment of the situation. "I think," Penn concluded, "the trouble and Expence in defending them is more than any Advantage that may accrue by the Possession can Counter Ballance."¹⁴⁵

Men and women living on the border developed a unique perspective on the boundary dispute. While the terms 'Marylanders' and 'Pennsylvanians' have been used for convenience throughout this chapter, ethnic and familial loyalties were of greater consequence to the local inhabitants than provincial affiliation.¹⁴⁶ While border inhabitants remained conscious of the opportunities for personal gain on the frontier, they tended to act in a manner consistent with their German, Scotch-Irish, or English countrymen.

Group consciousness created an atmosphere in which clear lines were drawn between 'insiders' and 'outsiders'. For the German population west of the Susquehanna River, only fellow countrymen were fully trusted. The same could be said for the Scotch-Irish. Whether espousing Pennsylvania or Maryland pretensions on the border, these two groups acted in a collective manner. They might deal with those who did not share their ethnic heritage, but the latter were never perceived as 'insiders'. Provincial leadership, on the whole, was less sensitive to this reality, though the Marylanders appeared to recognize its significance when they solicited Scotch-Irish from Chester County to dispossess the Germans. Among the local leaders, Samuel Blunston and John Wright also understood the broader implications of the ethnic dimension. As a result, they forged an effective political alliance with both the Germans and Scotch-Irish by the 1740s.

If ethnic solidarity was more important than provincial affiliation, so too was the family. The Cressap family network was the nucleus around which 'Marylanders' hovered. All members of the family shared in the defense of their lands. The wives and children proved to be as active as their husbands and fathers. Francis Foy and her daughters actively aided

their male kin and supplied the strong emotional links which held the group together. Particularly in the early stages of the conflict west of the Susquehanna, the relations between the Cresap network and the Patersons and Wrights might best be described as a family feud. The reliance of the Pennsylvanians on family loyalties is more difficult to assert. The presence of the Patersons and Wrights, the Pattens and Buchanans point to the participation of families, but the Marylanders appear to have relied more heavily on the family network as the foundation of their resistance.

It is hardly surprising that many of the local participants in the boundary dispute were poor, often landless, labourers. For those with land, the acquisition of a small tract was the first step up the social ladder from servitude. Apart from immediate family, the Cresap 'garrison' was comprised exclusively of servants or hired labourers. What is more intriguing is the opportunity that the dispute afforded these men and women to challenge their social 'betters'. Throughout the period of border unrest, there are examples of former servants confronting the gentry of both provinces. The jurisdictional confusion provided both the pretext and a rival source of

legitimacy to justify such blatant challenges to the social hierarchy. The mask of deference, which would normally shield the gentry from the animosity of the poor 'trash', was permitted to slip away if the focus of wrath was someone from the 'other' province.

Anti-proprietary sentiment, while subdued, can be found in the correspondence of Samuel Blunston. Over time, this magistrate grew increasingly frustrated with Penn's myopic perception of local realities. For his part, Cresap may be best understood if he is attributed with the conviction that all local inhabitants would be better off if the proprietary charters were resumed. Those who shared this perception would have to maintain a very delicate balance lest they alienate those at the provincial level who steadfastly supported the proprietary families. At first glance, it seems ironic that the two apparent champions of proprietary interests west of the Susquehanna River would entertain the prospects of royal government. It certainly suggests a far different perspective on the conflict if viewed from the frontier. While the direction of initiatives in the boundary conflict was from the provincial capitals outward to the borderlands, it is also true that these directives were freely interpreted at the local level.

The actions of groups on the frontier frequently forced the provincial leaders to respond in ways they had not anticipated.

Various men moved back and forth between the local and the provincial levels. This was especially true among Pennsylvanians. Samuel Blunston and John Wright were not only local leaders, they were also comfortable in the presence of the Philadelphia elite. Their ability to communicate with borderers on one level and provincial councilors or Thomas Penn on another level was a crucial factor in the extension of provincial authority into the hinterland. Thomas Cresap was less cultivated than these Lancaster County magistrates; he appears to have been more comfortable in a log cabin on the Susquehanna River than in the Provincial Council Chamber at Annapolis. Still, he met with Governor Ogle and various councilors on several occasions and had an audience with Lord Baltimore. He so impressed Daniel Dulany that he became the latter's land agent after the boundary crisis ended. More resourceful and at home on the frontier, Cresap could deal with the boundary question at the provincial level if required.

The Order-in-Councils of 1737 and 1738 effectively ended the open border warfare. To be sure, the dispute was not resolved for another twenty-five years. During

that time, there were a few further outbreaks of violence on the border, but they were not precipitated by provincial agents nor did they ignite inter-provincial antagonism. There was no subsequent period comparable to the crisis of legitimacy that occurred in the border region in the 1730s. Those open attacks on magistrates, sheriffs, and constables reflected a unique configuration of motive and behaviour that culminated in royal intervention. As the crisis escalated into border warfare, many provincial Marylanders and Pennsylvanians came to share the realization that the dispute needed to be controlled. At stake was the effective control of the hinterland. This control was normally dependent upon the deference that came with a clear delineation of lines of authority. Provincial legitimacy assumed a monopoly on violence. Put simply, the 'rule of law' and the degree of deference conferred upon provincial authority figures varied in direct proportion to the supply of arms and the number of men they could enlist to enforce their will.

Between 1732 and 1738, some borderers saw the boundary dispute as a splendid opportunity to challenge hierarchical authority precisely because the jurisdictional confusion made it difficult for either

provincial government to enforce their will; others were terrified by the prospect of being herded off to either a Maryland or Pennsylvania jail; and still others tried to ignore the conflict altogether.

Ironically, both Philadelphia and Annapolis aided and abetted the very process that was undermining their collective authority on the frontier. By 1738, it became evident that these activities were ultimately self-defeating and that a compromise was essential.

NOTES - CHAPTER 5

1. For an analysis of population movements in the border regions, see James T. Lemon, The Best Poor Man's Country: A Geographical Study of Early Southeastern Pennsylvania (New York, 1972), ch.2; Abdel Ross Wentz, The Beginning of the German Element in York County Pennsylvania (Lancaster, 1916), ch.III; James G. Leyburn, The Scotch-Irish: A Social History (Chapel Hill, 1962), 179ff; and Dieter Cunz, The Maryland Germans: A History (Princeton, 1948), 48ff.

2. There are numerous references to this frontier reality in the correspondence. See, for example, J. Steele to J., T. and R. Penn, 2 August 1731, James Steele Letterbook, II, 25; Logan to Laetitia Aubrey, 30 September 1732, JLLB, 1731-1732, 78.

3. See Lemon, Best Poor Man's Country, 44-49.

4. In trying to assess the number of settlers in the region, it is necessary to estimate from the limited records available and from surviving correspondence. For example, the records of the Maryland Land Office suggest that very few Marylanders were settled on the upper Susquehanna River south of Codorus Creek. Only six formal patents were issued to settlers for land across the river from Hempfield Township. The total land involved was slightly less than 1500 acres. Yet, in August 1736, fifty German inhabitants of the area wrote a letter to the Maryland authorities renouncing their status as Marylanders. These men believed that they had held their land by Maryland patents even though none were recorded (See Michael Tanner, et al to Thomas White, 11 August 1736, AM, 28, 100-101). It is also known that at least one of the Maryland gentry planned to locate a warrant for 10,000 acres in the same vicinity (See Representation of John Ross and Charles Carrol to Governor Ogle, 6 July 1732, PA, 1st Ser., 1, 333-335). Nor are the Pennsylvania land records more helpful, for throughout the 1730s the Penns did not issue official land warrants west of the Susquehanna River. Instead, licences were issued. Between January 1734 and October 1736, over two hundred and fifty settlers received these 'Blunston Licences', but there is no way to ascertain how many of these licences were actually allowed to lapse (See "A Record of Licences Granted to Sundry Persons to Settle & take up land on the West side of Susquannah River..." in

George P. Donehoo (ed.), A History of the Cumberland Valley in Pennsylvania (Harrisburg, 1930), I, 39-72).

Therefore, the problem of estimating the number of persons dwelling in the disputed regions is a difficult one. The conservative estimate of hundred and seventy families assumes that not all of the 'Blunston Licences' were used. In addition, I have estimated about fifteen core 'Maryland' families, another fifty German families who claimed under Maryland, and several squatters.

5. This figure is based on a petition signed by forty inhabitants who lived near Antietam Creek. Board of Property Minute Book 'K', 28 July 1736, PA, 3rd Ser., 1, 39.

6. ibid.

7. Tully, Legacy, 54ff; Lemon, Best Poor Man's Country, 22-23.

8. Blunston to T. Penn, 21 October 1736, LCP, 72.

9. For reference to Wright and Blunston as country gentry and active political figures, see Tully, Legacy, 83, 86, 227, note 36. See also I. C. Arnold, "Samuel Blunston, the Man and the Family", Historical Papers and Addresses of the Lancaster County Historical Society, XXVI(1922), 191-194 and _____, "Samuel Blunston - The Public Servant", ibid. 195-204.

10. Deposition of John Emerson, 12 July 1733, PA, 1st Ser., 1, 396-397; Deposition of Thomas Cresap, 26 March [1734/]1735, AM, 28, 68-69.

11. See, for example, the Board of Property Minute Book 'K', 28 October 1736, PA, 3rd Ser., 1, 82. Blunston and Wright received warrants for 350 acres and 300 acres respectively.

12. John Wright Jr.'s involvement will be discussed in greater detail in the following pages.

13. In 1729, Pattison (Paterson) petitioned to be granted permission to trade with the Indians. See Lancaster County Court of Quarter Sessions, 1729-1741, 9 (Lancaster County Historical Society, Lancaster, Pa.). Hereinafter cited as LCQS. For James Logan and Edward Shippen's interest in the Indian trade west of the Susquehanna, see J. Logan to E. Shippen, 20 September

1733, LP, v.2, 43 and Logan to Blunston, 28 September 1733, JLLB, 1732-1734, 42.

14. See Warrantee Township Map, West Hempfield Township (Pennsylvania State Archives, Harrisburg).

15. Blunston to T. Penn, 15 August 1734, LCP, 7.

16. For a discussion of Thomas Cresap's background, see Kenneth P. Bailey, Thomas Cresap, Maryland Frontiersman (Boston, 1944), ch.2.

17. For confirmation of the family connections of the key Maryland participants, see Testamentary Proceedings, Liber 30, folios 149 and 214 (Hall of Records, Annapolis). The latter records confirm that Cresap, William and Robert Candon, and Edward Evans were brothers-in-law. Francis Foy was Hannah Cresap's mother and Miles Foy was apparently her step-father. John Lowe was yet another brother-in-law. See Bailey, Cresap, 39 and Blunston to T. Penn, 12 February 1733/34, LCP, 1.

18. Blunston to T. Penn, 25 August 1734, LCP, 5; _____ to _____, 3 May [1735], LCP, 21; _____ to _____, 10 May 1736, Penn-Bailey Collection; _____ to Logan, n.d. [c. late 1736], PA, 1st Ser., 1, 319. Please note that the latter correspondence has been incorrectly dated by the editors of the Pennsylvania Archives. They have indicated that the letter was written to Governor Gordon in 1732, but the content clearly points to a late 1736 or early 1737 date. It is addressed to the President of the Council and thus, Logan was the recipient. See also _____ to T. Penn, 21 October 1736, LCP, 27.

19. The depositions yield twelve 'yeomen', ten servants, six 'labourers', and thirteen tradesmen. Most of these may be found in Volume 1 of the first series of the Pennsylvania Archives (PA, 1st Ser., 1) and in Volume 28 of The Archives of Maryland (AM, 28).

20. Deposition of Arthur Buchanan, 1 December 1736, PA, 1st Ser., 1, 507. The Pennsylvanians would claim that Malone was shot by one of the Marylanders. For example, see the Deposition of Samuel Scott, 4 December 1736, ibid., 511.

21. For Hannah Cresap, see Deposition of William Glasspill, 15 February 1733/34, ibid., 412; Deposition of Michael Dooling, 15 February 1733/34, ibid., 414;

Deposition of Samuel Smith, 4 December 1736, ibid., 514. Blunston considered Elizabeth Lowe to be "one of the worst of them." (Blunston to Logan, n.d.[c. late 1736], PA, 1, 1, 317.).

22. Deposition of Daniel Southerland, 8 December 1736, ibid., 517-518.

23. Blunston to T. Penn, 14 and 19 May 1736, Penn-Bailey Collection; T. Penn to Blunston, 23 May 1736, PP(Unb).

24. Rex vs John Hendricks, December 1736, LCQS, 183-184. Blunston went as far as to suggest that Hendricks be released from prison if he would surrender the time remaining on his lease and remove his family from the area. Blunston to Logan, n.d.[c. late 1736], PA, 1st Ser., 1, 319.

25. The activities of these sons will be discussed in greater detail below.

26. See Lancaster County Court of Quarter Sessions, 1729-1742 and Tully, Legacy, Appendix III.1. For the Baltimore County court, see Baltimore County Court (Proceedings), 1736/37, (Hall of Records, Annapolis). See also Criminal Judgments (Cecil), 1733-41 and Land Records (Cecil), 1734-1740, (Hall of Records, Annapolis).

27. Logan to J., T., and R. Penn, 20 January 1731/32, PP, Official Correspondence, I, 165. In the same letter, Logan notes with grim satisfaction the burning of thirty squatters' cabins on Conestoga Manor.

28. Declaration of James Logan, 15 August 1730, LP, v.3, 163. Other inhabitants pursued another course of action. Article XI of the Agreement of 1732 specifically refers to border dwellers who simply took out "double Title; that is to say, from both the said Proprietors or their Commissioners or Officers, under which they have sheltered themselves by turns against each of the said Proprietors..." Articles of Agreement, PA, 2st Ser., 16, 460.

29. Blunston to T. Penn, 17. October 1734, LCP, 5.

30. See, for example, the articles in Laura Nader and Harry F. Todd Jr. (eds.), The Disputing Process - Law in Ten Societies (New York, 1978) and Donald Black and

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Maureen Mileski (eds.), The Social Organization of Law (New York, 1973).

31. Black has linked the stratification and morphology of law in Donald Black, The Behavior of Law (New York, 1976), 21-28 and 49-54.

32. The best summary of the conflict between a local, communally-based sense of legitimacy and one founded upon a hierarchical social order is Kenneth Lockridge, Settlement and unsettlement in early America: The crisis of political legitimacy before the Revolution (New York, 1981).

33. In particular, see Minutes of the Supreme Court of Pennsylvania, 24 September 1736, BTP, v13 (1730-1737), S93; Provincial Court Judgments, 1734-38, (Hall of Records, Annapolis). For provincial involvement in local court proceedings, see T. Penn to Blunston, 7 July and 1 August 1733, PP(Unb); Blunston to T. Penn, 12 February and 10 March 1733/34, LCP, 1 and 3; Logan to Proprietors, 31 March 1735, Governors of Pennsylvania, Box 32, Case 2 (HSP). For the involvement of Daniel Dulany in the proceedings of the Lancaster County Court of Quarter Sessions, see Logan to the Proprietaries, 19 December 1735, Logan Family Papers, 2023 (HSP).

34. Provincial Court Judgment Books (Hall of Records, Annapolis); Lancaster County Court of Quarter Sessions, 1729-1742; Minutes of the Supreme Court of Pennsylvania, BTP, v13, 1730-1737. For the estimated total number of local participants, all depositions, court minutes, Board of Property minutes and Provincial Council minutes were searched and the names were indexed and cross-referenced.

35. The material pertaining to Carroll's journey is drawn from the Representation of John Ross and Charles Carroll to Governor Ogle, 6 July 1732, PA, 1st Ser., 1, 333-35 and the Deposition of Luke Mercer, 6 July 1732, ibid., 335-36.

36. For the plats, see Plats (Baltimore County), Patent Certificates #4517, #681, #868, #1173, #3869, #2513 (Hall of Records, Annapolis).

37. There are several references to these activities. Two of the more detailed accounts may be found in the Affirmation of James Hendricks, 23 November 1732, PA,

1st Ser., 1, 348-49 and the Affirmation of William MacManeck, 24 November 1732, ibid., 354-55.

38. Deposition of Thomas Cresap, 29 January 1731/32, ibid., 311-12; S. Ogle to P. Gordon, 2 February 1731/32, ibid., 313; Gordon to Ogle, 21 February 1731/32, ibid., 313-14; Ogle to Gordon, 5 April 1732, ibid., 320-21; Gordon to Ogle, 18 April 1732, ibid., 321-22; Logan to A. Cornish, 15 February 1731/32, JLLB, 1731-32, 38-39.

39. Blunston to R. Charles, 3 October 1731, ibid., 295.

40. This inference is drawn from the content of the letter signed by fifty Germans renouncing their Maryland affiliation. Michael Tanner et al. to Thomas White, 11 August 1736, AM, 28, 100-01.

41. T. Penn to Blunston, 10 January [1733/]1734, Penn Manuscripts Unbound.

42. Deposition of Luke Mercer, 6 July 1732, PA, 1st Ser., 1, 336.

43. Representation of John Ross and Charles Carroll, 6 July 1732, ibid., 334.

44. Deposition of Luke Mercer, 336.

45. Representation of John Ross..., 334.

46. ibid., 335

47. Deposition of Francis Ward, 28 December 1732, PVB, II, 3.

48. For an insightful article on the difference between 'insiders' and 'outsiders', see Barbara B. Yngvesson, "The Atlantic Fishermen" in Nader and Todd, The Disputing Process, 59-85.

49. For this incident and Cresap's seizure of Paterson, see Wright and Blunston to Charles Jones, 24 November 1732, PA, 1st Ser., 1, 349; Depositions of Thomas Cresap and John Lowe, 13 December 1732, AM, 28, 19-21; Depositions of John Capper, John Brabaker, Charles Jones, Alexander McKey, Joshua Lowe and Jonathon Patten (#1 and #2), 28 and 29 December 1732, PVB, II, 3. Cresap even boasted that he would have defended two fleeing Pennsylvanians arrested for child murder if he had been present when the Lancaster County authorities

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had crossed the river (See the Deposition of Joshua Lowe).

50. Blunston was certain that Hendricks was close to the breaking point. Blunston to T. Penn, 2 June 1733, LCP, 1.

51. T. Penn to Blunston, 17 July 1733, PP(Unb).

52. This tactic is discussed from a proprietary point of view in Chapter 4. T. Penn to Blunston, 7 June, 7 July(#2) and 1 August 1733, PP(Unb); Blunston to T. Penn, 25 July 1733, LCP.

53. Deposition of Cornelius Comages, 2 April 1733 and Deposition of John Emerson, 12 July 1733, PA, 1st Ser., 1, 396-97. The relationship between the leader of the Maryland settlers and John Emerson, a Pennsylvania lawyer and landowner, was a complicated one. Apparently, Cresap initially perceived Emerson to be sympathetic to the Maryland cause. For his part, Emerson did not become a prominent figure in the conflict until January 1734, when he made his first of several attempts to capture the Marylander. Perhaps the original goodwill was related to their wives' friendship. See references in notes 21 and 22.

54. Blunston to T. Penn, 2 January [1733/]34, LCP, 17.

55. The posse included John Powell, under-sheriff of Lancaster County, John Wright, chief justice of the county, Edward Smout, a fellow magistrate, John Emerson, Wright's two sons and some twenty-five others. Blunston to T. Penn, 30 January 1733/34, PA, 1st Ser., 1, 410-11; Deposition of George Soldner, Philip Crever and Michael Risenar, 25 October 1735, AM, 28, 86-87.

56. Depositions of Thomas Cresap, John Lowe, and William Smith, 5 February 1733/34, AM, 28, 60-62; Depositions of William Glasspill and Michael Dooling, 15 February 1733/34, PA, 1st Ser., 1, 412-414.

57. Blunston to T. Penn, 30 January 1733/34, PA, 1st Ser., 1, 411.

58. Blunston to T. Penn, 12 and 24 February 1733/34, LCP, 1 and 19. See also J. Minshall and J. Hendricks to T. Penn, 22 February 1733/34, Penn-Bailey Collection. This letter was written from the Annapolis prison.

59. There are several references to this incident. B. Shurmer to R. Charles, 1 January and 2 February 1732/33, PA, 1st Ser., 1, 370-72 and 380-81; Depositions of Richard, William and George Andrews and John Sulavan, 5 February 1732/33, ibid., 382-85. For correspondence between the local magistrates of the two provinces, see M. Manlove and J. Houseman to H. Ennals and Associates, 26 January 1732/33 and H. Ennals to the Justices of the Peace of Kent County, 29 January 1732/33, ibid., 377-79.

60. Deposition of William Daugherty, 24 August 1733, and Deposition of Samuel Muncey, 31 August 1733, Pennsylvania Miscellaneous Papers, Penn & Baltimore, 1725-1739, 89 (HSP).

61. Depositions of Thomas Rothwell and Henry Packard, 30 April 1734, and Hugh Rainey, 15 May 1734, PA, 1st Ser., 1, 423-424, 433; Steele to J. Heath, 13 May 1734, ibid., 426-427.

62. Murphy first appeared before the Provincial Court in October 1734, but a judgment was not made until October 1735. Lord Proprietor vs Murphy, Provincial Court (Judgments), May 1734 - July 1735 (Liber E.I.1) and October 1735 - May 1737 (Liber E.I.2), Hall of Records, Annapolis. For the Rumsey incident, Ogle to Gordon, 15 June 1735, PA, 1st Ser., 1, 445; Minutes of the Provincial Council of Pennsylvania, 6 May 1735, CRP, III, 591-593. Although Rumsey was tried in Lancaster County, his petition was subsequently heard by the Supreme Court of Pennsylvania. See King vs Rumsey, 24 September 1736, Minutes of the Supreme Court of Pennsylvania, BTP, 13 (1730-1737), 593.

63. Ogle to Gordon, 15 June 1735, PA, 1st Ser., 1, 445; Depositions of Patrick and Ann Thomas, 27 May 1735, ibid., 440-42.

64. Blunston to T. Penn, 22 July 1734, LCP, 7.

65. Blunston to T. Penn, 15 August 1734, ibid..

66. Tully, Legacy, 20. For a more recent discussion of the emergence of an anti-proprietary coalition and the boundary conflict, see Alan W. Tully, "Ethnicity, Religion, and Politics in Early America", PMHB, CVII (October 1983), 498-500.

67. Blunston to T. Penn, 25 August 1735, LCP, 19.

68. Thomas Penn's Speech to the Dutch on Susquehanna, [May] 1736, Pennsylvania Miscellaneous Papers, Penn & Baltimore, 1725-1739, 163. Although the speech was dated _____ 1736, it was likely given in May since he wrote to Blunston from John Hendricks plantation on May 23rd. See T. Penn to Blunston, 23 May 1736, PP(Unb).

69. Depositions of Joseph Ogle and Patrick Connor, 16 October 1735, AM, 28, 81-82.

70. Deposition of Jacob Loughman, 18 October 1735, ibid., 82-84.

71. ibid.; Deposition of John Powell, September 1735, CRP, III, 612-613.

72. Examination of Mark Evans, 15 April 1737, CP, Colonial Ventures, Maryland-Pennsylvania Boundary Dispute, Dated 1680-1769, Affidavits of the Burning of Cresap's House and Killing Malone.

73. There are several references to this 28 year old carpenter in the depositions of the participants. See, for example, Depositions of Samuel Smith and Benjamin Chambers, 4 and 8 December 1736, PA, 1st Ser., 1, 513-515, 519-521; Deposition of Michael Risegar, 25 October 1735, AM, 28, 86.

74. Examination of Mark Evans, 15 April 1737. With his return to Pennsylvania jurisdiction, Evans was rewarded with a commission as justice of the peace. He became an important target for the Maryland 'garrison' and was subsequently captured and sent to Annapolis. Blunston to T. Penn, 13 January 1736/37, LCP, 29; Minutes of the Provincial Council of Pennsylvania, 26 August 1736, CRP, IV, 58; Lordship vs Mark Evans, Provincial Court (Judgments), Liber E.I.2 (1735-1737).

