

The New Jersey Proprietors and Their Lands

THE NEW JERSEY HISTORICAL SERIES

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Volume 9
The New Jersey Historical Series

*The New Jersey Proprietors
and Their Lands*

1664-1776



JOHN E. POMFRET

1964

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For Friends in Princeton and Cape May

FOREWORD

Many tracks will be left by the New Jersey Tercentenary celebration, but few will be larger than those made by the New Jersey Historical Series. The Series is a monumental publishing project—the product of a remarkable collaborative effort between public and private enterprise.

New Jersey has needed a series of books about itself. The 300th anniversary of the State is a fitting time to publish such a series. It is to the credit of the State's Tercentenary Commission that this series has been created.

In an enterprise of such scope, there must be many contributors. Each of these must give considerably of himself if the enterprise is to succeed. The New Jersey Historical Series, the most ambitious publishing venture ever undertaken about a state, was conceived by a committee of Jerseymen—Julian P. Boyd, Wesley Frank Craven, John T. Cunningham, David S. Davies, and Richard P. McCormick. Not only did these men outline the need for such an historic venture; they also aided in the selection of the editors of the series.

Both jobs were well done. The volumes speak for themselves. The devoted and scholarly services of

Richard M. Huber and Wheaton J. Lane, the editors, are a part of every book in the series. The editors have been aided in their work by two fine assistants, Elizabeth Jackson Holland and Bertha DeGraw Miller.

To D. Van Nostrand Company, Inc. my special thanks for recognizing New Jersey's need and for bringing their skills and publishing wisdom to bear upon the printing and distributing of the New Jersey Historical Series.

My final and most heartfelt thanks must go to John E. Pomfret, who accepted my invitation to write *The New Jersey Proprietors and Their Lands, 1664-1776*, doing so at great personal sacrifice and without thought of material gain. We are richer by his scholarship. We welcome this important contribution to an understanding of our State.

RICHARD J. HUGHES
*Governor of the
State of New Jersey*

January, 1964

INTRODUCTION

For an instant in history what became New Jersey was a portion of the huge territories that Charles II granted in 1664 to his brother James. A day later James granted New Jersey to his friends John, Lord Berkeley and Sir George Carteret. New Jersey was a single colony from 1664 to 1674; then it was divided into West Jersey and East Jersey. In 1702 both New Jersey proprietaries were reunited by the Crown as a royal colony.

The institution of proprietorship was feudal in origin, for the powers vested by the Crown were modeled after those granted in the late Middle Ages to the overlords of precariously held frontier lands in Britain such as the Palatinate of Durham where a strong hand was needed to deal with either invaders or rebels.

In America, proprietorships were, like the trading companies that preceded them, simply a means of enabling the English Crown to plant and develop colonies. By virtue of a royal grant one man or a group of men became the chief proprietor or chief proprietors of what was known as a proprietary colony. The proprietor was granted enormous powers: he appointed the public officials, created courts, heard appeals, pardoned offenders, made laws, issued decrees, and established militias, towns, ports, and even churches.

Even with this authority the power of the seventeenth-century proprietor in America was not so absolute as that of his fourteenth-century prototype. The charters of Maryland and Virginia, following the example of the

Virginia Company in 1619, contained a strong limitation to the power of the proprietor in requiring that laws be made only with the assent of the freemen of the colony.

Moreover, to attract settlers the proprietors themselves granted the inhabitants liberal "concessions" that further infringed their feudal powers. In later years the Crown imposed imperial restrictions upon the proprietors in the form of customs dues, trade regulations, and so on. And the colonists pushed continuously for further concessions of power in matters relating to them.

The greatest resource of the proprietor was his possession of the soil of a province, and from the sale of land the proprietor hoped to reap a large income and great financial rewards. All proprietors controlled huge private domains that they could deal with as they saw fit. The proprietor could sell or lease lands at his own prices, he could collect quitrents, he could create subgrants known as particular plantations, and he could mortgage, as William Penn did, part or the whole of his propriety.

Thus in considering New Jersey as a proprietary colony it should be kept in mind that its problems were not unique. The grant of Maryland to Lord Baltimore in 1632 constituted the first American proprietary. When Sir Ferdinando Gorges in 1639 was compensated by a royal charter to Maine for relinquishing his interests in the Council for New England, this grant was of the proprietary type. In 1664 King Charles II granted the proprietorship that included New York to his brother, the Duke of York, and New York continued as a proprietary colony until James ascended the throne in 1685, when it automatically became a royal province. Pennsylvania was created a proprietary colony in 1682 when Charles II conferred a large domain west of the Delaware on the son of a devoted follower.

The last proprietorships disappeared with the American Revolution. Some had vanished long before. Gorges' proprietorship was sold by his son to Massachusetts in 1678, and the Carolinas were royal colonies by 1729. Only Maryland and Pennsylvania survived until the Revolu-

tion. Though the New Jersey proprietary councils lost the right of government in 1702, they were permitted to retain the right of soil, i.e., the ownership of the land. In this capacity the councils of East and West Jersey have endured to the present day—institutional survivals matched in New Jersey only by ancient Quaker meetings and a few churches. In Maryland and Pennsylvania proprietary lands were bought in by their governments for paltry prices.

In 1702 New Jersey became a royal province, sharing her governor with New York until 1738, when she received a royal governor of her own. The royal government became the standard type of government in the American colonies. It was put into effect in Virginia as early as 1624 and, at the time of the Revolution, was in force in all the colonies except the two corporate colonies of Connecticut and Rhode Island and the two proprietary colonies of Maryland and Pennsylvania. Thus New Jersey was a royal province from 1702 to 1776.

In a royal province the king was represented by a royal governor, appointed by him and removable at will, whose authority rested upon a formal commission and a set of instructions. These two documents together represented the constitution of the province. The governor was assisted by a council of twelve appointed by the Crown.

Each royal colony was permitted an elective assembly which controlled lawmaking, taxation, and the handling of public revenues. Since most royal governors were dependent upon the assemblies for financial support, the way was opened for popular control of government in America. Judges in the colonies were appointed by the Crown. All colonial laws had to be sent to England and were subject to royal veto. As time went on the colonies were bound more closely to the mother country through the necessity of dealing with such centralizing agencies of the Crown as the Board of Trade, the Treasury Department, the Admiralty, and the Secretary of State for the Southern Department.

It should be noticed that many proprietary colonies,

including the Jerseys, were more than willing to assume the status of royal colonies. As between the proprietary and the royal colony, the latter was considered the lesser of two evils. Political independence had to await a revolution.

This work deals with the growing pains of an American colony (1664-1776) that was to develop into a great state with a population of more than six million people and with its industry and manufacturing ranking ninth in the nation.

New Jersey was not alone in having to confront difficulties and discouragements during the first hundred years of her existence. Indeed she was never to attain the noble objectives set forth in the liberal Concessions and Agreements of 1677. But the saints of Massachusetts Bay, the planters of Virginia, and the inhabitants of other colonies struggled to overcome problems equally vexing in preparation for statehood in a democratic society. The famed Holy Experiment of William Penn in a neighboring colony never attained its proudly stated ends.

Special treatment is accorded in this volume to the most divisive and persistent problem of New Jersey's colonial history—the ownership and distribution of land, the principal natural resource of the colony. The settlers during the period 1664-1776 found access to land ownership barred by factors that gave rise to discontents which were not obliterated until the American Revolution. They suffered from the evils of absentee proprietors, absentee governors, inferior governors, ambiguous land titles, and the obligation to pay quitrents, the last a feudal relic. On their side they held tenaciously to their primitive assemblies, their minuscule courts, their township associations, and their right to protest and petition. In 1672 and in 1699 they invoked, in essence, the "right of revolution." From those far-off days and battles long ago they garnered a proud heritage of self-government that was to stand them in good stead when they achieved

statehood. New Jersey's heritage of mixed township and county government, bicameral legislature, healthy amalgam of nationalities, and numerous religious groups contributed a strengthening bond among the inhabitants.

Historic New Jersey has had to make concessions to modern urban and industrial concentration. However, its giant industrial trough, extending from Jersey City to Trenton and along the Delaware River from Camden to Pennsgrove, is a relatively narrow passage, leaving many of the State's natural features and historical sites untouched by the hand of man. Two thirds of the state, east and west of the industrial belt, have been relatively unchanged by the passage of time save for the presence of ribbons of concrete highway.

New Jersey takes delight in its quiet streams, its tumbling mountain brooks, its lakes and cedar-colored ponds, its long, white beaches and its great pine barren, its Delaware Water Gap, its Kittatinny Mountains, its marshy bay lands and its fertile valleys. The old towns and villages, too, are still extant—some of them overlaid by industry. They are reminders of a vivid past. In the north one finds still on the map the old quitrent towns of Elizabethtown, Woodbridge, Piscataway, Newark, Perth Amboy, Middletown, and Shrewsbury. In the south are the ancient Quaker villages of Burlington, Crosswicks, Haddonfield, Newton, Woodbury, and Salem, not to speak of distant Cape May. It was in talking at Newark in 1895 on the subject of historical New Jersey that Woodrow Wilson was moved to state that "the history of the nation is, only the history of its villages writ large."

In preparing this manuscript, I have used the popular "East Jersey" and "West Jersey" for the formal "East New Jersey" and "West New Jersey." I wish to express my gratitude for assistance to the staff of the Huntington Library, to Richard P. McCormick of Rutgers University, to W. Frank Craven of Princeton University, and to George J. Miller of the East Jersey Board of Proprietors and I. Snowden Haines of the West Jersey Council of

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JOHN E. POMFRET

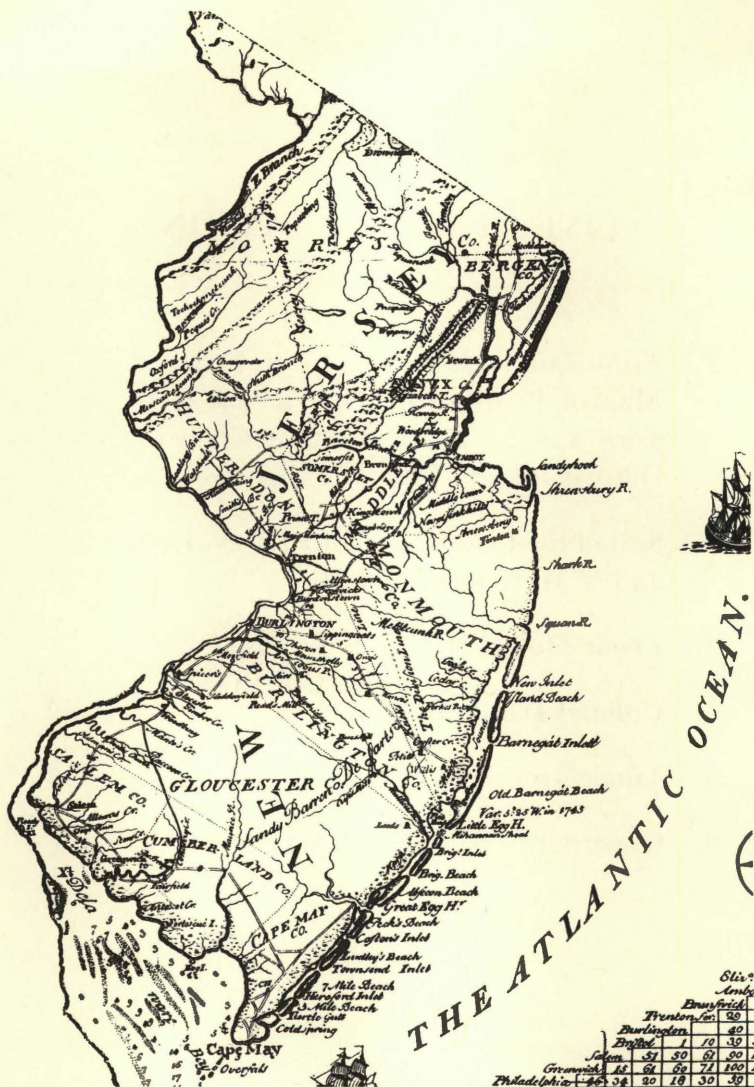
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I

THE PROPRIETORSHIP OF BERKELEY AND CARTERET

WITH THE RESTORATION of Charles II in 1660, England could put her house in order again. In this stocktaking it was decided that New Netherland and the vast territory between Connecticut and Maryland should be brought once again within the purview of the Crown. England, despite Dutch occupation along the Hudson and Swedish occupation along the Delaware, had never relinquished her claims to these lands that had been first sighted by John Cabot in 1497. Preoccupied with civil strife, she had stood helplessly by and watched others occupy them.

Early in 1664 a royal commission, with John, Lord Berkeley as president, made two recommendations: first, that the Dutch be eliminated from the area; and second, that the New England colonies be drawn more closely to the Crown. By the end of February it was decided that a fleet would be sent to take New Netherland and that a commission would be dispatched to bring the Puritan colonies into line. On April 21, to no one's surprise, the House of Commons passed a resolution supporting the recommendations of the Crown. The British merchants, strongly represented in the House of Commons and befriended by the king's brother James, Duke of York, were convinced that British overseas commerce must move forward on a broad front.

On August 18 four British frigates arrived in New

York waters. Colonel Richard Nicolls demanded immediate surrender of Director Peter Stuyvesant. Against the Dutch were arrayed 400 soldiers and a group of volunteers from Connecticut and Long Island. At New Amsterdam the Dutch could muster only 150 armed men. Disregarding the fiery Peter Stuyvesant, the Dutch led by Dominie Megapolenses, their preacher, and five burghers surrendered. Stuyvesant himself refused to sign the treaty. Immediately Nicolls sent small expeditions to take Fort Orange (Albany) and Fort Casimir (Newcastle). New Amsterdam was renamed New York; Long Island, Yorkshire; and what soon became New Jersey, Albania.

But one of the most remarkable events in the history of the American colonies took place just before the English conquest of the Dutch. On March 12, 1664, King Charles issued a patent bestowing upon his brother James, Duke of York, an astonishing assortment of lands extending from the St. Lawrence to the Delaware. Included were Maine, Martha's Vineyard, Nantucket, Long Island, and the area between the Connecticut and the Delaware rivers. Later the west bank of the Delaware was annexed, over the strenuous protest of Maryland. The Duke's petition for the grant was drawn up during the first days of March, and the essential steps occupied but four days, an unprecedented occurrence. The King neglected to inform the American colonies of the disposition of the yet-unconquered territories, just as he kept his expedition to New Netherland a secret from the Dutch.

In 1660 James, Duke of York was twenty-seven years of age, three years younger than his brother, Charles II. Perhaps these years were the best of his life. He had not yet announced publicly his allegiance to Roman Catholicism. He was tremendously interested in Britain's sea power and in her expanding commerce. As Lord High Admiral he superintended the operations of the navy, putting ships in condition, scrutinizing expenditures, and eliminating waste. Associated with him at the navy office were John, Lord Berkeley, Sir William Penn, Sir George Carteret as treasurer, and the renowned

Samuel Pepys as clerk. Outside the navy office the Duke formed a powerful group of traders, merchants, diplomats, and members of Parliament who were determined to break Dutch control of the seas. In 1660 with the Duke as its head, the Royal African Company (first called the Company of Royal Adventurers) was formed, and the next year, the Morocco Company. Strong support for the New Netherland venture came from these enterprising groups.

The Duke's propriety in America was centered at New York, and it was here that his newly appointed governor, Colonel Richard Nicolls, ruled until 1668. Since James was a royal prince, his patent endowed him with full and absolute authority over his subjects in America. Nevertheless he instructed Nicolls to treat the inhabitants with all humanity and gentleness consistent with honor and safety. James hoped that eventually through trade, customs duties, and the sale of lands he would receive a return on his expenditures. He was to be disappointed: as in other colonies, control vested in an absentee proprietor was unpopular with the inhabitants. They never became resigned to remitting taxes, dues, rents, and customs to an absentee proprietor.

Although a change was made in the proprietorship of New Jersey lands in June, 1664, Nicolls, first as the Duke's commander, then as his governor, was in charge until the arrival of Philip Carteret as governor of New Jersey in August, 1665. At the time New York harbored small pockets of Dutch at Manhattan and Albany; Long Island, "very poor and inconsiderable," was inhabited by Dutch and English; while in the remote Newcastle district there were a few Dutch and Swedes on both banks of the Delaware. Albania, as New Jersey was styled briefly, contained a small band of Dutch settlers living in the old Pavonia district, principally in the newly established village of Bergen.

On June 23 and 24, by virtue of an instrument known as a lease and release, James granted his lands between the Hudson and the Delaware to John, Lord Berkeley

and Sir George Carteret, firm friends.* The affection that both Charles II and James felt for Carteret is well known, and it is not surprising that they conferred many favors upon him. He had followed Charles into exile in France and, after long years, returned with the restored king. He became vice-chamberlain, a member of the Privy Council, and treasurer of the navy. Until his death in 1680 Sir George continued in royal favor, becoming a member of the Lords of Trade and a Lord of the Admiralty. He was regarded as an avaricious man, though he was not as rich as his contemporaries thought. Nevertheless in 1669 he was expelled from the House of Commons on a charge of embezzlement for carelessness with navy funds. New Jersey was named after the place of his nativity.

John, Lord Berkeley was another retainer of the Stuarts, although not as highly esteemed as Carteret. He was selfish, vain, lacking in tact, and a place-seeker. He had served with the royal army and spent a long period of exile with the Stuarts. With the Restoration he became a member of the Privy Council and one of the Masters of Ordnance. In 1670 he was appointed Lord Lieutenant of Ireland, where he served for two years, and in 1675 he was appointed as an ambassador extraordinary to the Congress of Nimmigen. Both Berkeley and Carteret were among the eight proprietors of the Carolinas, another evidence of royal gratitude.

When Governor Nicolls heard that the Duke had given away Albania, he wrote him a letter of protest. New Jersey, he argued, was the best part of the Duke's territory, for it possessed fertile soil, excellent rivers, and a fine seacoast. He said that he had already approved a number of purchases of land there for prospective settlers from Long Island and New England and that Albania would be peopled rapidly. Writing again, he proposed that, instead of Albania, Berkeley and Carteret be granted a strip of land 20 miles wide on each side of

* All the territory situated east of the Delaware and south of a line connecting 41° 41' on the Delaware with 41° on the Hudson.

the Delaware. Samuel Maverick of Massachusetts, then living in New York, wrote his friend the Duke in the same vein, stating that the Duke's lands in the New World would be constricted to within 16 miles of the Hudson River. To these appeals the Duke paid not the slightest attention.

On February 10, 1665, the proprietors, Berkeley and Carteret, published the Concessions and Agreements, which were intended to attract settlers to New Jersey. They are practically identical with the first Carolina Concessions from which Berkeley and Carteret, as Carolina proprietors, copied them.

Since the New Jersey proprietors wished to attract settlers, especially from Long Island and New England, the constitution was a liberal one. The governor would be chosen by the proprietors, and he would appoint his own assistants or council. The secretary would keep a record of all public affairs and of land grants and conveyances. The surveyor general would lay out lands for the proprietors as needed, and all surveys would be certified and recorded. More important, there was to be a law-making assembly consisting of the governor, his council, and twelve representatives of the people. The representatives would be chosen in the beginning by the whole body of freemen; later they would represent the several townships or counties. No restrictions were set forth regarding the qualifications of freemen; presumably all adult, white males could vote providing that they were not indentured servants. The assembly would meet annually and adopt laws so long as they were not contrary to the laws of England, to the interests of the proprietors, or to the Concessions. Under no circumstances might the assembly violate the article on liberty of conscience. A law would remain in effect for one year, and then unless the proprietors rescinded it, it would continue in force indefinitely.

The assembly was also granted the power to constitute courts. It was instructed to raise money for the support of the government and the defense of the province. It

would lay equal taxes and assessments upon the inhabitants, but it was forbidden to tax proprietary lands before they were settled. The assembly could also constitute towns and villages, charter and incorporate them, and, if necessary, arm them for defense. It was instructed to organize a militia under the governor and to take precautionary measures against the Indians. The assembly was empowered to set out and name convenient local divisions and to designate ports. It was permitted to erect manors or particular plantations,* though none was ever erected in New Jersey under Berkeley and Carteret.

Subject to certain conditions the assembly might prescribe the amounts of land granted to heads of families and indentured servants and make rules for laying out lands and awarding lands by lot. Since all lands were subject to the proprietors' quitrent of one halfpenny per acre per annum, first due on March 25, 1670, the assembly was asked to provide for the collection of quitrents by the constables and for their payment to the proprietors' receiver general.** The inducements for settlers to come to New Jersey were liberal indeed. Heads of families arriving by January 1, 1666, were granted 150 acres, plus 150 acres for each manservant and 75 acres for each woman servant over fourteen years of age. Each servant would be entitled to 75 acres for his own use after the expiration of his term of service, usually three or four years. For those arriving in subsequent years the allotments were gradually reduced. In the beginning lands designated as suitable for settlement would be divided into large tracts of from 2,100 to 21,000 acres. One seventh of each tract would be reserved for the proprietors. In laying out towns and villages provision must

* Particular plantations or settlements were those undertaken at the expense of private groups. This mode of settlement, common in many colonies, began in Virginia in 1614.