75. Blunston to T. Penn, 3 May 1735 [?], LCP, 21. The exact date of Buchanan's dismissal as sheriff of Lancaster County is uncertain, but it occurred before the fall of 1736.

76. Examination of Mark Evans, 15 April 1737; [Blunston] to T. Penn, 7 March 1736/37, PP(Unb).

77. Michael Tanner et al to Thomas White, 11 August 1736. For the meeting with Blunston, see Examination of Mark Evans, 1 April 1737, CP, Affidavits. This defection may have been precipitated by the efforts of a Baltimore County surveyor who had begun to resurvey

the land in May. Deposition of Robert Barber, 20 September 1736, #2, PA, 1st Ser., 1, 490-92.

78. Wright to Provincial Council, 7 September 1736, PA, 2nd Ser., 7, 213-214; Blunston to T. Penn, Logan Official Papers (HSP).

79. Justices of Lancaster County to Logan, 8 September 1736, CRP, IV, 66-69. This letter included the following correspondence: Samuel Smith to William Hammond, n.d.; Hammond to Smith, 5 September; M. Tanner et al to Captain Guest, 5 September; Smith to Hammond, 6 September; and Hammond to Smith, 6 September 1736.

80. Deposition of John Ross, 11 December 1736, PA, 1st Ser., 1, 526-528.

81. Substance of Answer of Dutch to the Governor of Maryland, _____ 1736, ibid., 492-494.

82. Justices of Lancaster County to Logan, 8 September 1736.

83. T. Penn to Blunston, 16 September 1736, LCP, 27.

84. Added to the Blunston Licence Book was "A Copy of Licences Signed by the Proprietary when he was last in Lancaster County to Sundry persons Settled within the Manor of Springetsbury". These licences were dated 30 October 1736. See Donehoo, History of Cumberland Valley, 65-67.

85. Logan to T. Penn, 18 November 1736, Society Collection (HSP); Logan to J. Steele, 18 and 19 November 1736, ibid..

86. Steele to J., T. and R. Penn, 24 May 1731, Penn Official Correspondence, II, 168 (HSP); _____ to _____, James Steele Letterbook 1730-1741, 25 (HSP); Steele to T. Penn, 28 August 1731, ibid., 32.

87. Logan to Steele, 19 November 1736, Society Collection.

88. Depositions of John Coats, Jeremiah Starr, and William Miller, 22 November 1736, PA, 1st Ser., 1, 500-502; Declaration of Henry Munday, 24 November 1736, ibid., 502-503; Minutes of the Provincial Council of Pennsylvania, 27 November 1736, CRP, IV, 106ff.

Baltimore's Agent and Receiver General was the provincial official ultimately responsible for the collection and disbursement of all funds related to land transactions, quitrents and alienation fines, and duties. By 1734, the Agent received an annual salary of £150 sterling for the collection of the port duties and quitrent (after 1733). He also received a commission of 10% on all other proprietary income. When the commission was discontinued in 1771, the salary was raised to £500 sterling per annum. Henry Darnall was the Agent from 1684 to his death in 1711. He was succeeded by his son-in-law, Charles Carroll, who lost the office in 1716 because he remained a Catholic. From 1716 to 1728, the Lowe brothers retained the office with Henry Jr., Bennett and Nicholas succeeding each other. Colonel Matthew Tilghman Ward, appointed in early 1730 was replaced by Daniel Dulany, Sr. in 1733. Within a year, Dulany resigned in order to become sole Commissary General and Benjamin Tasker Sr. assumed the office which he held until his resignation in 1753. See Owings, His Lordship's Patronage, 77-81 and 166-167.

89. Samuel Blunston became aware of this development, but was unable to prevent them from crossing the river since Maryland sympathizers controlled the ferry crossing points. Blunston to T. Penn, 21 October 1736, LCP, 27.

90. Examination of Edward Leet, 24 November 1736, CRP, IV, 104-106.

91. This figure is based upon two lists of names of persons interested in relocating on the German lands. One list included thirty one names while the other had fifty two names; however, there was a good deal of overlap. The lists may be found in the Minutes of the Provincial Council of Pennsylvania, 23 November 1736, ibid., 101-102.

92. Blunston to T. Penn, 21 October 1736, LCP, 27.

93. The posse planned to make their way under cover of darkness to the cabin of Thomas Cresap and seize the Marylander on a warrant for the murder of Knowles Daunt. Taking the wrong path and losing the element of surprise, they arrived at Cresap's in full daylight. What then happened has become the subject of much of the literature that has focused on the 'border war'. In particular, see Bailey, Cresap, ch IV; Lawrence Wroth, "The Story of Thomas Cresap, a Maryland

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Pioneer," MHM, IX (March, 1914), 1-37; "Cresap's War," Historical Papers of the Lancaster County Historical Society, XIII(1909), 237-254.

94. The Humble Petition of the Governor and Council of the Province of Maryland, 18 February 1736/37, AM, 28, 111-115.

95. There are close to thirty depositions either directly or indirectly related to the capture of Thomas Cresap. The Pennsylvania statements have been published in PA, 1st Ser., 1, 504-526, while the Maryland material may be found in the CP, Affidavits.

96. Deposition of Samuel Smith, 4 December 1736, PA, 1st Ser., 1, 514-515.

97. In 1730, Priest had been found guilty of assault at the Lancaster County Court of Quarter Sessions. See LCQS, 55.

98. Examination of Francis Poy, 30 March 1737, CP, Affidavits.

99. ibid.

100. A Relation of the Case of Thomas Cresap, {c. early 1736/37}; CP, Affidavits.

101. Deposition of Arthur Buchanan, Samuel Scott, John Kelly and David Priest, 3 December 1736; PA, 1st Ser., 1, 505.

102. There is no direct reference to this order in the Pennsylvania depositions, but two of the Maryland witnesses clearly believed that the arrival of Smout signalled the final assault. Deposition of Samuel Smith, 4 December 1736; Deposition of Joseph Ogle, 29 November 1736, and Examination of Francis Poy, 30 March 1737, CP, Affidavits.

103. Normally, several of the Marylander's brothers-in-law would also have been present. However, William Cannon was still in a Pennsylvania jail and the day before Cresap had sent a party south to pick up arms and reinforcements. This group probably included Edward Evans and John Lowe, since Cresap would have been reluctant to trust anyone outside his family to deliver the supplies. Deposition of Daniel Southerland, 8 December 1736, PA, 1st Ser., 1, 518.

104. Deposition of Daniel Southerland, 8 December 1736; Deposition of Arthur Buchanan, 1 December 1736, PA, 1st Ser., 1, 507.

105. As already noted, even for men like Samuel Blunston, John Wright and Samuel Smith of Lancaster County and William Hammond, Nathaniel Rigby and Colonel Hall of Baltimore County, the deference of the local population was difficult to maintain.

106. Deposition of Joseph Ogle, 29 November 1736.

107. Deposition of Henry White, [2]4 December 1736, CP, Affidavits.

108. Deposition of Arthur Buchanan, 1 December 1736.

109. Deposition of Robert Buchanan, 1 December 1736, PA, 1st Ser., 1, 506-507; Deposition of George Aston, 3 December 1736, ibid., 510.

110. ibid., 510 and 507.

111. Tully, Legacy, 10. Yet, tantalizing inferences may be drawn. For example, it is entirely possible that Cressap had the quiet support of such men as Charles Carroll and Daniel Dulany, the Attorney General of Maryland. Both men were members of the Maryland elite, but Dulany had only recently become associated with the proprietary circle and Carroll was not a recipient of proprietary favour. Both men were in the process of accumulating large tracts of western land for speculative purposes. Perhaps they believed that the introduction of royal government would hasten the development of the frontier and assure them a sizeable return on their speculative ventures. While the Penns and Calverts retained control of their provinces, their agents would ensure that they retained title to the best lands. The problem of the quitrents was another possible incentive for large landowners to welcome royal government. For speculators like Charles Carroll, the demise of the two largest proprietaries in North America could greatly enhance their prospects, for the Penns and Calverts had direct control of all land disbursements in their colonies.

It mattered little to Carroll which province controlled a given piece of territory as long as he could arrange to obtain large tracts of western land. As noted above, he and John Ross had visited the disputed area with the intention of locating a warrant

for 10,000 acres. Their plans did not come to fruition, but Carroll was persistent. In 1736, the Marylander journeyed to Philadelphia. He arranged a private meeting with Thomas Penn to obtain a grant for 20,000 acres west of the Susquehanna River. This meeting took place on 25 October 1735, but it was noted in Board of Property Minute Book 'K', 27 July 1741, PA, 3rd Ser., 1, 109. It appears that Penn turned down Carroll's request, preferring to retain proprietary rights to the land for the benefit of his family. There is evidence that Carroll did secure a large tract by Maryland warrant in what would become Pennsylvania. ibid. See also Index to the Land Records (Hall of Records, Annapolis) for a reference to a 5000 acre tract called 'Carroll's Delight' which was located in what would subsequently become Pennsylvania.

Although Governor Ogle publicly supported Crasap in his efforts against the Pennsylvanians, it is difficult to imagine that he would be seeking a means by which the Maryland charter would be resumed. On the other hand, Ogle had clearly decided to make his home in Maryland. He married into a prominent local family and like many Anglo-American politicians, adroitly managed to balance his provincial and English interests. For detailed discussions of the Anglo-American politician, see Olson & Brown, Anglo-American Political Relations. Ogle was convinced that Baltimore had committed a serious gaffe when he signed the Agreement of 1732. Over the next five years, he sought first to void the agreement and then to extend the borders of Maryland, particularly in the north-west. Is it possible that he realized that one possible result of the growing conflict was the resumption of the charter? Maybe Ogle felt sufficiently secure in his provincial power base that the prospect of royal government was not alarming. If the Pennsylvanians conceded territory on the border he would be held in esteem by the Calverts; if both the Penns and the Calverts lost their colonies, he would still retain his place among the provincial elite.

Daniel Dulany had only recently accepted proprietary favour. Baltimore had shrewdly offered a seat on the Provincial Council to this emerging leader of the anti-proprietary forces. An excellent study of Dulany is Aubrey C. Land, The Dulanys of Maryland: A Biographical Study of Daniel Dulany, the Elder (1685-1753) and Daniel Dulany, the Younger (1722-1797) (Baltimore, 1968). During the boundary crisis, he grew increasingly militant and developed a keen appreciation

for Thomas Cresap. Shortly after the latter was released from jail, Dulany supplied him with a large tract of land on the western frontier. In return, Cresap became the Attorney General's land agent as Dulany began to open the area in which he had heavily speculated. Cresap received a loan of £500 from Dulany to resettle in western Maryland. For these activities, see Bailey, Cresap, ch.V. Dulany would later write to Baltimore defending Cresap's activities on the frontier. See Dulany to Baltimore, 16 July 1744, DD.

112. For a list of the captors, see BTP, 13 (1730-1737), S90. The list of German signees of the August letter may found in AM, 28, 102-103.

113. "A Record of Licences...", 2 May, 24 August 1734 and 16 January 1734/35, in Donehoo (ed.), History of Cumberland Valley, 44, 47 and 51.

114. Apparently, Penn was not particularly forthcoming with financial assistance. Blunston to T. Penn, November 1736, LCP, 27.

115. Deposition of Joseph Ogle, 29 November 1736, and Examination of Michael Atkinson, 5 January, 1736/37, CP, Affidavits;

116. Blunston to T. Penn, November 1736, LCP, 27;
 _____ to _____, 10 December 1736, LCP, 23;
 to _____, 13 January 1736/37, LCP, 29; _____ to _____,

117. One has only to examine the docket of the Maryland Provincial Court for 1737 to confirm the success of Higgenbotham's actions against the Pennsylvanians. See Provincial Court (Judgments), Liber E.I.2 (1735-1737), especially the May term.

118. Ross was accompanied by Arthur Buchanan and Mark Evans. As noted above, the latter had been one of those who had participated in the 'Revolt of the Dutch'. He had been a Baltimore County justice of the peace and his return to Pennsylvania jurisdiction brought with it a similar appointment as a magistrate of Lancaster County. See notes 74 and 76 for reference to Evans.

119. Blunston to T. Penn, 9 January 1736/37, LCP, 23.

120. Charles Higgenbotham to John Ross, 4 January 1736/37; The Pennsylvania Gazette, Numb. 425 (27

January to 3 February, 1736/37). The same issue included Ross' response, J. Ross to C. Higgenbotham, 11 January 1736/37. These letters attracted the attention of the editor of The New York Gazette who published them in Numb. 588 (10 February to 17 February, 1736/37).

121. Blunston to T. Penn, 10 December 1736, LCP, 27. See also S. Blunston to T. Penn, 12 April 1737, LCP, 33.

122. [Blunston] to T. Penn, 7 March [1736/37], PP(Unb).

123. Blunston to T. Penn, 13 January 1736/37, LCP, 29.

124. Blunston to T. Penn, 27 January 1736/37, LCP, 35.

125. T. Penn to Steele, 10 February 1736/37, Society Collection.

126. [Blunston] to T. Penn, 7 March [1736/37].

127. Examination of Jacob Grabill, 15 April 1737, CP, Affidavits.

128. Examination of Reynart Hamar, 15 April 1737, CP, Affidavits.

129. [Blunston] to T. Penn, 7 March [1736/37].

130. Blunston to T. Penn, 12 April 1737, LCP, 33.

131. Petition of Joseph Perry and Charles Higginbotham, [18 May 1737], AM, 28, 121. This petition was considered by the Maryland Council on 18 May. The Maryland government had issued a proclamation on 21 October 1736, offering a £10 reward for the capture of each of the Germans who had participated in the 'Revolt of the Dutch' and £20 each for the capture of Lancaster County Sheriff Samuel Smith, and magistrates Edward Smout, Wright and Blunston. Proclamation of 21 October 1736, AM, 28, 103-106.

132. Besides his share of the rewards, Higgenbotham received further compensation directly from the Governor. He became overseer of Ogle's plantation. Evidently, the Governor had been duly impressed by the thoroughness with which Higgenbotham had dealt with the Germans and believed that he would bring the same toughness to the management of plantation servants and slaves. Blunston to T. Penn, 1 July 1737, LCP, 33.

133. ibid.

134. Affirmation of Robert Blundell, 4 July 1737, Deposition of Elisha Gatchell, 22 July 1737, and Affirmation of Joshua Little, 29 July 1737, Pennsylvania Miscellaneous Papers, Penn & Baltimore, 1725-1739, 197, 195/197 and 199/201.

135. Affirmation of Thomas Hughes, 29 July 1737, Pennsylvania Miscellaneous Papers, Penn & Baltimore, 1725-1739, 197/199.

136. ibid.

137. ibid.

138. ibid.

139. Blunston to T. Penn, 30 October 1737, Penn-Bailey Collection.

140. Minutes of the Provincial Council of Pennsylvania, 12 November 1737, CRP, IV, 251.

141. Blunston to T. Penn, 30 October 1737.

142. Wright and Blunston to T. Penn, 5 December 1737, Penn-Bailey Collection.

143. T. Penn to Blunston, 9 December 1737, PP(Unb).

144. ibid.

145. ibid.

146. James T. Lemon makes a strong case for the emergence of individualism on the south-eastern frontier of Pennsylvania, but the evidence presented in this chapter suggests that this individualism can only be understood within a social context in which family and ethnic ties were crucial. In a recent article James Henretta has posited the argument that the 'mentalité' of the local inhabitants included a strong collective consciousness which drew its strength from ethnic identification. He argues that this sense of group identity had far more influence on behaviour than self-interest. However, it would be inaccurate to perceive the Scotch-Irish or Germans on the border as communitarian. Families in the disputed region lived on separate farms and there is no evidence of common lands. The kinship network was important to the

Marylanders west of the Susquehanna, but the Cannons, the Lowes, the Cresaps and the Foys lived as autonomous units within the network. See Lemon, Best Poor Man's Country; _____, "The Weakness of Place and Community in early Pennsylvania," in James R. Gibson (ed.), European Settlement and Development in North America: Essays on Geographical Change in Honour and Memory of Andrew Hill Clark (Toronto, 1978), 190-207; _____, "Spatial Order: Households in Local Communities and Regions," in Green and Pole, British America, 86-122; James Henretta, "Wealth and Social Structure," in *ibid.*, 262-289; and _____, "Families and Farms: Mentalité in Pre-Industrial America," *WMQ*, 3rd Ser., XXXV (1978), 3-32.

CHAPTER 6

BALANCING FRONTIER AND EMPIRE: THE PROVINCIAL PERSPECTIVE, 1732-1738

If local inhabitants became directly involved in border violence and the proprietors became enmeshed in costly legal proceedings and political intrigue at Whitehall, how did members of the provincial elites deal with the boundary dispute? To what extent did they seek to orchestrate events on the frontier, in London and in their own provincial theatres? The provincial context incorporated elements of both local and cosmopolitan perspectives; provincial actors resided somewhere in the middle of a spatial and social continuum that ranged from the frontier cabins west of the Susquehanna River to the meeting rooms of Whitehall, and from the subsistence living of a poor tenant farmer to the opulence of the Prince of Wales' entourage.

Some might, on occasion, appear to cross the ill-defined, but very real lines that divided the provincial gentry from their less genteel local neighbours and their more cosmopolitan proprietary families. Others aspired to represent a proprietary, if not imperial perspective. As a magistrate living on the frontier, Samuel Blunston was well aware of the

local aspects of the border conflict, but his frequent correspondence with Thomas Penn clearly points to a man with a cosmopolitan perspective and strong ambition. On the other hand, Robert Buchanan was a rougher, less cultivated Sheriff of Lancaster County. Both were men of means, but the former more consistently represented a provincial perspective, while the latter embodied a local viewpoint.

Still within the middle range of our imaginary continuum, one can find men like James Logan and Samuel Ogle who lived at the apex of provincial society. Frequently perceived by other members of the provincial elites as representing a proprietary perspective, these men owed their positions within provincial society to their steadfast support of the proprietors. It is equally true, however, that these men shared a perspective which was uniquely provincial.

Logan had been living in Pennsylvania for over thirty years. He had extensive landholdings in the province and was immersed in the Indian trade. His correspondence with the Penns and Fernando John Paris reveals an urbane and sophisticated man who struggled with the reality of being relegated to a provincial world. Yet, he retained a strong sense of commitment to this world and sometimes his letters appear to be

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vain pleas to his English colleagues and proprietors to understand the colonial mentality. For Logan, the boundary conflict became an intensely personal crusade to free his province (and his economic interests) from a proprietary dispute that threatened to pull down his world. Despite his longstanding close affiliation with the Penns, Logan remained what he had over the years become - a successful member of a colonial elite who eventually found greater comfort in his country estate in Pennsylvania than in the prospect of a return to England.¹

Governor Samuel Ogle was the unquestioned spokesman for the Maryland elite in the boundary dispute from shortly after his arrival in 1732 through the issuance of the 1738 Order-in-Council. Although the proprietor's chief executive officer and only a recent arrival in the province, Ogle possessed an ability which was shared by few other governors. While serving his English employer, he forged strong personal links to provincial society. Even more than Logan, Samuel Ogle was a successful Anglo-American politician. In 1741, he married Benjamin Tasker's daughter and over the length of his term of office, he acquired extensive landholdings in the province. As a mark of his successful integration into Maryland society, Ogle

remained in the colony after he was replaced by Thomas Bladen in 1742. His return to the Governor's mansion in 1747 was greeted with popular approval. While other governors might perceive an interprovincial conflict from an imperial perspective, Ogle came to share the provincial perceptions of his fellow Marylanders; while others had difficulty adjusting to life in provincial British America, Ogle found a permanent home among the Maryland merchant planters.²

Across the continuum of provincial life, various motives assumed concrete form during the climactic years after 1732. As the dispute escalated in the 1730s, the behaviour of men like Samuel Ogle, Benjamin Tasker, Daniel Dulany, Andrew Hamilton, or James Logan can be examined to distinguish the emergence of this provincial point of view. Did men operating at this level hold views which differed markedly from their proprietors and the borderers? To what extent did the Maryland and Pennsylvania elite share common concerns? Did provincial leaders control the pace of the dispute after 1732? To answer these questions, this chapter will focus on four aspects of the boundary dispute: first, the meetings of the Boundary Commission in 1732-1733; second, the three formal provincial delegations that sought to resolve the dispute through

interprovincial negotiations; third, the extensive use of the judicial system by both provinces; and fourth, the efforts of the provincial leadership to control events on the frontier.

I

News of the Agreement of 1732 reached Maryland and Pennsylvania in the early fall. One of the articles of agreement called for the formation of a Commission to implement the provisions of the settlement. Governors Ogle and Gordon soon agreed to hold the first meeting of the commission at Newtown on 6 October 1732.³

Comprised of six of the most influential citizens of each province, this commission met on several occasions from October of 1732 to November 1733. Although some of the minutes are sparse, and must be supplemented by the recollections of several of the participants, they reveal the formulation and articulation of a distinctly provincial perspective on the boundary dispute.

The Commissioners represented the pinnacle of power in their provinces. Led by the aging and infirm Governor Patrick Gordon, the Pennsylvania delegation included James Logan, Andrew Hamilton, Samuel Preston, Robert Charles, Isaac Norris, and James Steele. As

Speaker of the Assembly, Hamilton combined public popularity with a solid relationship with the proprietary interests of the province. This ability to bridge the gap between the assembly and the executive, marked Hamilton as the most powerful Pennsylvania politician of the period.⁴ The Philadelphia merchant interest was represented by Isaac Norris who attended several of the meetings, although he was preoccupied with commercial activities during the negotiations.⁵ Samuel Preston was a Quaker assemblyman whose power was still on the ascendant in the early 1730s.⁶ The son-in-law of the lieutenant governor, Robert Charles had become provincial secretary to the Penns. James Steele, the Receiver General of Pennsylvania had been a longstanding member of the proprietary party and an extensive landowner in the disputed region.⁷

The Maryland delegation was headed by Lieutenant Governor Samuel Ogle. In a letter written to Baltimore before the Agreement had been signed, Ogle had already warned his proprietor that the Marylanders would "try to mend the letter of your Treaty by the spirit of it if there should be occasion, as there will be soon enough to do in the execution of matters in which there must of course occur many difficulties." The recently arrived governor had been convinced by members of the

Council that Maryland had to be very careful to secure their interests against their northern neighbour. He believed if the Pennsylvanians had "some regard to the present possessions," the Marylanders would find the Agreement less objectionable.⁸ Joining him was Baltimore's cousin, Charles Calvert, who held the lucrative post of Surveyor General of the Western Shore.⁹ Philomen Lloyd, Deputy Secretary and Judge of the Land Office, was an obvious selection as was Matthew Tilghman Ward, Baltimore's Land Agent and Receiver General.¹⁰ In addition, Ogle called upon Michael Howard, the Attorney General and Surveyor General of the Eastern Shore, Richard Bennett, Rent Roll Keeper, and Benjamin Tasker Sr., a member of the Council and Surveyor and Searcher of Annapolis. The latter was quickly emerging as a dominant figure in Maryland provincial politics. In 1733, Tasker became Rent Roll Keeper of the Western Shore and a year later he replaced Ward as Agent and Receiver General.¹¹

The Maryland Commissioners wasted little time in letting the ~~Pennsylvanians~~ know that the meetings would not run smoothly. On 6 October, the Commissioners from both provinces met for the first time at Newtown Maryland. Before any matter of substance was discussed, Ogle first challenged the legitimacy of the

Pennsylvania commission, and then quickly moved for an adjournment until the end of the month at Newcastle.¹² When the Commission reconvened on 30 October, the Maryland tactics became blatant. On behalf of the Maryland delegation, Ogle demanded to see original copies of the Pennsylvania Charter and the Deed of Enfeoffment for the Lower Counties. The Pennsylvanians acquiesced since copies of the requested documents were in Philadelphia, but when they produced the Charter and Deed, the Marylanders then demanded that copies of the relevant sections be made for their use. The Pennsylvanians objected to these tactics but to no avail.¹³

The following day, Ogle introduced a carefully orchestrated objection. First noting the centre of Newcastle had not been specified in the Article, the Maryland governor concluded there could be "no Circle without a Center." Logan and his fellow Pennsylvania commissioners angrily responded that it was "a known Maxim in Law that where a thing is prescribed to be done, the Means are, at the same time prescribed."¹⁴ Unmoved by the Pennsylvania argument, the next day Ogle called for a three month adjournment so that he and his fellow Commissioners could consult with Lord Baltimore who would soon be arriving in his colony. Unable to

contain their anger at this open contempt for the Agreement, the Pennsylvanians made it very clear they knew exactly what the Marylanders were doing. If these problems were not enough, this session ended with a disagreement over the taking of minutes. Unable to agree on a formal method of recording the transactions of the Commission, it was left to each group to maintain their own record of the meetings.¹⁵

After attending these first sessions of the Commission, James Logan concluded that the Maryland Commissioners were "determined to allude" the agreement because it sacrificed their provincial interests and he correctly perceived the Maryland governor to be the key figure around which opposition to the Agreement was concentrated. According to Logan, the Marylanders had expected the boundary settlement to protect their right to lands already granted, regardless of where these tracts were situated. Given the perception that men like Michael Howard held large tracts in the disputed region for speculative purposes, it is not surprising that Logan believed he had uncovered the root cause of the problems encountered by the Commission.¹⁶ However, he may have been only too aware of his own self-interest.