** A quitrent, small in amount, was paid to one's feudal superior in commutation of services. Once common in many colonies, it survives to a very limited extent in Pennsylvania, formerly a proprietary colony.

be made for streets 100 feet wide. Grants of 200 acres were set aside, exempt from quitrents, for the use of each minister sanctioned by the assembly. In the villages also, a seventh of the land was reserved for the proprietors, while the remainder would be sold, subject to the usual quitrent.

Neither Berkeley nor Carteret had any more intention than the Duke had of personally taking charge of the proprietary. Immediately they chose as governor Captain Philip Carteret, a distant cousin of Sir George. He continued as governor, with some interruption, until 1682. At the time of his appointment, Philip was twenty-six years of age. He sailed for America in April, 1665, accompanied by thirty-odd colonists, mainly from the Channel Islands. This small entourage included several gentlemen and a number of Huguenot servants. Arriving in Virginia, Carteret spent some weeks there before reaching New York on July 29. A few days later the *Philip* passed through Kill van Kull and anchored off a convenient point, then named Elizabethport in honor of Lady Carteret.

II

THE EARLIEST PLANTATIONS IN EAST JERSEY

WHEN PHILIP CARTERET arrived in early August, 1665, in Nova Caesaria,* as the province of New Jersey was called in the patent to Berkeley and Carteret, he learned two things: first, that there were already English-speaking people settled there, and second, that Governor Nicolls had already issued several patents for particular plantations. These small settlements, organized in the New England manner, became towns during Carteret's first years. The fact that they held their lands through Nicolls, i.e., directly from the Duke of York and not from Berkeley and Carteret, was to give rise to a lasting conflict of jurisdiction between the inhabitants of the towns and the proprietors. Thus the first occupation and distribution of lands in New Jersey boded ill for the future.

Governor Nicolls in 1664, in behalf of the Duke, had issued a set of conditions upon which particular plantations would be created. First, the purchasers must obtain a clear title from the Indians; secondly, the inhabitants must agree to dwell together in a town; and thirdly, they must take an oath of allegiance to the king. Towns would be permitted to adopt their own local ordinances and have jurisdiction over all small causes. Owners of town lots, providing they were neither inden-

* Jersey, birthplace of Sir George Carteret, is a corruption of Caesarea. *Jer* is a contraction of Caesar and *ey* signifies island. Thus Caesar's-Island (Nova Caesaria) became New Jersey.

tured servants nor slaves, would enjoy the status of freemen—a liberal concession. Purchasers of land were exempt from taxation for five years, after which they must pay the same rates as others in the Duke's proprietary. Full liberty of conscience was guaranteed. Any township might appoint a minister and make its terms with him, but once the minister was invited by the majority of the householders, every man must pay his proportion of the minister's upkeep. Nicolls stated that lands in the Raritan Bay area were the first to be designated for settling in Albania and that every encouragement would be given to the establishment of such plantations.

On December 1, 1664, Nicolls issued a patent for a particular plantation in the names of John Baker, John Ogden, John Bayly, and Luke Watson for lands on Achter Koll (Newark Bay). These men, with the exception of Baker, the interpreter, had been looking at New Jersey lands while residing on Long Island. For £154 in cloth, guns, powder, lead, kettles, and coats they purchased from the Indians a large tract of land lying between the Raritan and the Passaic rivers. The Elizabethtown patent, as it was called, extended from the mouth of the Raritan to the mouth of the Passaic, a distance of 17 miles, and for a distance of 34 miles into the back country. This tract, which included the whole of the present Union County and parts of Morris and Somerset as well, contained about five hundred thousand acres. The land was well drained and the soil was very fertile. The owners also received permission to extend their Indian purchases as far north as Snake Hill on the lower Hackensack. The settlers were guaranteed the freedoms, immunities, and privileges of British subjects and, in turn, were required to pay the Duke's quitrent of a half-penny per acre on the lands they held.

When Carteret arrived, only four families, including Luke Watson and John Ogden, were settled in the Elizabethtown area. Under Carteret's direction a town plat was laid out and rights were offered at £4 apiece. Home

lots were six acres in size, while second-lot and third-lot rights were proportionately larger. Every home-lot holder was entitled to some upland. In February, 1666, at a town meeting it was agreed that the town would consist of 80 families for the present and that for the future as many as 20 more might be added. Home lots if not occupied would be forfeit, and owners would have to occupy their lots for three years before being allowed to dispose of them. In February, 1666, 65 lot owners took the oath of allegiance to King Charles and to the proprietors.

Except for Philip Carteret and his party, practically all the settlers were from Long Island, and most of them were of New England origin. In fact the majority were born in Stamford, Milford, New Haven, and Guilford in Connecticut. They held in common the same mores, religion, economic background, and type of town organization. Their orthodox Puritan way of life was identical with that of the men who would settle Newark a little later. In 1666 Carteret bought out Bayly, and Ogden bought out Denton. In May of that year these three principal owners, Carteret, Ogden, and Luke Watson, sold off the southern half of their patent to accommodate a group of settlers from Newbury, Massachusetts. These men, Daniel Pierce, John Pike, and Andrew Tappan, founded Woodbridge. They added other associates, who also received 240 acres of upland and 40 acres of meadow. The individual settler purchased allotments from the associates. Soon there was a small village with a town meeting, a petty court, a constable, and a clerk. In February, 1668, 13 Woodbridge men took the oath of allegiance as required by the proprietors.

In June, 1669, Woodbridge received a town charter signed by Governor Carteret and his council. This instrument first described the town bounds—on the east by Achter Koll Sound, on the north by Elizabethtown, on the south by the Raritan, and on the west by the newly created township of Piscataway. The charter stipulated that the corporation should embrace at least sixty families, set forth how the lands should be divided, and pro-

vided that the freeholders might choose their own magistrates and, subject to the approval of the governor, nominate their own justices of the peace and their own military officers. The proprietary quitrent was specified at a halfpenny per acre. The town was enabled to choose its own minister, toward whose support each inhabitant must contribute. Two hundred acres were set aside for the use of the minister and 100 acres for the maintenance of a free school—both exempt from quitrent. The home lots were from 10 to 20 acres in size, and each purchaser was entitled to upland and meadow, with the shareholder receiving 60 acres of the former and 6 acres of the latter. In lieu of the proprietors' seventh, it was agreed that a tract of 1000 acres at Ambo Point (the future site of Perth Amboy) would be set aside for the proprietors. The inhabitants would be free from taxes save for those imposed by the assembly. All in all, this charter, like those for the other East Jersey towns, was liberal throughout.

On December 16, a week after the Woodbridge patent was obtained, Daniel Pierce transferred a third of his holdings to four men from New Hampshire to found the township of Piscataway, named for the Piscataqua River of New Hampshire. With four other associates they soon brought in 15 additional families from New Hampshire. Although by 1670 Piscataway was still short of the 60 families required by Governor Carteret to validate the charter, the undertakers were permitted to continue their efforts without penalty. The purchasers' home lots, meadow, and uplands were similar in size to those allotted in Woodbridge.

In April, 1665, twelve men, principally from Long Island, obtained from Governor Nicolls a triangular tract of land extending from Sandy Hook to the mouth of the Raritan, up that river approximately twenty-five miles, thence southwest to Barnegat Bay. The "great grant" was first known as Navesink, after 1675 as Middletown and Shrewsbury County, and finally in 1682 as Monmouth County. The twelve founders were Baptists and Quakers. Although only three men—James Grover, Richard Stout,

and Richard Gibbins—settled in Navesink, others were there temporarily. Walter Clarke, four times governor and 23 times deputy governor of Rhode Island and the leader of the Newport Friends, was the most distinguished patentee. According to the Nicolls patent, 100 families must be settled within three years. The settlers were exempt from taxes for seven years, until 1672. After that they would pay the Duke's customary rate of one half-penny per acre.

The Navesink plantation was highly successful, and two villages, Middletown and Shrewsbury, were soon founded. Each purchaser subscribed £3 or £4, which entitled him to 120 acres, with additional increments for his wife and children, and 60 acres for each servant. Perhaps as many as eighty families came in the first years from Long Island, Rhode Island, and Massachusetts. In February, 1668, 28 men, including patentee Grover, took the oath of allegiance to the proprietors. By 1669 further settlement at Middletown was not encouraged, "considering the town to be now wholly compleated beeing full according to their number." Interest in settlement then shifted to Shrewsbury. Lacking patentees who would lead them, the inhabitants turned to new men in Navesink, all Quakers—Richard Hartshorne, Eliakim Wardwell, John Hance, and others. Hartshorne and Wardwell were the most prominent Friends of Middletown and Shrewsbury respectively, the communities that sheltered the earliest Friends' meetings in New Jersey. Led by their public Friends (ministers), Hartshorne at Middletown and Wardwell at Shrewsbury, these two settlements by 1670 had established meetings for worship, men's and women's meetings, and monthly meetings. George Fox on his famous trip through New Jersey in 1672 warmly praised both groups.

The Navesink settlers wholly misunderstood their rights under the Monmouth patent. They assumed that their patent had endowed them with a right of government and proceeded to hold "assemblies" at Portland Point from 1667 to 1670. These assemblages consisted

of patentees and elected deputies from Middletown and Shrewsbury. This combination of lawmaking body, council of proprietors, and court was at most vested with the limited power, under the Duke's laws, to adopt local ordinances and to maintain a petty court. It took several brushes with Governor Carteret and the provincial assembly of New Jersey to establish this truth. To the appointment of overseers and constables and to the adoption of local ordinances there was no objection, but when Navesink challenged the right of the assembly to lay taxes, trouble lay ahead. Middletown and Shrewsbury would also question the right of the proprietors to impose quitrents because their patent had been issued by Nicolls—conveniently ignoring the fact that the Duke had made it clear that quitrents would be required throughout his proprietary.

The settlers of New Haven had since the founding of that colony in 1638 made efforts to remove to a milder climate. Several attempts had been made to find a location in the Delaware Bay area, with little success. In 1661 New Haven was annexed summarily by Connecticut. Late in that year a committee headed by Robert Treat of Milford discussed with Peter Stuyvesant a plan to remove to New Netherland. There was no agreement, yet it is surprising that the Dutch West India Company would even contemplate settling Puritans in northern New Jersey. Meanwhile, the matter lapsed, since all the New Haven towns except Branford had reluctantly acknowledged the authority of Connecticut.

The grant of New Jersey to Berkeley and Carteret revived interest in an old project. Attracted by the liberal Concessions and especially by the guarantee of religious freedom, Robert Treat and two others were dispatched there to discuss the matter with Governor Carteret. After first considering a location on the Delaware, they decided on one on the Passaic River in the area of Achter Koll. An Indian treaty was finally signed, and in May, 1666, a band of 30 settlers sailed up the Passaic and settled on the west bank. Just before this an agreement had been

acknowledge the authority of the proprietors and their government and to pay £15 quitrent per annum for its 11,250 acres. All freeholders were designated as freemen, who would choose their own magistrates, nominate two justices of the peace to be commissioned by the governor, and elect two members to the general assembly. The inhabitants might appoint their own ministers, enjoy free trade, choose their own constables, and set up their own petty court. The corporation was authorized to divide and dispose of its vacant lands.

In the organization of all seven towns under Berkeley and Carteret it should be noticed that Indian purchase preceded the issue of the patent, that the bounds of each township were carefully drawn, that the founders and associates of each township might divide and dispose of the lands as they saw fit, and that (sooner or later, as in Bergen) each corporation must pay an annual quitrent in a lump sum to the governor. The liberal terms of the Concessions of 1665 were at once put into force. The townships had the right to establish petty courts, to pass local ordinances, and to organize their churches and appoint ministers. These were important steps in the development of self-government.

New Jersey attracted not only groups of people who wished to establish settlements there but, like other colonies, land speculators. From 1667 to 1670 several Barbadians, looking for investments, made huge land purchases in East Jersey, with the approbation of Governor Carteret. The most prominent were William Sandford, Nathaniel Kingsland, and John Berry. Perhaps these men were endeavoring to escape the web of the sugar-slave economy or perhaps they realized that England would soon enforce its Navigation Acts, thus curtailing trade with the Dutch and other foreign nations. It cannot be established that, as some have thought, these men were Quakers seeking asylum in a more tolerant religious climate. The shrewdest guess one might make for their adventuring is that fertile land in the West Indies was at a premium, while in New Jersey

virgin land was limitlessly available. Other men from the West Indies moved to New York, New Jersey, and the Carolinas during this period.

Be that as it may, Governor Carteret approved several huge land purchases in the Bergen area. William Sandford bought 5300 acres of upland and 10,000 acres of meadowland between the Passaic and Hackensack rivers some miles north of Achter Koll. Under the terms of the patent he was obligated to pay £20 sterling per annum quitrent. His partner, Nathaniel Kingsland, who never came to New Jersey, purchased the northern two-thirds. Sandford took up residence upon his portion. Later, Kingsland's nephew and heir, Isaac, settled in New Jersey and served as a member of the council.

This enormous tract, called New Barbados, was purchased from the Indians for wampum, powder and guns, cloth and clothes, tools and implements, lead, and beer and brandy. John Berry, who later rose to political prominence, purchased a large tract north of New Barbados which extended six miles from north to south between the rivers. Both these grants fell within the bounds of Newark township. All during the seventies similar grants were made by Governor Carteret; a number of them were financed by prosperous Dutchmen in New York who hoped to sell at a profit to New Netherlanders wishing to settle in New Jersey. The Barbadians formed the first estate-owning group in New Jersey, and they were to have a powerful influence in the history of the proprietary.

The first assembly of New Jersey met in May, 1668. The representatives of Middletown and Shrewsbury did not take their seats, because the assembly had no sympathy for the intransigent views they represented. The assembly laid a £5 tax on all the townships to carry the expenses of government and required all the inhabitants to take an oath of allegiance to the proprietors. The Middletown freemen, meeting a number of times in town meeting, refused to accept these provisions. They argued that since the Monmouth patent was issued by Governor Nicolls,

the Duke's laws alone were applicable to them; that their patent exempted them from taxes for seven years—until 1672; and that if they yielded to acts passed by the assembly they would be surrendering their liberties and prerogatives. The Monmouth freemen agreed to take an oath of allegiance to the king, but as to the proprietors' interest, "it was a new interest, and so obscure to us that at present we are ignorant what it is." Middletown and Shrewsbury for years held to the doctrine that they would take an oath of allegiance to the proprietors only if the latter would guarantee them their privileges and liberties under the Monmouth patent.

Although Elizabethtown sent members to the first assemblies, Carteret had difficulty with the inhabitants there. He was accused of illegally presiding at the town meetings, of arbitrarily creating freemen, and of selling lots to indentured servants to assure himself control of the town. The town took a dim view of his efforts to collect quitrents when they first came due in March, 1670. At Newark, although the town meeting agreed to pay the quitrents, it insisted that Newark derived its title from Indian purchase, not by proprietary patent; therefore the inhabitants were not obliged to pay one halfpenny per annum to the proprietors.

The governor and his council sternly warned the inhabitants of the towns that they must take out proprietary patents and have their names on the quitrent rolls. They ruled that no one was to hold public office or exercise the rights of a freeman unless he had patented his lands. But the situation did not improve. Many took the oath of allegiance to the proprietors but ignored that provision of the Concessions providing that all lands must be held by warrant from the governor.

The situation was complicated by the arrival of James Carteret, son of Sir George, in the summer of 1671. He claimed to represent his father and immediately began to interfere in provincial affairs. In an illegal assembly meeting James Carteret was elected president of the province. Philip Carteret, nonplused, denounced these

proceedings, and his council supported him. Since Middletown and Shrewsbury held aloof, the governor granted them full power to dispose of their lands as they saw fit, the right to adopt ordinances and to establish courts, and other privileges set forth in the Monmouth patent. As usual, Middletown and Shrewsbury placed too broad an interpretation upon the Concessions that Philip Carteret bestowed upon them. The towns were never more than a particular plantation, but they regarded themselves as an independent self-governing community. To say the least, Elizabethtown and Newark had these same leanings.

Ignoring Lord Berkeley's interest entirely, the council voted to send Philip Carteret to England to persuade Sir George to prohibit James Carteret from acting in provincial matters. Meanwhile the latter endeavored to imprison the governor's councilors. John Berry, the great landowner living in Bergen, was appointed deputy governor by Philip Carteret during his absence. Carteret's mission was successful. The Duke of York instructed Governor John Lovelace of New York to intervene if necessary to uphold the authority of the proprietors. He stated further that the Nicolls grants were void. Sir George immediately issued a proclamation repudiating the claims of the towns and reiterating that the inhabitants must patent their lands from the proprietors and pay their quitrents. The constables were ordered to collect quitrents. Because of her loyalty to Philip Carteret's government, the township of Woodbridge was excused from a third of her quitrents for the next seven years.

The proprietors then proceeded to limit the liberties and privileges of the inhabitants, in violation of the Concessions and Agreements of 1665. Without the approval of the lower house, the governor and council would now qualify all freemen, allot all lands, validate warrants for land, and create new town corporations. They ordered that all quitrents must be paid up by 1676, both those of the towns and of the individual planters. Berry dealt with each town separately, demand-

ing that quitrent arrears be paid and that the owners take out proprietary patents or forfeit their lands. He stated that only those holding proprietary patents were eligible to vote or hold office.

In June, 1673, James Carteret sailed away to the Carolinas, wholly discredited. The revolution of 1672 was over, but the issues that started it were to linger for many years. Similar dissensions were causing the same difficulties in New York, where the English inhabitants were demanding an assembly, recognition of Indian titles, and the abolition of customs dues except in New York City. They too refused to confirm their patents and avoided paying quitrents by keeping their names off the quitrent rolls.

Governor Carteret did not return to New Jersey until November, 1674. His reappearance was interrupted by the Dutch reconquest of New Netherland, which took place in August, 1673. The Dutch interregnum left little imprint on New Jersey. Actually the Dutch system of colonial government brought the leaders of the towns together, and with John Ogden of Newark as the chief *schout* or civil administrative officer, the leaders of the antiproprietary factions in the various towns not only became acquainted with one another but were able to act in concert in seeking concessions from the Dutch government. For example, in June, 1674, representatives of Newark, Elizabethtown, and Piscataway petitioned Governor Anthony Colve for a confirmation of their alleged privileges. They had already been granted liberty of conscience and unmolested possession of lands duly patented. But before their requests could be formally drawn up and presented, news came of the restoration of New Netherland to England.

III

THE SETTLEMENT OF WEST NEW JERSEY

IN MARCH, 1674, John, Lord Berkeley sold his joint but as yet undivided interest in New Jersey to John Fenwick, in trust for Edward Byllynge, for £1,000. The truth was that Berkeley had never shown the slightest interest in the Berkeley-Carteret proprietorship and was happy to realize any gain he could from the Duke's gift. According to the gossip of the times, Lord Berkeley suggested to Byllynge, a crony of his, that if he could raise some money he might make a profit by undertaking a colonizing venture in New Jersey. Byllynge's name could not appear in the conveyance since he was in bankruptcy proceedings at the time. Byllynge's finances were often shaky—a circumstance that, in spite of idealism and good intentions, always threatened to destroy him. He therefore turned to John Fenwick, a fellow Quaker, to act as principal in the negotiation. John Fenwick also held a small interest in the purchase and was soon at odds with Byllynge over the nature and amount. Byllynge and Fenwick, like Sir George Carteret in East Jersey, believed that the purchase of the soil entitled them to the right of government, an error that greatly retarded the development of proprietary New Jersey.

Following the Treaty of Westminster with the Dutch all patents pertaining to the Duke's territories had to be reissued because the Dutch reconquest had in law voided

them. Consequently Charles II in June, 1674, made a confirming grant to James, reserving, of course, the right to customs and duties. James then issued a patent to Sir George Carteret for the territory lying north of a line connecting Barnegat Bay on the ocean with Pennsauken Creek on the Delaware. What Byllynge and Fenwick held in July, 1674, then, was a claim to the southern half of New Jersey, which the Duke had yet to confirm. Until this claim was recognized, Byllynge and Fenwick were only large landowners beholden to the Duke as lord proprietor.

Fenwick and Byllynge quarreled over their respective interests in the purchase from Lord Berkeley. Fenwick, a former major in George Monk's cavalry, though courageous, was a stubborn and contentious man. He held out for half the land, yet his financial contribution had been a scant tenth. William Penn, also a Quaker, was called in, following the practice of Friends, to arbitrate the difference between Fenwick and Byllynge. Since Byllynge's finances were hopelessly tangled, Byllynge's creditors persuaded Penn and two other Friends, Gawen Lawrie and Nicholas Lucas, to act as trustees for Byllynge until his affairs were straightened out. By a tripartite agreement signed by Byllynge, Fenwick, and the trustees, "the whole undivided half" of New Jersey was conveyed to the trustees, reserving a tenth for Fenwick. At this point, as described later, Fenwick cut loose from the trustees and in November, 1675, founded the settlement of Salem.

The Byllynge trustees were active from February, 1675, until September, 1683, although William Penn, because of his involvement in the founding of Pennsylvania, resigned in June, 1681. In 1683, through the sale of shares in West Jersey lands, Byllynge was solvent again. The trustees were men of great vision. All Quakers, they soon decided, using Byllynge's patent, that they could establish a Quaker colony in New Jersey. Hence they offered for sale 90 shares (Fenwick had already been awarded ten) at £350 per share, thus in-

creasing the equity of Byllynge's purchase from £1000 to £35,000. From the start they realized that these lands would not attract settlers unless they gained from the Duke some recognition of their proprietorship. Their first step was to engage Sir George Carteret in a negotiation to redress the boundary line between the two divisions of New Jersey. By "the quintite deed" signed on July 1, 1676, a diagonal line was projected from Little Egg Harbor on the ocean northwest to a point $41^{\circ} 40'$ latitude on the upper Delaware. Through this agreement the trustees gained two objectives: first, a control of the Delaware from its mouth to its source, and second, a tacit recognition by Carteret of the Fenwick-Byllynge claim.

The trustees' proposals to sell shares of land for a Quaker settlement in West Jersey found a ready reception among the Friends in Great Britain. The Restoration was a time of persecution. More than fifteen thousand Friends suffered imprisonment for conscience' sake in England alone, and several thousands in Scotland and Ireland. Consequently many affluent members of the Society of Friends purchased shares as a means of aiding their coreligionists to flee to America. Before the *Kent* arrived at Burlington on the Delaware in August, 1677, 40 shares, including Fenwick's 10, had been disposed of, and by 1683, the remaining 60. Several of Byllynge's creditors accepted shares in lieu of money. All the purchasers, with the exception of Dr. Daniel Cox, entrepreneur extraordinary, were Quakers. The majority were small businessmen—merchants or merchant-craftsmen—with some fluid capital. Only four were yeomen. Twenty-three of the one hundred twenty purchasers bought one whole share; and nine others, two or more shares. In many instances, however, from two to eight persons bought a single share jointly. A popular subscription was for a seventh, costing £50. A full share entitled the owner to one one-hundredth of the land of West Jersey.

Of the entire group of purchasers, 100 were English, 17 were Irish, and 3 were Scots. The majority of the

Englishmen were "south country people" from Middlesex and London, Northampton, Hertford, and Leicester or "north country people" from York, Nottingham, and Derby. A fourth of the English proprietors actually settled in West Jersey. Six of the Irish proprietors settled on Newton Creek in the Third or "Irish Tenth," but none of the Scottish proprietors moved to West Jersey. Since a large block of ten shares was conveyed to five Yorkshiremen in cancellation of debts owed by Byllynge, it is no surprise that the First Tenth at the Falls of the Delaware became a Yorkshire community. Though the "south country people" held no such large single block, they united under commissioners to establish the Second or London Tenth on the Rancocas.

Byllynge, assisted by William Penn, in the summer of 1676 wrote the famous "Concessions and Agreements of the Proprietors, Freeholders and Inhabitants of the Province of West-Jersey, in America." This document superseded the earlier Concessions and Agreements of Berkeley and Carteret, issued in 1665. It was signed first in England by Byllynge, the trustees, and the proprietors holders, and other inhabitants. One copy bears 151 signatures; another, 251. The Concessions and Agreements and later in America by the resident proprietors, free-of 1676 (signed March 3, 1677) set forth a framework of government and the fundamental laws of the colony. This remarkably liberal constitution put the power of governance in a representative assembly based on universal male suffrage. It established trial by jury, guaranteed personal liberty, and, in a ringing declaration, vouchsafed liberty of conscience.

The West Jersey Concessions also provided for a democratic system of land distribution. No lands were to be reserved for a chief proprietor or a small oligarchy of absentee proprietors. The trustees announced their intention of offering for sale, as mentioned above, all 100 shares or proprietries in West Jersey. Each propriety was roughly twenty thousand acres. The province for purposes of local government and settlement would be di-

vided into tenths, units that were later superseded by counties. To encourage settlement by individuals the trustees in 1676 adopted a headright system, characteristic then of many colonies.* Any person attested by one of the proprietors who agreed to pay a quitrent would receive without charge 70 acres of land, 70 acres additional for each able manservant, and 50 acres for each "weaker servant," male or female, over fourteen years of age. Upon the expiration of the customary three or four years of service the servant would receive from his proprietor 50 acres, subject only to the quitrent. For those arriving in later years these amounts of land were reduced. The quitrent was generally one penny per acre for town lands and one halfpenny per acre for lands laid out elsewhere.

The quitrent system, so prominent in East Jersey, was not successful in West Jersey. None of the original proprietors, except Dr. Daniel Coxe at a later date, embarked upon a quitrent system. The West Jersey proprietors were interested in selling lands at the going rate of from £5 to £10 per 100 acres. As they were in competition with one another, a proprietor making quitrent reservations would have less chance of disposing of his lands. It should be remarked also that there were relatively few indentured servants in West Jersey. The unit of settlement was a medium-sized farm of from fifty to three hundred acres that could be cultivated by the farmer and his family.

The general commissioners of West Jersey, who administered the province before the appointment of a deputy governor, were instructed to purchase huge tracts from the Indians as needed for settlement. In September and October, 1677, most of the Delaware River lands from the Assunpink at the Falls to Oldman's Creek were

* A headright was a small grant of land to any head of a family who paid his own way to one of the colonies. Smaller grants were made for wives and children. The headright system began in Virginia in 1617 when the London Company offered headrights of 50 acres.

purchased. The Indians were paid in kind, principally cloth, tools, weapons, and gunpowder. Each major purchase would be divided into 100 parts and allotted in the tenth of the proprietor's choice in accordance with the number of proprietries or fractions thereof that he owned. The size of the first dividend was tentatively set at 5200 acres per share or propriety. Other dividends would be declared later. Though the Concessions and Agreements of 1677 specified that all conveyances be registered both in England and America, the records were carelessly kept. Not until the establishment of the resident Council of Proprietors in 1688 was a semblance of order restored. Much of the confusion was due to the fact that West Jersey lands did not appreciate in value; consequently many who had purchased shares as a speculation or to assist a worthy cause simply lost interest. A number of West Jersey shares have never been accounted for since the original purchase from the trustees.

The general commissioners, both before and after the establishment of the general assembly, had important duties with respect to the orderly laying out of lands. They were responsible for the proper keeping of land-transfer records, for the validation of all instruments relating to land, for the purchase of land from the Indians, and for the appointment of surveyors. All inferior officers were accountable to them, and then, in turn, to the assembly. They were charged with seeing that the constables collected the quitrents owing absentee proprietors. The insertion in the Concessions and Agreements of a provision common to other colonies, that lands held quietly for seven years after survey and registry were not subject to review, was intended to forestall future legislation and lawsuits. The assembly itself was granted the power of imposing taxes and assessments upon lands and persons as necessity required "in such manner as to them shall seem most equal and easy to the inhabitants." As in East Jersey, the assembly was not permitted to lay a tax upon unimproved proprietary lands.

In August, 1677, the *Kent* arrived at the site of Bur-

lington carrying 230 passengers who came from Hull, in Yorkshire, and London. Other ships followed in rapid succession until by 1681 approximately fourteen hundred Quakers had migrated to the new province. The general commissioners aboard the *Kent* deemed it wise to stop at New York before proceeding to the Delaware in order to acquaint Governor Edmund Andros with their "design" to settle. Andros, as expected, refused to recognize any authority of the Byllynge trustees to erect a separate government, stating that he had received no instructions from the Duke of York to relinquish jurisdiction over any of the Duke's lands. He generously appointed the commissioners themselves to act as magistrates *under him*. The *Kent* on her arrival at Newcastle, paid the customs dues of 5 per cent as instructed by Andros. Thus again, contrary to their belief, they had acknowledged that they were not a separate government.

Each of the groups aboard, the London Friends and the Yorkshire Friends, had been accorded the right to choose lands upon which to locate their proprietries. The London proprietors had chosen lands between Pennsauken and Rancocas creeks; the Yorkshire proprietors, those between Rancocas Creek and the Falls of the Delaware (Trenton). Originally the London Friends had planned to settle at Arwamus Creek (Gloucester) and the Yorkshire settlers at the Falls, but because each group was so small, it seemed feasible to join in one settlement. Since the Rancocas, the dividing stream between the First and Second Tenth, was marshy as far as six miles from its mouth, a site at the mouth of the Assiscunck Creek, to the north, was chosen. Shortly after landing at Bridlington (soon called Burlington) a town plat was made, and in October lots were drawn for town allotments. The owner of a whole propriety was entitled to 10 acres within the town and 64 acres of meadow within the township bounds. The London proprietors chose their holdings on the south side of Assiscunck Creek and the Yorkshire proprietors on the north side. Tents and caves were soon replaced as living quarters

by small frame houses, erected by the handymen among the settlers. The only concern of the settlers was about the right of government, which the trustees had told them had been purchased with the ownership of the soil. Thomas Olive, the leading commissioner, was much disturbed, "blameing" Byllynge and the trustees "for bring'g us into this Snare." Some felt that the reputation of William Penn himself was at stake. Fortunately, as we shall see, Penn was able to obtain a settlement, temporary though it proved to be.

The Irish proprietors planted the Third Tenth, the land lying between Pennsauken Creek and Timber Creek. Their agent, Robert Zane, who was living at Salem, scouted the land prior to the settlers' arrival in November, 1681, and decided that Newton Creek was the best site. After spending the winter at Fenwick's colony at Salem, they founded the village of Newton. They obtained permission of the general commissioners to lay out their lands. Below the Third or "Irish Tenth," as it was popularly called, was the Fourth Tenth, lying between Timber Creek and Oldman's Creek. Although the early records refer to the lands below Pennsauken Creek as "the lower six tenths," Salem Tenth was the only one that achieved a separate identity. In 1686 with the creation of Gloucester County, which combined the Third and Fourth Tenths, the system of tenths gradually disappeared.

John Fenwick, owner of the Fenwick Tenth, had signed an agreement with the Byllynge trustees in May, 1675, to pool his lands with theirs, and he obtained by lot 100 acres out of each tract of 1000 acres. He had no intention of proceeding according to this plan, for he had other ideas. As early as February, 1675, he was projecting a separate colony on Salem Creek. In a brochure he offered land at £5 per 100 acres. Owners of from 1000 acres to 10,000 acres would be proprietors or freeholders. To poorly circumstanced families he offered headrights of 100 acres subject only to a quitrent of one penny per acre. Indentured servants completing a term of four years were promised 100 acres together with the

customary "freedom dues"—clothing, tools, seed, a hog, and a cow. When the prospective settlers arrived, 10,000 acres would be cleared by cooperative effort and all would join in building houses. A rudimentary government would be set up with Fenwick as chief proprietor. In his brochure Fenwick promised to clear the land of Indian titles by purchasing from thirty thousand to forty thousand acres.

Before sailing for America in the late summer of 1675 Fenwick succeeded in disposing of about one hundred forty-eight thousand acres to 50 persons. Though a number of purchasers of large tracts were speculators, the majority of those who bought were Quakers of modest means—generally merchants or craftsmen—who wished to leave England. Salem was built on a shoestring, and her doughty founder encountered every obstacle that it is possible to imagine. The trustees, when they learned of these sales, would have nothing more to do with him. Although Fenwick was a Friend himself, the Friends lost confidence in him despite his proclaiming loudly that his undertaking was for their benefit. He was desperately in debt, for he had exhausted his funds in promoting and financing his expedition. He mortgaged his tenth to two shareholders, John Eldridge and Edmund Warner, who during the next two years nearly succeeded in stripping him of his lands.

Soon after the arrival of his colonizing expedition in November, 1675, Fenwick was challenged by Governor Andros, the Duke's governor at New York. He was told that he could not be recognized as lord proprietor since he had not registered any evidence to support such a claim. When several who owned lands on Salem Creek prior to Fenwick's coming complained, Fenwick was arrested and taken to New York for trial by the Newcastle sheriff. There he testified that his purchase from Lord Berkeley gave him indisputable possession of this land. But Fenwick could not even produce his deeds since they were in the possession of his mortgagors, Eldridge and Warner. The New York court declared him guilty and fined him £40. In October, when Andros finally

learned of the authenticity of the Berkeley sale to Fenwick and Byllynge, Fenwick was released and permitted to return to Salem on parole.

Fenwick as lord proprietor always regarded himself as the head of government, when actually he was no more than the owner of a particular plantation. When on April 30, 1678, Fenwick publicly declared the "submission of the people here as his right and propriety" and refused to permit those on his lands to pay the customary tax imposed by the sheriff of Newcastle, he was again summoned to New York, where he was held until March, 1679. Fenwick had argued in vain that his interest was distinct from that of the Duke's government. Andros contented himself, while Fenwick was in prison, with appointing his own magistrates from among Fenwick's settlers.

Salem was founded in November, 1675, while Burlington was not settled until August, 1677. While Fenwick had plunged straight ahead, the trustees, before allowing their expedition to depart, were determined to obtain a clear title from the Duke. This took time and patience. The "quintite" or "quintipartite" deed, signed by Sir George Carteret, dividing the province into East and West Jersey, strengthened the Fenwick-Byllynge claim. But the Duke in 1674 had never given Fenwick and Byllynge the release for West Jersey that he had given Carteret for East Jersey. Andros, the Duke's governor, had insisted upon exerting the Duke's governance over both Fenwick and the Burlington commissioners.

William Penn, after Burlington was settled, took steps to secure a firm title for the Fenwick-Byllynge grant. In September, 1679, the Duke of York received from Sir John Werden, his secretary, an "inspired" memorandum raising the question as to whether the proprietors of West Jersey were empowered to set up a distinct government or whether they were subject to his laws and government at New York. Werden had explained to the Duke that the Quakers had specifically objected to the 5 per cent customs duty collected by the Duke's officer

at Newcastle. The Duke, a staunch friend of William Penn and of Robert Barclay, the great Scottish Quaker, who also urged the cause of the Friends, submitted the question of the right of government to Sir William Jones, a former attorney general. Jones in July, 1680, ruled that the Duke could not collect customs dues from the inhabitants of West Jersey. On August 6 a deed of confirmation was issued to Edward Byllynge as chief proprietor.

James in November informed Governor Andros that he had relieved both East and West Jersey of "his [James'] right to anything which heretofore may have been doubtful, whether as to government, or public duties." Actually the Duke had had no legal right to convey the power of government to Berkeley and Carteret in the first place. Under English law the king alone could vest this right, and it did not extend beyond the original grantee, let alone to patent-holders like Carteret, Berkeley, or Byllynge. However, at this time, the late summer of 1680, it appeared that West Jersey had received guarantees of quiet possession and government under the Quaker trustees.

In March, 1683, just nine months before John Fenwick's death, William Penn, though deeply involved with the founding of Pennsylvania, was able to untangle the snarl of the Salem Tenth. First he bought from Edmund Warner the ill-fated Eldridge-Warner mortgage for £450. Then Fenwick for a nominal sum transferred to Penn his interest in the Salem colony, less the one hundred fifty thousand acres he had already sold or otherwise disposed of. Penn's agent, James Nevill, when he went to Salem was fearful lest Fenwick cause more trouble, but the latter, although he continued to excoriate Eldridge, Warner, Byllynge, and Lawrie, who "most covetously and unchristianly dealt with me," expressed the wish that Penn would serve as one of his executors and act as guardian for several of his grandchildren. A last impediment to the orderly development of West Jersey had been removed.

IV

THE TWENTY FOUR PROPRIETORS OF EAST NEW JERSEY

BOTH BEFORE AND AFTER the "revolution of 1672" the East Jersey assembly held meetings and passed laws essential to the well-being of a newly established colony. Between 1668 and 1681 there were seven meetings. The laws of the 1668 assembly are of record, but our knowledge of the assemblies of 1669, 1670, and 1671 is incomplete. There were busy and constructive meetings of the legislature during the years 1675-1679, following the Dutch reconquest of 1673. As in other colonies, there were laws punishing persons who resisted the public authority, laws relating to defense, revenue acts, a full criminal code, laws constituting courts, laws relating to marriage, laws relating to Indian affairs, and a host of others. The lower house was very parsimonious when, as required by the Concessions of 1665, it came to making appropriations for the support of the governor and his officers and for defraying the costs of government. Surprisingly, there was little effort to spell out a code of land distribution to protect the settlers in their titles. In 1679, toward the close of Carteret's administration, it was provided that all persons paying quitrents should enjoy the same privileges and benefits as those whose patents bore the date of 1670, when such rents first became due.

The population of East Jersey increased slowly from 1668 until 1681. The East Jersey promotion in New

England had brought little response. The bad blood between the proprietor and the six towns over quitrents shunted settlers away, while the period of the Dutch reconquest stopped settlement altogether. Sir George Carteret, just before Philip Carteret set sail for the province in 1674, issued instructions to the governor that reiterated and enlarged upon the liberty-curtailling "Declaration of the True Intent and Meaning of the Concessions" of December 6, 1672. Those deeds patented by Governor Carteret before July 28, 1672, were valid, and all subsequent deeds were void. Claims under the Nicolls patents were disowned on the ground that the proprietors had been vested with New Jersey lands before the Nicolls patents were issued. All settlers must submit to the proprietors' authority and pay their quitrents; otherwise their lands would be forfeited and disposed of to others. All the recalcitrants who had sought to change the government must seek remission of their offenses or be proceeded against. Quitrents, due in 1670, must be paid in full or the proprietors would seize the settlers' goods. Since the "pretended patentees" of Navesink (Monmouth) had remained loyal during the "revolution," they would receive 500 acres apiece and their townships would be surveyed and incorporated as they had requested.

Carteret also confirmed the changes that had been announced at the close of the "revolution," in violation of the Concessions of 1665. The powers of the governor were enhanced at the expense of those of the lower house. The approval of the assembly was no longer required in many instances formerly specified. The governor and council, for example, could themselves constitute courts, the assembly retaining only participation in erecting courts of session and of assize. This instruction paved the way for the governor's creation of hated special courts, for which the Concessions had made no provision. Sir George also specified that the assembly must vote a proper stipend for the support of the governor and that such a provision must take care of arrears.

Philip Carteret's commission, dated July 31, 1674, authorized him, with the agreement of three or more of his council, to sell or dispose of lands, subject to the conditions set forth in the Concessions of 1665. All lands sold were subject to the annual quitrent of one halfpenny per acre. Sir George still hoped to gain an income from his East Jersey venture, although he had put little money into it. Philip Carteret returned to Elizabethtown at the end of October, 1674—fatefully on the same ship as Governor Edmund Andros of New York. At Bergen he met with his former council, John Berry, William Sandford, John Pike, Lawrence Address, John Bishop, Sr., James Bollen, secretary, and Robert Vauquellin, surveyor general—most of whom were members of a notorious "land-grab ring." They reported dutifully to Sir George that the former disorders in the province would have been controlled had not the Dutch intervened. Philip Carteret issued a proclamation in December stressing that no person would be commissioned for office unless he had patented his land according to the Concessions of 1665 and no town corporation would be eligible for the privileges of such a body unless its inhabitants had similarly conformed. To preserve the peace of the colony he promised to call an assembly in March, 1675. Vauquellin, the surveyor general, was directed to make a survey of the townlands of Newark, Elizabeth, Piscataway, and Navesink and to insist that the quitrents be paid. Elizabethtown offered to make a deal: a £20 quitrent in consideration of township lands eight miles square, but Vauquellin insisted that the individual owners pay quitrents. By September, 1676, 75 householders, the majority, had reluctantly taken out warrants of survey, but no deeds.* Those in the other towns likewise

* A warrant of survey was given to enable the prospective buyer to take up land. Title in fee simple was not given until the purchase price was paid. Since only an owner was listed on the quitrent roll, the holder of a warrant was able to occupy the land without getting his name on the roll. This subterfuge was freely employed in the East Jersey quitrent communities.

dragged their feet to avoid having their names on the quitrent rolls. Then followed a few years of sullen quiet.

Meanwhile Governor Carteret was subjected to great provocation and humiliation by Governor Andros of New York, who first busied himself with halting John Fenwick's pretensions to govern independently at Salem in West New Jersey. Andros was so puzzled by the Carteret claim to the right of government in East Jersey that he journeyed to England to obtain a ruling from the Duke on the right of government. He returned in August, 1678, as Sir Edmund Andros, armed, so he supposed, with a mandate to impose the Duke's authority in the Jerseys. He imprisoned the rebellious Fenwick a second time, then turned to Governor Carteret. In March, 1679, he warned Carteret to cease exercising jurisdiction in East Jersey. In defense Carteret submitted to Andros and his council in New York copies of the deeds and other official documents which they declared had no validity.

On April 5, 1679, Andros met Carteret at Elizabethtown, and again the matter was argued. Andros declared bluntly that Sir George as the Duke's assignee had no right to govern. Carteret declared he would defend this right until the king's pleasure was known. Andros arrested Carteret and had him brought to New York for trial. To Andros' chagrin the jury brought in a verdict of not guilty. The court then released Carteret and cautioned him not to assume any jurisdiction on his return to East Jersey. On June 2 Andros met with the members of the assembly and told them that henceforth they would be governed by the Duke's laws. He gave little heed to guarantees demanded by the assembly.