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Logan owned land in the disputed area on the Susquehanna River, as well as in the Nottingham region.¹⁷ Nor was he the only Pennsylvanian that held property in the area. Another Commissioner, Andrew Hamilton, owned property in what would prove to be Maryland. Also, the Receiver General of Pennsylvania, James Steele, was a landowner on the disputed border near Newcastle. One of the major test trials in the Maryland Provincial Court involved land owned by Steele.¹⁸ Nor was Michael Howard the only member of the Maryland provincial elite who may have speculated on the north-west boundary region. Maryland's Attorney General, Daniel Dulany had begun to speculate on western lands and was well aware of the potential benefits of a favourable settlement. Charles Carroll was one of the first Marylanders to appreciate the relationship between the value of the interior and crop diversification. Besides his attempt to locate a 10,000 acre warrant in the Codorus region in 1732, Carroll also recorded a 5000 acre tract of land west of the Susquehanna with the Maryland Land Office in 1735. In the same year, he tried unsuccessfully to obtain a larger grant in the same area from Thomas Penn.¹⁹

Between the adjournment on 2 October 1732 and the next meeting on 1 February 1733, interprovincial

relations continued to deteriorate. As noted in the previous chapter, magistrates of one province had begun to take action against those who claimed border land under the other province's jurisdiction. The Maryland government seized the opportunity to protest these events vigorously and when Baltimore arrived in his province, his councilors immediately informed him of the weaknesses of the agreement. Realizing that the Agreement was in jeopardy, Thomas Penn offered to meet with Baltimore. Pointedly alluding to the Maryland elite, the Pennsylvania proprietor claimed that "Endeavours have been us'd to beget Misunderstandings between Us and our Governments," but Baltimore brusquely refused to defuse the growing crisis.²⁰

When the Commissioners reconvened at Newcastle on 1 February, it was obvious to all concerned that the Boundary Commission had no real chance of success, despite the regular attendance of the participants. There was no movement on the question of the centre of the circle and, to make matters even worse, the Maryland Commissioners introduced another serious complication. How, they asked, did the Pennsylvanians define the twelve mile circle? The Marylanders insisted that it could only mean a circle with a twelve mile circumference or at most, a diameter of that

length. Understandably, the Pennsylvanians were equally adamant that the letter of the Agreement clearly dictated a circle with a twelve mile radius.²¹ It is difficult to assess whether the Marylanders would have run out the lines if the Pennsylvanians had conceded on the size of the circle. The acreage involved was significant since the northern point of the line running north-south down the middle of the peninsula would have shifted eastward from six to nine miles; however, the Marylanders seemed committed to ending the agreement. The Pennsylvanians insisted the Marylanders commit their demands to paper and the next day they worked on a formal written reply.

At the morning session, Preston and Norris arrived late, followed shortly by James Steele; not long after the session began, Steele left, presumably to consult with Andrew Hamilton who was confined to his room with an attack of gout. Declaring the Pennsylvanians no longer had a quorum, Ogle claimed they were liable for non-attendance.³ He informed Norris and Preston that the Maryland delegation would now return to Annapolis, as it was obviously to Baltimore's advantage that the Pennsylvanians had been caught in a non-attendance. For their part, Norris and Preston tried to make the best of a bad situation. They visited Ogle's quarters,

entreated him to reconsider his decision to withdraw and informed him the Pennsylvanians would reconvene the following morning. Ogle ignored these gestures and when the Pennsylvanian commissioners appeared at the meeting room the next day they found only empty chairs.²²

If Ogle thought his proprietor would use this opportunity to extricate himself from the Agreement, he was mistaken. Possibly realizing this non-attendance case would not stand the test of judicial rigor, Baltimore notified Gordon that his Commissioners were willing to reconvene at Joppa in early May.²³ The Maryland Commissioners acknowledged that Baltimore had decided not to seek a forfeiture, but they insisted upon meeting at Joppa since there was little need to return to Newcastle until the two sides had agreed upon a means to proceed. Given the inconvenience of its location for the Pennsylvania commissioners, the choice of Joppa was an attempt by the Marylanders to save face when it became apparent that they would have to reconvene the commission meetings.

At Joppa, the shift from verbal to written communication continued, with formal queries and responses being exchanged. Without mutually agreeable minutes of the meetings, it is not surprising that the

Pennsylvanians now reserved all important comments to formal written statements. Unless the Pennsylvanians were willing to run a line based upon a circle with a twelve mile circumference, Ogle suggested the Commissioners proceed to Cape Henlopen to run the east-west line across the peninsula. As if to punctuate the deadlock, it was agreed to meet again at the end of May in Philadelphia when it was immediately decided to adjourn until September.²⁴ The only potential source of agreement among the commissioners lay in the call for an adjournment!

Although the stated reasons for the three month adjournment were Baltimore's immanent departure for England and the summer heat, the commissioners had no allusions. The meetings were continuing because neither side wanted to provide the other with more legal arguments when the conflict returned to an English arena. James Logan later insisted this had been a critical error by Maryland because in trying to avoid the penalty for forfeiture, the Marylanders had lent a legitimacy to the Agreement which would have been lost with an outright forfeit.²⁵ On the other hand, Ogle observed "that Mr Penn ... does not seem to rely very much upon a Specifick performance of the Articles."²⁶ As early as the summer of 1733, the

Maryland governor knew that the Penns were considering a legal battle in Chancery since they believed the result would be "at least as advantageous" as the current agreement.²⁷ However, such a course of action would take time and, as Isaac Norris noted, was subject to the vagaries of English politics.²⁸

As expected, the September 1733 meetings simply served as an opportunity for both sides to reiterate their points of disagreement. The Pennsylvanians demanded the Marylanders either join with them immediately in running a line based on a circle with a twelve mile radius "or directly declare they will not." Not surprisingly, the Marylanders refused to do either, recommending another adjournment "for further Consideration," to which the Pennsylvanians agreed although they emphasized their position would remain unchanged.²⁹

The participants were enmeshed in a war of nerves or, to use a more suggestive phrase, a high stakes card game. Given the predilection of 18th Century southern gentry for gambling, this description is not as outlandish as it might first seem.³⁰ If estates could be won and lost on a horse race, surely the same could happen in a test of proprietary and provincial wills. The proprietors were aware of the costs involved in an

equity suit and it was generally accepted that one's political interests could shift dramatically from one season to the next. Pennsylvanians and Marylanders believed that eventually one side would have to concede before the December expiration of the Commission mandate lest they lose everything. Maryland had less to lose than Pennsylvania in refusing to compromise. From their point of view, they had already lost so much by the terms of the original Agreement that no new arrangement could be worse. The Pennsylvanians, on the other hand, recognized the original agreement had been far more favourable than expected and a new settlement might be far less satisfactory. Logan intimated as much when he later suggested moving the southern boundary of the Lower Counties some twenty miles northward.³¹ The Marylanders' invitation to proceed to Cape Henlopen must have suggested to the Pennsylvanians that their counterparts were itching to take issue with the location of the Cape. The correspondence of the governors about land rights west of the Susquehanna River also implied that Maryland would not quietly acquiesce to the boundary line as specified in the agreement.³²

On the surface, the November meeting was supposed to be the final chance to effect a compromise, but in

reality, it merely provided the opportunity for both sides to summarize, for the record, their interpretation of the reasons for the failure of the Commission to run the boundary lines as prescribed in the Agreement of 1732.³³ Norris claimed to echo the sentiments of the other Pennsylvania commissioners when he confided to his son the belief that the original agreement would remain intact "unless Baltimore gets in with ye Crown or excites that claim" on the Lower Counties.³⁴ In the end, the Pennsylvanians gambled their proprietors had sufficient interest in England to sustain their position and force Baltimore to accept the terms of the original Agreement. Their opponents, on the other hand, found the original agreement completely unacceptable since it was far too hard on Maryland provincial interests. Unless major concessions were obtained, the Marylanders were willing to delay the implementation of the Agreement indefinitely.

The failure of the commission shocked no one, but it did set the stage for interprovincial relations for years to come. Personal interactions remained congenial, while written documents and letters

presented a strong undercurrent of animosity and suspicion. The commission had brought together the chief provincial participants in the boundary dispute. Some, like James Logan and Philomen Lloyd, had been on the scene for many years, but for others, the commission meetings were an opportunity to get to know each other. By November of 1733, Logan had developed a strong appreciation for the political talents and steadfast commitment of Samuel Ogle and Edmund Jennings.³⁵ Convinced that the Penns had studiously considered the advice of provincial advisors before signing the agreement, the Marylanders were convinced that they were meeting with precisely those men who had been primarily responsible for the Agreement of 1732.³⁶ Ogle probably viewed Logan with the same grudging respect as the latter viewed him and, like Lloyd, the Maryland governor must have believed that the Pennsylvanians knew precisely why the Marylanders were so upset. The experience of dealing with men who publically presented themselves as quiet and straightforward Quakers, but who, behind the scenes, seemed shrewd and manipulative, must have created deep resentment and suspicion in the minds of the Maryland gentry.

II

The collapse of the Boundary Commission did not end all communication between the provinces. From 1734 to 1737, there were three occasions when representatives were sent to either Annapolis or Philadelphia to seek some interim solution to the growing border violence. Although formal in nature, the letters that passed between these delegations and the host Councils serve as yet another measure of provincial attitude. Each encounter afforded the antagonists another opportunity to play out, in a dramaturgical fashion, what had become an interprovincial rivalry for control of the hinterland.

The first delegation grew out of Andrew Hamilton's willingness to journey to Annapolis in May 1734 to defend John Hendricks and Joshua Minshall before the Maryland Provincial Court. Since he was going to be in the Maryland capital, Thomas Penn asked him and John Georges "to press the Lieutenant Governor of Maryland to enter into such measures as should be most advisable for preventing such irregular Proceedings for the future."³⁷ If Ogle appeared receptive, Hamilton and Georges were empowered "to treat, and if

possible, to conclude ... on some certain Terms, by which the Peace...near the Borders of these two Governments, where the right to the Lands have been disputed, might be secured till such time as either the Boundaries should be absolutely run, or His Majesty's Pleasure be known therein.³⁸ This mandate was very similar to that of Daniel Dulany and Edmund Jennings when they represented the Maryland government before the Pennsylvania Council in December 1736 and to that of Samuel Preston and John Kinsey who represented Pennsylvania during a May 1737 visit to Annapolis.³⁹ The difficulty in each of the negotiations was not a lack of desire for peace on the frontier, but the inability to agree on "some certain Terms."

The Pennsylvanians proposed two ways to avoid further violence along the border: first, a temporary line had to be run based upon either the Agreement of 1732 or the old Baltimore line of 1683; and second, as a sign of goodwill, each province should release all those held in their prisons. They believed that jurisdictional conflict could only be resolved by placing a fixed physical limit on the authority of each province without prejudicing the claims of either proprietor. "[I]t is most necessary that for the Preservation of the Peace," they wrote to Ogle, "there

should be some certain Jurisdiction, that every Person may know to what Laws & Magistracy he is accountable.⁻⁴⁰

Not surprisingly, the Maryland Council emphatically denounced the running of any line that would, in effect, legitimize Pennsylvania's claims in the dispute. Astonished that Hamilton and Georges could be serious, Ogle countered that Pennsylvania was not so intent on running a line that they would permit one to be drawn at the northern limit of Baltimore's claim yet they expected Maryland to accept a temporary settlement which included running a line at the southern limit of the Penns' pretensions. Ogle was certain that the running of an actual line was impossible given the conviction of both sides; however, he introduced the following new set of proposals: first, the provinces would compose a joint address to the Crown seeking a resolution to the boundary dispute; and second, no new settlements should be permitted in the disputed areas until the King had made a ruling.⁴¹ Hamilton and Georges objected that Ogle had "fixed upon nothing certain by which the Extent of the Jurisdiction of the respective Governments could be known."⁴² Despite more meetings, the two sides were unable to agree on any specific measure to end the conflict and

Hamilton appeared before the Provincial Court in an attempt to have the charges against Hendricks and Minshall withdrawn. When this proved unsuccessful, he had the case postponed to the fall session and the Pennsylvanians returned to Philadelphia.

In late 1736, after the capture of Thomas Cresap and four of his associates, Daniel Dulany and Edmund Jennings were sent to Philadelphia to try to secure their release. With a mandate limited to securing the release of Cresap, the Maryland Attorney General and the Provincial Secretary presented two demands to the Pennsylvania Council: first, that the Pennsylvania government "assist in bringing these presumptuous Violators of all Rule & Order to an exemplary Punishment;" and second, that Cresap and his associates be released immediately with compensation "for their greivous Losses & Damages to their Persons & Estates." -43

Logan was now President of the Council, a position he had accepted upon Governor Gordon's death. In his response to the Maryland demands, Logan went directly to the heart of the matter when he wrote, "we are perswaded you have not considered the Nature and Consequence of what you now desire of us, or you have proposed it without any possible Expectation of our

Compliance."⁴⁴ While detailing his objections to the Maryland interpretation of the Cresap capture, Logan carefully avoided any implication that the provincial government had supported the capture. "As to the Action, we own it was violent, & such as this government never would encourage," he noted, "but the Case was extremely singular, and the Provocation & Incitement such as we presume have rarely, if ever, been known in an English Government before."⁴⁵

Dulany and Jennings remained adamant in their demands and accusations. They reasoned that the Pennsylvania government's unwillingness to arrest the perpetrators of the seizure proved its complicity in the incident and its willingness to encourage violence. They vehemently denied that any court in Pennsylvania had "Cognizance or Jurisdiction" in the Cresap incident. "And that it is only & properly Tryable in Maryland." They concluded by repeating the standing offer of the Maryland government to join with the Pennsylvanians in an address to the Crown.⁴⁶ The Pennsylvania Council was convinced that Ogle "had offered nothing but what was fully shewn to be either dilatory or impracticable, and that he had constantly evaded & declined the Proposal" proposed by them to fix the limits of the jurisdiction with an actual temporary

boundary line.⁴⁷ However, always attentive to appearances, the Council drafted another letter to reiterate their request that Maryland join with them "in some effectual measures" to end the current conflict until the King's pleasure be known "for which we have humbly applied." Logan and his fellow councilors not only denied Ogle's proposal for a joint address to the Crown, but initiated their own address to King George during the very time that Dulany and Jennings had been in Philadelphia.⁴⁸

While Dulany and Jennings were attending the Pennsylvania Council, they were also trying to arrange bail for Cresap and those captured with him. On 14 December 1736, they met with Logan to ask that Cresap "might be eased of his Irons." and after checking with prison officials regarding security, Logan authorized the request.⁴⁹ The following day, Dulany and Jennings asked Logan to grant bail to Cresap's three associates, contending that if Logan supported their request (which he apparently did), then he need only authorize the bond. Logan explained that constitutionally the President did not have the powers of a Governor and could only act in concert with a quorum of Council.

Having promised the Marylanders he would speak with one of the Justices of the Supreme Court, Logan discussed

the matter with Justice Grane who "was of opinion that it could not be legally done." According to Logan's testimony, Jennings was understandably displeased, but acknowledged that they had been having a difficult time arranging for the bail money and "continued amicably for a small time on that & the like Heads."

Appearances were deceiving, for the next day they angrily accused Logan of duplicity and wrote a postscript to their last letter to the Council, expressing astonishment at the refusal of bail for Creasap's associates after the earlier assurance by Logan that it would not be a problem. "This is such a Procedure as we believe has Few Examples," they concluded, "And how consistent it is with good Faith and the frequent Professions the Government of Pennsylvania has made of its Inclinations to preserve Peace ... will be considered in a proper place."⁵⁰

Logan was furious and embarrassed by this breach of protocol. He found it necessary to justify his actions and deny the personal attack on his integrity in a paper submitted to the Council. In one illuminating passage, Logan summed up the increasingly personal nature of the dispute.

...the Gentlemen coming in upon me, and forgetting all Rules of Decency, without any Provocation whatsoever more than has been

mentioned, . . . they attacked me with a Warmth & Behaviour which, as it was only to my self, I shall avoid speaking of it in the manner it deserves; but their opprobrious Reflections in the Several Companies they came into afterwards during the few Hours they staid in Town, with that heinous Charge in their Paper against the whole Government, from such an occasion is what I presume no Gentlemen whatever as such will pretend to account for; & indeed it is a melancholy Reflection that whatever personal Characters Men Of Worth may be entitled to, yet when employed in the Affairs of Maryland in relation to this Province, they appear to be laid aside (the Practice of which began in the Winter, 1732), and it becomes scarce safe to trust one's self alone, with them on those Points.

Although the feelings were far from new, the fact that they were expressed in such a fashion is an indication of the frustration of the participants and of the significance of honour and appearance to the provincial elite. If negotiations became tense and the participants felt anger, there remained an unwritten code among 'Men of Worth' to present themselves in a civil and genteel manner. Logan's spirited defense of his honour was a rare occasion when public decorum was replaced by heated accusations.

Coming to the defense of their President's honour, the Pennsylvania Council wrote to Ogle decrying the "heinous & abusive Reflection upon this Government" made by his commissioners. Again, the question of honour was addressed.

But it is not difficult to see thro' the whole of this Clamor; for if those Gentlemen by their influence could have prevailed upon the

President, or President & Council, or upon any Person in Authority, no matter whom, to admitt those Criminals to Bail, who they well know are not Bailable, we should then have been the Object of their Mirth for our Weakness as we are now of their resentment for not giving blindly into their Measures, and this, without Breach₂ of Charity, we may presume to be the case.

This then was the crux of the stalemate. Under no circumstances could a settlement of the dispute appear to dishonour the leaders of either province or make the government of either province an object of mirth. Logan had a fine appreciation for this reality, even if his response was sometimes shrill and overstated. A month earlier, he confided to James Steele that Ogle, "will leave no means untried to carry his point & prevent his being battled, for his hour both in relation to his Principal & the Countrey."⁵³ A sense of honour and the relationship of this nebulous quality to deference and authority remained a persistent theme in provincial exchanges. It dramatically affected the provincial perspective of the Maryland and Pennsylvania elites.

While border violence continued unabated, two months passed before any interprovincial communication was exchanged. In early March 1737, the Pennsylvania Council received a letter from the Maryland Governor dated 24 December 1736. To save face, Ogle was only willing to reopen discussions in a way that made it

appear that he was simply responding to a letter from the Pennsylvanians. Given the heated exchange at the end of the Dulany-Jennings visit, it is surprising that he chose to ignore that encounter. Logan and the other councillors were unimpressed by Ogle's lame effort, but recognized that this letter might be a signal for earnest negotiations to resume.⁵⁴

A flurry of correspondence between the two capitals followed which seemed to bring the two sides close to a working agreement.⁵⁵ The Pennsylvanians conceded that all persons settled on the disputed border should remain under the authority of the province under whom they had originally settled with the critical exception of those who had been persuaded or coerced by Thomas Cresap to take up land west of the Susquehanna River under Maryland jurisdiction. They further proposed that no new settlement be allowed and no taxes collected in the disputed border region by either province until the Crown settled the exact limits of jurisdiction. However, the progress was slow and it appeared to some on the Pennsylvania Council that Ogle was merely toying with them.

The Maryland governor insisted those Germans living west of the Susquehanna River, who had transferred their allegiance to Pennsylvania in August

1736, had to remain under Maryland authority. After several attempts to find some compromise on this point, Logan recommended Pennsylvania should either break off discussions immediately or send a delegation to Annapolis in the hope that direct negotiations might lead to a breakthrough. The Council opted for the latter course of action.⁵⁶

Although their original request for a conference had been rejected by Ogle as unnecessary, the Pennsylvania councilors shared the same view as the Maryland governor about the quality of interprovincial communication. On 11 March, Ogle wrote,

We have whole sheets of Paper filled with Laborious & repeated Arguments of all sorts, concerning the Justness of your Claims, and if we answer them in half the Compass, You seem offended at Our repeating, as you term it, the same things over and over.

In another frank insight into the nature of the conflict from a provincial perspective, Ogle summed up the crucial issue in the negotiations.

It is no less than which of the two Governments is in the wrong, by refusing to come into such measures as were truly reasonable, to prevent all these Disorders that have lately happen'd on our Borders.

Against this background, Samuel Preston and John Kinsey, two of the foremost members of the Pennsylvania elite, were commissioned to journey to Annapolis to

negotiate an end to the border warfare. Unfortunately, because provincial honour and the personal prestige of the key participants were at stake, each province had to appear to be the aggrieved party, while neither could appear to be the aggressor. During their four days in Annapolis, Preston and Kinsey had two long meetings with the Maryland Council and dined on separate occasions with the Governor and Benjamin Tasker. Not only was honour associated with the status of the negotiators sent to Annapolis, but in what manner and by whom the delegation was entertained. Upon delivery of the Pennsylvania Council's letter of introduction, Preston and Kinsey stressed the need to concentrate on a resolution of the conflict as "it would be prudent for both Governments to avoid future Disturbances." To dredge up past disturbances would only serve "to widen the Breach than to make t up."⁵⁹

The first meeting with the Maryland Council began well. Ogle asked that seats be prepared for their guests and the Pennsylvanians were invited to sit during the negotiations. This gesture together with the fact that this meeting lasted several hours suggests that the Maryland Council was prepared for serious discussion. Although the Marylanders promised a written reply to the Pennsylvanians' proposals,

they invited Preston and Kinsey to join the Maryland Council in "a free Conference on the Subject."⁶⁰ They discussed the problem of how to determine who had settled in the disputed region under which government. The Pennsylvanians had proposed a joint Commission be established to resolve these specific issues, but Ogle insisted Maryland could easily list its settlers without the need of a Commission. The Maryland governor indicated the Pennsylvania government could do as it wished with those who had claimed under Pennsylvania right, but Maryland would tax its settlers as it saw fit. Questions regarding compensation for victims of the violence were deferred until the Crown determined which side had been wrong. As darkness fell the meeting ended, but Preston and Kinsey were invited to return at 5:00 PM the next day to renew negotiations.

After agreeing to remove from their proposed articles of agreement any suggestion that Maryland had been the aggressor, Preston and Kinsey were again confronted at the next meeting with the thorny problem of which province retained jurisdiction over the Germans west of the Susquehanna. Ogle again insisted that no Commissioners were necessary to sort out who belonged to which province since one had only to ask to

whom had the settlers been paying their taxes. By this criteria, the Germans who had 'revolted' were emphatically Marylanders. Ogle had to insist on this point, for otherwise it would have appeared that Maryland acted illegally in the seizure of the Germans and the relocation of Higgenbotham and his associates. This proved to be the stumbling block to further progress. The meeting broke up and although Preston and Kinsey later tried to gain formal agreement on the other articles that had been discussed, Ogle declined any further negotiation until the Pennsylvanians had first agreed to distinguish the Persons who settled under each Government.⁻⁶¹

With the departure of the Pennsylvania delegation, all efforts by the provincial governments to arrange a temporary agreement through formal commissions ceased. In assessing the results of these meetings in Annapolis, Thomas Penn reflected that at least the borders seemed to quiet down after the May conference.⁶² On the other hand, James Logan was more certain than ever that he had orchestrated the entire encounter. "[I]t is plain," Logan observed, "he intended nothing further than to amuse."⁶³ Still, the President appreciated Ogle's argument and condemned the 'Revolt of the Dutch', noting that the

Penns were paying very dearly for this action. He was furious that the Marylanders believed the beginning of his Presidency and the German unrest west of the Susquehanna were more than coincidental.⁶⁴

As usual Logan overstated the case, but there is no doubt appearances were important. All the formal meetings were carefully orchestrated by both sides and the official correspondence between the two governments exhibits the same quality. Both parties were clearly speaking and writing for the public record; however, one can still find glimmers of the provincial perspective which permeated the negotiations. Beneath the obvious preoccupation with the authority and jurisdiction of their governments, the participants were driven by a need to legitimize their actions. As provincial actors in a longstanding dispute between two proprietary families, they needed to secure their own positions by legitimizing their proprietor's pretensions. As each colony expanded into the hinterland, the provincial elites recognized the need to extend their jurisdictions on the frontier. Direct challenges to authority had to be dealt with quickly and effectively if the elite was to retain its control of provincial society. Maintaining a personal and collective sense of honour was crucial for a fledgling

provincial elite. Even Samuel Blunston, who resided very close to the scenes of violence, was willing to persist in a state of high anxiety rather than accept Governor Ogle's "Dishonourable Terms."⁶⁵

By the early fall, news reached the colonies of the King's order to quell all disturbances on the border. This was followed the next year by the Order-in-Council for the running of the Temporary Line. Each province appointed new commissioners to run this interim boundary. Although only a portion of the east-west temporary line was run, the border disturbances ceased and the provincial elites accepted the conditions of the Temporary Line until a formal boundary was run in the 1760s.

III

If the Boundary Commission and various formal delegations presented the provincial elites with opportunities to play out their differences in a civil and genteel fashion, there were other forums which proved less cordial but no less significant. In particular, courts were arenas where local and provincial participants met in 'face-to-face' encounters. Pregnant with meaning far beyond the

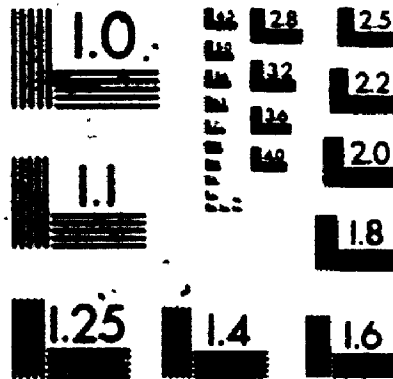
obvious legal decisions in a given dispute, court activity not only reflected the social relationships of the participants, but served to shape and define these relationships as well. The ritualized drama associated with the pursuit and consolidation of power in a community was especially evident on well attended colonial court days.⁶⁶ Whether as magistrates or jurors, sheriffs or constables, voluntary or involuntary members of a militia, members of the provincial Council or the Assembly, the inhabitants of Pennsylvania and Maryland participated in the process of law.

To the extent the courts supported local and provincial initiatives, they became the well springs of legitimacy. But the courts were more than arenas for conflict, they were also the means by which the provincial elite extended their authority into the hinterland. From 1732 to 1738, there is little question that local magistrates, in compliance with provincial authorities, accelerated the process of conflict in the border regions. Overlapping local land claims and the unique configuration of ethnic and religious differences in the border region would have led to conflict even if the boundary had not been in doubt; however, the direct and indirect participation

of provincial authorities augmented these differences and supplied the necessary aura of legitimacy for the seizures, the beatings, and the property damage that occurred with increasing frequency during this time period.

From May 1734 to October 1737, there were at least 42 court cases which directly involved the boundary dispute. This figure represents only those cases that reached a court docket. There were several other arrests and imprisonments not recorded in the minutes or judgment books of the various courts. Some of these latter incidents strained the definition of legitimate authority as they do not appear to have been validated by a subsequent court hearing. There were also references in correspondence to court cases for which there are no surviving court records. Nevertheless, there are enough recorded cases to permit an analysis of the manner in which the provincial elites of the two provinces sought to extend and legitimize their authority in the disputed border region.

6



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS
STANDARD REFERENCE MATERIAL 1010a
(ANSI and ISO TEST CHART No. 2)

TABLE 6.1
COURT CASES INVOLVING THE BOUNDARY DISPUTE
1734 TO 1737

JURISDICTION	COURT	CASES	DECISION			
			G	NG	BOUND	
					OVER	
Maryland	Provincial	32	7	0	25	
Pennsylvania	Lanc Co Quarter Sessions	8	8			
	Supreme Court (Pa)	2	2			

		42	17	0	25	

Source: Provincial Court Judgment Books, Hall of Records (Annapolis, Md); Lancaster County Court of Quarter Sessions 1729-1742, Lancaster County Historical Society (Lancaster, Pa); Minutes of the Supreme Court of Pennsylvania, Board of Trade Papers (Proprieties), Vol 13, 1730-1737.

As the above Table suggests, most of the surviving records are from the Provincial Court of Maryland. Not only were the Marylanders very aggressive in defending their jurisdiction, they perceived the added relevance of parading local border dwellers before the highest court of the province.⁶⁷ Clearly the importance of these public displays of authority was not lost on men like Andrew Hamilton and Daniel Dulany. The May 1734 session of the Maryland Provincial Court was typical. Andrew Hamilton listened to the Attorney General of Maryland, Daniel Dulany, accuse John Hendricks and Joshua Minshall of behaving in a "seditious & Pernicious" manner, of trying to "Disquiet & Disturb"

Baltimore's right of title to lands in the Codorus region, and of inciting the Indians to attack the Marylanders the Pennsylvanians. Dulany concluded with the charge that the two Pennsylvanian settlers had threatened to shoot Baltimore "or any other Person who would Dare to act or do anything by virtue of any Authority from the sd Lord Propr." When Dulany had completed his litany of charges, Hamilton instructed the defendants to request an imparlance until the next court which was granted. They were eventually found guilty, fined \$20 each and required to post a \$200 bond for good behaviour. One can only imagine the reaction of such men as John Hendricks or Edward Murphy to the prospect of being paraded from the "loathsome Gaol" in Annapolis to the Courtroom. At the very least they must have felt like sacrificial pawns in a far larger game of interprovincial rivalry.⁶⁸ Nor was this public display of power for the benefit of only the poorer settlers; the Sheriff of Lancaster County, Robert Buchanan, and the Surveyor of Cecil County, William Runsey, were subjected to similar ritualized judicial proceedings. Although there are no direct references to the onlookers at these proceedings, both provinces sought to confirm the power, majesty and legitimacy of their governments through the drama associated with court days.⁶⁹

Given the importance that the inhabitants attached to the activities of the court, it is not surprising that both provinces used this arena extensively. Both sides considered the implications of formal decisions, particularly in cases where the defendant denied the jurisdiction of the court. Since judgments were subject to appeal, over half of the defendants were simply bound over to the next court session. If unable or unwilling to post the prescribed bond, they were forced to remain in jail and bond payment was not as easy as it might seem. Thomas Penn believed that to participate in even this court action was a tacit acknowledgement of the jurisdiction of the particular court.⁷⁰

Prior to their first appearance before the Maryland Provincial Court in 1734, John Hendricks and Joshua Minshall were advised to refuse to enter a plea in the Maryland court since Maryland lacked jurisdiction over Pennsylvanians for any alleged offense that happened in Pennsylvania.⁷¹ Robert Buchanan employed the same strategy when he was brought before the Provincial Court of Maryland.⁷² Daniel Dulany and other Maryland officials quickly understood the importance of this tactic.⁷³ Initially, Marylanders appearing before the Lancaster County Court

of Quarter Sessions had either pleaded guilty or not guilty to the charges laid against them. In the former case, they were fined while in the latter instance, they were tried by jury, found guilty and then fined.⁷⁴ It soon became evident that the very act of pleading was, in the eyes of the onlookers, an acknowledgement of the court's jurisdiction and therefore, legitimized the initial arrest.

Lawyers for the defendants had to be very cautious lest they inadvertently concede a point which might later be used in another context. John Kinsey's efforts to secure Michael Atkinson's release on bail at the May 1737 session of the Maryland Provincial Court resulted in just such a slip. After Daniel Dulany presented the case against Atkinson, Kinsey responded with the claim that the incident had not taken place below the 40th parallel. The Maryland Chief Justice, Colonel Levin Gale, afterwards noted to friends in Philadelphia how surprised the Marylanders were "that such an issue tendered by them should be joyned" by the Pennsylvanians for it indirectly lent credibility to the Maryland claim of the 40th parallel as their northern boundary.⁷⁵

When the cases of William Runsey and William Cannon were referred to the Supreme Court of

Pennsylvania in late 1736, they too had been cautioned not to enter a plea since they did not recognize that Court's jurisdiction. By so doing, they were also inferring their arrests had been illegal. When the Supreme Court ultimately ruled against the Maryland defendants, Dulany immediately launched an appeal to the Crown.⁷⁶ Both he, as Attorney General of Maryland, and James Logan, as Chief Justice of the Supreme Court of Pennsylvania, recognized the delicate balance between jurisdiction and legitimacy that was at issue in these trials. Dulany had first believed that the Pennsylvanians would not proceed against Rumsey and Cannon for fear of being held in contempt of the Crown. His subsequent decision to appeal the Supreme Court's action was a calculated risk. He informed Baltimore that such an appeal was "giving their Courts juris^{on} which might be Injurious to y^r L^{dp}." He hoped this risk was counterbalanced by the prospect that the Crown would rule that Pennsylvania had exceeded its jurisdictional authority. Logan was well aware that Dulany's actions might "give trouble" to the Penns.⁷⁷ It is most revealing that Penn and Baltimore were being informed of critical decisions made at the provincial level that might well have had serious consequences for the proprietors. The petitions of the provincial

governments to the Crown made this shift in the direction of initiatives even more apparent.

In those instances where a court found an individual guilty as charged, the actual case was secondary to the symbolic demonstration of authority. If the defendant pleaded guilty, he frequently received a small fine; if he refused to plea or protested his innocence, his fine or bond increased significantly. In the context of a jurisdictional struggle, it was more important to achieve an open acceptance of the court's authority and legitimacy than to punish offenders. It was just as significant to present to the border dweller an image of a benevolent and merciful court as it was to impress upon them the august majesty of the court's power; however, mercy could not and was not dispensed with such regularity that it lost its meaning. When appearing before the Lancaster County Court of Quarter Sessions, Philip Craver received the same fine as Daniel Lowe, despite the fact that he had submitted himself to the court's judgment.⁷⁸ A similar fate befell two Germans, Bernard Weymar and Leonard Furroux, who were arrested and brought before the Lancaster County Court of Quarter Sessions for their participation in the seizure of

Robert Buchanan, the Lancaster County sheriff. Both pleaded guilty and each were fined £50 current.⁷⁹

Courts in both provinces made it clear, however, that they could be merciful if their authority was formally recognized. George Murphy was found guilty of forceful entry onto lands claimed by William Rumsey, surveyor of Cecil County. When the Maryland Provincial Court announced their judgment that Murphy had to pay a £10 fine, the Justices noted that they had considered Murphy's poor circumstances.⁸⁰ Similarly, George Williams received lenient treatment when he was brought before the Provincial Court on the charge of rioting. He was fined only £5.⁸¹ At an earlier stage, the Baltimore County court not only found that several Pennsylvanians had been arrested by Cresap without sufficient cause, they also ordered that the Pennsylvanians be granted costs for their troubles.⁸² When one of Cresap's stalwart hired hands, Michael Risener, was brought before the Lancaster County magistrates, he must have pleaded ignorance and certainly conveyed to them his willingness to help them capture Cresap. He was therefore released with the ill-founded expectation that the Court's mercy would be richly rewarded.⁸³

Given the constraints on their behaviour, magistrates were urged to blend discretion with justice. When news of the Chester County Plot reached Philadelphia, Logan confided to James Steele that a "good deal of Prudence" might prove more effective than "severe means." If there only a few malcontents then the "sooner suppressed the better," but, if there was a large group of settlers involved, then promises of amnesty should be offered.⁸⁴ Since the latter scenario proved to be the case, the Chester County magistrates were instructed to call as many of the Associators before them as possible and inform them that,

... according to the Candor of their Confessions they may expect Favour & such of them as you shall find open and free in their Discoveries and disposed to live for the future in due obedience to this Government, may, on a submission for their present Offences, and becoming bound on their own recognizance for their good Behaviour, be discharged without a Prosecution which, by Reason of the Poverty of many of them, might utterly ruin their families.⁸⁵

After William Cannon, Cresap's brother-in-law, was first captured and confined in the Lancaster County jail, Logan and Hamilton realized that if he was brought to Philadelphia immediately, they would have to proceed against him at the upcoming court. Because the Maryland courts had been releasing Pennsylvania defendants on bail, Logan knew that his court could scarcely do otherwise, without appearing harsh and

vindictive. Therefore, he and Hamilton brazenly suggested that Cannon be kept in Lancaster so that a trial could be avoided and Cannon's supporters might engineer a jail break which would cast the Maryland government in a bad light. In an insightful aside, he clearly distinguished between a jail break and an escape while on route to Philadelphia. The latter event would make laughing stocks of the Pennsylvania authorities and undermine their claim to legitimacy.⁸⁶

In October 1737, there was a jailbreak at Lancaster and although Samuel Blunston was certain that "open war" would soon erupt, the Pennsylvania Council seemed resigned to the fact that a formal complaint to Ogle would be fruitless. One suspects that Logan and his colleagues were secretly pleased by this blatant disregard for authority by Marylanders. The President may have believed that this incident would deflect attention away from the fact that one of the Marylanders had recently died in a Pennsylvania jail. Ogle quickly grasped the implications of the situation and denied any government sanction for the jailbreak.⁸⁷

As with Dulany's decision to appeal the Pennsylvania Supreme Court decisions to the Crown, these actions by provincial leaders were filled with potential risk for the proprietors, yet there was apparently little consultation.

Those deemed to be threats to the social order were treated in a way that left no doubt about the source of power and mercy. Although Pennsylvanians accused Cresap of ~~many things~~, including murder, the primary reason for his seizure was his blatant efforts to undermine the authority of the Pennsylvania government on the Susquehanna River. Even Thomas Penn acknowledged that the murder charge would be difficult to prove and he was quick to remind Blunston that his offer of a reward for the Marylander's capture ought not to be made public so long after the occasion of Knowles Daunt's death.⁸⁸ In the correspondence between Blunston and his proprietor, Cresap clearly emerges as a threat to Pennsylvania authority and a man whom Penn was anxious to see removed. The Lancaster magistrate wanted official provincial sanction for his actions on the local front, but despite his continued references to the need for Cresap's capture, Thomas Penn was reluctant to order such an action. As was the case when the need to support Hendricks and Minshall arose in 1734, Penn was prepared to offer aid behind the scenes, but cautiously sought to present an outward appearance of neutrality. It was galling to the magistrates of Lancaster County to find Penn, Logan and the Pennsylvania Assembly disowning any involvement in Cresap's capture.⁸⁹ Because appearances had to be

upheld, provincial authorities could not appear to applaud the methods used to take the Marylander. Each ~~in their own way~~ was concerned with the legitimacy of their position.

One way of inflicting punishment without running the risk of a full trial was either to postpone cases from one session to the next, or to avoid bringing cases before the court. John Hendricks, Joshua Minshall and the Rothwells were bound over by the Maryland Provincial Court from May 1734 through successive court sessions until a judgment was finally rendered in July 1735.⁹⁰ William Rumsey and William Cannon received somewhat different treatment. Although arrested in 1735, they were not tried before the Pennsylvania Supreme Court until September 1736, but this tactic did not go unnoticed.⁹¹ In a letter to his Pennsylvania counterpart, Governor Ogle argued that "if Judges in either Province can find a way to make the very Tryal of any man a heavy and grievous Punishment to him, I cannot see how Innocence can avail any One."⁹²

Charles Higgenbotham and his band seized 22 Germans, as well as Joshua Minshall, before the May 1737 session of the Maryland Provincial Court. Although reward money was eventually granted to this 'posse', none of the arrested 'rioters' were ever

convicted.⁹³ Instead, they were all bound over to successive court sessions with bail ranging from \$50 to \$200.⁹⁴ Given the condition of the Annapolis jail, this procedure must have been most distressing to those unable to provide the required bond. A full year after their seizure with Thomas Cresap, Miles Foy, Michael Rissner and Jacob Minshaw had remained in jail "without being charged with or called to answer any Accusation or Crime."⁹⁵ These were the same men that had been denied bail by a Justice of the Supreme Court when Daniel Dulany and Edmund Jennings had requested it in December 1736.⁹⁶ Neither province was averse to making liberal interpretations of what was legal if this might enhance their authority or extend their jurisdiction.

With the Order in Council of 1737, both Pennsylvania and Maryland leaders recognized that their use of the judicial process in the dispute would have to change. Logan conceded to Paris that if the Order was not "comprehensive & expressive" regarding court proceedings for past infractions, Pennsylvania would be at a great loss. He believed Maryland could argue that their proceedings against some twenty Pennsylvanians were in progress and therefore, must be concluded. However, given the reluctance of the Pennsylvanians to bring Cresap and his fellow prisoners to trial, they

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could not now similarly argue that the cases of these individuals were in process.⁹⁷

As it turned out, Ogle was willing to bring judicial proceedings to a close. He offered to end "all Disputes about the Extension of our Jurisdiction over those Settlements" on the border, "and the Possessors of them will be freed from all Vexation on that Account." Referring to those who had participated in the disturbances, He noted that "if no more are taken up on Account of these past Riots, and the Prosecutions already begun are left in Statu quo, and all Prisoners let out on Bail till His Majesty's Pleasure be further known, all Disturbances must of course cease."⁹⁸ Immediately upon receipt of this letter, Logan and his Council ordered the release of Cresap and the other Maryland prisoners subject to the proper bail being presented.⁹⁹ The Maryland Provincial Court followed suit at their May 1738 session, releasing all Pennsylvania defendants on the submission of a \$20 bail.¹⁰⁰

Clearly the provincial authorities in each province used the judicial process to enhance and defend their positions in the boundary dispute. While every effort was made to maintain the appearance of due process of law, the reality of the situation bespoke a

more direct relationship between border unrest and the outcome of boundary-related court cases. When the Crown intervened at the request of the provincial governments and ordered an end to the violence, the provincial leaders quickly brought judicial proceedings to an end. The courts had served their purpose. Over the period from the collapse of the Agreement of 1732 to 1738, the courthouse had provided the leaders of both provinces with an arena in which much of the drama associated with the conflict could be played out according to rules that, if not always impartial, at least permitted a semblance of legitimate authority. In a significant way, the courts also provided a setting for provincial leaders to take the initiative in an affair which had been until then primarily a proprietary matter.

IV

For both provincial governments, the ability to control the actions of the local participants was crucial. In theory, the provincial leadership extended their authority through the local magistrates, but was this authority recognized or was it largely ignored?

If Charles Higgenbotham and his associates seized many of the German settlers, they still had to bring them to Annapolis to receive their reward. Conversely, although the German settlers west of the Susquehanna River acted independently of Pennsylvania provincial interests, they paid a heavy price for ignoring the authority of the Maryland government. Still, despite their seizure by the Marylanders, the Germans west of the Susquehanna did not submit collectively to Maryland authority. To be sure, there were examples of individual settlers recanting their 'revolt' before the Maryland Provincial Court, but these were so obviously attempts to obtain a release from prison that they hardly represent a common German outlook.¹⁰¹

Presumably, this reality was not lost on the Maryland authorities, although they could point to these individual disclaimers as proof that Pennsylvania had used subterfuge to sway the naive Germans from their loyalty to Maryland. The appearance of legitimacy in these cases was more important than the reality.

There are repeated references to local inhabitants travelling to their provincial capitals to receive their orders. Many of the borderers acted in their own interest and for reasons that were not necessarily consistent with those of their provincial superiors.

but the influence of the provincial actors was pervasive. From the Governor's house to the plantations of the local gentry, the communication network was fast and effective. Samuel Blunston might complain about his proprietor's apparent lack of decisiveness, but the correspondence between Philadelphia and the Susquehanna settlements was extensive and points to the very direct involvement of James Steele, Andrew Hamilton, James Logan and Thomas Penn in the affairs of the local border inhabitants.

If the Maryland network was slower, it too functioned with reasonable effectiveness. Ogle communicated first with Cresap and then with Higgenbotham through messengers or meetings. Although there is no surviving evidence of detailed correspondence between the Maryland government and local leaders, there are other means to test the effectiveness of the communication network extending from Annapolis into the border hinterland. For example, the "Revolt of the Dutch" began on 11 August 1736 when fifty Germans residing on the west side of the Susquehanna signed their letter to Thomas White.¹⁰² In response, Ogle ordered the Baltimore County militia to arms. The Maryland Council did not discuss the letter until 21 October when a proclamation was issued

calling for the arrest of all those who signed the letter; however, Colonel Nathaniel Rigby, a Baltimore County Justice of the Peace, and Sheriff William Hammond had brought together a somewhat reluctant militia in late August. During the first week of September, a force of some 300 Marylanders appeared in the Codorus region.¹⁰³ The Maryland Council did not meet to consider the issue until October, but Ogle had ensured that a Maryland response was quick and emphatic.

The 'Chester County Plot' provides another illustration of the manner and speed with which provincial leaders sought to control the conflict at the local level. As noted earlier, the Maryland response to the 'Revolt of the Dutch' was twofold. Not only did they send a large body of militia into the region, they also offered the Germans' farms to recent immigrants to Chester County, if they would help the Maryland government in turning the current inhabitants off the land.¹⁰⁴ Benjamin Tasker, Baltimore's land agent, and the Reverend Jacob Henderson, Commissary of Maryland, visited several of these Chester County residents in September of 1736. The local leaders then travelled to Annapolis to work out the details of the proposed relocation. By late October, several of these

prospective settlers had already visited the Codorus area and had completed preparations for their relocation. Within two months of receiving the letter from the German residents west of the Susquehanna, the provincial leadership of Maryland had made direct contact with disaffected residents of Chester County and arranged for them to move to the disputed region as adherents to Maryland authority.

The response of the Pennsylvania leadership to this situation was equally swift. Samuel Blunston reported a rumor about the Maryland scheme on 21 October. Measures were immediately taken to frustrate Gov Ogle's design.¹⁰⁵ James Steele was sent into Chester County to assess the gravity of the situation.¹⁰⁶ As late as 14 November, one of the leaders of the 'Plot' wrote to Maryland authorities to confirm plans, but by the following week, several of the local leaders of the 'Plot' had been detained by Pennsylvania authorities and two of them appeared before the Provincial Council on 24 November.¹⁰⁷ Of the ringleaders, only Charles Higgenbotham and the Charlton family were not seized and they had already left for Maryland. Given the later events on the border, it is difficult to imagine what might have happened if the Pennsylvanians had been less vigilant.