Since Sir George, whose choler was officially not to be disturbed, died in January, 1680, East Jersey lay helpless before Andros. Little help could be expected from Carteret's widow, Elizabeth, or his grandson and heir, George, a mere youth. All Philip Carteret could do was to write letters of protest to influential friends in England. Andros encountered little resistance in the colony,

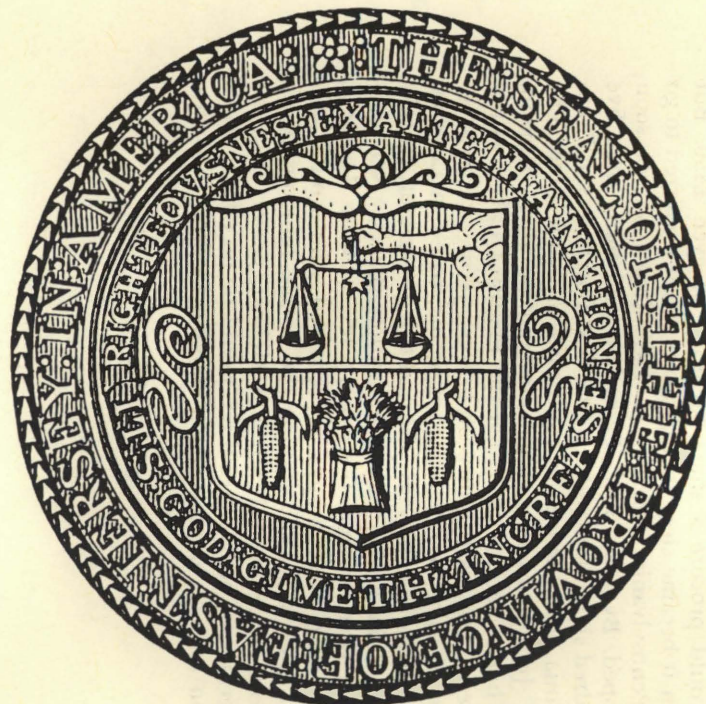
and the few who resented his dictatorial commands were put in jail. But in August, 1680, the Jones decision restored the alleged right of government to East Jersey as well as West Jersey. In October, 1680, young George Carteret was granted a new indenture. Philip Carteret, then living as a private citizen in Elizabethtown, was recalled to office two months after Andros, on order of the Duke, had returned to England. Philip Carteret's last years were marked by disputes that would lead one to question his judgment. He antagonized the New York government by asserting a claim to Staten Island, and in November, 1681, he dissolved the assembly because it insisted that certain guarantees under the Concessions, rescinded in 1672, be restored to them. In the fall of 1682 Carteret was relieved of his post by Thomas Rudyard, deputy governor for the new owners of the province, the Twenty Four Proprietors.

The trustees of Sir George Carteret in 1681 put the province of East Jersey up for sale and hoped to obtain from five to ten thousand pounds for it, a vain hope since West New Jersey had fetched only £1000. To date East New Jersey had yielded little revenue and attracted few settlers. Finally it was put up for auction and was purchased by a group of twelve men, headed by William Penn, for £3400. The deeds of lease and release were executed on February 1 and 2, 1682. All twelve proprietors with the exception of Robert West, a lawyer of Middle Temple, were Quakers. Penn's interest in establishing West Jersey as a haven for persecuted Quakers has already been discussed. In March, 1681, he was vested by Charles II with the province of Pennsylvania. The purchase of East Jersey was, in part, an extension of this interest. In August, 1682, the new proprietors agreed that each would take a partner in the venture, thus bringing their number to 24. The transfers took place in August and September, and on March 14, 1683, a new patent was issued to the Twenty Four Proprietors, so styled, by the Duke of York.

All but three of the twelve new proprietors were also

Quakers. The five London men, including Edward Byllinge, were Friends, as were the two Irish proprietors and four of the Scots purchasers. Among the Scottish proprietors were the Earl of Perth and his brother John Drummond (soon Viscount Melfort), the real rulers of Scotland. The best-known purchasers, aside from William Penn and Edward Byllinge, were Robert Barclay, the great Scots Quaker apologist; Gawen Lawrie, a future East Jersey governor; and Robert Turner, an Irish Quaker merchant who later moved to Philadelphia. The element of speculation was more to the fore in the purchase of East Jersey shares than in the acquisition of West Jersey shares. The manuscript journal of James Claypoole, a London Quaker merchant, has significant references to this matter. In Claypoole's correspondence with Samuel Claridge and Anthony Sharp of Dublin and others, he stated that the cost per share would be £300, of which £50 would go "toward a stock [fund] for the general good." In November, 1682, in urging Thomas Cooke to move quickly, he stated that "the shares of East Jersey is upon the rising hand." He was not sure he could procure a share for £400 or even £450. But when it became clear that Quakers much preferred to go to Pennsylvania, interest in East Jersey shares soon dropped. By May, 1682, Penn had sold more than five hundred sixty thousand acres to First Purchasers in Pennsylvania, and these sales continued for some time. The East Jersey proprietors encountered no such demand.

When it became clear that the English Quakers would eschew both East Jersey and West Jersey in favor of Pennsylvania, the English proprietors, based in London, allowed Robert Barclay, the Scottish proprietor, to take the lead in East Jersey colonization. Barclay was convinced that, though there were few Scottish Quakers, there were large groups in Scotland who would welcome the chance of escaping the savage religious persecutions there. Since Perth and Melfort, powerful in the government, held shares there would be no official opposition to Scots migrating and buying lands in America.



Seal of the Province of East Jersey, 1682, and of West Jersey, 1687

Thus the Scottish group, almost by default, seized the initiative, and soon East Jersey in the popular mind was regarded as a Scottish venture. The promotion literature under the Twenty Four Proprietors was issued largely under Scottish auspices. The Quaker interest, however, was not yet abandoned, since 20 of the Twenty Four Proprietors were members of the Society of Friends.

In September, 1682, Robert Barclay, supported by Perth and Melfort, was elected governor of East Jersey; to induce him to accept, the proprietors gave him a whole share or propriety. Barclay was revered by the Quakers and enjoyed the full confidence of the proprietors, English as well as Scottish. Like William Penn he was favored by the Duke of York, who at this time was posing as the apostle of religious toleration. In 1682 and 1683 Barclay was busy in London and in Scotland attending to proprietary business, preparing an expedition, recruiting settlers, and arranging for cargo. He was also active in arousing interest throughout Scotland by obtaining purchasers for shares and fractions of shares as they became available. In a short time, through his initiative, 45 of a total of 85 proprietors and fractioners were Scotsmen. Many were officials at court, and most of the others were members of Barclay's large, landed family circle.

The proprietors appointed Thomas Rudyard deputy governor of East Jersey during Barclay's absence, and Samuel Groom surveyor general and receiver general. Both arrived in East Jersey in November, 1682. Rudyard was a noted Quaker, a friend and business associate of William Penn, and a man deeply interested in Quaker colonization. He was a proprietor of West New Jersey, a First Purchaser of Pennsylvania, and a proprietor of East Jersey. Groom, too, was a well-known Quaker. Rudyard was deputy governor for only ten months but stayed over in office until his successor's arrival in January, 1684. Rudyard presided at council meetings, kept an exact record of the proceedings, and registered all certificates of land surveyed by Groom in conformity with the warrants issued by himself and his council. Groom, as re-

ceiver general, was directed to collect all quitrents and other monies either for the benefit of the proprietors or for public use, to expend public monies by order of the governor and council, and to execute the other tasks pertaining to his offices. The proprietors promised the settlers that they would abide by the Concessions of 1665 and asked their cooperation. They also adopted the Fundamental Constitutions, a cumbersome frame of government that the assembly later refused to ratify.

The Scottish proprietors took a rosy view of their holdings in East Jersey. A first dividend of 10,000 acres per propriety had been declared, and it was believed that each proprietor's share eventually would come to eighty thousand acres. The price of land was set initially at £10 per 100 acres, but because of the competition among proprietors to sell quickly fell to £5. In the promotion literature prospective settlers were offered small headrights at a quitrent of one halfpenny per acre. Similar provisions were made for servants whose indentures ran for three years or more. Those receiving headrights were exempt from quitrents for seven years. George Scot in his *Model of Government*, published in 1685, asserted optimistically that the proprietors could count on £500 per annum from quitrents. In his description of the seven East Jersey towns and the outlying plantations, Scot reckoned the population of East Jersey liberally at about three thousand people. The Twenty Four Proprietors, from the start, planned a town of their own at Amboy Point, the newly designated capital at the mouth of the Raritan. Here they would sell 150 ten-acre lots at £15 per holding, and by arranging for the purchase of 1500 additional acres of proprietary land, they could accommodate more than one hundred families. Each proprietor was required to build one house at Ambo Point, according to a builder's model, and each purchaser was required within three years to build a house and clear three acres. Land was set apart for a town hall, a market place, and other public buildings.

Scottish immigration to East Jersey, slight as it was, took place for the most part between 1683 and 1687. The

London proprietors willingly left the initiative to Barclay and the Scottish proprietors. The leadership in London was gradually assumed by the self-seeking William Dockwra, who was formally appointed register and secretary of the province in 1690, the year of Barclay's death. As it turned out, few Scottish Quakers came to East Jersey and, surprisingly, practically none seeking to escape religious persecution. There were no Covenanters from Lanarkshire, Ayrshire, and Dumfriesshire, and no ship sailed from the Clyde River, as some historians have claimed. Actually most of the Scots came from the eastern seaboard—from Edinburgh, Montrose, Aberdeen, and Kelso—and were attracted to New Jersey, as their letters prove, by the opportunity of bettering their lot.

In 1683 the Scottish proprietors launched an expedition in the *Exchange of Stockton*. It carried a group of passengers and a cargo valued at nearly one thousand pounds sterling. William Dockwra of London was the only non-Scots proprietor who participated in the venture. The ship also carried a number of indentured servants who aspired to a better future. The Scottish proprietors, entitled jointly to a 6000-acre advance on their first dividend, instructed their agent, David Barclay, brother of the governor, to take up one large plot at Chingieroras and to take up six of the twenty-four houses at Amboy Point, soon named Perth Amboy in honor of the most prominent Scots proprietor. Two additional expeditions left Scotland in the summer of 1684, one from Aberdeen and one from Montrose. The Aberdeen group consisted of 160 men, women, and children, and the Montrose party of 130 passengers. George Scot, author of the *Model of Government*, organized at once the most ambitious and most tragic of the Scots' expeditions. On the chartered *Henry and Francis*, the expedition sailed from Leith in September, 1685, with more than one hundred persons aboard, some of whom were released political prisoners. The passengers were wracked by malignant fever and almost half of them lost their lives. Both George Scot and his wife perished. Following this debacle

no further voyages were promoted by the proprietors or any private promoter.

Fortunately the persecutions in Scotland tended to diminish, and its people were less discontent. Moreover, the Scottish proprietors were unwilling to sink more capital into the promotion, and, indeed, many lost interest in the shares and fractions they had purchased. The pressure for land for prospective settlers was short-lived. The initial distribution of proprietors' lands on the Raritan, the South River, Cedar Brook, and shortly after at Wickatunk more than satisfied the demand. By the end of 1687 each of the Twenty Four Proprietors had available more than two thousand acres. There were no purchasers for such amounts of land and few prospective tenants. The trek of migrants from New England and Long Island had long since stopped, and even the natural increase was slow. Unhappily, too, there was practically no trade, and Perth Amboy, despite its efforts to gain recognition as a free port, furnished no market. East Jersey exports of provisions and livestock found their way to the port of New York to make up cargoes shipping from that port.

The Scots settlers were soon absorbed into the general population, though at the start the Scots complained about the laziness of "the quitrenters" of Elizabethtown, Piscataway, and Woodbridge. Many of the Scots were content to settle down at Perth Amboy and endeavor to make a living as craftsmen or laborers in a town that was newly building. The proprietors saw to it that they received decent wages. Others, interested in working the land, ventured elsewhere, locating on proprietors' lands at Cedar Brook (Plainfield) at the foot of the Blue Hills (Watchung Mountains) and along the South River, a branch of the Raritan. These men tilled the soil and sold the surplus of wheat and corn in the towns. They were a godly, law-abiding people, and as Calvinists they implored the proprietors to send them ministers. In 1683 the only one in the province was the Puritan minister at Newark.

V

THE EAST JERSEY BOARD OF PROPRIETORS

EAST JERSEY from 1682 until 1702, the close of the proprietary period, had six governors. Actually Thomas Rudyard, Gawen Lawrie, Lord Neil Campbell, and Andrew Hamilton (during his first term) were deputy governors, since Robert Barclay, the absentee governor, served until his death in 1690. Sir Edmund Andros replaced Hamilton as *de facto* governor in 1688 by virtue of his position as head of the enlarged Dominion of New England. Hamilton returned from England in April, 1692, as governor. He was succeeded by the scheming Jeremiah Basse in 1698, then in August, 1699, was restored, to the relief of the proprietors. Neither Rudyard nor Lawrie was a good governor, and Lord Neil Campbell served for less than a year. Andrew Hamilton was by far the best of the proprietary executives.

The governance of the Twenty Four Proprietors, in spite of their best intentions, was not a success. The inhabitants of the six Puritan towns nursed the same grievances that they had in Governor Carteret's time; especially did they resent the payment of quitrents which they continued to regard as an arbitrary imposition. Although much useful legislation was passed during this period of twenty years, the deputies (members of the lower house) fought every effort to secure the adoption of a revenue bill for the support of the government. They held that since the proprietors imposed quitrents they

should defray the governmental expenses. In the latter half of the proprietary period Governor Hamilton did succeed in pushing through revenue measures mainly because the Crown insisted that New Jersey make some contribution to the defense of New York, their bastion against the French and the Indians.

The long-lasting discord between the proprietors and the townsmen was the principal reason few people migrated to East Jersey. During the whole score of years, despite their efforts to open up the land, the proprietors would not budge an iota in their determination to force every settler to obtain a proprietary title and to pay an annual quitrent. Another stumbling block that kept people from coming to New Jersey was the uncertainty of the government. The Twenty Four Proprietors, like Berkeley and Carteret before them, insisted that they possessed the right of government as well as the ownership of the soil. Although James, first as Duke of York and then as king, gave the proprietors assurances of their right to govern, the Crown officials—first the Lords of Trade and after 1696 the Board of Trade—never relaxed their opposition to the existence of proprietary colonies. It took them until 1702 to prevail, and when they did the Jerseys were joined to become a Crown colony.

In the following paragraphs one can only suggest the matters at issue in the struggle between the proprietors and the people regarding the distribution of East Jersey lands before 1702. Many of these problems also appeared in the sister province of West New Jersey.

Samuel Groom, Rudyard's surveyor general, following the proprietors' instructions, set about surveying several large tracts of land—18,000 acres near Elizabeth and 8000 acres at Chingororas across the Raritan from Perth Amboy—and 150 ten-acre lots at Ambo Point. He continued to arrange purchases of land from the Indians. Rudyard, meanwhile, pursued a policy of collecting both quitrents and quitrent arrears. The Rudyard assembly met in March, 1683, the first of three sessions. The first

session was taken up with the task of breaking up the old "land-grabbing ring" that had persuaded Governor Carteret to establish special courts without the consent of the assembly. Men like Robert Vicars, Robert Vauquelin, Henry Greenland, and Samuel Edsall were charged, indicted, and tried in the newly established supreme court, the Court of Common Right. Unfortunately, during the Rudyard assembly a rift developed between the governor and the council on the one hand and the lower house on the other. As the lower house was denied the privilege of initiating legislation, it proceeded to rewrite every bill under the guise of amending it.

At the last session in 1683 the assembly finally settled down to work and passed 21 laws. To provide for county courts four counties—Bergen, Essex, Middlesex, and Monmouth—were established, and a system of taxation according to county was adopted. The court system of the province was entirely revised, and the Court of Common Right, a unique colonial supreme court, was instituted. An important land measure was adopted: all patents and grants issued in the name of the proprietors and approved by the deputy governor and his council were valid in law. Rudyard was summarily discharged after ten months, partly because he had dismissed Groom, in whom the proprietors had great confidence, and partly because he determined to open up lands for settlement before the proprietors felt they were needed.

Rudyard was replaced by a London proprietor, also a prominent Quaker, named Gawen Lawrie. His son-in-law, William Haige, was appointed surveyor general, while Lawrie himself retained the post of receiver general, charged with the collection of quitrents and the proceeds from the sale of lands. Lawrie was much interested in colonization. He had been a Byllynge trustee and a proprietor of West New Jersey. His Scots connection made him acceptable to the Scots proprietors who were engaged in developing migration to East Jersey.

The proprietors instructed Lawrie to accomplish certain things relating to land distribution: to survey

own choice lands at Chingeroras. Lawrie was to lose the confidence of the proprietors by his action and to be replaced in October, 1686.

Meanwhile the proprietors ordered that Lawrie and the Board reach an accord on the long-standing grievances between the towns and the proprietors. Lawrie was instructed to secure an unqualified acknowledgment of the proprietors' rights of government and soil and also to persuade the towns that the Duke's grant to Berkeley and Carteret superseded all claims under the Nicolls patents and titles obtained by purchase of land from the Indians. In 1684 all the towns but Bergen held that these prior titles were valid and that, therefore, they were exempt from the payment of the proprietary quit-rents. In addition the Navesink towns of Middletown and Shrewsbury stubbornly claimed that since the "great grant" was a Nicolls grant, they were free to govern themselves subject only to the Duke's laws. Few quit-rents were being paid by individuals despite the fact that they were told they must obtain proprietary titles to their lands. These men knew that if they took out proprietary titles their names would appear on the quit-rent rolls. Moreover, the original associates of the Puritan towns held large tracts of land upon which they paid no quitrents. Because of their Nicolls or Indian titles they held that their lands were exempt from this charge.

Lawrie, backed by the land commissioners (the Board of Proprietors after April, 1685), attempted to make agreements with the towns, one by one. The test case, however, was not with a town but with the great land-owner John Berry, who had refused to pay quitrents on his huge holdings at New Barbados. Berry was haled into the Court of Common Right on a writ of *scire facias* to show cause why he had not made his quitrent payments. There he defied the court by questioning its right to exist, thus defying the proprietary government. After more than a year of procrastination and legal chicanery,

Berry, confronted with heavy fines and imprisonment, finally capitulated. He took out a proprietary patent and agreed to pay the customary quitrents.

The governor believed that the towns would delay their negotiations so long as Berry was permitted to defy the government. He had hard going with the towns. A Navesink committee led by Richard Hartshorne offered to pay what Lawrie considered a ridiculously low quitrent on the "great grant." He refused their offer on the ground that he had no power to change the quitrent rate. He insisted that those occupying land under warrants of survey only should take out patents and pay their rents. The Board decided to employ the writ of *scire facias* to force them either to take out patents or forfeit their lands. In July, 1685, the Navesink towns finally settled, but not before Lawrie agreed to a lower quitrent on the undeveloped lands held by the original purchasers or associates of the "great grant." This was the formula, with slight variation, that was used in settling with all the towns: insistence on the renouncing of claims under the Nicolls patents and Indian titles, the payment of quitrents and the arrears, and a low quitrent on unimproved lands held by the original purchasers, their heirs, or assignees.

Elizabethtown, too, offered a nominal quitrent which Lawrie refused. It was not until 1686 that some of the owners, fearful of having to forfeit their lands, began to take out proper titles. Others stubbornly refused to do so. Newark clung to its claims that its Indian titles were valid, though its representatives did make an unsatisfactory offer. But it was not until 1693 that the town accepted the Board's offer of six pence per one hundred acres as annual quitrent, the standard rent for "old settlers" land. Piscataway offered only a lamb a year quitrent on several thousand acres of unimproved townlands, and this matter, too, dragged on until 1693. Woodbridge, represented by the doughty Samuel Moore, was brought into line during Lawrie's term. Lawrie in

his apologia claimed that he was maligned by all the towns and the important people, including William Penn.

Lawrie's assembly of April, 1686, was unsatisfactory from the point of view of the governor and the proprietors. To no one's surprise, the assembly rejected the Fundamental Constitutions proposed by the English proprietors. And like the Rudyard assembly, it refused to adopt a revenue measure for the support of the government, thus throwing the cost of maintaining the government back on the proprietors. The proprietors decided to get rid of Lawrie. He had already been charged with undervaluing lands he had purchased on his own account, but the main reason for his dismissal was his failure to keep the proprietors informed of what was transpiring in the province. They chose a Scotsman, Andrew Hamilton, later three times governor, as agent to undertake a survey, hoping to find a way to obtain revenue to recompense them for their outlay.