When communications did break down, the provincial representatives were extremely sensitive. Official news of the August 1737 Order-in-Council reached Annapolis several weeks before Philadelphia and it was humiliating for Logan and other members of the Pennsylvania Council to be informed by Governor Ogle, of the contents of the Order.¹⁰⁸ News of the Order spread quickly to the Maryland garrison west of the Susquehanna River and the local, Lancaster County magistrates were driven to distraction by the lack of official confirmation of the proclamation from Philadelphia. John Charlton and other Marylanders deliberately flaunted themselves in front of the magistrates, daring the Pennsylvanians to arrest them. Blunston and his fellow magistrate, John Wright, beseeched Thomas Penn for information.¹⁰⁹ They recognized only too well the important connection between an effective communication network and the maintenance of legitimate authority on the frontier. To be laughed at and openly taunted by the very persons who, a few months earlier, had seized and beaten a Chester County magistrate was almost too much to bear.¹¹⁰

Governor Ogle and Thomas Penn visited this area only once in the years before 1738, but the symbolic

value of such gestures ought not to be underestimated. If Ogle miscalculated in his treatment of the Germans, he also demonstrated his commitment to a Maryland presence in the region. In the eyes of many borderers, his presence alone must have legitimized Cresap's actions.¹¹¹

Provincial leaders controlled much of the activity on the border. Local participants were frequently sidetracked and their implementation of provincial directives was coloured by local animosities and feuds, but in the main, they followed the general directions issued from Philadelphia and Annapolis. It was far from coincidence that immediately after the two governments came to terms in 1737, the border war ceased. A recent study of Pennsylvania provincial politics has emphasized that during the 1730s, the boundary dispute served to unite the political factions.¹¹² Relations between the Pennsylvania Assembly and Council were certainly co-operative on matters related to the boundary dispute, especially in late 1736 when the Assembly and Council issued a joint address to the Crown.¹¹³

However, in the joint address of the Maryland government, there are also hints of tension below the surface. In the 1736 Address of the Upper and Lower

Houses of Assembly to Lord Baltimore, this tension may be found in the concluding comments:

Under these Circumstances Our Duty and Care for the Wellbeing of this Province call on us to lay these Matters before your Lordship in hopes that such Measures will be taken as in your Lordships Wisdom will seem most proper to prevent any of the like Accidents for the future; for we have great Reason to dread the Consequences which may arise to his Majestys Subjects from a long Continuance of the Uncertainty of your Lordships Bounds, which when settled, will necessarily put an End to such mischievous Contentions.

A message was certainly being sent to the Maryland proprietor that the boundary was a proprietary problem. Baltimore must take measures to settle the uncertainty surrounding his bounds for only then would the "mischievous Contentions" come to an end. The reactions of the Maryland Assembly to the news of the Order in Council of 1738 underscore this conviction. In response to Governor Ogle's address to the two houses, the Upper House duly acknowledged their gratitude that Baltimore had handled the affair without any request for a public levy to support his actions. They expressed regret that the inhabitants of Pennsylvania had been required to pay out of public funds "for pretended inclinations and amusing applications."¹¹⁵ The Lower House was even more direct, carefully avoiding any reference to the boundary dispute as a provincial matter. "We are truly

sollicitous for his Lordships happiness," they wrote, "and rejoyce at his influence over his Adversaries on all just Occasions, and we are sorry that our neighbors should so far interest Themselves in Matters foreign to them as to prejudice themselves."¹¹⁶ In no way were the Maryland Assemblymen going to allow themselves to be swayed in the same manner as their counterparts in Pennsylvania.

In 1739, Daniel Dulany and Edmund Jennings, as Attorney General and Provincial Secretary, submitted their requests for re-imbursments for the prosecution of arrested Pennsylvanians. The Maryland Lower House would not approve such an allocation from public funds. After Dulany called for a division on the issue, he was soundly defeated by an Assembly vote of 30 to 10. It is worth noting that the Assemblymen interpreted the Crown's order of 1738 to discharge the prisoners as an indication of royal disapproval of the proceedings. But for the majority of Lower House delegates the critical issue was that "the Prosecution which gave rise to those Fees [was] carried on to support His Lordships private Affairs ... and that the allowing such extraordinary Charges may be a dangerous Precedent and open a Way to burthen this Province with far greater Sums."¹¹⁷ Ultimately, they argued that "the

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Attorney General and Secretary in Execution of their Offices are to serve the Lord Proprietary, and that in this they had no Reason to Act on the faith and Credit of the Publick.⁻¹¹⁸ One year after the Order in Council was issued ending the crisis, three quarters of the Maryland Assembly had made it abundantly clear that the provincial elite was not as united as the joint petition to the Crown had implied. Apparently the Assembly was prepared to support the Maryland Council and Governor against their Pennsylvania counterparts only as long as they were not called upon to underwrite the costs of the dispute.

The Pennsylvania Assembly, on the other hand, provided a one-time grant of £600 to James Logan "for defraying the extraordinary Charges which have arisen in the Administration of the Government, occasion'd by the many and chargeable Messages and Treaties for obtaining Peace; and for the Relief of our innocent Inhabitants."¹¹⁹ Unlike their Maryland opponents, the Pennsylvania Council relied far more extensively on the Assembly for support. They could count upon Andrew Hamilton, as Speaker of the House, and John Kinsey, their recent emissary to Annapolis, to lobby in favour of the grant.¹²⁰ Despite the growing frustration with the proprietor, John Wright and his fellow Lancaster

Assemblymen presumably supported this measure, for some of the "extraordinary Charges" had been submitted by Wright and his friend, Samuel Blunston. In general, the Pennsylvania provincial elite, whether in the Assembly or Council, were more threatened by the unstable border than their southern counterparts. They recognized they had far more to lose than the Marylanders, particularly west of the Susquehanna River. If some of the Assemblymen would have preferred to oppose the Council and proprietor, the need to protect their interests and the lobbying of Andrew Hamilton combined to assure the appearance of unity in Pennsylvania.

The correspondence of Samuel Blunston and John Wright with their proprietor also illuminates some of the underlying tension within provincial society. Neither Lancaster County magistrate was a member of the proprietary party; instead they were more representative of an emerging force in the Assembly. Their frustration with the apparent lack of direction from Philadelphia is obvious if muted. Given the circumstances on the border, they were compelled to support provincial policy and present a united front against the Maryland threat, but the seeds of opposition that ripened in the early 1740s were

probably nurtured during this period. Together with Councilors like Samuel Preston, these men observed at close hand what they perceived to be serious weaknesses in Thomas Penn.

Even James Logan was furious with the proprietors over their handling of the Orders in Council. In late 1737, the man who had devoted most of his life to the steadfast support of the proprietary, felt betrayed. The Order in Council had been an "occasion of triumph" for Maryland and Logan could only express the hope "that notwithstanding all the past Neglect or Oversight, measures will be taken to do us justice."¹²¹

The importance of continuity and stability in provincial Pennsylvania during the second quarter of the 18th Century has been emphasized with good reason, but unity had its price and common self-interest did not preclude the harbouring of resentments which occasionally overflowed, as they did in the aftermath of the boundary conflict and the beginning of an imperial war in 1739.¹²²

Although the boundary dispute continued to simmer for two more decades, this next period was largely anticlimactic. With the Order in Council of 1738, the most explosive elements in the conflict were brought

under control and the issue no longer dominated interprovincial relations. The Chancery suit continued throughout the 1740s, but unlike the period from 1732 and 1738, members of the elites became observers instead of active participants.

Since the Order in Council of 1685, the boundary dispute had been a persistent thread in relations between the two colonies and their proprietors. By the 1720s, the pressures of an expanding population base and the emergence of self-conscious provincial elites who had begun to recognize the importance of the hinterland, led to growing conflict along the undefined borders. The Agreement of 1732 had been intended to resolve these outstanding issues, but it only added to the unrest. Much of this unrest grew out of attitudes which were uniquely provincial in perspective.

Specifically, several influential Marylanders, who had begun to invest and to speculate on the frontier, were surprised at the terms of the Agreement. They had presumed that their investments would remain in their hands and were upset at Baltimore's apparent gift to the Penns. The emergent elites in both Philadelphia and Annapolis also began to appreciate the value of the

interior and sought to extend their influence as far as possible. Since the turn of the century, Marylanders had recognized their dependency on Philadelphia and the Agreement seemed to confirm the dominance of the Quaker city over the northern counties of Maryland. With most of the immigrants flooding into the disputed region through Philadelphia, it was reasonable for Marylanders to perceive the population push of the late 1720s as a sign of renewed dominance by the Quaker entrepôt. For the Philadelphia elite, expansion into the hinterland was a natural extension of their commercial interests; for the Maryland elite, it was part of a process of economic diversification. The decision of the Maryland government to support Cresap's settlement at Codorus gave notice that the Maryland gentry planned to resist the further extension of Philadelphia's influence.

To these economic motives must be added less visible, but no less real social and political motives. In a context where honour and prestige were highly valued, the terms of the Agreement and the obvious glee of the their Pennsylvania counterparts, proved humiliating for the Maryland elite. They were quick to inform Baltimore that he had been duped by the Penns. He reacted predictably and the dispute rapidly escalated into open conflict. For the next several

years, interprovincial relations were punctuated by this need to restore prestige. The arrests and seizures on the border were attempts to show the local population and their provincial adversaries that each government had enough power and authority to command respect. As each encounter was met by a counter measure, the need to disengage while saving face came to dominate interprovincial negotiations.

Over the course of the 1730s, there were occasions when provincial leaders initiated actions without prior consultation with their proprietors. Although Dulany and Logan believed these initiatives were risky to proprietary interests, they also perceived them to be necessary from a provincial point of view. Samuel Ogle and the Maryland Council acted with more independence than their Pennsylvania counterparts because Baltimore was more willing than the Penns to delegate proprietary authority to provincial officers and to pay handsomely to secure the support of the provincial leadership. As long as an adequate revenue was generated by his colony and the Crown did not intervene, Baltimore allowed Ogle and the Council the chance to force a boundary settlement that was more satisfactory to the provincial elite.

Although the Maryland government was more willing to employ arms to secure their aims, the Pennsylvania response was ultimately no less violent. Both provinces spoke of maintaining garrisons on the Susquehanna and after the Order-in-Council of 1738, the Pennsylvanians feared that Cresap and the Maryland garrison would use cannons to control the river and therefore, the trade with the interior. The Quakers of Philadelphia publicly disavowed the violence on the frontier, but they certainly supported the efforts of the local magistrates to arrest the Maryland border 'ruffians'.

Direct challenges to authority were feared by the members of both governments. In the lifetime that separated the first series of border clashes in the 1680s and the strife of the 1730s, a new set of characters had entered the contest. These fledgling native elites, supplemented by immigrants from Britain, had their own investment in the extension of authority onto the frontier. In a sense, this process lent legitimacy to their emerging power and ensured that they would retain control over the affairs of their province. When the two provinces found themselves in a situation where their jurisdiction was being openly challenged, their leaders believed the entire edifice

of their authority was being called into question. In these circumstances, it proved impossible for Maryland and Pennsylvania to resolve the dispute, even when it became apparent that the violence was undercutting the very legitimacy they both sought. Paradoxically, the only way to restore some form of stability to the hinterland was through royal intervention.

NOTES - CHAPTER 6

1. For a full treatment of Logan's evolution as a provincial, see Frederick B Tolles, James Logan and the Culture of Provincial America (Boston, 1957).
2. Although Ogle was one of the most successful colonial governors of the 18th Century, there has been little written on his career. See Dumas Malone (ed.), Dictionary of American Biography, VII, 647-48.
3. Gordon to Ogle, 19 August 1732, PVB, II, 2; Ogle to Gordon, 23 August and 4 September 1732, PA, 1st Ser., 1, 342-44; Gordon to Ogle, 30 August and 14 September 1732, ibid., 343, 347-48. See also, Ogle to T. Penn, 23 August 1732, PVB, II, 2.
4. For a general overview of Hamilton's career, see Burton Alva Konkle, The Life of Andrew Hamilton, 1676-1741 (Freeport, 1941). See also Tully, Legacy, 17-19, 134 and Illick, Colonial Pennsylvania, 156ff.
5. A large body of Norris's correspondence during this period survives yet there are only a couple of passing references to the boundary dispute, despite his attendance at the meetings. The Norris's correspondence may be found in Isaac Norris Letterbook (1730-1735) and (-1733-1739). The latter book may be found in the 1719-1756 volume.
6. Nash considered Preston to be one of the key members of the provincial establishment in the early 18th Century. Nash, Quakers and Politics, 310-311, 328.
7. Steele was Receiver-General of Pennsylvania during this time period. See Tully, Legacy, 5 & 20. For landholdings in the disputed region, see Steele to J. Heath, 13 May 1734, PA, 1st Ser., 1, 426-27.
8. Ogle to Baltimore, 10 January [1732], CP, Correspondence to Lords Baltimore. Ogle noted that "both your Bror & Mr Lloyd talked exceedingly against any manner of agreement with the Penns." At this point, Ogle believed the commissioners could secure the necessary compromises, but he was careful to note that provincial considerations had to be addressed.
9. Owings, His Lordship's Patronage, 120.

10. ibid., 128, 167.

11. ibid., 134, 174 (Howard), 176 (Bennett), 167, 176, 182 (Tasker). Ogle assumed the office of Surveyor General of the Western Shore in 1733/34 (ibid., 172). Although there is no direct evidence to prove this point, it seems reasonable to suggest that, given the Maryland fee structure and the return of the quitrent system, each of these men stood to gain substantially by any significant increase in arable land under Maryland jurisdiction. During the 1730s, the revenue from the office of Surveyor General of the Eastern Shore was superceded by that of the Western Shore. The same was true for the relative increase in the value of the office of Rent Roll Keeper of the Western Shore as the western hinterland of Maryland was developed. The activities of the Agent and Receiver General have been discussed in Chapter 5, note 88. The Surveyor General of the Western Shore received about £120 to £130 sterling per annum during the late colonial period, while the Rent Roll Keeper of the Western Shore received from £135 to £145 sterling per annum by the early 1750s (ibid., 84-90).

12. Ogle argued that, while other members of the Penn family had signed the agreement, only the proprietors had authorized the Commissioners. After a lengthy debate, the Maryland Governor waived the issue but quickly began a new gambit. Since there appears to have been a consensus among the Commissioners to begin their deliberations with a discussion of the circle to be run around Newcastle, Ogle urged a postponement until the commissioners could meet at Newcastle. Minutes, Newtown, 6 October 1732, PA, 2nd Ser., 16, 165-66. Although the Commissioners could not agree on a joint set of Minutes, both sides did keep records of the transactions. These records will be referred to as Minutes followed by the specific location and date(s).

13. For the Maryland point of view, see Minutes, Newcastle, 30 October 1732, ibid., 166. The Pennsylvania perspective on the same meeting may be found in ibid., 463.

14. Minutes, Newcastle, 31 October 1732, ibid., 464.

15. ibid., 465-67.

16. Logan to [Paris], 8 November 1732, JLLB (1731-32), 85-86; _____ to _____, 5 November 1733, JLLB (1732-34), 52. For reference to Ogle as the key figure

opposing the Agreement, see Logan to Wright, 24 December 1732, JLLB (1732-34), 9. Logan recognized Ogle as a very capable adversary who was primarily responsible for convincing Baltimore to oppose the Agreement. At one point, he decried the political abilities of Governor Patrick Gordon compared to his southern neighbour. See Logan to T. Penn, 16 May 1733, PA, 2nd Ser., 7, 149-52.

17. For reference to landholdings in Nottingham, see Logan to Paris, 5 May 1732, JLLB (1731-32), 54-55. For indications that he held land in the disputed Susquehanna region, see Logan to A. Cornish, 30 May 1732, JLLB (1731-32), 62 and _____ to Blunston, 28 March 1733, JLLB (1732-34), 23. Logan may have had another reason for concern about the northward movement of Maryland settlement. Involved in the Indian trade, Logan may well have perceived these encroachments as the beginning of competition between Philadelphia and the Chesapeake for economic control of the interior.

18. Lord Proprietor vs T. & G. Rothwell, May 1734 Term, Provincial Court (Judgments), E.1.1. See also Steele to J. Heath, 13 May 1734, PA, 1st Ser., 1, 426-27. For Hamilton's holdings, see Logan to J. Penn, 4 November 1724, LP, v10, 32. As payment for legal services on behalf of Pennsylvania, Logan gave Hamilton three parts of land originally granted to Logan in Nottingham. See also Jerome S. Wood, "The Town Proprietors of Lancaster, 1730-1790," PMHB, XCVI (1972), 346-368 for Hamilton's speculative involvement in the placement of the town of Lancaster in 1730. For the development of Lancaster within the broader context of frontier expansion, see _____, Conestoga Crossroads: Lancaster Pennsylvania, 1730-1790 (Harrisburg, 1979).

19. See Aubrey C Land, "A Land Speculator in the Opening of Western Maryland," MHM, XLVIII (1953), 191-203; _____, The Dulanys of Maryland: a Biographical Study of Daniel Dulany, the Elder (1685-1733) and Daniel Dulany, the Younger (1722-1797) (Baltimore, 1968); R. Bruce Harley, "Dr Charles Carroll - Land Speculator, 1730-1755," MHM, XLVI (1951), 93-107. For the relationship of Dulany and Thomas Cresap in speculative ventures in western Maryland, see Chapter 5, note 111. On Carroll's belief that it was necessary to expand into the hinterland and to diversify crops, see Carroll to Ogle, 17 February 1732, MHM, XIX (1924), 291-293. For his unsuccessful efforts to obtain a large grant through Pennsylvania in 1735, see Board of Property Minute Book 'K', July 27 1741,

PA, 3rd Ser., 1, 109. In 1735, Carroll did locate a 5000 acre warrant from the Maryland Land Office in the disputed region. See Carroll's Delight, Index to the Land Records, Hall of Records, Annapolis.

20. T. Penn to Baltimore, 7 January 1733, PwB, II, 5; Baltimore to T. Penn, 24 January 1733, ibid.

21. Minutes, Newcastle, 2 February 2 1733, PA, 2nd Ser., 16, 167-73.

22. Minutes, Newcastle, 3 February 1733, ibid., 173-75. See also Pennsylvania Commissioners to Maryland Commissioners, 28 March 1733, ibid., 177-78.

23. Baltimore to Gordon, 15 February 1733, CHP, 3, 486. Logan and his fellow commissioners had tried to induce the Marylanders to meet earlier in Newcastle, but again they sat across from empty chairs on the appointed day. Pennsylvania Commissioners to Maryland Commissioners, 28 March 1733 and Maryland Commissioners to Pennsylvania Commissioners, 3 April 1733, PA, 2nd Ser., 16, 177-78.

24. The sessions at Joppa served only to entrench further the different interpretations of the circle to be run around Newcastle. Minutes, Joppa, 7-9 May 1733, ibid., 179 and 182-83.

25. Logan to Paris, 3 December 1733, JLLB (1732-34), 77.

26. Ogle to Baltimore, 25 August 1733, CP, Correspondence to the Lords Baltimore.

27. ibid.

28. Norris to Norris Jr, 2 December 1733, INLB (1730-35), 54-56.

29. Minutes, Newcastle, 3-6 September 1733, PA, 2nd Ser., 16, 184-92. Quotations are from 192.

30. T. H. Breen, "Horses and Gentlemen: The Cultural Significance of Gambling Among the Gentry of Virginia", WMQ, 3rd Ser., XXXIV (1977), 239-257; Rhys Isaac, The Transformation of Virginia, 1740-1790 (Chapel Hill, 1983), 98-104.

31. Logan to T. Penn, 23 June 1734, PA, 2nd Ser., 7, 179. See also _____ to Paris, 2 August 1734, JLLB

(1732-34), 102. Logan knew this section of the peninsula had poor soil and was not worth fighting over, especially if it meant that land in other areas might be lost. Marylanders were probably convinced that the Pennsylvanians would eventually compromise on the Newcastle circle to secure land rights to the remainder of the Lower Counties, and to establish an east-west line to the Susquehanna River and beyond. However, it is just as possible that Logan had convinced his fellow Pennsylvania commissioners of Ogle's ability. They may well have suspected, not unreasonably, that this would only be the first of many such compromises.

32. For early examples of this correspondence, see Ogle to Gordon, 5 April and 10 July 1732, PA, 1st Ser., 1, 320-21 and 336-37.

33. For reference to this meeting as well as to the papers exchanged between the commissioners, see PA, 2nd Ser., 16, 194-212.

34. Norris to Norris Jr, 2 December 1733, INLB (1730-35), 54-56.

35. Logan's suspicions about Maryland intentions were fueled by the performance of the Maryland governor at the commission meetings. See notes 16 and 31.

36. Lloyd to Baltimore, 15 August 1732, CP, Correspondence to the Lords Baltimore.

37. Council Minutes, 14 May 1734, CRP, 3, 543. Georges was Penn's personal secretary.

38. Report of Messrs Hamilton & Georges, 15 June 1734, ibid., 547-48.

39. For the Dulany-Jennings mission, see Ogle to Logan, 1 December 1736, BTP, 14, 589. For the Preston-Kinsey mandate, see Logan to Ogle, 14 May 1737, PA, 4th Ser., 1, 641.

40. Hamilton & Georges to Ogle, 22 May 1734, CRP, 3, 556. For details on the 'Old Baltimore Line', see Chapter 2, note 43.

41. Ogle to Hamilton & Georges, 24 May 1734, ibid., 558.

42. Report of Hamilton & Georges, 15 June 1734.

43. Dulany & Jennings to Logan & Council, 7 December 1736, CRP, 4, 118.
44. Logan to Dulany & Jennings, 10 December 1736, ibid., 121.
45. ibid
46. Dulany & Jennings to Logan, 12 December 1736, ibid., 130-134, esp. 134.
47. Pennsylvania Council Minutes, 13 December 1736, ibid., 136.
48. Logan to Ogle, -16 December 1736, ibid., 140. See also Petition of the President...to the King, 11 December 1736, ibid., 125-129.
49. Dulany & Jennings to Logan, 15 December 1736, ibid., 143.
50. All quotes in the above paragraph are from Logan to Council, 20 December 1736, ibid., 145-146.
51. ibid.
52. Logan to Ogle, 20 December 1736, CRP, 4, 146.
53. Logan to Steele, 18 November 1736, Society Collection (HSP).
54. Ogle to Logan, 24 December 1736, CRP, 4, 156-57. As noted in the preceding chapter, the capture of Thomas Cresap did not end the border violence. Charles Higgenbotham, one of the leaders of the Chester County Plot, had eluded Pennsylvania authorities and together with several of his associates, formed the nucleus of an even stronger Maryland presence west of the Susquehanna River.
55. Logan to Ogle, 5 & 22 March, 30 April 1737, PA, 4th Ser., 1, 607-637; Ogle to Logan, 11 March 1737, CRP, 4, 167-71; _____ to _____, 29 March 1737, PVB, II, 189.
56. Logan to T. Penn, 20 April 1737, PA, 2nd Ser., 7, 222. See Pennsylvania Council Minute, 12 May 1737, CRP, 4, 204.
57. Ogle to Logan, 11 March 1737, CRP, 4, 168.

58. ibid.

59. Report of S. Preston & J. Kinsey, 14 June 1737, CRP, 4, 210.

60. ibid., 211.

61. ibid., 215.

62. T. Penn to Blunston, 10 June 1737, PP(Unb).

63. Logan to J. Penn, 25 July 1737, JLLB (1736-42).

64. Logan to Paris, 10 October 1737, JLLB (1736-43).

65. Blunston to T. Penn, 18 July 1737, LCP, 33.

66. The rituals associated with court proceedings in Colonial America have recently come under close scrutiny. A.G. Roeber, "Authority, Law & Custom: The Ritual of Court Day in Tidewater Virginia, 1720-1750", WMQ, 3rd Ser., XXXVII (1980), 29-52; Isaac, Transformation, 88-94; Richard R. Beeman, "Social Change and Cultural Conflict in Virginia: Lunenburg County, 1746 to 1774", WMQ, 3rd Ser., XXXV (1978), 455-476. As Douglas Hay has brilliantly argued, the eighteenth century English legal system worked, despite the absence of a professional police force. Douglas Hay, "Property, Authority and Criminal Law" in Douglas Hay, Peter Linebaugh, et al (eds), Albion's Fatal Tree: Crime and Society in Eighteenth-Century England (New York, 1975), 17-63.

67. The impact of the legal process in the 18th Century resided to a great extent on the symbolic majesty of the Court. Hay, "Property, Authority and Criminal Law," esp. 26-39. Rhys Isaac and A.G. Roeber have demonstrated the importance of such ritual symbols in their analysis of the dramaturgical aspects of the Court in colonial America. See references in note 66.

68. Lord Proprietor vs John Hendricks, May 1734, Provincial Court (Judgments), E.1.1; and Lord Proprietor vs Edward Murphy, July 1735, Provincial Court (Judgments), E.L2. Maryland Provincial Court (Judgments) may be found in the Hall of Records, Annapolis. In particular, Hendricks became a sacrificial symbol. In December 1736, he was tried and convicted of riot in the Lancaster County Court of Quarter Sessions and fined £70 for aiding the Maryland militia. Rex vs Hendricks, 3 December 1736, LCQS,

183-84. See also Hendricks to T. Penn, 23 August 1734, Penn-Sailey Collection.

69. Lord Proprietor vs Robert Buchanan, October 1735, Provincial Court (Judgments), E.L2, 1735-37; Minutes of the Supreme Court of Pennsylvania, Rex vs Rumsey, 24 September 1736, BTP, 13, S93. For Rumsey's appearance before the Pennsylvania Council, see Pennsylvania Council Minutes, 6 May 1735, CRP, 3, 591-93. For the importance of the court proceedings to the onlookers, see references in note 66.

70. T. Penn to Blunston, 1 August 1733 and 8 March 1734, PP(Unb). See also Blunston to T. Penn, 25 July 1733, LCP, 33.

71. ibid.

72. Lord Proprietor vs Robert Buchanan, October 1735.

73. Logan to J., T., & R. Penn, 19 December 1735, Logan Family Papers (HSP).

74. Daniel Lowe and Philip Crever were brought before the court in December 1736 on charges relating to the border conflict. After a jury found Lowe guilty, he was fined. Crever submitted himself to the court, but he too was immediately ordered to pay the same fine as Lowe. Rex vs Daniel Lowe and Rex vs Philip Crever, 3 December 1736, LCQS, 182-83.

75. Logan to Proprietors, November 1737, JLLB (1736-43).

76. [Dulany] to [Baltimore], 29 October 1736, Dulany MS 1265 (Maryland Historical Society, Baltimore); Rex vs Rumsey, 24 September 1736.

77. ibid.; Logan to J. Penn, 26 September 1736, JLLB (1736-43).

78. Rex vs Philip Crever, 3 December 1736.

79. Rex vs Benard Weymar, 10 November 1736, LCQS, 181; Rex vs Leonard Purroure, 10 November 1736, LCQS, 181.

80. Lord Proprietor vs Edward Murphy, July 1735.

81. Lord Proprietor vs George Williams, May 1737, Provincial Court (Judgments), E.L2, 1735-37.

82. T. Penn to Blunston, 17 July 1733, PP(Unb).
83. Blunston to T. Penn, 12 May 1734, LCP, 3.
84. Logan to Steele, 19 November 1736, Society Collection (HSP).
85. Council to Magistrates of Chester County, 29 November 1736, CRP, 4, 112-13.
86. Logan to J., T. & R. Penn, 31 March 1734, Governors of Penna., Box 32, Case 2 (HSP).
87. See Logan to Paris, 1 November 1737, JLLB (1736-43); Blunston to T. Penn, 30 October 1737, Penn-Bailey Collection; Pennsylvania Council Minute, 12 November 1737, CRP, 4, 250-53; Ogle to Logan, 22 November 1737, CRP, 4, 253-54.
88. T. Penn to [Blunston], 9 June 1735, PP(Unb).
89. Blunston to T. Penn, 13 January 1737, LCP, 29. Even after the crisis had passed, Logan remained convinced Blunston and Wright were responsible for "that unhappy Mess...in Lancaster County." Logan to Proprietors, 5 November 1739, JLLB (1736-1743).
90. For these cases, see Provincial Court (Judgments), May and October Terms 1734 and July Term 1735.
91. See The Humble Petition Of William Runsey of Cecil County ..., and the Petition of William Cannon of Baltimore County ..., BTP, 13, S93.
92. Ogle to Gordon, 22 May 1736, PA, 1st Ser., 1, 488.
93. Md Council Minute, 18 May 1737, AM, 28, 121-22. For information on the rewards, see Chapter 5, note 131.
94. For the docket naming the arrested Germans and specifying the bond, see May and October Terms 1737, Provincial Court (Judgments) 1735-37, E.L2.
95. Petition of Miles Poy, Michael Ryener and Jacob Mathias Minsher, 28 November 1737, PA, 1st Ser., 1, 546-47.
96. Dulany & Jennings to Logan, 15 December 1736, CRP, 4, 142-43; Logan to Council, 20 December 1736, CRP, 4, 144-45.

There is no indication in the records that the Maryland government paid for the Marylanders' keep while confined in Pennsylvania, but given the efforts of Dulany and Jennings to secure bail, it is likely they had been providing the necessary assistance.

97. Logan to Paris, 1 November 1737; Logan to Proprietors, _____ November 1737, JLLB (1736-43).

98. Ogle to Logan & Council, 19 December 1737, CRP, 4, 261.

99. Pennsylvania Council Minute, 3 January 1738, CRP, 4, 263-64.

100. For the court order reducing bond and indefinitely postponing trials, see May Term 1738, Provincial Court (Judgments) October 1737-May 1738, E.1.4.

101. See, for example, Examination of Jacob Gräbill, 15 April 1737, and Examination of Reynart Hemar, 15 April 1737, CP (Affidavits...).

102. For a more detailed discussion, see Chapter 5.

103. In addition to the information in Chapter 5, see Maryland Council Minute, 21 October 1736, AM, 28, 97-107.

104. Examination of Edward Leet, 24 November 1736, CRP, 4, 104-06; Examination of Henry Munday, 25 November 1736, CRP, 4, 107-09.

105. T. Penn to Blunston, 23 October 1736, Gratz Collection, Case 2, Box 33 (HSP).

106. Logan to Steale, 18 & 19 November 1736, Society Collection. See also T. Penn to J. Brinton, C. Cowpland, et al., MS1851, Chester County Historical Society.

107. Pennsylvania Council Minute, 23, 24, 25 & 27 November 1736, CRP, 4, 100ff.

108. Ogle to Logan, 22 November 1737, CRP, 4, 253-54. The Pennsylvania Council was unable to issue a Proclamation announcing the Order until 2 January 1738 when official news finally arrived. Proclamation to Suppress Disorders..., 2 January 1738, PA, 4th Ser., 1, 656-57.

109. Blunston & Wright to T. Penn; 5 December 1737, Penn-Bailey Collection.

110. For a discussion of this incident, see Chapter 5.

111. For the impact of Ogle's visit on the local population, see Chapter 5.

112. Tully, Legacy, 17-18.

113. Petition of the Council and Assembly to the Crown, 11 December 1736, PA, 4th Ser., I, 589-96.

114. Address of the Upper and Lower Houses of Assembly to Lord Baltimore, 30 March 1736, AM, 39, 332.

115. Address of the Upper House to Governor Ogle, 5 May 1738, AM, 40, 147. See also Address of Governor Ogle to the Upper and Lower Houses of Assembly, 3 May 1738, ibid., 144.

116. Address of the Lower House to Governor Ogle, 5 May 1738.

117. Message of the Lower House to the Upper House, 26 July 1740, AM, 42, 29-30. For the vote against Dulany, see Assembly Proceedings, 28 May 1739, AM, 40, 361-62.

118. Message from the Lower House..., 29 July 1740, AM, 42, 33-34.

119. Votes of Assembly, August 1737, Votes and Proceedings of the House of Representatives of the Province of Pennsylvania, 1726-1741, PA, 8th Ser., 3, 2401. It should be noted that this sum probably also included an allocation for costs pertaining to an Indian treaty. See Message from the Assembly to the President and Council, 11 August 1737, ibid., 2396-7.

120. John Kinsey was a popular and well respected leader in the Assembly. He would soon replace Hamilton as Speaker and was considered one of the leading legal minds in the province. He had already appeared before the Maryland Provincial Court to defend those Pennsylvanians arrested by Higgenbotham and his associates.

121. Logan to Paris, 29 November 1737, JLLB (1736-43).

122. Tully, Legacy, 23ff.

CONCLUSIONS

Boundary disputes in colonial English America were both common and lengthy. In an era of imprecise measurement and inaccurate maps, adjacent land grants on paper frequently overlapped in reality. Of these many jurisdictional conflicts, the Pennsylvania-Maryland boundary dispute was one of the longest and most acrimonious, beginning with Charles II's grant of Pennsylvania to William Penn in 1681 and lasting until Mason and Dixon ran their famous line from 1763 to 1768.

The first part of this study focused on the origins of the boundary dispute, its escalation into a major conflict between William Penn and Charles Calvert and the reasons for its lack of resolution, despite an Order-in-Council in 1685, until the signing of the Agreement of 1732. Baltimore's grievance against Penn resulted from the lack of generally accepted, accurate maps of British America in the late 17th Century. When Charles II agreed to use a map supplied by William Penn to designate the limits of Pennsylvania, he unwittingly laid the groundwork for Baltimore's grievance against William Penn. It was aggravated by Penn's

understandable desire to secure access to the sea. He negotiated with the Duke of York for the grant of a tract of land on the eastern side of the Delaware peninsula which York claimed from the Dutch by right of conquest. Penn's efforts brought him into direct conflict with the Maryland proprietor who claimed the entire peninsula by right of his charter.

Baltimore and Penn met on two occasions to negotiate a settlement of their differences, but these meetings only served to make matters worse. Personal ambition, the need to maintain a sense of honour before a local audience, and the aggressive behaviour and growing antipathy of the proprietors combined to doom the negotiations. Penn assumed his southern neighbour would recognize the strength of the Penn interest with the Crown and grant concessions along the disputed border; Baltimore miscalculated the strength of his right by charter in the face of the Quaker proprietor's powerful political interest.

The dramatic frontier encounters between Baltimore and Penn on the periphery of the empire changed the focus from the issues in dispute to the personalities of the participants, from the need to negotiate to the urge to confront. With this shift in focus came a growing emphasis on honour and prestige. Although the

proprietors remained the dominate participants in these encounters, provincial officers and the local population served as the audience before which Penn and Baltimore played out their increasingly strident confrontations. As Penn and Baltimore began their long struggle for control of lands that were still part of a paper empire, the ambivalence of this local audience points to the fragile nature of proprietary authority. It is little wonder that Penn and Baltimore placed so much emphasis on the need to restore, maintain or heighten their personal prestige and the status of their position.

Given the relationship Penn had fostered with the Duke of York, it is not surprising that Baltimore appeared anxious as he approached the prospect of adjudication at Whitehall. In marked contrast to the Maryland proprietor's formal and defensive style, Penn presented the image of a confident, personable courtier. Baltimore was compelled to depend on the righteousness of his charter claims, Penn on the realities of court favour; Baltimore was forced to follow a legalistic course of action, Penn a political one. In the English political world of the early 1680s, Penn enjoyed a considerable advantage and in the aftermath of Charles II's death and the accession of

James II, this advantage became overwhelming. In this instance, political interest proved more significant than apparent legal rights.

The Order-in-Council of 1685 not only demonstrated the consequences of a favourable turn of the political wheel of fortune, it also left a legacy of confusion and bitterness. The lack of clarity on the means by which the 40° latitude was to be measured left the southern boundary of Pennsylvania in doubt, despite the Order. Although Penn appeared to win control of the Lower Counties, the accession of James II meant that these lands automatically became crown lands. The lack of a formal deed of transfer from James to William Penn plagued the Penn family for the remainder of the colonial period. Lastly, the blatant use of political interest may have won the day for Penn in 1685, but it infuriated and humiliated Baltimore, ensuring that the Maryland proprietor would delay by all possible means the running of a line according to the Order. If political fortune could wrest lands from him in 1685, then surely a new political climate might provide the opportunity to regain those lands at a later date.

Because the first phase of the dispute became so personalized, because its adjudication was so politicized and because Baltimore and Penn lived for

another thirty years, the dispute itself became a longstanding feud between the two families. In addition to this interfamily tension, other matters preoccupied the proprietary families and therefore, little effort was made by either family to lessen or increase the level of the dispute. Personal and family problems, and financial and political difficulties troubled both families for much of the forty-five years that followed the Order-in-Council of 1685.

Although the Penn family never regained the political strength to enforce this original Order, Baltimore lacked the political stature to have it overturned. Baltimore had lost his charter in 1689, retaining only his land rights. A Catholic until his death, he quarrelled bitterly with his son when the latter became an Anglican. Preoccupied with financial distress, negotiations to surrender his charter, and the debilitating effects of illness, William Penn was no longer a self-confident courtier. However, he was not without support in high places, as the failure of Baltimore's bid to overturn the 1685 Order in 1708/09 clearly indicates. The estate dispute that followed his death in 1718 further complicated the financial problems of the Penn family. The family did not resolve this internal problem until 1730. Baltimore's

death paved the way for a restoration of the Maryland charter to the Calvert family, but the 5th Lord Baltimore was only a minor in 1715. Therefore, for reasons that had very little to do with the actual dispute, even after the original antagonists died, it was several years before the heirs asserted themselves in the affairs of their colonies. By the mid-1720s, the Penns and Calverts seemed willing to resolve their outstanding differences on the boundary, but it was not until 1732 that the 3rd Lord Baltimore's grandson and namesake reached a negotiated comprehensive agreement to end the dispute with three of William Penn's sons.

If the persistence of the family feud and the introduction of additional family problems prevented the Penns and Calverts from settling their differences until 1732, the forty-seven years from the Order of 1685 to the Agreement of 1732 also witnessed the development of other levels of conflict with different perspectives on the boundary dispute. A self-conscious merchant elite emerged in Philadelphia, while a planter elite came to dominate the provincial life of Maryland. An economic rivalry which had developed during the war years before and after the turn of the century continued to colour relations between the two proprietary provinces. Whether in pursuit of the best

locations for mines or proprietary manors, Pennsylvanians and Marylanders were well aware by the end of the 1720s that they were competing for the control of a hinterland.

The rivalry between the two provinces was further complicated by the steady influx of Scotch-Irish and German immigrants through Philadelphia and Newcastle into the disputed borderlands. What had been an uncharted wilderness in the 1680s had become, by the beginning of the 1730s, the home of growing numbers of men and women who were far more conscious of ethnic and familial loyalties than proprietary authority. Ethnic rivalries and interfamily conflict only served to heighten border tensions in the 1730s.

Despite the agreement between the Penns and Baltimore, confrontation and violence soon scarred the borderlands. Over the next six years, the agreement lapsed and officials of both provinces were labeled as rioters by their rivals; men were seized, tried and convicted in both jurisdictions; two men were killed and many were dispossessed. One province's posse was the other province's armed thugs. To understand why this conflict escalated into a border war during these tumultuous years from 1732 to 1738, why the Crown was forced to intervene and why this intervention proved to

be successful, it was necessary to consider the development of the conflict at three distinct levels. The violence erupted as a result of the unique confluence of these three levels.

While the proprietary families continued to perceive the conflict as an interfamily dispute, other participants became involved in the process by the 1730s. The proprietors had not fully appreciated the extent to which the aspirations of provincial leaders and local settlers now had to be taken into account. During the early years of the boundary dispute, it had remained a paper conflict with the disputed lands remaining largely uninhabited and the proprietors being the principal participants on both sides of the Atlantic. Over the following decades, the social landscape of Pennsylvania and Maryland changed dramatically. Immigrants moved into the contested hinterland, taking up land with or without a formal grant. It did not take the local inhabitants long to discover that the disputed jurisdiction meant that they could avoid paying quitrents to the proprietors. At the same time, both Philadelphia and Annapolis witnessed the emergence of self-conscious provincial elites concerned with the need to extend their authority and influence into the borderlands.

In the early 1730s, the failure of the proprietors to appreciate the impact of these structural changes on the boundary dispute led to the collapse of the 1732 Agreement.

In Baltimore's eyes, the Agreement of 1732 had been fraudulently contrived to favour the Penns. There was no way he could accept its legitimacy and expect to re-assert proprietary authority and prestige in Maryland. Confronted by a provincial elite furious with the terms of the Agreement, the Maryland proprietor probably realized that the successful resumption of the quitrent system and re-organization of the government fee structure might well depend on the support of these same provincial leaders. To appear to have sacrificed provincial interests on the boundary question was bad enough; to appear to have been duped by the Penns in the process was intolerable.

During his short stay in Maryland, Baltimore made it clear that he now supported the bellicose stance of his provincial council. With his departure for England, he seems to have willingly delegated to Samuel Ogle and the Council responsibility for the conduct of the conflict with Pennsylvania. During the climactic years from 1732 to 1738, the Marylanders took the initiative with the apparent blessing of their

proprietor, although their actions sometimes placed Baltimore in a difficult position. While the Maryland proprietor resumed his role as courtier within the Prince of Wales' entourage, the Maryland provincial leadership was given a free hand to apply pressure along the border. Given his strong interest at the Board of Trade, Baltimore petitioned to have the 1685 Order revoked and later tried to prevent the approbation of Governor Thomas. But most ominously for the Penns, Baltimore could afford to allow the violence to mount on his frontier. It had little immediate consequence for his income and the longer the dispute lasted the greater the chance that the political wheel of fortune would take a favourable turn and his patron, Frederick, Prince of Wales would ascend the throne.

The Penns reacted to the collapse of the Agreement differently. John and Richard Penn became increasingly depressed and seriously considered selling their interest in Pennsylvania. In particular, John believed that the mounting of an effective lobby at Whitehall to counter Baltimore's interest at the Board of Trade, and the initiation of a costly, lengthy Chancery suit were far too onerous for the meager revenue the family received from their colony. It was probably the realization that the inheritance clauses in the Penn

estate settlement prevented the outright sale of the colony without the prior approval of the entire family that tempered John's enthusiasm to rid himself of the Pennsylvanians.

Thomas Penn, on the other hand, appears to have committed himself to the businesslike management of the colony, but his cautious, defensive, legalistic approach to the dispute undermined this glorious opportunity to assert proprietary leadership. Despite the many letters from Samuel Blunston, Penn did not appreciate the local character of the conflict; despite the appeals of the Lancaster County magistrates, Penn refused to assume the mantle of aggressive leadership on the frontier; despite the delay in the approbation of Governor Thomas after Gordon's death, Penn allowed James Logan to head the government as President of the Council instead of assuming command. Thomas Penn was initially willing to concede that the brothers had gone astray in their insistence upon the 'false cape' and suggested that they let Baltimore have that part of Sussex county that fell below the real Cape Henlopen. That the Pennsylvanians countered the Marylanders with their own brand of aggressive behaviour was more the result of Blunston's leadership in Lancaster County and

Logan's attentiveness as President of the Council than to the leadership of Thomas Penn.

The recourse to a Chancery suit was indicative of the Penns' difficulty in asserting some control over the tempo of the dispute. Heralded in Pennsylvania as victors after the signing of the Agreement of 1732, they could not add credibility to Baltimore's thinly veiled accusation of deception by rescinding the Agreement. While they were willing to grant new concessions to the Maryland proprietor, these could only be granted as amendments to the formal contractual agreement. To thwart Baltimore's attempt to overturn the 1685 Order, they were forced to initiate litigation in Chancery. It was now apparent that the Agreement of 1732 was possibly the basis of the Penns' strongest claim to the Lower Counties and therefore, the binding nature of the contract had to be proven at all cost. After 1735, the Chancery suit proceeded at its own pace independent of the hostilities that had broken out along the Pennsylvania-Maryland border.

The Penns' recourse to the formal legal process proved to be as long and costly as John Penn had predicted, with the court's decision to uphold the Agreement coming fifteen years after the suit began. Nor did the initiation of a Chancery suit halt the

violence. Long before this litigation ended, the Crown had intervened to restore order on the frontier. Responding to petitions from the provinces, Whitehall ordered the proprietors to agree to a temporary boundary settlement until their Chancery suit resolved the outstanding issues. For practical purposes, this 'Temporary Agreement' of 1738 brought the dispute to an end.

While the boundary conflict always remained a dispute between two of the wealthiest proprietary families in the British Empire, it was dramatically changed by the growth of the local border population. Instigated by provincial leaders and tolerated by the proprietors, the violence in the borderlands was carried out by local inhabitants who had their own set of priorities. The influx of German and Scotch-Irish immigrants seeking cheap land in the backcountry created a sense of urgency among those provincial leaders concerned with the overlapping jurisdiction of the two colonies and the capacity of the borderers to ignore the authority of either province when it suited them. Although these men and women became the local armed forces of the two provinces in an escalating border war, they were more inclined to perceive the conflict in terms of ethnic solidarity and familial

loyalty than proprietary charter rights or interprovincial rivalry. Germans and Scotch-Irish fought as groups and chose provincial affiliation as groups.

Those who lived in fear of being arrested, beaten or even killed were watched by landless labourers and servants who had been offered their freedom and were being paid to garrison the border. For others, the promise of reward was the major incentive for involvement. The evidence suggests that many inhabitants were willing to switch sides or remain passively neutral depending upon which province appeared to offer the best terms, which one appeared to be winning at a particular moment, or which one could sustain the largest armed force in the region. There are clear indications that within each armed group their were men and women who not only knew their opponents, but were on amicable terms with them.

Landless labourers, former and current indentured servants, shared a common perception of authority on the frontier regardless of which authority they accepted. The boundary dispute allowed these men to seize, threaten, cajole and beat authority figures with relative immunity, as long as they had the license to do so from those representing the competing authority

and they avoided capture by the other side. Local Pennsylvanians taunted the Maryland 'Homeny gantry' and local Marylanders insulted 'cowardly Quakers'; if they switched sides, the challenges continued, only the names changed. Finally, the personal ambition and economic self-interest of local leaders required unity and cooperation with the proprietors, but it is apparent that these same local leaders harboured anti-proprietary sentiments. For Samuel Blounton, the need to cooperate entailed regular correspondence with Thomas Penn, while the anti-proprietary sentiment had to await the end of the boundary crisis.

Granted greater freedom of action by their proprietor, provincial Marylanders ignited the volatile border population and the leadership of both provinces then fanned the flames of violence during the five years that followed the 1732 Agreement. Convincing Baltimore of the Penns' duplicity during the negotiations, members of the Maryland elite scuttled the Agreement of 1732; exploiting the fears, the anger and the ambition of the local inhabitants, they developed a militant border policy of pressure tactics to force a reassessment of the boundary limits.

Members of both provincial Councils were conscious of the economic possibilities of the disputed

hinterland. For the Pennsylvania elite, the borderlands included the trade routes to the Indian tribes, good land for speculative investment and for wheat production, the possibility of vast untapped mineral resources, and the location of a growing population which would look to Philadelphia as the commercial metropolis. For the Maryland gentry, the Lower Counties and the northwest frontier offered opportunities to diversify economic interests, lessen long term dependence on Philadelphia, and extend authority over a hinterland.

If members of the Maryland elite sought to enhance their power and prestige while their Pennsylvania counterparts sought to maintain their regional dominance, both provinces recognized the need to extend their jurisdiction into the disputed region and to contest the legitimacy of their neighbour's authority. They deliberately provoked violence by forcibly seizing inhabitants who claimed their land by right of the other province and they used the judicial system as a means of legitimizing the seizures, the beatings and ultimately the killings that resulted from provincial initiatives between 1732 and 1738.

During the 1730s, the initiative in the conflict shifted to the colonies. When the initiative was

returned to participants in England in the late 1730s, the proprietors were forced to respond to the Crown's renewed interest in the conflict. Whitehall was willing to let the two proprietary families continue their dispute indefinitely within the confines of the Court of Chancery, but open border warfare and petitions from the provinces requesting royal intervention were another matter. After the proprietors agreed to the running of a Temporary Line at the Crown's insistence, restrictions on settlement in the borderlands, imposed by the royal order of 1737 were removed and the provincial and local participants then appeared content to watch the proprietors react defensively to the slow and inexorable tedium of the Chancery suit. Even after a decision was handed down in 1751, further complications left the matter unresolved until the early 1760s. Yet, the Temporary Line continued to be respected by both provinces. In the end, the Agreement of 1732 was confirmed and the proprietors agreed to split the costs of their long legal battle. Charles Mason and Jeremiah Dixon were then hired to run their famous line and bring the dispute to its final conclusion.