Meanwhile Lawrie was removed and replaced by Lord Neil Campbell, a fractional owner, then in the province. Campbell was, of course, acceptable to the Scottish proprietors and the settlers. The new governor called only one assembly, in October, 1686, the month he was chosen. Again, under the leadership of Richard Harts-horne, a revenue measure was defeated, and the assembly adjourned without further action. After a few months, for personal reasons, Campbell was forced to return to Scotland. He named Andrew Hamilton as deputy governor. In March, 1687, the proprietors formally commissioned Hamilton governor.

Hamilton was governor of East Jersey, with two brief interludes, from 1687 until the surrender of the province to the Crown in 1702. From August, 1688, until April, 1689, East and West Jersey became part of the dominion of New England under the governorship of Sir Edmund Andros. And in 1698 Hamilton was technically disqualified from holding office as a Scot, and Jeremiah Basse became governor. When this error was rectified, Hamilton was

restored to his post. On the whole Hamilton was a level-headed and judicious man, but he was plagued by many problems. The right of government was under challenge by the Crown, while the inhabitants fulminated against the quitrent system at every opportunity.

During the whole period William Dockwra of London acted as secretary and register of the proprietors. The proprietors, after a dividend of 10,000 acres per proprietor in 1682, declared a second dividend, of 5000 acres, in 1698, supplemented by rights to 2500 acres additional in 1702. Few of the original 24 proprietries remained in 1690, and none of the original proprietors made any substantial sums of money on their East Jersey purchases. In truth there was little interest on the part of colonists in coming to New Jersey. For this there were obvious reasons: the right of government was in doubt, the quitrent system was cordially disliked, and the colony was torn with factionalism.

By 1688 there were at least seventy-five proprietors of whole shares and fractions. Indeed only five shares were intact. Most of the proprietries and fractions thereof were now held, thanks to Robert Barclay's activities, by Scots. The only new proprietary interest was that of Daniel Coxe, a court physician and promoter, who in his endeavor to purchase shares in West Jersey was able to pick up two East Jersey shares. By so doing he accomplished several purposes. He could influence the East Jersey proprietors in the settlement of boundary disputes with West Jersey, and he could advocate a common policy for both Jerseys in dealing with the Crown over the right of government, free ports, and customs dues. It was Coxe also who persuaded the West Jersey proprietors to choose Andrew Hamilton as their governor, thus giving both provinces one executive head. Coxe's influence lasted only a few years, for in 1692 he sold his holdings to the West Jersey Society, whose sole interest was land speculation. Indeed, no one was to make a fortune from the sale of East Jersey lands, and there was little income from quitrents.

The course of land distribution under the Board of Proprietors progressed slowly during the remainder of the proprietary period. The proprietors were each allotted, in addition to lots in Perth Amboy, the choice of 1000 acres at Chingororas, along the South River, the upper Raritan, or at Cedar Brook; 500 acres in Wickatunk in Monmouth County; and 1200 acres in the Barneгат area. New lands were surveyed and located along the banks of the Raritan and the Millstone; on the Passaic and its branches; on Doctor's Creek, Stony Brook, upper Crosswicks Creek, and the upper Assinpink; along the Province Line; and on the Toponemus branch of the South River. The individual proprietor through his agent applied to the Board for warrants of land on his proprietary rights in the area of his choice. A survey was first made, and if there was no other claim, the survey was accepted, and a patent was issued. This system of land distribution was awkward in that the holder of proprietary rights was entitled to an indeterminate number of dividends for an indeterminate number of acres. Most of the settlers purchased medium-sized farms of 50 to 200 acres from a proprietor's agent.

In 1684, in the colony of New York especially, New Jersey's right to free ports was again questioned. The governor of New York and the mayor of New York City were concerned lest Perth Amboy might become a competing port. Their objections reached London, and in August 1685 *quo warranto* proceedings* were announced against the Jerseys, thus forcing the proprietors to defend their claims. In April, 1686, the king in council directed that this action be pressed. Governor Dongan of New York took steps to seize vessels unloading at Perth Amboy before paying customs at New York. Because of the intervention of the Earl of Perth, the Scottish proprietor, this practice was stopped but only after the

* A writ issued in behalf of the Crown by which one was required to show by what right he (or they) exercised any office, franchise, or liberty.

proprietors agreed that customs duties might be collected at Perth Amboy.

Nevertheless the proprietors realized that New Jersey's days were numbered, for if the right of free ports were challenged, the right of government would be also. In June, 1687, they assured the royal council that they were not only willing that customs dues be collected in New Jersey but that they were also willing to surrender the right of government to the king provided that the "right of soil" was reserved to them. In their petition they asked that East Jersey be united not with New York but with the sister province of West Jersey, that they retain sole power to purchase land from the Indians, and that they alone be empowered to issue surveys and patents for land. They asked also that a number of proprietors be appointed to the royal provincial council and that the right of free ports,** as guaranteed in the Concessions, be allowed. With the accession of the Duke of York to the throne in 1685, New York automatically became a royal colony. In April, 1688, the proprietors of East Jersey and those of West Jersey signed a document of surrender which, although it contained no specific reservations, assumed that those in their petition would be granted. With the intervention of the Glorious Revolution of 1688, the proprietors gained an unexpected moratorium of fourteen years.

Governor Hamilton's first term, extending from 1687 to 1692, was interrupted by external events and internal crises. In April, 1688, Governor Andros was instructed to annex New York and the Jerseys to the Dominion of New England. Since war with France was expected momentarily, the Crown was determined to work out a

** New York during the whole period insisted that all foreign bottoms first enter New York harbor and pay the Crown's customs duties there. This would destroy New Jersey's right of free ports. To meet this threat the proprietors willingly agreed to customs providing they were collected at Perth Amboy and other designated New Jersey ports.

unified system of defense in the northern colonial area. Andros actually appeared only once in East New Jersey, on August 11, 1689, when he formally took over the government. Meanwhile Hamilton in May, 1688, acting under instructions, called an assembly for the purpose of raising revenue to assist New York on its frontier. After a long struggle during which the East Jersey legislature, led by Speaker Richard Hartshorne, attempted to extend taxation to the proprietors' unimproved lands, the assembly reluctantly voted £500 to support New Jersey troops in New York. With the arrival of Andros, Hamilton left for England. He did not return to New Jersey until 1692, long after the dissolution of the Dominion of New England.

From 1692 to 1702 only seven assemblies were held—six during Hamilton's second term and one in 1699 under Jeremiah Basse. The 1692, 1693, and 1694 assemblies were held in October, the 1695 assembly in July, the 1696 assembly in February, and the abortive 1698 assembly in March. Since 1688 the electoral districts had been increased from eleven to twelve. As usual, the seven towns sent two members each, and the New Barbados district after 1692 was entitled to send two members instead of one. The outplantations of Hackensack (formerly Bergen) sent one member, and Somerset County (formerly the Raritan outplantations) also sent one. The new district of Wickatunk-Taponemus, called Freehold in 1694, elected two members.

Richard Hartshorne of Middletown was chosen speaker of the 1692 assembly and was re-elected in 1695 and 1696. In 1693 the speaker was William Lawrence of Hackensack; in 1694, John Harriman, Sr., of Elizabethtown; and in 1698, Samuel Dennis of Shrewsbury. The assemblies of the 1690's were veteran assemblies, since half the members had served in previous assemblies. Nor had the social composition of the East Jersey assembly changed. The towns of New England origin returned members of the Puritan churches; Bergen and New Barbados sent several of Dutch extraction; Shrewsbury and Middletown

sent a number of Quakers; and Perth Amboy and Freehold sent Scotsmen. The membership of the assembly reflected the heterogeneous character of the population. The legislation of these Hamiltonian assemblies revealed little that was new; consequently it is not in the assembly but in the courts and in the towns that we find the full recital of the troubles that beset East Jersey during its last decade.

It was Daniel Coxe, oddly, who in 1692 saved the day for the proprietors. The accession of William and Mary had postponed *quo warranto* proceedings, but in April, 1692, the proprietors were served with a writ of *scire facias*.* Governor Fletcher of New York was pressing hard for the absorption of New Jersey into New York, principally for reasons of defense, for the war with France had begun in 1689. Coxe took it upon himself to assure the Crown that the Jerseys would come to the assistance of New York, and for the moment the crisis passed. Hamilton was recalled as governor, Thomas Gordon was appointed deputy secretary and registrar, and John Barclay, brother of the former governor, became receiver general and surveyor general. The East Jersey assemblies stubbornly resisted voting supply bills to aid New York, but from 1692 to 1695 they did make grants of from £400 to £150 in diminishing amounts. The assemblymen pleaded poverty.

During Hamilton's second term the old question of quitrents was argued again. The governor insisted upon the payment of current rents and arrears and the registration of all land titles. In truth, the proprietors hardly succeeded in getting enough income from quitrents to pay the expenses of government, let alone getting any financial return on their investment. No more than 40 or 50 per cent of those required to pay the rents actually did so. The number of those on the quitrent rolls in-

* This writ required that the parties proceeded against show cause why the matter in question should not be enforced, annulled, or vacated. It was generally used, as in this case, in the continuation of prior proceedings (*quo warranto*).

creased very slowly: from 336 in 1685 to 491 in 1695, and to 1155 in 1701. In 1696 the total income from quitrents was approximately £200; in 1707, £290.

The revival of the Lawrie policy led to several interesting lawsuits over land ownership and quitrents in the Court of Common Right between 1692 and 1695: *Fullerton vs. Jones*, *Noews vs. Ball*, and *Hallewood vs. Smith*. In *Fullerton vs. Jones*, William Nicolls, the great New York lawyer, defended Jeffry Jones, who was in arrears in his quitrents. Nicolls argued that the Duke's grant of 1674 was illegal and, furthermore, that since Jones had enjoyed twenty years' quiet possession his case came under the Statute of Limitations of 1623. The Court gave judgment against Jones, but on appeal to the king's council, the decision was reversed! Though the proprietors claimed that the reversal was on a technicality, the Elizabethtown associates felt that never again could their claims be brushed aside.

In *Noews vs. Ball*, it was determined that the proprietors did not have the power to distrain *—a victory for the protesting quitrenters. Nicolls argued that East Jersey lands were held of the king by fealty and that it was unlawful for the proprietors to distrain under the Carteret patents. Though Ball, the bailiff of the proprietors, did not have to pay damages, the proprietors themselves had no recourse against Carteret patentees refusing to pay their quitrents. In *Hallewood vs. Smith*, the proprietors won a victory, since it was decided that because of the faulty wording of the *habendum* the Carteret patentees held only a life right to their estates, not a title in fee simple.** This last decision gave the Board of Proprietors a powerful weapon. Those who wanted sound titles would have to take out proprietary titles. Only if the arrears were paid and the right of

* To seize a person's goods and sell them in order to obtain payment of a debt.

** *Habendum* is that portion of the deed that limits and defines the estate the grantee has in the property, while fee simple (absolute) is an estate free of any limitation on its ownership.

distrain for nonpayment were acknowledged would the Board then grant titles in fee simple to land claimants.

Thomas Gordon was sent to England by the East Jersey Board of Proprietors to appeal the anti-proprietary decisions. He was instructed to obtain recognition that the Duke's regrant to the proprietors following the Dutch war in 1674 was legal and could not be challenged. He must also obtain a legal opinion that the action of distress for nonpayment was implied in common law. These matters were held in abeyance, since Gordon did not return to the colony until 1698.

Meanwhile the proprietors were unyielding. They made it clear to the assembly that they would not change their stand on the collection of quitrents unless the assembly annually made provision for the expenses of government. The assembly must also forgo the notion of taxing the proprietors' unimproved lands. If their requests were refused, the proprietors stated, they would surrender their right of government. They were spending considerable sums, they claimed, to obtain the freedom of the colony's ports. If they failed in this crucial effort, land values would fall and the province would decline. The discontented quitrenters were not impressed, for in 1697 sixty-five inhabitants of Elizabethtown petitioned the Crown to abolish the proprietary government and unite East Jersey to New York. They stoutly defended their Nicolls patents, and—on the basis of the Jones decision—they were unalterably opposed to the collection of quitrents and the proprietors' edict that every landowner must take out a proprietary title.

Jeremiah Basse, erstwhile Baptist minister and agent under Daniel Coxe, the principal proprietor of West Jersey, was chosen governor to succeed Hamilton. Hamilton was technically disqualified under the Trade and Navigation Act of 1696 because he was a Scotsman. Basse, who was thoroughly hated in West Jersey because he refused to cooperate with the resident proprietors in the distribution of lands there, had returned to Eng-

land in 1695 after the West New Jersey Society had purchased Coxe's holdings. Once in England he posed as an expert on colonial affairs, hinting that local officials in the colonies were evading the trade and navigation acts. He told tall tales of smuggling and piracy. He became a despised "prerogative man," urging that the Crown enjoy the confirmation of the appointment of all proprietary governors, establish vice admiralty courts in all colonies, and convert proprietary colonies to royal colonies. These views were held by a strong group in the government, and the adoption of the comprehensive Navigation Act of 1696 took the Crown a step in that direction.

Basse first persuaded the East Jersey proprietors that he was the logical man to succeed the disqualified Hamilton; then he asked for the necessary approbation from the Crown authorities. The Board of Trade, brought into being by the Act of 1696, refused the proprietors' petition that Basse be exempt from posting the required bond of £1000. Taking matters into his own hands—a mistake—Basse left for America to govern with only the tacit consent of the proprietors. He believed that an approbation from the Crown would soon follow. Once in the colony he began a fight with New York, insisting that East Jersey enjoyed the right of free ports. When the *Hester*, belonging to Basse and his brother-in-law, was seized at Perth Amboy, Basse, who had arrived in April, 1698, returned to England in May, 1699, to defend this right in the courts by suing for damages for the seizure of the *Hester*. Though the courts decided ultimately that New York never had been vested with maritime jurisdiction over the Jerseys, the outcome, except for the small damages Basse won, was purely academic, for New Jersey was then on the point of becoming a royal colony.

The Board of Trade had given little attention to the proprietors' offer to surrender the right of government to the Crown, although it had been repeated several times since 1688. It was certainly opposed to tendering

the proprietors the right of free ports, no matter what it thought of the other reservations in the petition of 1687. Its policy, once the offer had been made, was to let the proprietors sweat and worry; then it could impose its own terms of surrender. Neither Basse nor his successor, Hamilton, was given an approbation from the Crown to govern.

Basse, following the proprietors' instructions, made some effort to effect peace with the inhabitants and their assembly. He had no marked success, and after he returned to England, there was only deterioration of the peace. Above all, the proprietors wanted from the assembly a revenue bill that would relieve them of the expenses of government. In return they proposed to sell the annual quitrents to those paying them, at a modest price. For a revenue bill, providing, of course, that the proprietors' unimproved lands were not taxed, Basse would also permit the assembly to nominate justices of the peace and other local officers.

The Basse assembly met in February, 1699. For the first time representation was by counties, as follows: six members from Monmouth, seven from Middlesex, six from Essex, and three from Bergen, a total of twenty-two. Before the second session, in May, representation was by district. Districting is important in giving us a clue to the geographical range of population at the close of the seventeenth century. From Bergen County, one member represented Hackensack and two, the village of Bergen. For Middlesex, there were two members each from Woodbridge, Piscataway, and Perth Amboy. Somerset County sent one representative. Monmouth sent two from Middletown, two from Shrewsbury, and two from Freehold, while Essex County sent two each from Newark, Elizabethtown, and Aquackanonk-Barbados.

George Willocks, who had been appointed receiver general and agent by the proprietors in London, was elected a member of the Basse assembly from Perth Amboy. At a meeting of the Board of Proprietors in December, 1698, he announced to the Board that he

had been empowered to collect all arrears and to sell off quitrents, and that he intended to proceed. Although the Board counseled delay, Willocks, when he appeared in the assembly, laid down the law. He stated that the proprietors would accept the *habendum* measure (restoring land titles to fee simple), thus altering the Court of Common Right decision in favor of the landowners, but in return the assembly must guarantee that the inhabitants would take out proprietary titles and pay their quitrents. The assembly deemed Willocks a disloyal member, disqualified him, and passed a law forbidding members of the Board or proxies of the proprietors from sitting in the assembly. Basse accepted both the disqualification and the law, thus giving rise in London to the view that Basse was catering to the populace.

Lewis Morris II, in 1698 twenty-seven years of age, rose to fame by attacking Basse and the proprietary government. Basse had summarily dropped Morris from his council. Morris then launched an unending attack upon Basse and the proprietors. He challenged the jurisdiction of the Court of Common Right, he wrote "Red-Hott Letters" to the various quitrent towns, he asserted that if the proprietors could realize £6000 per year from the province they did not care "whether the King or the Devill has the Governm't," and he advised the towns to retain William Nicolls as their attorney on a standing basis. For these indiscretions he was imprisoned, but with the help of friends, he escaped. After Basse left for England early in May, 1699, leaving Andrew Bowne as his deputy, Morris attacked the assembly itself for supinely supporting Basse although its members knew that Basse did not have a royal approbation. The second session of the assembly rejected a revenue bill that Basse had proposed during the first session, and then simply disintegrated: John Harriman, the speaker, and many other members just left without awaiting adjournment. Bowne maintained a standby government until Basse returned in July, while Basse himself, aware of Hamilton's impending reappointment, did nothing.



Lewis Morris II

In the fall of 1699 the Elizabethtown quitrenters, taking advantage of the downfall of their opponents, voted in town meeting to apportion all the townlands that had not yet been divided. John Harriman, Jr., son of the former speaker of the assembly, was chosen as surveyor to proceed with the task. He and his assistants beginning in December, 1699, divided 17,000 acres into lots in utter disregard of the proprietary surveys for the same land. As many as 171 lots were distributed among the associates allegedly entitled to them. The Clinker Lot Division

and the Clinker Right Lot men, so called, were supported by all segments of the town.

In the midst of all this confusion, Andrew Hamilton returned as governor of both East and West Jersey—the last proprietary governor. The courts at Elizabethtown, Newark, Piscataway, and Middletown had been broken up amid scenes of violence; persons were being rescued from the prisons; and when Hamilton called on the militia to assert the governor's authority, as he did at Middletown, it was repelled by the populace. Proprietary authority was at an end. This was the "revolution of 1699" in New Jersey. Hamilton and the members of his council blamed Lewis Morris, who, in turn, was determined that the proprietorship must end if ever there was to be peace in the province. Only the Crown, Morris believed, could set things right—and to the Crown he turned.

VI

CHIEF PROPRIETORS BYLLYNGE AND COXE OF WEST NEW JERSEY

WHEN IN 1680 the Duke of York acknowledged that the right of government went with the ownership of the soil, he vested the government not in the One Hundred Proprietors who had purchased from the trustees but in Edward Byllynge alone. Because of this circumstance the political structure of West Jersey became something other than that set forth in the Concessions of 1677. When Byllynge, to the surprise of all, proclaimed himself governor, he superseded the general commissioners as the executive branch. On the advice of William Penn, Byllynge appointed Samuel Jennings, a man whom he had never met, as deputy governor. Jennings was known to his enemies as a resolute and immovable man. With the exception of three years, from 1690 to 1693, that he spent in Philadelphia, where he quickly rose to prominence, he resided in Burlington County, where he was first a yeoman, then a merchant. He dealt also in real estate and acted as an agent for many West Jersey proprietors.

Aware of the hostility of the inhabitants, who felt that they were being deprived of self-government, Jennings did not announce his commission for nearly a year. However, because of their great faith in William Penn the people decided to accept Jennings. At their first assembly, in November, 1681, they laid down certain conditions and proposals: that their Concessions be held inviolable, that the assembly meet once a year, that the governor confirm

all laws and not enact new laws without the assembly's consent, that all public officers be elected by the assembly, that no tax be voted for more than one year, and that religious freedom be guaranteed. Jennings, sympathetic to the inhabitants, accepted these proposals without the knowledge of Byllynge. He then proceeded to confirm the 36 laws adopted by the first assembly.

The first assembly also elected officers known as Commissioners for the Settling and Regulation of Lands. These men were empowered to set up methods of distributing lands and were granted broad powers. They drew up a land code whose principal purpose was the orderly laying out of lands. The first land commissioners were the most important men of the colony: Thomas Olive, speaker of the house, Thomas Budd, Robert and Mahlon Stacy, Benjamin Scott, Thomas Gardiner, Daniel Wills, and Thomas Lambert. Some of these men were original general commissioners of the province. The land commissioners undertook to mark the bounds of the tenths into which the province was to be divided, extending from the Falls of the Delaware to Cape May. As many as sixty-four thousand acres would be surveyed in each tenth, beginning on the Delaware and extending as far inland as needful. Additional lands would be made available to the proprietors later. Although an initial dividend of 5200 acres per propriety had been declared, only 3200 acres per propriety would be distributed until all the lands then surveyed were used up. In 1683 there was a second "taking" of 2000 acres, the last during the proprietary period. During the early years all lands distributed were located along the creeks emptying into the Delaware; during the later period, land in the Cape May area and above the Falls was divided. The great pine barren and the sandy seashore greatly restricted settlement in the interior and along the Atlantic.

The land commissioners also adopted regulations guarding against the creation of large compact estates and against the allotment of the choicest sites to manipulators. Moreover, no one was entitled to more than 400

acres of townland, and if a dwelling was not erected on such a holding, it was forfeited. No proprietor might claim more than 500 acres in one tract if he owned more than one-eighth share. No one was permitted to take up lands on both sides of a creek, nor was anyone allowed more than 40 perches (660 feet) frontage per 100 acres along any stream. No person could obtain lands without an order signed by at least two commissioners, while those who had already secured titles must submit them for inspection and certification. All lands must be settled within six months after the deeds were registered.

The process by which lands were acquired was a simple one. Persons applying were required to submit evidence of their right to the amount requested. If the commissioners were satisfied, they were empowered to grant a warrant to the surveyor to lay out the tract. The surveyor, whose fee was paid by the applicant, would then make a return to the land commissioners, and if all was in order, the return would be registered and the owner would receive his deed. This instrument on the reverse side would contain the signatures of the commissioners who had authorized the deed. As required by the Concessions, it would also contain the volume and page of the register's book of entry.

Land transfer in West Jersey was rapidly divested of the feudal usage of English property-holding. There were no mense lords, although John Fenwick at Salem and Dr. Daniel Coxé at Cape May at a later date endeavored to establish manors. The limitations of large single holdings discouraged the creation of huge compact estates, and the competition for purchasers quickly discouraged the hope of a lucrative quitrent system. Although the Concessions provided for the importation of indentured servants, few were transported from England or Ireland. With the exception of Coxé's experiment at Cape May, West Jersey affords no parallel to the efforts of the Scottish proprietors of East Jersey to comb the countryside of Scotland for servants. For the most part the West Jersey settler was a landowner or a potential landowner. Land

was relatively inexpensive, from £5 to £10 per 100 acres, and since a large proportion of the settlers came with some funds or as fractional owners, even the number of leaseholders and renters was small.

The second assembly, meeting in 1682, inaugurated a system of representation by tenths, with ten members from each of the four organized tenths—the Yorkshire, the London, the Third or Irish Tenth, and the Salem Tenth. When the Fourth Tenth was created, the assembly in 1685, which now included representatives from Salem, had a full membership of 50. In 1682 taxes were laid on four tenths, the other six tenths being as yet uninhabited. Again the land commissioners were instructed to inspect all land titles and, where clear, to confirm them at the next court. Many other necessary laws, including the erection of a court system, were adopted. Burlington Court was recognized as having a superior jurisdiction throughout the whole territory. Thus during two constructive sessions the West Jersey assembly patterned a machinery of government in accordance with the Concessions of 1677.

The Quaker colony floundered not because of any inadequacy of its constitutions or laws but because of the meddling, first of Edward Byllynge and then of Dr. Daniel Cope. Both men refused to accept the Concessions of 1677 as binding, especially the provision that vested governance in the people. By the beginning of 1682 Byllynge was solvent, his debts were cleared off, he was the owner of several unencumbered shares, and he had been recognized as chief proprietor by the Duke of York. The remaining trustees, Lawrie and Lucas, their work done, had resigned. Byllynge, stating that he would reside in West Jersey, assumed the governorship, alleging that the government could not be divided into one hundred parts. Byllynge was a strange mixture of altruism and selfishness, but despite the fact that he was abhorred by many, George Fox and other leading Friends supported his cause until the end.

Meanwhile Samuel Jennings, the deputy governor, had

won the esteem of the people. He had subscribed to the fundamental propositions and had put into effect the laws adopted by the first two assemblies. When it was learned that Byllynge would take over the reins of government, the assembly of 1683 enacted measures to protect itself. Legislative bills, which were drawn up by the governor and the council, must be posted publicly 20 days before the convening of the assembly. The governor had to explain the proposed laws to the assembly, and after discussion the assembly would vote upon them. The assembly, as formerly, would choose all provincial officers. The third assembly then took a revolutionary step: it elected Samuel Jennings governor, presumably upon the advice of William Penn. By this act the assembly had in effect usurped the right of government. It also unanimously resolved that the One Hundred Proprietors had purchased the land and the government together and that the Concessions of 1677, subscribed to by the proprietors and inhabitants in England and New Jersey, constituted the fundamentals of government. A committee of fourteen, including Thomas Olive, Daniel Wills, Thomas Budd, and Mahlon Stacy, drew up a petition to eight prominent Friends in England including George Fox, asking them to confirm their thesis that they had purchased the right of government with the land. Only if Byllynge would accede to this proposal would they receive him as governor.

This struggle, which was transferred to England, lasted until October of 1684, when the Quaker leaders, including George Fox, Alexander Parker, and George Whitehead, handed down an award which for the most part favored Byllynge. Because of the Duke's grant of government in 1680, they asserted that the government was vested in Byllynge. It was impossible to divide the government, like the land, into one hundred parts; the whole must reside in one person or corporation. The West Jersey assembly had accepted Jennings as Byllynge's deputy, but his subsequent election as governor was illegal. The rejection of William Welch as deputy by the

assembly in 1684 was also unwarrantable, "worthy of blame in Jennings" and all those concerned in it. The arbitrators, however, reminded Byllynge that he and the trustees had given the settlers some expectation that they would have the power of government. They cautioned Byllynge that he must secure the settlers from all abuses and all encroachments upon their liberties. As Byllynge decided not to come to America, he appointed John Skene as his deputy governor. Since Skene was living in West Jersey, the settlers accepted him, and Thomas Olive, who was acting as deputy governor, immediately gave up his post.

The assembly of November, 1685, convened with a full membership of 50. Their first action was to accept Byllynge's commission to Skene, "reserving their just rights and privileges." Before they adjourned, they appointed a committee that included Jennings and Olive to examine a new charter that was being prepared by Byllynge. They also provided for the admissibility of proxies who would vote in behalf of their principals "in the concerns of the General Assembly." The Byllynge interests mustered more than thirty shares of the total of one hundred, and all of the proxies but one were members of the general assembly. The revenue bill of November, 1685, imposed a tax of 5 shillings per 100 acres on all surveyed lands and 3 shillings per 100 acres on all undivided lands in the first four tenths. The income was needed to pay the quitrent of 40 nobles to the king, to build a prison, and to pay debts contracted by the province.

In May, 1686, the report of the committee was made to the assembly. The new Byllynge charter and other proposals were read and rejected on the ground that it was not proper for an absentee governor to make amendments "to the constitutions of the province." Such matters were best understood by the resident proprietors. Furthermore, the committee asserted boldly, if the governor could void the Concessions first made by himself and the body of the proprietors, he might with ease void those he now sent. The recommendations of the commit-

tee were unanimously adopted. The assembly also voted the use of proxies, providing that each proxy could cast only one vote in the assembly no matter how many shares or proprieties he represented. This was the last attempt of the inhabitants to get the government into their own hands, for Byllynge died suddenly on January 16, 1687.

Byllynge's heirs decided to sell the family interests in New Jersey as soon as possible. The power of government was vested in his daughters, Gracia and Loveday, and Gracia's husband, Benjamin Bartlet. In February, 1687, the right of government and the five Bartlet proprieties were acquired by Dr. Daniel Coxe of London. Coxe had already purchased several proprieties and thus became the largest single proprietor. He continued to accumulate shares until 1692, at which time he owned 20 shares. Coxe was a man of parts, and the opening up of the North American continent had completely captured his imagination. Even after he lost interest in New Jersey he became absorbed in schemes of promotion extending as far south as the Gulf of Mexico. At this time he was a court physician and an honorary member of the College of Physicians.

In September, 1687, Coxe informed the resident proprietors that he would assume the governorship. He stated that he was the largest proprietor, had ready money at his disposal, was zealous in promoting the growth of the colony, and had been assured by William Penn, whom he had consulted, that he was the most suitable person to govern the colony. However, he added, if the resident proprietors wished to purchase the right of government, he would relinquish it for 1000 guineas. The fact that Coxe was not a Quaker did not deter him. He further stated that he could not be bound by the Concessions of 1677 since they were promulgated before the Duke's grant of the sole right of government to Byllynge. But he did promise to confirm certain fundamentals like liberty of conscience and trial by jury, to confer upon the assembly powers consistent with the ends of good government, and to refrain from using despotic

powers. He continued John Skene as deputy governor. He wrote David Lloyd of Pennsylvania that he would reside in West Jersey, but the Andros interlude rendered that impossible.

Dr. Coxe was concerned, also, about the dividing line between West and East Jersey since claims were beginning to overlap as rights were being taken up in the disputed areas. However, though much annoyance was caused during the course of this long, protracted wrangle that lasted until 1782, no lives were lost over it. A first step came in 1688 when Coxe agreed to the Keith line which ran for 62 miles from the north side of Little Egg Harbor Bay, across the winding Crosswicks Creek and the Shrewsbury-Burlington trail, to John Dobie's plantation on the South Branch of the Raritan River. Nothing was done to extend the boundary until 1719.

In May, 1687, the assembly of West Jersey reached the same decision as had the East Jersey assembly four years before—that the administration of the distribution of land was too burdensome because of the time and expense involved. They resolved that the resident proprietors ease them of the load and take over the management. Fifty-nine proprietors, each owning one thirty-second or more of a share, organized on September 6, 1688, as the Council of Proprietors of West New Jersey. Their principal duties were to record all proprietary rights, supervise the distribution of dividends, issue warrants of survey, and have charge of unappropriated lands. The Council has had a continuous existence from that day till this. The Council proposed to send James Budd to England to seek an understanding with Dr. Coxe and other English proprietors. Should Coxe send out agents of his own, there would be great danger of friction. They had not long to wait.

The West Jersey Council, after the first year, consisted of five commissioners from Burlington and four from Gloucester. Thomas Olive was elected the first president, while the other members were Samuel Jennings, John Reading, William Biddle, John Wills, Elias Farr, Wil-

liam Royden, Mahlon Stacy, Francis Davenport, Andrew Robinson, and William Cooper. Coxe did send an agent, Adlord Bowd, from England to look after his lands. Governor Skene and the Council of Proprietors, alarmed at Bowd's surveying activities, summoned him and after discussion agreed that he might take up dividends of 62,400 acres on Coxe's proprieties. The surveyor general was ordered to approve warrants permitting Bowd to make surveys in two districts—between Crosswicks and Assunpink creeks and in the Delaware Bay area. The northern purchase, totaling about thirty-six thousand acres, lay along the "Scotch" (Keith) line, while the southern purchase extended from Stephen's Creek (east of the Maurice River) to Petequeick (Next) Creek which flowed into Little Egg Harbor Bay. A later purchase enlarged these limits, encompassing all the lands between Delaware Bay and the ocean, along bounds connecting the headwaters of Cohansey River, Oldman's Creek, and Timber Creek.

The resident proprietors did not know that in June, 1687, the English proprietors of both East and West Jersey had petitioned King James for a union of the two provinces under a governor selected by the Crown from among the proprietors. This proposal was referred to the Lords of Trade, and in April, 1688, the English proprietors of both provinces surrendered "their pretended right of government" to King James. The Crown had its own plans, for during the same month Sir Edmund Andros received a new commission adding New York, East Jersey, and West Jersey to the Dominion of New England. He formally took over the government of West Jersey at Burlington on August 18—his one and only visit. In April, 1689, when news of the overthrow of James II reached Boston, Andros and his aides were seized and their rule came to a close. The West Jersey Council of Proprietors immediately tried to make contact with Dr. Coxe. They offered to proclaim him governor if he could furnish evidence of his right to govern. They stated that they had not taken up any lands during the Andros in-

terim and that if he would furnish a list of his shares and those of the other English proprietors, they could avoid much confusion in the assignment of lands. Actually Coxe was biding his time to ascertain what would happen to the government of the colony under William and Mary, the new rulers.

Coxe, who possessed twelve proprietries in 1688, continued to add to his holdings, so that when he sold his shares to the West Jersey Society in 1692, he owned 20 shares and held liens on several others. He believed that each propriety would entitle him eventually to thirty thousand acres. He already reckoned that he owned two hundred thousand acres in the Little Egg Harbor-Cape May-Cohansey area and one hundred thousand acres along streams drained by the Delaware in the northern part of the province. He was completing the acquisition of three hundred thousand acres additional in the "Minsink province" which lay partly in East Jersey, where Coxe owned two of the 24 proprietries. Coxe's immense holdings above the Falls of the Delaware are shown on John Worlidge's map of New Jersey dated 1700. Coxe tended to exaggerate the value of his New Jersey holdings, believing that land would bring £10 per 100 acres, roughly double the prevailing price.

Coxe had ambitious plans for exploiting his lands. He claimed that he had invested £2000 in whaling and sturgeon fisheries in Delaware Bay. He brought in French artisans skilled in panning salt, for he hoped to ship salted fish to the West Indies, Spain, and Portugal. He built Coxe's Hall in the fall of 1689 at remote Town Bank, just above the mouth of Delaware Bay, intended to be a feudal manor complete with quitrents and feudal services. Here French vintners would cultivate grapes and inaugurate a wine industry. Here also virgin forests would supply oak and pine to produce masts, spars, and yardarms for the British navy, as well as boards, posts, and clapboards. Coxe even thought of constructing ships. Above the Falls the prospect seemed equally rosy, for the

land was rich and well drained and would soon be in great demand.

Whether because of the uncertainty of the right of government or the outbreak of the war with France or the adoption by the Lords of Trade of a resolution requiring that a *scire facias* be issued against the proprietors of East and West Jersey impeaching their charter, Coxé in March, 1692, sold the bulk of his holdings and the right of government to the West New Jersey Society for £9800. He made no more than a modest profit on this transaction. The Society, a large trading and land company, was composed of a group of London businessmen whose sole interest was a ready return upon an investment. It issued 1600 shares of stock at £10 each. Shares rose rapidly to £50 and even as late as 1695 sold for as much as £20. Initially there were 48 members of the Society, each owning from ten to seventy shares. Sir Thomas Lane, an alderman of London who became lord mayor in 1693, was elected president, and Robert Hackshaw was chosen treasurer. The general court (stockholders meeting) met once a year, but most of the business was transacted by an executive committee meeting once a month with the treasurer in the chair.

The Society was occupied with a number of problems during the first years of its existence. Among them was the need to ascertain accurately the extent of its holdings, to direct the location of its lands under its rights, to decide whether to purchase Dr. Coxé's remaining lands, and to decide to what degree it would engage in trading activities.

The Society was never too happy with its choice of its agents in New Jersey. Thomas Revell was appointed register and Jeremiah Basse, agent and general factor. Basse was also Dr. Coxé's agent and attorney. In December, 1692, Basse was ordered to take up the Society's rights on the lands purchased from Coxé and to promote sale and settlement in the Cape May area. He proceeded to purchase lands from the Indians and to locate them

without reference to the Council of Proprietors in Burlington. The Society's third appointment was that of Nathaniel Westland as an agent in charge of trading operations. The Society had reason to reprimand all three agents for neglecting to write their reports. As late as 1703 Lewis Morris, the Society's new factor, charged that none of them had kept accurate records of their land sales or even of the lands located by them. By 1694 the Society did purchase Dr. Coxe's remaining lands save for one tract, which was purported to contain 15,000 acres but on examination was found to contain only 8400 acres. By 1699, 230,000 acres of an estimated five hundred seventy-seven thousand acres had been surveyed, and warrants had been taken up on the remainder. By the end of the proprietary period in 1702 the Society's surveyed lands were as follows: 91,875 acres above the Falls, 95,000 acres in Cape May County, 13,165 acres on Alloway Creek, 10,000 acres on Cohansey River, and 22,000 acres on the headwaters of these streams.

In 1694, after considerable trouble, the Society received a limited charter of incorporation, which specifically prohibited stock jobbing. Although it would not agree to furnish the Crown certain requisite naval stores, the Society did assert its intention to produce masts, knee timber, pitch, and tar, and it volunteered the information that it would raise flax and hemp, supply pork, beef, and flour, and export whale oil and whalebone. Actually several small cargoes of English goods were imported for sale to the Indians, but since there were few furs to be had on the Delaware, these wares were reshipped to other colonies. The Society's manufactory at Cape May never materialized, since the necessary whalers, vintners, and glassmakers could not be found. Actually the chief activity of the Society was the sale of lands, and it was to be in business for a long time.

VII

THE WEST JERSEY PROPRIETORS AND THE WEST JERSEY SOCIETY

BY 1692 THE WEST JERSEY settlements reflected boundary contours that were to last for a hundred years. The system of tenths was abandoned because of the need for erecting county courts as in England. By 1686 there were county courts at Burlington, Salem, and Gloucester. For a time Burlington Court showed a predilection to interfere in the affairs of Gloucester County Court, a tendency that was stoutly resisted. In 1685 the assembly designated a justice at Cape May to conduct a court of petty causes, and in 1692 Cape May was made a county. Its first county court had a limited jurisdiction, with appeal to the Salem Court, but in 1697 it gained full status. Townships existed at Burlington and Salem from the beginning. Others grew up haphazardly: some were the creation of the tenth or county courts; some, of the assembly. At the close of the proprietary period in 1702 there were 24 established townships in West Jersey.

Until 1702 the great majority of West Jersey settlers were Quakers. Through their meetings for worship and their monthly and quarterly meetings, the Quakers were intimately acquainted with their neighbors from village to village. And through their delegates they were kept informed of the deliberations of the Burlington-Philadelphia Yearly Meeting, where all matters of policy were determined. Salem, Burlington, and, soon after them, Gloucester were the original Quaker meetings. As the

settlers moved out to distances far enough removed from these centers, new meetings for worship were sanctioned by the monthly meetings. By 1685 the trend of settlement in West Jersey was apparent. Avoiding the marshlands along the Delaware River shore, the colonists from the Assunpink to Alloway's Creek sought the rich bottom lands as sites of settlement. Besides Burlington, they quickly founded Northampton, Newton, and Gloucester. By 1696 this stream of settlement had reached as far inland as Stony Brook, a fork of the Millstone, not far from Princeton. During the eighteenth century this fanning out from Burlington, Newton, and Salem continued, supplemented by a filling-in process wherever fertile lands were available.

In 1702 the Church of England sent George Keith, the apostate Quaker, to the middle colonies as the first missionary of the Society for the Propagation of the Gospel in Foreign Parts. When he returned to England several years later, he left behind his assistant, the Reverend John Talbot, who labored in West Jersey until 1725. The Anglicans of West Jersey were centered at the capital, Burlington, and though they were a minority, they exercised a political influence out of all proportion to their numbers until the American Revolution.

Andrew Hamilton, appointed governor of East New Jersey in March of 1692, was with the approval of the West Jersey Society and the other English proprietors appointed governor of West Jersey a month later. With the exception of a year's rule by Jeremiah Basse, he was in office until the close of the proprietary period. He was endowed with a fine sense of tact and judgment, but as the representative of a none-too-popular absentee government his position in West Jersey was difficult. Hamilton, who resided in East Jersey and owned lands there, appointed as his deputy in West Jersey Edward Hunloke, a Burlington merchant. Hunloke was not a Quaker—one of the few non-Quakers who became prominent in office. Under Hamilton he also presided over Burlington Court and occasionally over Gloucester Court.

Until 1697 there was a period of much-needed tran-

quillity in West Jersey. Many important and useful laws were passed by the assembly. Representation in the assembly was apportioned as follows: for Burlington County, twenty; for Gloucester County, twenty; for Salem County, ten; and for Cape May County, five. The county bounds were set forth, and several new townships were created. The court system was once more overhauled and modernized. Throughout the whole proprietary period the Quaker ideology prevailed in the courts of West Jersey. The spirit of open, easy, and inexpensive justice was a heritage from the Concessions of 1677. The Quakers, too, strove to discourage the disputants from seeking a remedy in the courts, but for the willful, the machinery of justice was ample. When New Jersey became a royal province in 1702, the penal practices of the Quakers were supplanted as a matter of course by the harsh English criminal law.

The Council of Proprietors of West New Jersey during Hamilton's administrations was in a delicate position in trying to safeguard the interests of those holding proprietary rights to West Jersey lands. Its major concern was to win a measure of cooperation with the West Jersey Society and the other English proprietors. To placate Dr. Coxe it had accepted his agent, Adlord Bowd, and had elected John Tatham a member of the Council. It had approved the adjustment of the boundary line with East Jersey though it believed that Coxe had been trapped by the East Jersey proprietors in London and had yielded much excellent land. To the consternation of the Council, the West Jersey Society chose to ignore them. Since there is no mention of the Council in the Society's minutes, one may conclude that the Society thought cooperation with the Council of small moment and that any altercation could be settled as needed by its governor, Andrew Hamilton. Unfortunately for the Council, the problem of the relationship between the two fell into the hands of one of the Society's agents, Jeremiah Basse, shortly to become the notorious governor, as previously noted.