Just as the outbreak of violence cannot be understood without considering the dispute at three

levels, so too the reasons for the ending of open hostilities can be best understood if analyzed in the same way. The Orders-in-Council of 1737 and 1738 brought the local violence and the heated participation of the provincial elites to an effective end, because unlike the Order of 1685 it brought the Penns and the Calverts into the process. The Order of 1738 was nothing more than royal approbation of a proprietary 'agreement' to run a Temporary Line and respect the property rights of all borderers currently holding land titles from either province. At the provincial level, the terms of the 'agreement' of 1738 were similar to those advocated by both provinces. Since neither province was compelled to surrender lands held by title, provincial leaders saved face, while challenges to provincial authority on the frontier could now be more effectively handled. Although the initiative in the dispute generally moved from the provincial capitals outward to the borderlands, local inhabitants sometimes interpreted and acted upon these initiatives in ways that forced provincial leaders to react to, rather than direct events in the hinterland. Eventually, both governments through petitions to the Crown sought to end the violence that threatened to get out of hand and had begun to undercut authority in general. The provincial elites were pleased with the

Crown's order for it was a way out of a nasty box. The local population appears to have grown tired of a conflict which was, by 1737, creating more problems than it solved. For some, migration inland was the answer, for others the opportunity to acquire uncontested title to the land enticed them to stay. For their part, the proprietors were willing to play out their dispute in Chancery while ensuring secure settlement of the interior.

An examination the same period of conflict from three distinct points of view highlighted those elements which were of consequence to the different participants, although they themselves would surely not have made such analytical distinctions. Implicit throughout this narrative and analysis was the conviction that although the Penns and the Calverts may have used different strategies and tactics in the boundary dispute, they shared a common proprietary perspective. Similarly, men like James Logan of Pennsylvania and Philomen Lloyd of Maryland shared more than the title of Provincial Secretary. The lines of distinction between the local, the provincial and the proprietary levels were frequently blurred as participants at different levels communicated with and influenced one another. Although some overlap was

unavoidable, this study has demonstrated that the violence which erupted during the climactic years following the 1732 Agreement and ended in 1738 is best understood through an analysis of the interplay of participants at three different levels of the dispute: the proprietary, the local, and the provincial.

The conflict was not without its continuities. Regardless of place, time or level of dispute, peripheral actors tried to enhance their status and to extend their authority - to become, as it were, principal players. Linked with this persistent theme was the ever-present concern of the participants with the legitimacy of newly acquired status, wealth and power. The boundary dispute was, by its very nature, a struggle for legitimacy as each side in the conflict tried to extend or defend its jurisdiction and authority. For Marylanders and Pennsylvanians, a lack of mutually acceptable limits to authority threw the whole formal exercise of power into a state of confusion. It was in this context that participants in each arena of conflict sought to form a new basis of legitimacy for their behaviour and to secure their social and economic well-being.

The examination of a particular dispute within the English Atlantic Empire as it evolved over half a

century provided an opportunity to consider conflict as more than a contest between two monolithic parties. The Pennsylvania-Maryland boundary dispute was not simply a struggle between provincial elites, a dispute between proprietary families, or a conflict among local settlers - it was the result of the complex interplay of all three of these perspectives. The result of an approach which takes each of these aspects into account is a more complete picture of not only the Pennsylvania-Maryland boundary dispute, but of the multi-dimensional texture of relationships within the English Atlantic community during the formative decades of Provincial America. The 1730s witnessed more than the emergence of provincial elites in Colonial British America, more than the politics of empire and interest and more than the evolution of a frontier ethos in the colonial hinterland; it witnessed the simultaneous development and interplay of all three dimensions. Only by superimposing these three distinct images on the mind's eye, can the complexity and the richness of life within the ambivalent British empire of the early 18th Century be detected.

Appendix A

A Note on Maps

Much of the conflict that plagued the Pennsylvania-Maryland border region in the 18th Century was fueled by differing interpretations of the 17th Century maps of the region. From John Smith's map of 1608 through to John Senex's engraving, appended to the Agreement of 1732, there were several references available for those who were concerned with the outcome of the dispute. None of these references were entirely accurate and several were particularly inaccurate.

The inaccuracy of these early maps was especially important for the boundary dispute in two critical ways: first, the relative placement of the 40th latitude; and second, the placement of Cape Henlopen on the eastern shore of the Delaware peninsula. The maps within this Appendix trace the development of these two key issues. The notes that follow are keyed to the maps at the end of the Appendix. They are not intended to be exhaustive. For more detailed information on the source materials and the context of 17th Century cartography, one should read Edward C. Papenfuss and Joseph M. Coale III, The Hammond-Harwood House Atlas of Historical Maps of Maryland, 1608-1908 (Baltimore, 1982) and Jeanette D. Black, The Blithwayt Atlas (Providence, c1970), Volume I: The Maps and Volume II: Commentary. These may be supplemented by William P. Cumming, The Southeast in Early Maps (Chapel Hill, 1962), Edward B. Mathews, "The Maps and Map-Makers of Maryland," Maryland Geological Survey [Reports] (Baltimore, 1897-), Volume 2 and John Noble Wilford, The Mapmakers (New York, 1981).

MAP 1: John Smith, "Virginia" [1608].

The first map of the region, Smith's "Virginia" became the standard reference source for the Chesapeake region for much of the 17th Century. It was used by Cecil Calvert to define the charter his father had requested and Charles I had granted in 1632.

There was no detail of the eastern shore of the Delaware peninsula and the south of the

Susquehanna River lay just south of the 40⁰ latitude. Susquehanna Fort was situated north of this line in an area that Smith had not visited. Although this 'fort' was not mentioned in Baltimore's charter, it became a controversial place name on later maps.

MAP 2: [Jerome Hawley and John Lewger],
"Nova Terrae-Mariae Tabula" [1635].

This map, based on Smith's earlier work, accompanied the promotional tract, A Relation of the Successful Beginnings Of Lord Baltimore's Plantation in Maryland...1634 which Cecil Calvert, the second Lord Baltimore, published to attract new settlers to his colony. For the first time, boundaries were included. The 40⁰ latitude, which formed the northern boundary on the map, was placed further south than had been the case in Smith's map. This was to prove particularly awkward when Penn later pointed to this map as an indication of how Cecil Calvert had perceived the limits of the Maryland patent. One should also note that the Delaware peninsula now had an eastern shoreline with two capes placed close together near the mouth of Delaware Bay.

MAP 3: Nicholas J. Visscher, "Nova Belgii" [1651-56].

One of the maps produced by the Dutch cartographer, Map 3 was one of a group of maps that became known as the Visscher series. This copy was owned by William Penn and was the one he presented to the king for his use during the climatic royal adjudication of the dispute in 1685. The faint lines drawn on the map are the boundaries that Penn sketched for the king.

Another Visscher series map was among those available to the Lords of Trade during the critical arbitration, but whether they referred to it is unknown. Given the high regard for Dutch cartography that was pervasive in the 17th Century, it is understandable that this map, although far from accurate, would be perceived as a reliable source.

Apart from the placement of the 40⁰ latitude, which clearly favoured Penn, the inclusion of two capes on the eastern shore of Delaware peninsula proved to be of crucial importance. Unlike the earlier Hawley/Lewger map, this map provided names

for two capes. Cape Cornelius, the more northerly of the two, was situated at the mouth of the Bay, while Cape Henlopen was placed over twenty miles to the south. As later maps would show, there was in reality only one cape in the area, that being the one called Cape Cornelius on this map. In subsequent maps, this promontory would be called Cape Henlopen. However, when the next generation of proprietors negotiated an apparent end to the dispute in 1732, the 'false cape' would again be placed over twenty miles south of its actual location (See Map 11).

MAP 4: John Ogilby, "Nova Terrae-Mariae tabula" [1671].

This revision of the earlier Hawley/Lewger map suggests that Baltimore was, by this time, well aware of the potentially dangerous displacement of the 40⁰ latitude. The latitude, Maryland's northern boundary, was moved well north of Chesapeake Bay and although Cape Henlopen remained unspecified, Baltimore had the region in the general vicinity of the cape inscribed "The Whorekills."

MAP 5: Augustine Herrman, "Virginia and Maryland" [1670; published 1673].

This was the largest, the most detailed and the most accurate map available at the time of the Penn grant. It was one of the three or four maps of the region available to the Lords of Trade in the early 1680s. Commissioned by Baltimore, Herrman eventually received 25,000 acres in the Cecil-Newcastle area as payment for his service. If this payment later led Penn to question the accuracy of the map, Charles II had been so pleased with the map that, with its publication, he gave Baltimore a reward of £40. It remained an important source for derivative maps until well into the next century.

The 40⁰ latitude was placed further north than previous maps, placing Maryland's northern border well beyond the present site of Philadelphia. The Susquehanna Fort was placed on the 40th parallel. In the 1730s Maryland justified the settlement of Cressap and his followers in the Codorus Creek area by claiming that their plantations were on the site of the original 'fort'. Cape Henlopen is marked at the entrance to Delaware Bay at the location of the Whorekills settlement. Given

Herrman's long residence in New Amstel before his settlement in Maryland, it is unlikely that he would not be privy to the proper location for Cape Henlopen.

MAP 6: Francis Lamb, "A Map of Virginia and Maryland" [1676].

Although Lamb used Herrman's map as his primary source, he also derived some material from Smith's map. Of particular note, he moved the northern limits of Maryland southward. As in Herrman's map, the 40° latitude still runs through the Susquehanna Fort, but now it crossed the Delaware River just north of Newcastle.

MAP 7: John Thornton and Robert Greene, "A Map of Virginia, Maryland..." [1678?].

This work clearly shows the influence of the Herrman map. It was the first to be drawn with a north-south orientation on the page. Although the 40° latitude does not cross the Susquehanna Fort, it is still well above the future site of Philadelphia. This is all the more remarkable when compared to Map 9, produced by Thornton some three years later.

MAP 8: Robert Morden, "A New Map of Virginia and Maryland" [1680].

Another derivative of Herrman's map published on the eve of Penn's patent proposal, it serves as another illustration of the growing acceptance of the placement of Chesapeake Bay well below the 40° latitude and Cape Henlopen at the entrance to Delaware Bay.

MAP 9: A section of John Thornton and John Seller, "A Map of the South and eastbounds of Pennsylvania in America" [1681].

Published in 1681 to help promote the settlement of Pennsylvania, this map represents Penn's most extreme effort to obtain by default a southern boundary that would incorporate not only the entire Delaware River and most of Delaware Bay, but the Susquehanna River as well. Apart the blatant misplacement of the 40° latitude at a point which apparently gave the northern third of Maryland to Pennsylvania, Herrman's influence may be seen in the representation of the northern

Chesapeake region. Presumably, Pann saw fit to send a copy of his map to the Lords of Trade as it found its way into one of their atlases.

MAP 10: Christopher Browne, "A New Map of Virginia, Maryland..." [1685].

Very similar to the earlier Thornton/Greene map, this production became part of what is now called the Browne/Senex series (1685-1719). The 40^o latitude is situated too far south, but the boundary as marked is close, with one notable exception, to the eventual line proposed in 1732. The exception was the placement of the southern boundary of the Lower Counties at a point north of Cape Henlopen. It should be noted that again the Cape is correctly placed at the entrance to Delaware Bay.

MAP 11: Herman Moll, "Virginia and Maryland, 1708" [1732].

One of the maps used by John Oldmixon in his The British Empire in America, it became a standard reference from 1708 to 1741, during which time there were several revisions. It is noteworthy that on this map, revised in the year of the 1732 Agreement, the Lower Counties are restricted in size and Cape Henlopen is properly placed. Also, the southern boundary of Pennsylvania appears to reflect actual jurisdictional limits.

MAP 12: [John Senex], "Proposed Maryland/Pennsylvania Boundary" [1732].

This map represented the boundaries as negotiated in the Agreement of 1732. The origin of the working draft upon which it is based remains unclear, although it appears to have been a map in Baltimore's possession. What he was doing with a map that so clearly jeopardized his interests remains a mystery. It was reputed to have been sent to England by a Maryland official, who had received it from someone in Pennsylvania.

Baltimore may have been many things but he was not a fool. It is remarkable that neither he nor any of his London associates perceived any differences between this map and published references to the region. In his communications with his provincial officials before the finalization of the agreement, Baltimore probably did not think to

enclose a copy of the map that was being used by the proprietors during the negotiations. Thus, Marylanders presumably would have taken any reference to Cape Henlopen in a letter to mean the cape at the entrance to Delaware Bay. It would be equally astonishing if Fernando John Paris, who had helped frame the agreement and who would become the Penns' agent shortly after that, was not aware of the obvious discrepancies.

Note the placement of Cape Henlopen well below its actual location which is called Cape Cornelius on this map (See the Viischer map for the source). According to this representation, the northern boundary of Maryland would pass through the mouth of Octararo Creek. Notable by their absence are references to degrees of latitude and to the scale used by the map-maker. In the latter case, Paris had specifically requested that it be deleted.

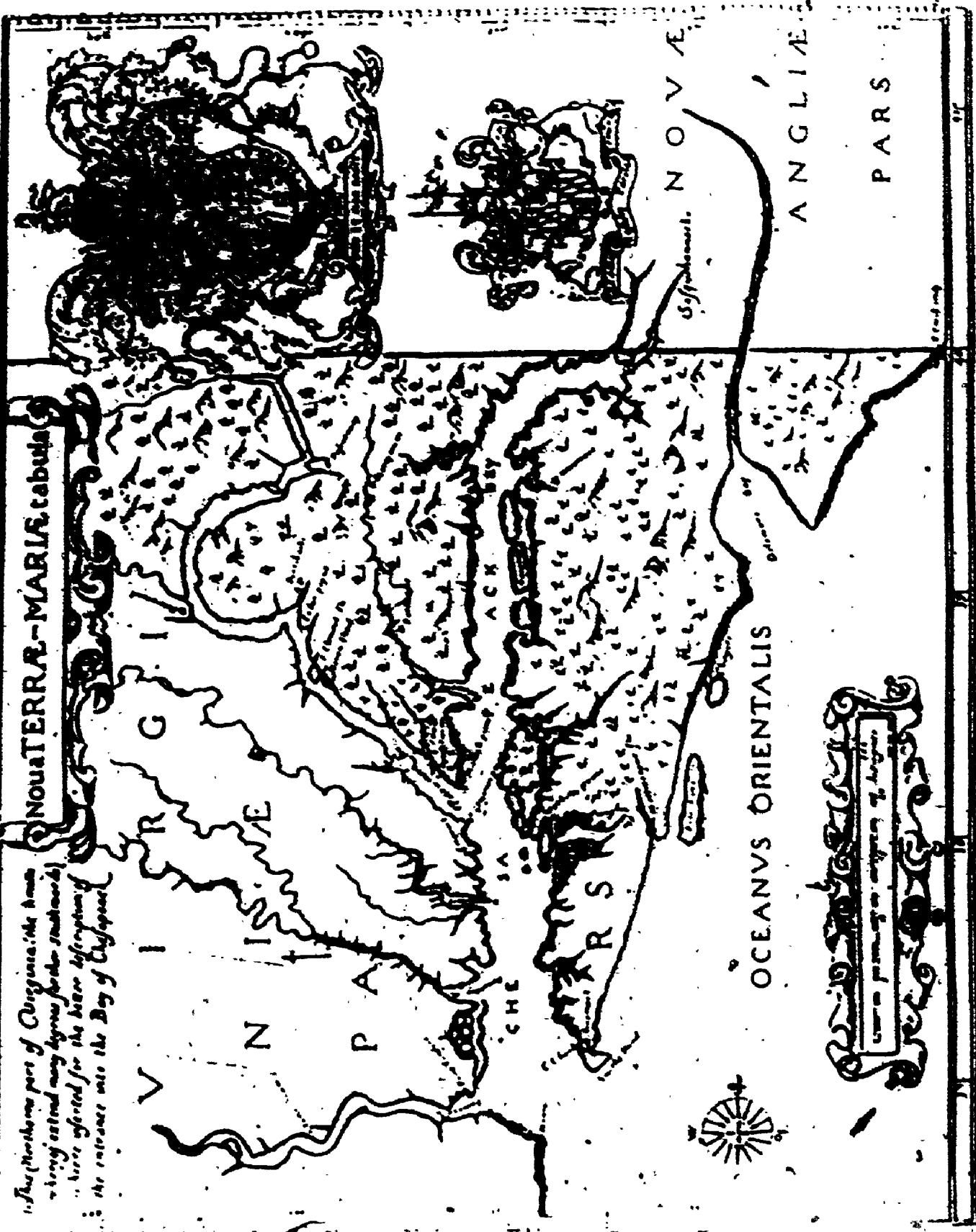
MAP 13: Charles Mason and Jeremiah Dixon, "A Map of that Part of America where a Degree of Latitude was measured..." [1768].

With the successful completion of the survey of Mason and Dixon, an accurate placement of the 40⁰ latitude was finally established. The east-west boundary between Maryland and Pennsylvania and the north-south line separating the Lower Counties from Maryland were officially demarcated.



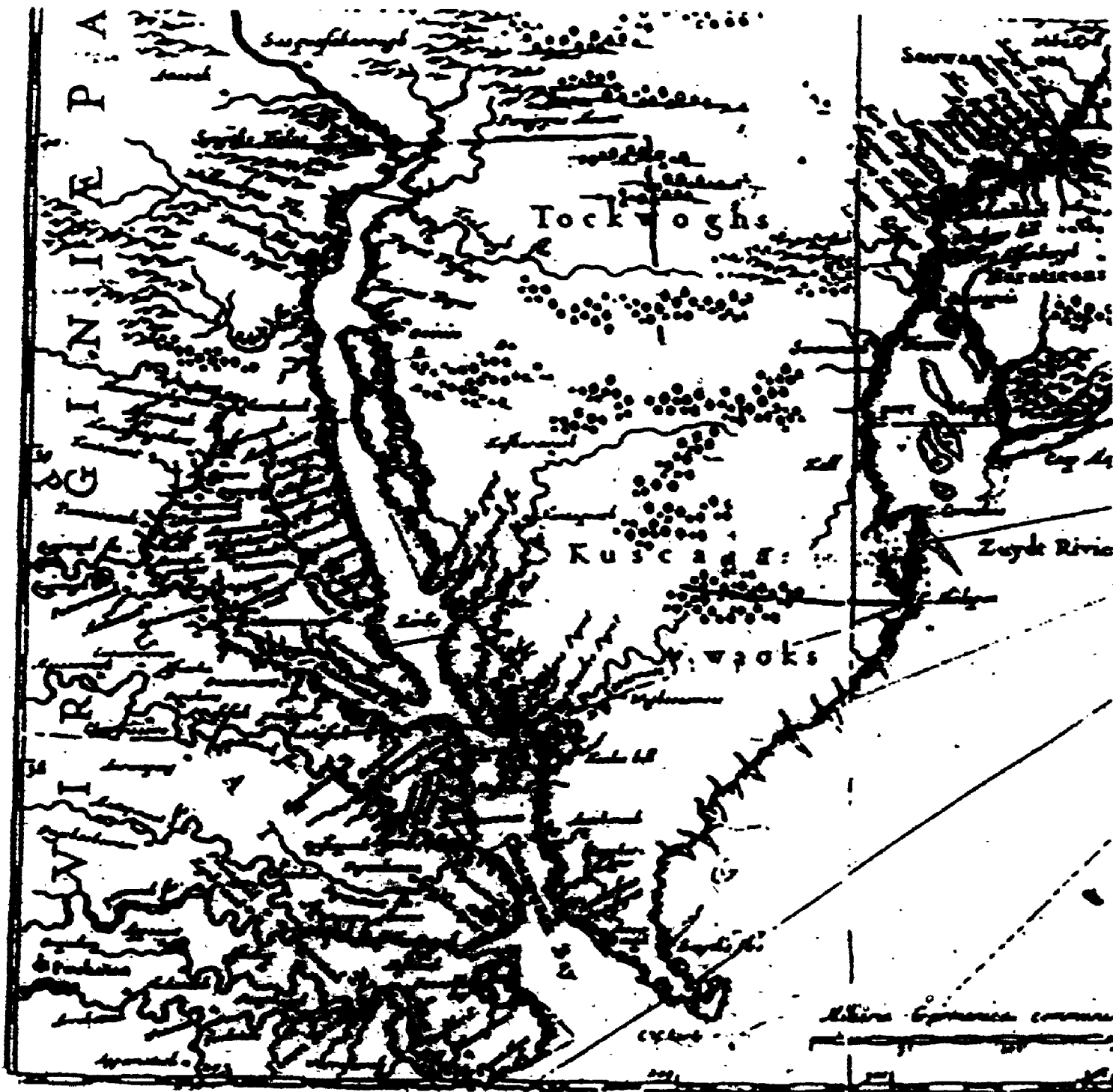
1. The Northern part of Virginia: the American
 being extended many leagues farther southward
 2. here offered for the better description
 3. the entrance into the Bay of Chesapeake