The Council of Proprietors of West New Jersey, after

not meeting for nearly three years, was reorganized in May, 1693. It elected Thomas Gardiner president and John Reading secretary. The other members were such old settlers as William Biddle, Andrew Robinson, Francis Davenport, George Hutcheson, and Thomas Gardiner, Jr. The Council again embarked upon a policy of conciliating the Society without, however, sacrificing its own primary interests. In 1694, for example, it confirmed Basse's Indian purchases between the Maurice and the Cohansey rivers, with the exception of a single tract. In addition, it appointed Joshua Barkstead, Basse's deputy factor, as its ranger for all parts of the province below Salem. These efforts were to no avail. On May 18, just before the Council adjourned, Basse himself appeared, claiming to represent 70 of the original 100 proprietries! If the Council would accept this figure, he promised to abide by its regulations and its system of elections. In September the Council voted to enter into negotiations with the Society, but there the matter lapsed.

In May, 1695, the proprietors convened again, and the meeting, which lasted over a week, was the longest on record. John Tatham, who was friendly to the Society, was elected president, and Samuel Jennings and Mahlon Stacy were returned to membership. On the final day of the meeting, Basse demanded that, as the Society's principal agent, he be permitted to sit on the Council. This led to a resolution that the English proprietors "shall have liberty to elect as many Representatives resident in the Province to sit in the Council proportionably to thirty proprietries as here already in the Council representing the forty proprietries in the two Counties of Burlington and Gloucester." The adoption of the resolution was made contingent upon Basse's producing evidence that the English proprietors actually held title to as many as thirty proprietries. Thus, though more than three years had elapsed since the Society's purchase from Coxe, the orderly distribution of lands, a matter of paramount importance to the stability of the colony, had not yet been settled.

Late in 1695 Basse left for England, leaving the Society's affairs temporarily in the hands of two other non-Quakers, Nathaniel Westland, his assistant, and Thomas Revell, the Society's register. In May, 1697, when it was learned that the West Jersey Society had appointed Basse as their surveyor general, empowered to lay out lands, the Council protested that this appointment was a violation of the rights and the authority of the resident proprietors. Thomas Gardiner was instructed to bring such action as was deemed wise against the Society. This act of the Society's further confused the Council's plans of achieving an orderly laying out of lands. The Council was considering a "third taking" or dividend of lands located above the Falls, which had to be postponed until after the close of the proprietary period. The final blow, however, came with the choice of Basse by the proprietors as governor in June, 1697, on the initiative of the Society.

The election of Basse, with the technical disqualification of Andrew Hamilton because he was a Scot, merely furnished the pretext for the disorders that took place in West Jersey. For years hostility had been building up, particularly because of the arbitrary acts of the Society. With the election of the fiery Samuel Jennings as speaker of the house in May, 1697, and the resolution of the assembly to hold two sessions annually, it was obvious that trouble lay ahead. The Quakers, who controlled the assembly, the courts, and the Council of Proprietors, would regard with suspicion absentee owners whose sole interest was pecuniary gain and who paid, at most, lip service to the Concessions of 1677. True, Dr. Coxe had indulged in pious cant regarding his concern for them, but the Society indulged in no such platitudes.

The operations of the Society irritated the colonists. By its unwillingness to cooperate in the orderly laying out of lands, it had in effect created two land offices. If the altercations regarding property were continued, in time no man's title would be free from challenge. This prospect was most disturbing. Revell, Tatham, Barkstead,

and Westland, not to speak of Basse, formed a small but powerful anti-Quaker faction in the colony. Unfortunately, too, in 1692 there began a doctrinal split among the Quakers that had serious reverberations for a decade. When the air cleared, a number of prominent Quakers had cast their lot with the heretical or Keithian Quaker faction. Locally this group tended to throw its influence on the side of the Basse, pro-Society, anti-Hamilton faction.

Basse arrived in New Jersey in April, 1698. While in England he had secured from the West Jersey Society appointments for his friends. He and Thomas Revell were designated as the Society's general agents, and without consulting the resident Council of Proprietors, he chose John Jewell and Joshua Barkstead, his stepbrother, to be the surveyor generals of the province. On Basse's own council were Tatham, Revell, Jewell, and Edward Randolph, the Crown's custom collector for the middle colonies—all anti-Quakers. Hamilton and the assembly refused to recognize Basse's commission because he lacked the approbation. But Hamilton soon returned to England. Sir Thomas Lane wrote Basse that the Society had no intention of surrendering the power of government to Samuel Jennings and the assembly. Basse made a few arrests and indictments, and matters quieted down for the time.

Early in 1699 the Board of Trade informed the proprietors of both the Jerseys that Scotsmen could hold office under the Crown. Both proprietaries immediately petitioned for the restoration of Hamilton as governor, and both reappointed him. Since the Board of Trade, however, withheld granting him an approbation because the Crown was considering taking over the governance of the Jerseys, Hamilton was to have a bad time in both East and West Jersey. The Board did not wish to give even the slightest recognition to the claims of the proprietors to the right of government.

Hamilton arrived in West Jersey in December, 1699, to convene a meeting of the assembly. Under his guiding influence the air was cleared. Tatham, Revell, Westland,

Basse, and others of the anti-Quaker faction disappeared from public office. The old defender of the people, Samuel Jennings, was re-elected speaker of the house. Hamilton, appointed to succeed Revell as the Society's agent, immediately made peace with the Council of Proprietors. At a meeting on May 25, 1700, the governor presented the Society's proxy for 20 shares instead of the 30 formerly demanded and produced an instruction from the Society empowering him to confer with the Council regarding the most suitable method of laying out lands. It was absolutely necessary, read the Society's order, "to make titles of land Indisputable for the future." The Council gladly accepted the governor's tender of the olive branch, and in appreciation of his promises they promptly elected him president of the Council.

The Council felt free to take steps to declare a long-delayed dividend of land on the basis of 5000 acres per propriety. Notice would be given the English proprietors that they might, through appointed proxies, make application to the Council for obtaining their just rights to lands. The Council also declared invalid certain surveys made by Joshua Barkstead and John Jewell, former agents of the Society, on the ground that they had been made in violation of the laws of the province and of the rules and methods prescribed for the laying forth of lands. To this action Hamilton added a rider to the effect that such a step should not be construed as prejudicial to surveys formerly laid out by the Society's agents in right of the shares the Society held. In 1702 when Hamilton was in England, Mahlon Stacy was chosen president pro tempore. By this time the surrender to the Crown had been consummated. This event and subsequent events led to the postponement of the "third taking" until 1708.

In all fairness to the proprietors of East and West Jersey, the procrastination of the Board of Trade in dealing with their surrender proposals caused much grief in the colony. They complained of the great divisions and confusions caused by factious and turbulent persons because of the Crown's unwillingness to at least grant an

approbation to Governor Hamilton. Not until July, 1700, did the Board deign to make an answer to the proprietors' surrender proposals. The reply was one that created only consternation in the proprietors: the Board of Trade spoke of uniting the Jerseys to New York and gave no assurances that the plea for free ports would be honored. Meanwhile New York joined the hue and cry, demanding that the Jerseys be joined with New York as quickly as possible on the ground that Hamilton, though a loyal public servant, could not control the licentiousness of the warring colonists. In May, 1701, the proprietors again begged for an approbation to aid in keeping the peace, if for no other reason, until the final surrender terms had been worked out.

The petition of the New Jersey proprietors pointed out that Joshua Barkstead was inciting already disloyal groups by charging that, because Hamilton had no approbation, all acts under him were illegal. Factionous persons were refusing to pay taxes. A Quaker mob had broken into the Burlington jail to release prisoners who were being held for nonpayment of taxes. On the other side, Revell, Westland, and the anti-Quakers attacked the leaders of the Friends. The Philadelphia Yearly Meeting, alarmed, warned Friends not to participate in lawless actions, while the Burlington Quarterly Meeting resolved to draw up a defense of Friends' behavior and to appeal to William Penn in England to come to their defense.

Finally, in August, 1701, the London proprietors of both provinces submitted to the Board of Trade a final draft of their proposals of surrender. Both groups and the general court of the West Jersey Society were agreed that the right of government should be surrendered to the Crown. Although all had been advised by their attorneys that the right of free ports had been upheld by the Court of King's Bench in the *Hester* case, they were nevertheless ready to arrange a surrender if the Crown would grant them privileges necessary for the preservation of their civil rights and their property interests.

VIII

THE SURRENDER TO THE CROWN

LEWIS MORRIS II was the only Jerseyman who had any influence on the terms of the surrender. Basse, by 1701, had been thoroughly discredited, while Governor Hamilton had his hands full in New Jersey. Morris went to England to bolster up the London proprietors and the officials of the West Jersey Society who by this time wanted only to secure their landed interest. Morris was deeply committed to the well-being of the Jerseys. He had inherited from his uncle, Lewis Morris, at least three thousand five hundred acres in Monmouth County and his uncle's ironworks at Tinton, as well as the large Bronck estate in New York. In 1693 at the age of twenty-two he had been appointed by Hamilton to the provincial council, and during this period he had served also on the Court of Common Right. He had fallen out with Governor Basse, whose credentials he challenged from the start. Morris was determined that Jerseymen should have a voice in the settlement with the Crown.

In August, 1701, Morris was in England as the agent of the resident proprietors. He quickly gained the confidence of the London proprietors and became their strongest spokesman in dealing with the Board of Trade. On August 12 the proprietors of both the Jerseys submitted their memorial on the surrender terms. They were willing to relinquish their right of government upon specific terms. These included confirmation of their lands and their quitrents, exclusive right of Indian purchase,

liberty to trade with the Indians, the privilege of appointing the surveyor general and his assistants, and the recognition of Perth Amboy in East Jersey and Burlington and Cohansey in West Jersey as free ports. The royal government for the united provinces of East and West Jersey should consist of the royal governor and an assembly, composed of a lower house with an equal number of representatives from each division and a provincial council appointed by the Crown. The proprietors requested also that there be a qualification of possession of 100 acres of land for voters and 1000 acres for members of the assembly. A month later the proprietors asked the privilege of designating the first royal governor "without which we thinke our properties cannot be well secured." They recommended Andrew Hamilton for the post.

Morris backed up these requests in a personal memorandum to the Board of Trade. If the proprietors' reasonable reservations were not granted, they would attempt to defend their right of government in Westminster Hall or by appeal to the House of Commons. Morris saw little in the proprietors' demands with which the Board could quarrel. If the people learned that the proprietors could appoint the first governor, there would be little trouble about Article 2, which granted the proprietors the sole right to purchase lands from the natives. Free ports should be assented to if New Jersey was to be on a par with neighboring colonies. The Crown might wish to alter the number of assemblymen, but it should not tamper with the qualifications suggested for members of the assembly. Otherwise, wrote Morris, "ye Propr's Interests would be at ye disposall of ye tag, rag, and Rascality."

In October, 1701, the Board of Trade reviewed the whole matter and recommended to the Crown that it constitute a government by royal commission over the Jerseys. It regarded the existing governments as in a state of hopeless confusion, to the detriment of the public peace. The Board further advised that the governor's instructions, not the terms of the surrender, set forth a

frame of government comprising a council, an assembly, a list of the civil and military officers, and the articles needed to secure the proprietors and the inhabitants their property and civil rights. All essential guarantees to the proprietors should also be included in the instructions. The governor's commission and his instructions should be drafted immediately and submitted to the proprietors in order that their surrender might be made effectual in law.

The Board of Trade was directed by the Lords Justices to prepare drafts of the commission and the instructions, and on January 6, 1702, the drafts, approved unanimously by the proprietors, were laid before the King's council, with the recommendation that someone wholly unconcerned with the various factions among the inhabitants be appointed governor. On January 29 a draft of the surrender, drawn up by the attorney general, was sent by him to the Board for the signatures of the proprietors of both Jerseys. The death of King William in March delayed the execution of the surrender until April 15. It was accepted by Queen Anne two days later.

There is ample evidence that the resident proprietors were pleased with the settlement with the Crown. Among the East Jersey resident proprietors who signed were Dr. John Johnstone, Thomas Warne, Thomas Gordon, and Lewis Morris as proxy for Robert Burnet. At a meeting of the East Jersey Board, Morris on his return from England gave a full account of the conditions of surrender, "which," the minutes record, "was to the general satisfaction of the Board." A grateful Board tendered Morris a new patent on his extensive holdings calling for a quitrent of one pint of spring water per annum. Moreover, all his quitrent arrears were canceled, and he was granted a lease for 21 years on an enormous acreage between the Shrewsbury River and the Manasquan, with the privilege of cutting timber and manufacturing pitch, rosin, tar, and turpentine.

In England after prolonged discussion Edward Hyde, Lord Cornbury, recently appointed governor of New

York, was on December 24, 1702, chosen first royal governor of New Jersey. Cornbury's lengthy instructions were not completed until a month before, and he did not take the oath of office as governor of New Jersey until August, 1703. A first cousin of Queen Anne, he turned out to be one of the most venal governors ever perpetrated by the Crown upon an American colony. Among the 103 instructions were several of importance to the proprietors. Cornbury was directed to have the assembly adopt a measure granting to the proprietors the right of soil, together with all quitrents reserved or due from the inhabitants, and all other privileges contained in the original patents except the right of government. All land titles issued under their authority were to be considered valid. The governor was instructed not to consent to a tax upon unimproved lands, a reservation that was of great monetary value to the proprietors. Moreover, only the proprietors were allowed to purchase lands from the Indians. Other instructions permitted the proprietors' surveyors to survey lands held by them and afforded their agents aid in collecting the quitrents due them. All lands purchased from the proprietors would have to be cultivated and otherwise improved, or be subject to forfeit.

The instructions followed closely the proprietors' request that a general assembly meet alternately at Perth Amboy and Burlington, and that it consist of an equal number of representatives from East Jersey and West Jersey, finally fixed at twelve from each. The proprietors' recommendations on property qualifications were also sanctioned: 100 acres for voters and 1000 for members of the assembly. The Crown appointed the first governor's council, with some representation from all factions in each of the divisions but not the padded list that the proprietors had recommended. Cornbury was directed to install a full system of courts in accordance with British models. Liberty of conscience was granted to all but Roman Catholics, and Cornbury was instructed to secure an act of the legislature enabling Quakers to take an affirmation instead of the oath required to hold office.

The proprietors had reason to feel satisfied, failing in only one proposal: that of being permitted to name the first royal governor.

With the surrender to the Crown, Lewis Morris could see only clear sailing for the proprietors. True, they had given up the right of government, but their rights in the soil were not only protected but guaranteed. The Crown would take care of law and order, thus lifting from the proprietors' shoulders what had become an intolerable burden.

Morris also reasoned that the government itself would fall under the control of the proprietors. The high property qualification—1000 acres for an assemblyman and 100 acres for a voter—would mean not only that most of the members of both houses of the assembly would be proprietors or persons sympathetic to them but that the “quitrenters”—the rabble of Elizabethtown and the other towns—would not be qualified to vote. The admission of Quakers to public office would add to the proprietary strength, since there was a strong residual group of Quaker proprietors in West Jersey. But matters did not work out as Morris had contemplated.

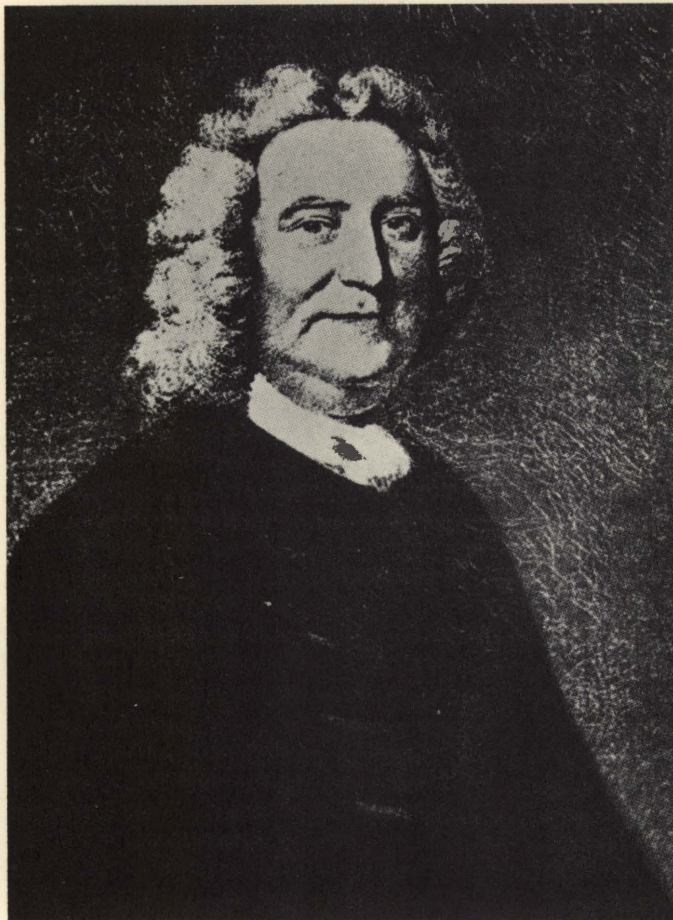
Following his instructions, Lord Cornbury at the meeting of the first assembly in 1703 sponsored the passage of an act, popularly known as the Long Bill, that would secure the soil to the proprietors and confer upon them a number of benefits. They would be recognized as the owners of the lands that had not been sold, all titles granted by them would be confirmed, their unimproved (vacant) lands would not be taxed, they could proceed with their surveys, they could continue the collection of quitrents and bring action for distraint against those in arrears, and they alone could purchase land from the Indians. The government would see to it that all lands purchased from the proprietors were cultivated and would assist the proprietary agents in collecting the quitrents.

Morris' calculations were thrown off balance by two unforeseen developments: first, it became quickly ap-

parent that Cornbury was a venal man, and secondly, the proprietors themselves fell victim to fierce factionalism. Dr. Johnstone of the Perth Amboy faction, like George Willocks, a jobber and speculator, soon discovered that the governor would willingly accept gifts for carrying out his instructions. At first, then, Cornbury followed the wishes of Morris and the Perth Amboy men, although he had no use for their allies, the Quaker proprietors of West Jersey. Morris was the agent of the West Jersey Society, which was convinced that Colonel Daniel Coxe, the son of the former West Jersey governor, was fishing for advantage in West Jersey waters. Coxe was acting in concert with William Dockwra of London, whose speculations had been exposed by Thomas Gordon, the former agent of the East Jersey proprietors. The East Jersey resident proprietors had refused to recognize Dockwra as register, but he still maintained a powerful influence among the English proprietors and was especially friendly with Peter Sonmans, a large shareholder, soon to become a menace in New Jersey.

Thanks to the solicitude of Morris and others, Cornbury was at first cooperative with what was in essence a proprietary-controlled assembly. He acquiesced in the appointment of Thomas Gordon, John Reid, and John Barclay as proprietary officials, and he proclaimed the right of the proprietors to collect quitrents. He signed an act forbidding the purchase of lands without a license from the government—which could only be granted by the proprietary register. All ownership was declared void unless, within six months, lawful title was obtained from the proprietors.

This honeymoon was soon over because the assembly refused to grant the governor sufficient revenue. It was as stingy as the governor was venal. The famous Long Bill, which would grant the proprietors all the rights they asserted to the soil, and especially the provisoes invalidating forever the grants claimed under the Nicolls patents and authorizing the proprietors to make distraint against those not paying their quitrents, never passed be-



Colonel Daniel Coxe

cause Cornbury in a fit of anger prorogued the assembly for its miserliness. The passage of the Long Bill was crucial to both the well-being of the proprietors and the peace of New Jersey.

In no time at all Cornbury declared war on the pro-

prietors and the assembly. He went over to the anti-proprietary faction and asserted that the Elizabethtown claims were entirely justifiable. The factious elements among the population, poorly represented in the assembly, took heart. In Monmouth County, the inhabitants of Shrewsbury and Middletown, led by Andrew and John Bowne and Richard Salter, collected £800 in small sums, popularly called the Blind Tax, a bribe which went to Cornbury, ostensibly to enable him to fight the assembly. Cornbury promptly disqualified three West Jersey Quakers from sitting and soon placed the proprietary majority in jeopardy.

The second assembly, thus dominated, imposed many penalties on the proprietors. Property qualifications were eliminated, and the West Jersey Quakers were persecuted by a deft discrimination in the militia act and the highway act. These acts were later disallowed by the Crown, but that took time. Lewis Morris, furious, accused Cornbury of violating his instructions. He then absented himself from the governor's council, was suspended, then witnessed the appointment of Colonel Coxe, Roger Mompeyson, Richard Townley, and Peter Sonmans—all anti-proprietary men. Though Morris was eventually restored to the council he refused to sit.

This struggle among the proprietary factions had repercussions in England. Dockwra allied himself with Peter Sonmans and Colonel Coxe, and they were bitterly opposed by the West Jersey Society, which had produced an able man, Paul Docminique, to resist this cabal. The Society petitioned the Board of Trade against Cornbury's conduct, asserting he was violating the conditions of surrender. Dockwra and his faction in turn petitioned that the Quakers be excluded from the assembly, the provincial council, and all public offices. The Society proceeded to expose the methods by which Cornbury had gained control of the assembly. The Crown disallowed the discriminatory legislation of the second assembly and warned Cornbury to stop meddling with the assembly.