NOVA TERRA - MARIÆ tabula



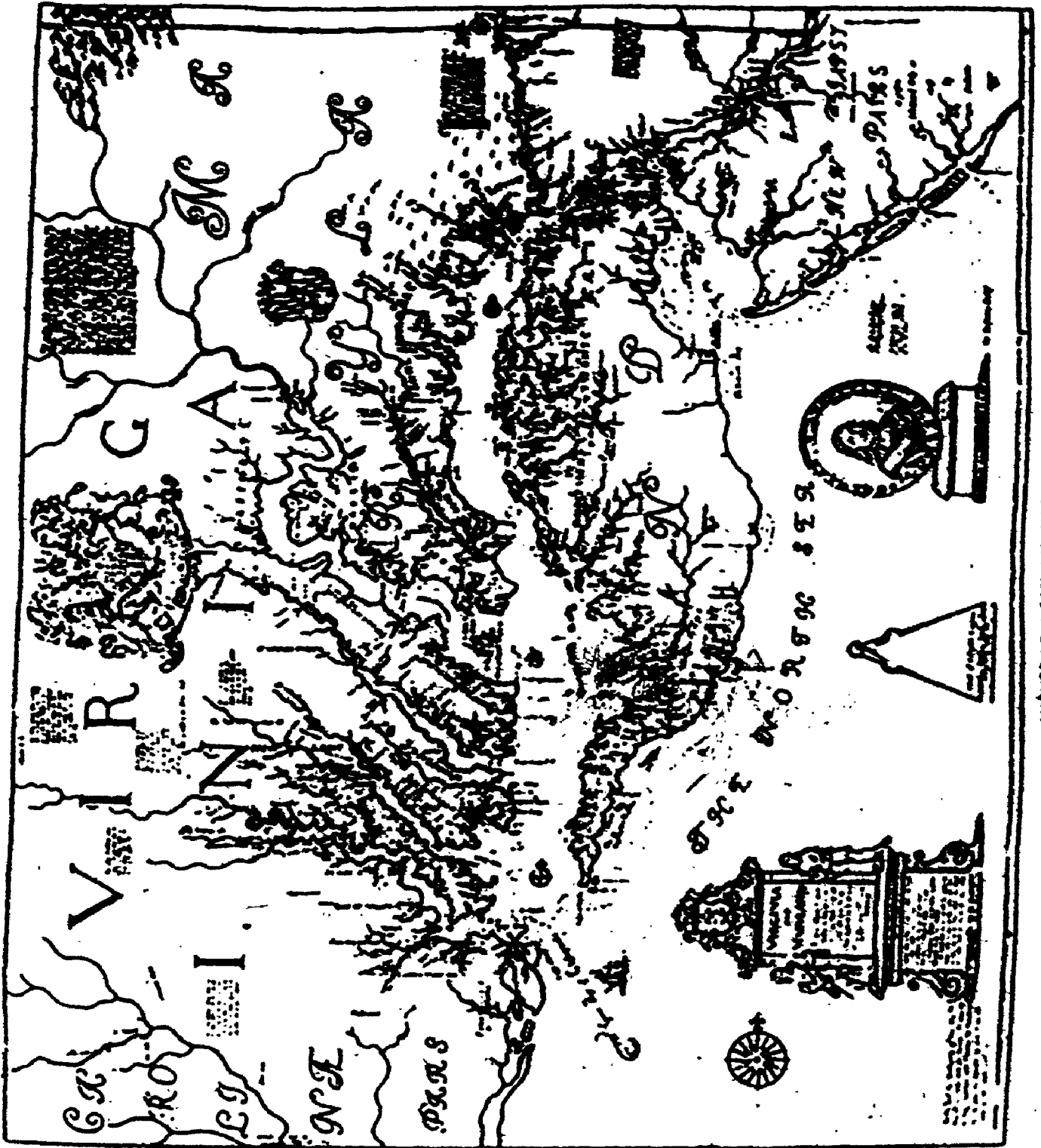
Utrumque per Americi et Augustini

1712

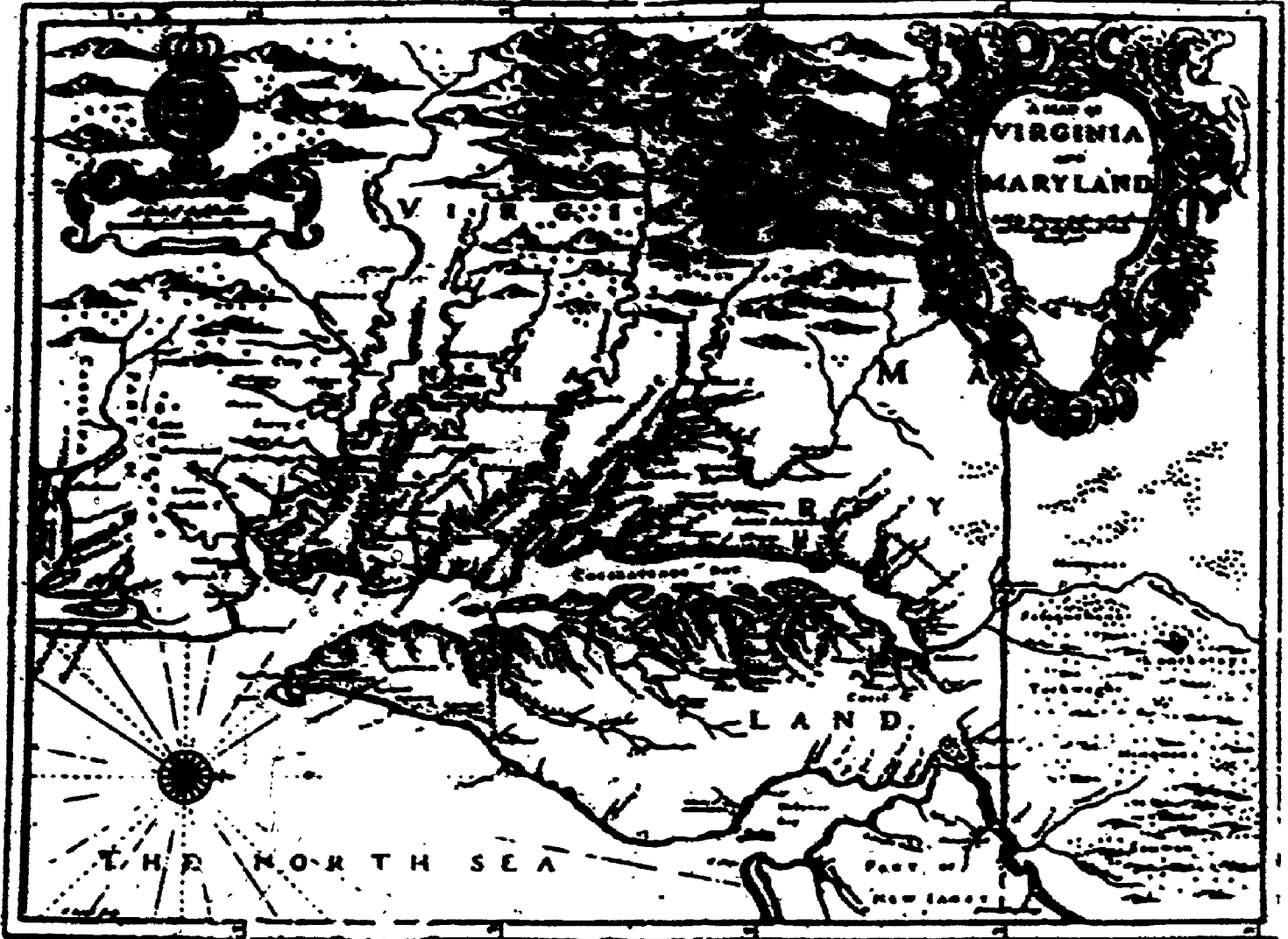


Detail from Nicholas J. Visscher, *New Britn. 1651-1654*?, John Work Garrett Library, The Johns Hopkins University. MSIR C 1213-247

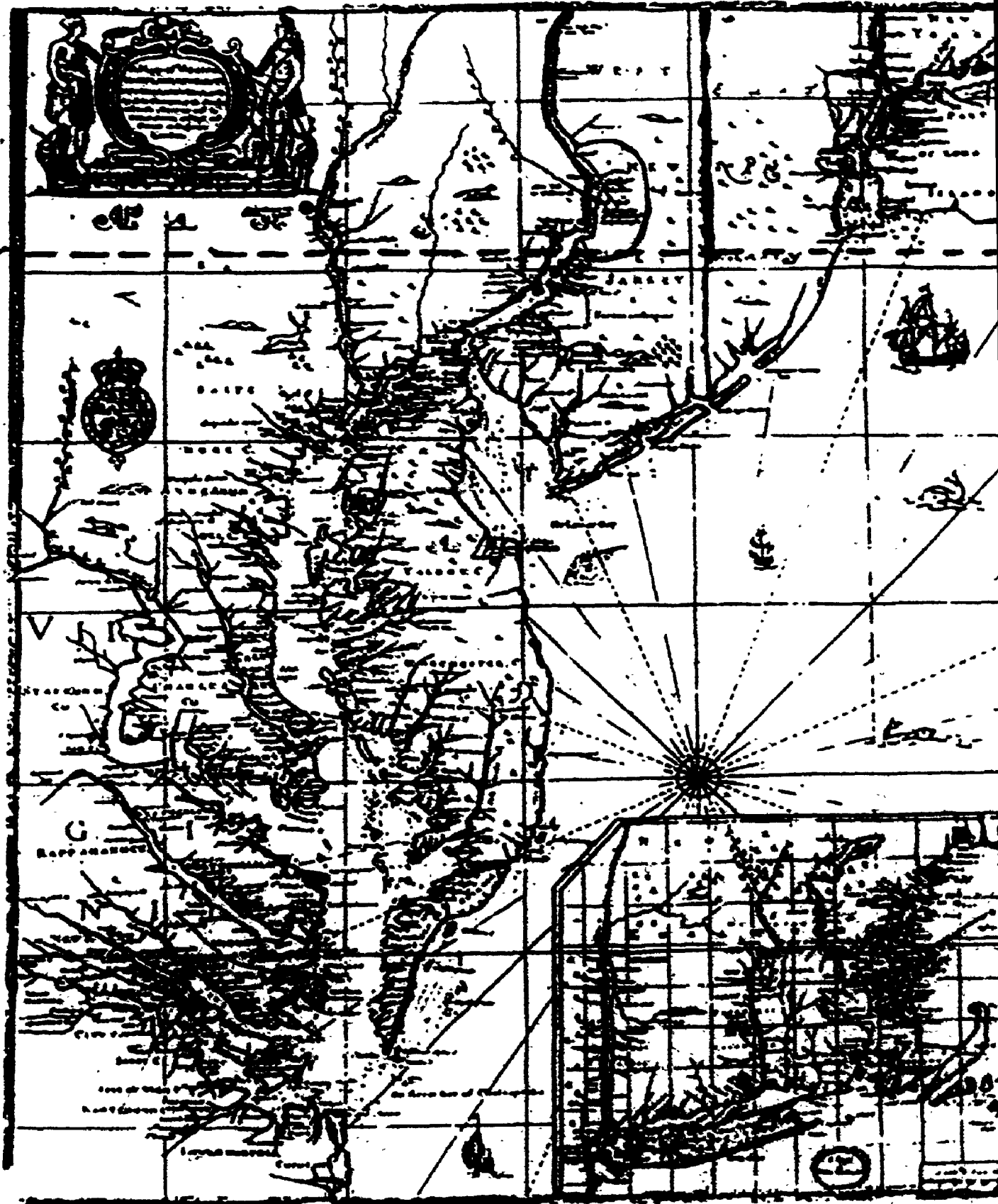




AUGUSTINE BERMAN'S MAP, 1876.

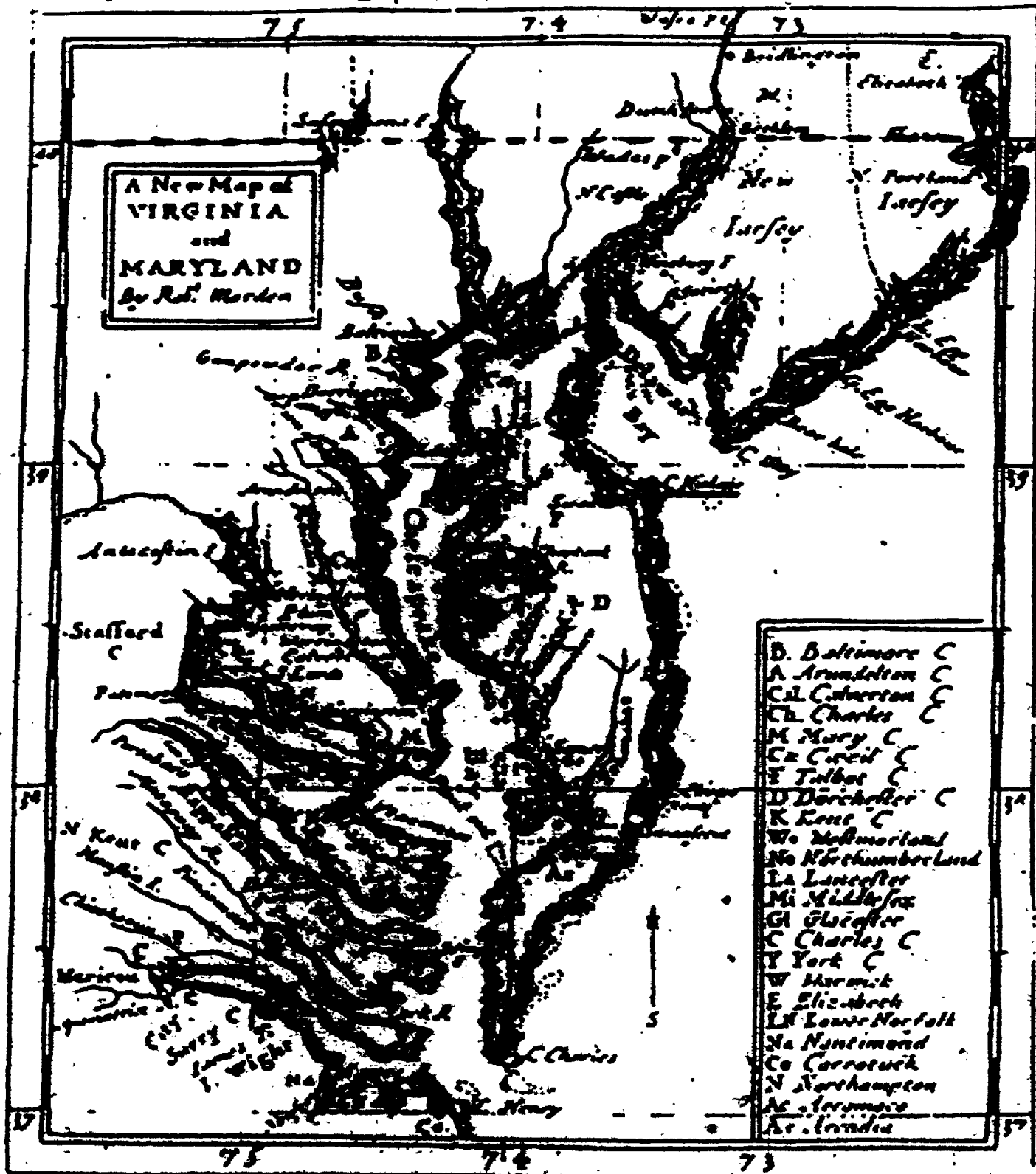


From the "Historical Gazetteer and Map of the State of Virginia" by John H. Smith, 1854. Reprinted by permission of the University of Virginia Press.

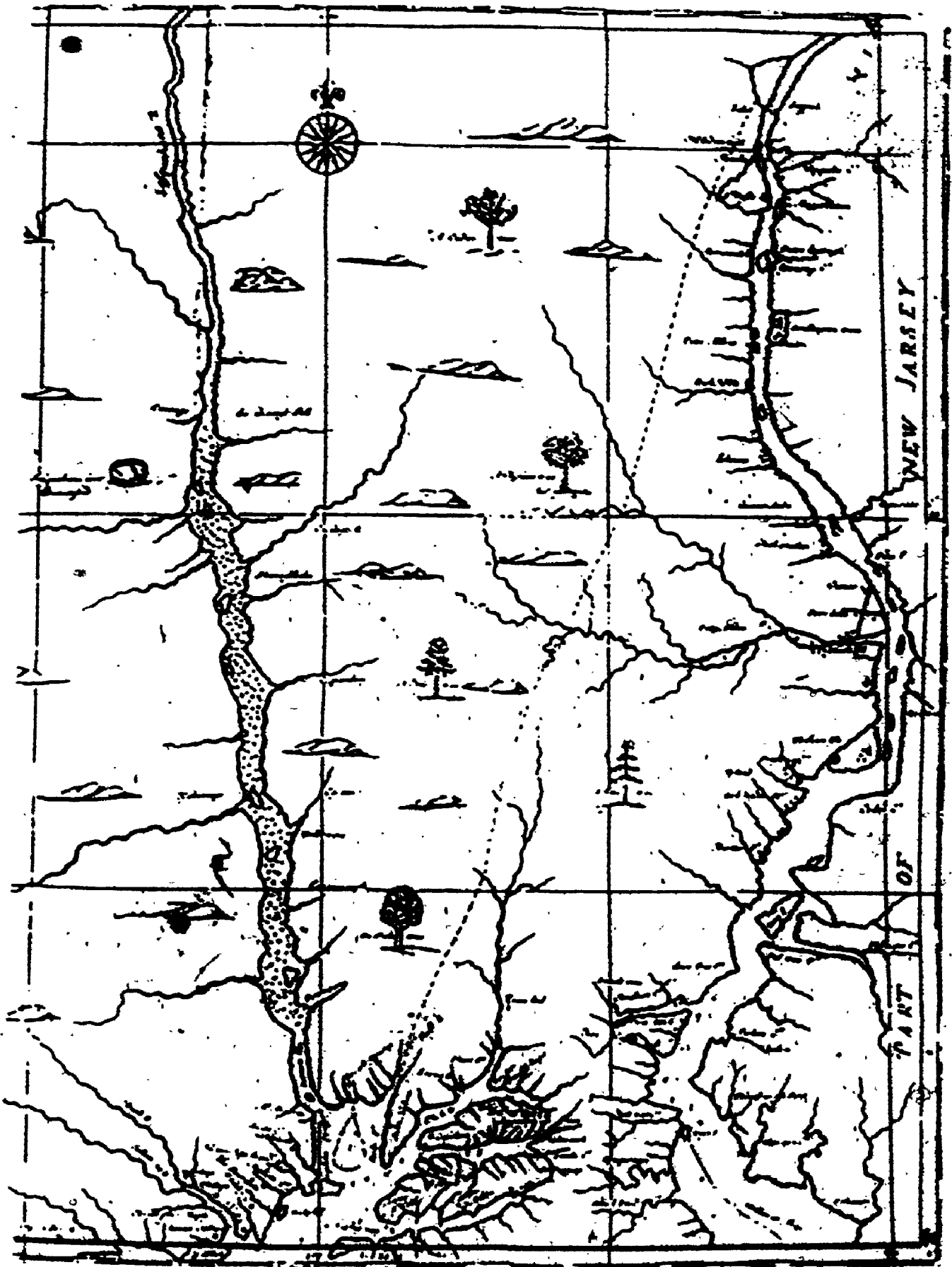


John Thornton and Robert Green. A Map of Virginia Maryland
1670. 1911. 1911.

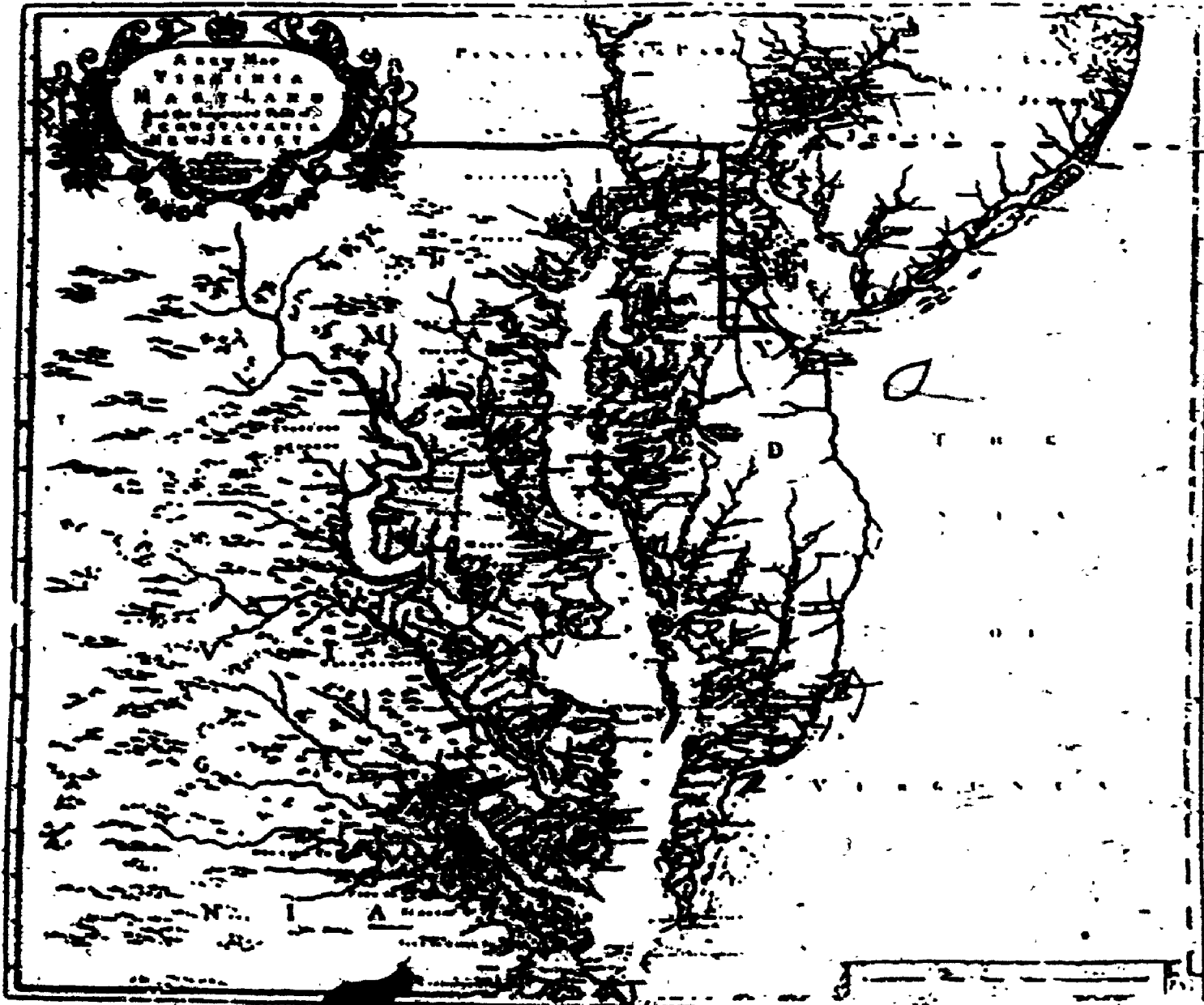
1670. John Work Custon Library. The Johns Hopkins University



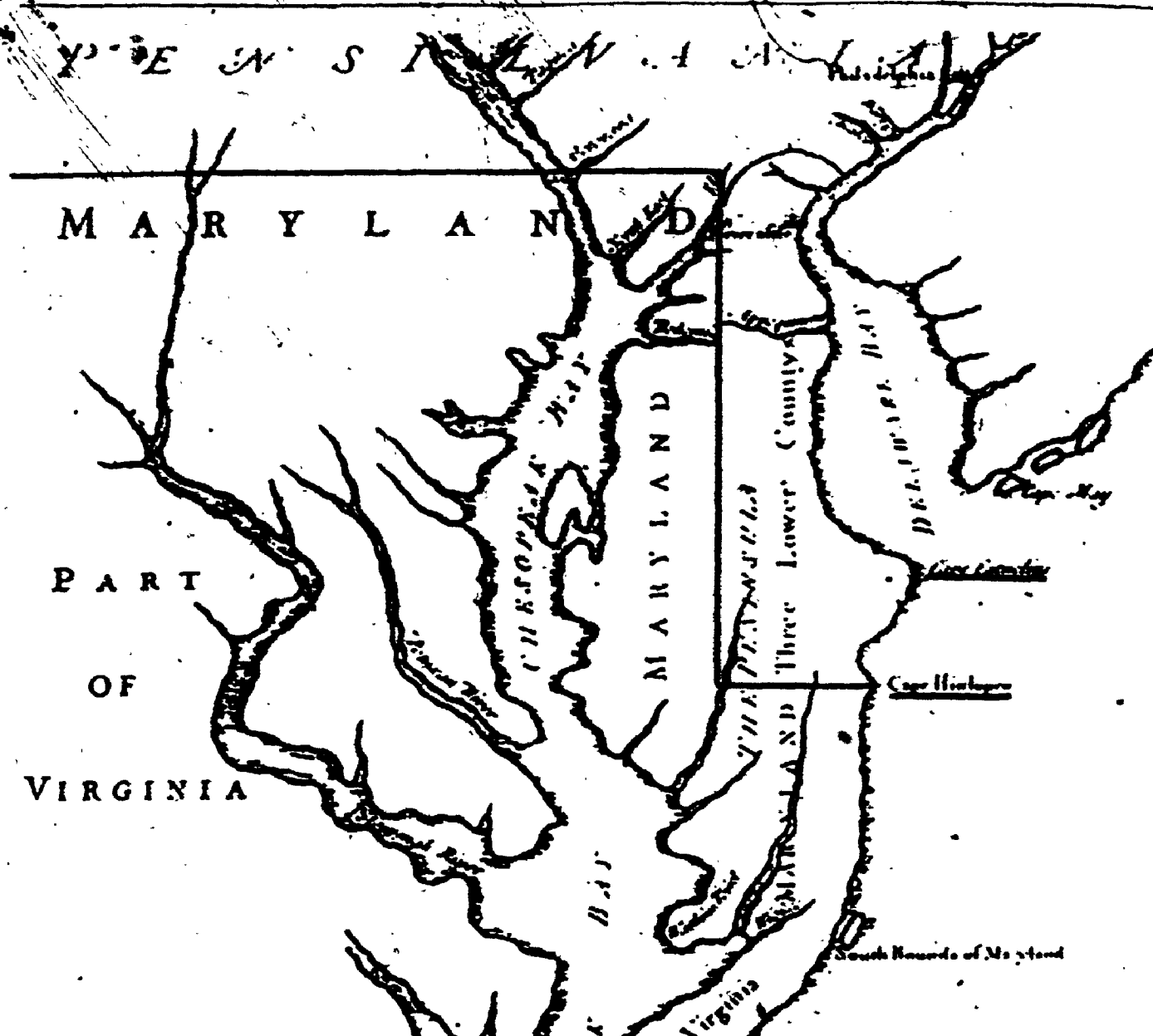
Robert Morden, *A New Map of Virginia and Maryland*, from *Geography Rectified*, 1680, Maryland Hall of Records, MdHR G 1213-234.



MAP 10



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[John Smith], Proposed Maryland-Pennsylvania Boundary, 1732. John Work Carron Library, The Johns Hopkins University, MAP C 1213-283



Charles Mason and Jeremiah Dixon. A Map of that Part of America where a Degree of Latitude was measured . . . 1764, from Transactions of the Royal Philosophical Society of London 58, between p. 324 and p. 325. MJAIR G 1243-484.

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