In 1704 Peter Sonmans, with a commission from Dock-

wra, became the agent of the English proprietors. He was empowered to revoke the powers of the East Jersey Board of Proprietors, void their surveys, remove their officers, sell proprietary lands, and grant patents for lands. Cornbury supported Sonmans. In the course of the removals that followed, both John Barclay and Thomas Gordon were imprisoned. Sonmans also obtained possession of the proprietors' records. In truth, the East Jersey Council of Proprietors was caught napping. After deciding to add 2500 acres per propriety to the second dividend of 1698, they left matters to the register and met only when the assembly met. They were totally unprepared for the sudden onslaught of their enemies. As disorganized as they were, the proprietors fought back. They attacked Cornbury in the assembly, and they petitioned the Board of Trade. But Sonmans took full advantage of his commission. He collected quitrents and pocketed them—even from Dockwra—and he sold lands recklessly. Among his spoiliations were the Ramapo tract, near Bergen, of 42,000 acres and the New Britain tract in Essex County northwest of Elizabeth. These transactions later led to much litigation and many disorders. Though Sonmans, meanwhile, was brought to court by the other heirs of Arent Sonmans, Cornbury protected Sonmans' position.

The third and fourth assemblies were the battleground where Morris, Gordon, and Samuel Jennings of West Jersey fought Lord Cornbury, had him removed, and subsequently stemmed the tide against the proprietors. The proprietors made some progress during John, Lord Lovelace's brief term—Thomas Gordon, for example, became chief justice—but the advantage was totally lost under Lieutenant Governor Richard Ingoldsby. Sonmans, Basse, Coxe, Mompesson, and William Pinhorne were back in favor, and Ingoldsby took to persecuting the Quaker faction in West Jersey.

Certainly until 1710 royal rule had brought no advantage to the proprietors. In East Jersey, proprietary affairs were in the hands of a mortal enemy, Peter Sonmans, who held all their records and collected their quit-

rents. The settlement of the claims of the quitrenters had not even begun, while their leaders—Morris, Gordon, Barclay, and Willocks—had been humiliated. Matters had gone no better in West Jersey.

The real attack on the proprietors came not from the quitrenters, as one would expect, but from a minority faction of their own led by Sonmans, Dockwra, and Coxe, who wanted possession of the proprietors' lands. The so-called popular party naturally gave this element its support, but this was the only bond between the Puritan towns and the speculators. The townsmen were interested only in escaping from proprietary titles and quitrent payments and would oppose any faction in power trying to collect them. As yet, the only active quitrenter opposition had come from Middletown and Shrewsbury, not from Elizabethtown.

IX

THE DISTRIBUTION OF PROPRIETARY LANDS

ROBERT HUNTER, the fourth governor (1710-1719), was a reasoning Scotsman who was determined to have harmony and order in New Jersey. He wisely suggested that disputes over lands should be settled in court. After nearly two years of bitterness between the assembly and the royal council, Hunter was forced to make a choice. He declared war on the land-grabbers Sonmans and Coxe; he cleaned up the royal council, giving the resident proprietors a majority; and he dismissed the Cornbury appointees in the government. Sonmans fled with the proprietary records and gave them to Basse at Burlington, who refused to surrender them.

With the death of Queen Anne in 1713, Hunter's position was momentarily precarious, but in spite of the remonstrances of Dockwra, he was promptly recommissioned. Paul Docminique of the West Jersey Society strongly supported the governor's policies in London. Colonel Coxe of West Jersey, the source of Dockwra's charges against Hunter, heightened his attack upon Hunter. He spoke for the prejudiced anti-Quaker party in West Jersey, while in East Jersey he received some support from malcontent quitrenters in Monmouth and Bergen. The upshot of the bitter quarrel was that Colonel Coxe and his associates were expelled from the assembly. Coxe left for England to make the usual repre-

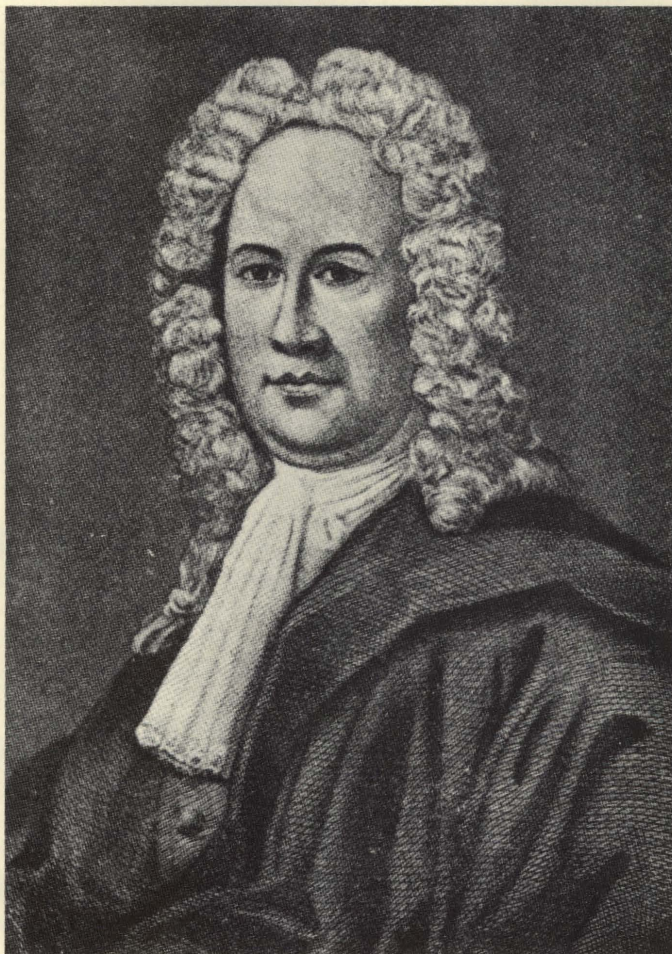
sentations, but Basse wisely decided to make peace with the government. Throughout, no one ever charged Governor Hunter with corruption, which was common enough among the land-grabbers.

In the subsequent governmental reorganization, James Smith was appointed secretary of the province, and, with the consent of the proprietors of both divisions, he became recorder. James Alexander, a protégé of Hunter's, supported by a royal letter, became surveyor general. Hunter had the steadfast support not only of Morris but of the Perth Amboy group of proprietors, Dr. Johnstone, Thomas Gordon, and George Willocks. He continued to support the settlement of all matters pertaining to lands in the courts, a decision which the proprietors willingly accepted. Lacking a Long Bill, they felt the time had come once again to assert their authority.

Elizabethtown, as usual, provided the locus for the test the proprietors sought. In 1714, in the case of Vaughan and Woodruff, the proprietors, after four years of litigation, won a notable victory. An "Elizabethtown title" was declared invalid, and with this decision, as in Governor Lawrie's time, a number of the inhabitants took steps to gain proprietary titles and to have the lands they occupied appropriated to them as proprietary dividends. The popular cause, however, was far from dead.

With relative peace under Hunter, the Board of Proprietors was able, after a lapse of many years, to turn again to their main business: the distribution of lands among the holders of shares and fractions of shares. A large number of small tracts were surveyed, many within the limits of the Elizabethtown tract. There were a number of giant takings by major shareholders, some of whom had never applied for a single dividend. William Penn, for example, secured 7500 acres; George Willocks, a scavenger of rights, 9000 acres; James Logan and John Budd, 8990 acres; and the West Jersey Society, a huge tract by virtue of its East Jersey proprieties purchased from Dr. Coxe.

Governor William Burnet (1720-1728), a man of in-



James Alexander

tegrity and skill, held himself more aloof from the proprietary party than Hunter. He refused to become the tool of Dr. Johnstone and George Willocks, the East Jersey speculators. In turn they tried to harass him in

the assembly, where they were rebuffed and where, after a dissolution, a lower house favorable to the governor was chosen. James Alexander, the surveyor general, charged that both Johnstone and Willocks had misrepresented the number of acres in surveys, specifying, for example, that they held a tract on the north branch of the Raritan of 30,000 acres under a fictitious survey of 3150 acres. He suggested also that certain proprietary executives had issued patents in blank to their friends. As a result Willocks fled the province, but Johnstone, whose operations were better cloaked, escaped ruin. In all this controversy, the better sort like Lewis Morris, James Alexander, and John Hamilton stood by the governor.

In 1725 the Board of Proprietors of East Jersey was reorganized under the leadership of Lewis Morris, James Alexander, John Hamilton, and Richard Ashfield, on the basis of a fuller representation of proprietors. It was agreed that the Board would meet twice a year at Perth Amboy; that the ownership of one-fourth share entitled its holder to one vote; that the owner of one full propriety was entitled to four votes; and that the maximum number of votes cast by any proprietor would be twelve. Morris was elected president; Alexander continued as surveyor general and James Smith as recorder. Alexander was succeeded as receiver general by Ashfield, who was also elected treasurer and entitled to 10 per cent of all quitrents. The reorganization of 1725 came none too soon, since a strong Board was needed to cope with the boundary disputes and with new discontent in Elizabethtown.

The proprietors, as late as 1725, still hoped that the assembly would pass a bill guaranteeing them the rights to the soil that had appeared in Governor Cornbury's instructions. But no encouragement came from the representatives of the people. Instead the assembly, in 1727, attempted to secure measures that would make more convenient the registration of land titles and deeds. An act was passed providing for the recording of deeds and conveyances by county clerks, making it no longer necessary

that they be recorded with the provincial secretary at Burlington or Perth Amboy. Other bills were proposed to make conveyancing easier and cheaper, but the council, manned by Morris and other proprietors, blocked these measures on the ground that the door would be opened for fraud. On the return of Peter Sonmans to the province, the proprietors requested Governor Burnet to proclaim Ashfield as the legitimate collector of quitrents. Burnet complied with this request, but the receiver general made no marked progress with these greatly resented levies.

The Board, because of the venality of some of the proprietors, became involved from time to time in legal proceedings. There were suits against the holders of tracts issued by Peter Sonmans when he had usurped the directorship of proprietary affairs, and there were later suits against May Bickley and his partners in the New Britain tract and against Peter Falconnier and his associates in the Ramapo tract. These actions dragged on and on without decision.

When Sonmans in 1726 returned from England, the Board took him into chancery court to compel him to give an account of the quitrents he had collected. Not only did he defy the Board, but he endeavored to collect more rents under the old commission of receiver general of quitrents that he had received from Dockwra and his friends in Governor Cornbury's time. Since Bergen Township had rejected the authority of the legitimate proprietors and recognized his commission, more income was lost. Sonmans, though prosecuted by the attorney general for fraud, succeeded in escaping condemnation and continued to make trouble.

Lewis Morris withdrew in 1730 from the presidency of the East Jersey Board and as agent to the West Jersey Society. Eight years later he would be the first royal governor of New Jersey alone, for the preceding royal governors had combined the administration of New York with that of New Jersey. Before Morris became governor, however, there were to be short terms held by John

Montgomerie (1728-1730) and William Cosby (1732-1736). Morris, as president of the royal council, was to serve as acting governor for an interim period as he had done in 1719.

From 1725 to 1730 the Board had transacted its affairs in a businesslike manner because of Morris' leadership. After Morris' resignation matters fell again into disorder. For four years the Board did not meet at all. In 1730 a dividend of 2000 acres per propriety was proposed, but nothing was done about it until 1737. A violent quarrel took place between Governor Cosby on the one hand and Morris and Alexander on the other, but in spite of this, good feeling was maintained between the governor and John Hamilton and the rest of the proprietors. In 1735 the proprietors endeavored to get the governor to proclaim Richard Ashfield the receiver general, thus giving him official recognition. He was unable to collect any quitrents, because Peter Sonmans, his self-appointed rival, blocked his path at every turn. The quitrenters in the towns undoubtedly rejoiced in the breakdown of the quitrent system.

Following the favorable legal decision in the *Vaughan vs. Woodruff* case, the proprietors named a committee of their ablest men—Morris, Hamilton, Ashfield, and Alexander—to bring about good feeling between the contending parties. Alexander proceeded to write Joseph Bonnell, as the representative of the Elizabethtown associates, to institute negotiations. Then unaccountably the matter was allowed to lapse for five years! Meanwhile the proprietors brought several ejectment suits, and in one test case, *Lithgow vs. Robinson*, the jury in 1733 unexpectedly brought in a verdict in favor of the defendant. It was as important a victory for the quitrenters as the Jones-Fullerton decision of 1687. The Elizabethtown claimants felt that their case had been upheld.

The quitrenters then took the offensive. The associates of Elizabethtown appointed permanent trustees to maintain the validity of their titles. They tried to win over tenants on proprietary-titled lands by offering them Eliza-

bethtown titles for £5 per 100 acres, and, in addition, they took steps to survey heretofore unsurveyed lands lying within the bounds of the Nicolls grant. In 1734 and 1735 the town meeting itself voted to lay out additional lands and deed them to the associates. A large tract at Basking Ridge was ordered sold for £2000. In 1736 steps were taken to seize more unappropriated land, divide it into 280 tracts of 100 acres each, and distribute it by lot among the associates who had purchased them according to the original arrangement of first-, second-, and third-lot rights.

These startling maneuvers brought the dilatory proprietors to their senses. Hamilton and Alexander persuaded their colleagues to initiate a whole series of ejectment suits against the trespassers. A subscription was undertaken to raise money to finance these proceedings. Many of these suits were still pending in 1738 when the union period came to an end and New Jersey received its own governor.

Proprietary proceedings in West Jersey were not as savage as those in East Jersey. But the stakes were higher, since West Jersey was much larger than the sister province and contained thousands of acres of fertile land. The West Jersey Council of Proprietors, led by Samuel Jennings and Thomas Gardiner II, was composed of Quakers from Burlington and Gloucester counties whose properties or shares stemmed from the original 100 properties sold by the Byllynge trustees. Colonel Daniel Coxe, the largest single shareholder after William Penn, had inherited his shares from his father. Colonel Coxe was hostile to the Quakers. A third major interest was that of the West Jersey Society, which owned 22 shares by virtue of its purchase from Dr. Coxe. In England the Society was represented by Paul Docminique, a man powerful in Crown circles, and in America, following Governor Hamilton's death, by Lewis Morris II. In the squabbles of the Council, two of these factions usually united against the third.

Following the surrender, the West Jersey Council in-

sisted that all land claims be channeled through it and that the surveyor general act only on warrants issued by it. Its main work was to consider claims and authorize surveys for those it approved. It was on the whole more businesslike than the East Jersey Board. In 1702 it contemplated a third dividend, and in preparation for a distribution of lands it voted to purchase from the Indians 150,000 acres in two huge tracts for £700. When it was discovered that more land was needed to make possible a dividend of 5000 acres per propriety, each shareholder was assessed at the rate of £24 per propriety. When Docminique learned of this plan, he requested the Board of Trade to restrain the Council from purchasing lands without the consent of the English proprietors.

The chief danger, however, came from Colonel Coxe, supported by troublemakers like Thomas Revell of the provincial council and Jeremiah Basse, secretary of New Jersey. In 1706, Coxe, a follower of Cornbury, had succeeded in getting himself appointed a member of the provincial council. Under his influence Cornbury challenged "the pretended proprietors' council" and ordered it not to lay out lands or make purchases without the governor's consent. When the Council made no reply, it was suspended. The assembly upheld the authority of the Council of Proprietors. Cornbury's action became one of the principal grievances of the assembly against him. No one was deceived by Cornbury's justification of his action. The Council in its dilemma sought the assistance of the West Jersey Society which also was under attack. Both protested Cornbury's action to the Board of Trade.

The Society's agent, Lewis Morris II, an enemy of Cornbury, began to act in cooperation with the Council, and with the accession of Governor Lovelace in 1708 Morris was elected president of the Council as it resumed operations. William Biddle became vice-president, and Gardiner was continued as surveyor and John Reading as clerk; these three were Quakers.

Following its revival, the Council resumed its plan for land distribution. Lewis Morris was granted permission

to take up 40,000 acres, then 60,000 more in the land purchases above the Falls of the Delaware, in behalf of the Society. He pressed to be permitted to purchase land independently for the Society, but the Council refused. Colonel Coxe demanded 10,000 acres as his share, but the Council after studying his claims offered him only 8000 acres. This displeased him. In 1710 the Council authorized warrants for 77 tracts of land as third proprietary dividends.

Coxe and the old West Jersey Cornbury faction in 1711 declared war on Governor Hunter and the Council. Coxe and Daniel Leeds, the former surveyor general, tried to block Gardiner's appointment as surveyor general of the colony; and Coxe and his followers protested the "dispotical" power assumed by the Council in undertaking to inspect and pass judgment on all land titles in West Jersey. In their protest they asserted that the Council had authority to dispose of no more than their particular proprietary shares. Surprisingly, the Council in 1712 capitulated under this frontal attack and elected Coxe a member. He was soon chosen president, and Leeds was forced to share the surveyorship with Gardiner. Coxe's support was augmented by several on the Council who were disgruntled at the outcome of the distribution of the newly purchased lands.

Coxe's primacy in the Council not only slowed down the surveys by Gardiner but led to demands by Coxe and his faction. Coxe, Sonmans, and Thomas Stevenson were granted 10,900 acres; later Coxe and Sonmans obtained 5000 acres each in addition, then Sonmans obtained a warrant for 20,000 acres on rights that Arent Sonmans, his father, obtained from Byllynge. John Reading opposed all this, and his son John Reading, Jr., Gardiner's deputy, was appointed as surveyor general after Gardiner's death.

Coxe proposed a new dividend, the fourth, but George Willocks and Thomas Byerly, who had West Jersey interests, protested to Governor Hunter, who had the authority to issue the license. But when the Council

insisted that at least two hundred thousand acres were needed to satisfy all the remaining claims against the first dividend, Hunter reluctantly gave his permission. In this land grab Coxe was given 15,000 acres in one tract and other supporters lesser amounts in designated order. The Council was obliged to sell 1000 acres to raise money to pay for the Indian purchases.

In 1713 while this distribution was under way, Coxe and his four associates were re-elected to the Council from Burlington County, but the Gloucester proprietors chose as one of their representatives James Logan, the agent of William Penn. The next year all arrangements had been perfected for the fourth dividend. All those holding rights were invited to present their claims, then to draw lots for tracts of 1250 acres each. They were required to put up the appropriate share of the cost of the Indian purchase. As might be expected, James Logan put in a claim for dividends for his principal, William Penn, for twelve shares, ten of which had been purchased from John Fenwick of Salem. Coxe, too, was a big claimant, demanding 20,000 acres (all four dividends) on a share formerly belonging to Edward Byllynge. The Council following the Budd report of 1685 tried in vain to prove that Byllynge had disposed of all his 90 shares, with the result that Coxe (who produced supporting documents on other rights) finally got warrants for all he asked for. Before the Council finished it had distributed 205,374 acres of land.

Meanwhile the fierce conflict between Governor Hunter and Coxe continued. Hunter secured evidence to the effect that Leeds, Reading, and others on the Council were acting irregularly and that Leeds had actually altered the Council records. The provincial council ordered that he be discharged from acting as surveyor general and that he be prosecuted. Though in 1716 Leeds was acquitted, no further effort was made to reinstate him as surveyor general. Instead, as mentioned above, John Reading, Jr., was appointed sole surveyor general by the proprietors. In 1715 Hunter had gone on the offensive in

appointing two men commissioned by the West Jersey Society—James Smith and James Alexander respectively—to be register and surveyor general for the entire West Jersey proprietorship! Naturally the Council was dazed.

The governor's complete victory over Coxe in the seventh assembly and Coxe's flight and later departure for England cleared the air at Burlington. Lewis Morris II in 1716 became president, and George Deacon, a Quaker and a strong pro-Hunter adherent, was elected vice-president. Morris at once negotiated a peace with the West Jersey Society, and the Council voted that even if the agent of the Society were not elected a member of the Council he would be admitted to the meetings and enjoy the right to vote. Morris, in behalf of the Society, then submitted a draft of survey for a tract of 91,895 acres, made in 1711, and obtained a warrant. In this ever-shifting West Jersey Council it can be seen that each faction in turn obtained its maximum claims for lands.

Morris was unable to attend Council meetings regularly, so John Kay usually presided as vice-president. The Council formerly had been disturbed because James Alexander had been thrust upon them by the governor as surveyor general. The right to control this appointment was one of the Council's most prized prerogatives. To avoid trouble with the English proprietors they proposed that Alexander accept the appointment directly from them. This solution was accepted by both Morris and Alexander. Moreover Alexander agreed that, in case of any dispute, he would not, as surveyor general of East Jersey, undertake to survey in behalf of East Jersey any lands claimed under West Jersey proprietary rights.

Governor Hunter retired in 1719, and Coxe immediately returned to New Jersey. Without trouble he gained control of the West Jersey Council and became its president. The work of land distribution was lighter; there remained only the task of clearing up the business resulting from the third and fourth takings. An original grant of 20,000 acres at Amwell to Peter Son-

mans caused the Council some trouble that was not settled until 1736—a typical irregularity in the West Jersey Council under leadership such as Coxe's.

The question of the surveyor-generalship soon came to the fore, since James Alexander was Hunter's protégé. Alexander, also surveyor general of East Jersey, made his headquarters in New York and had lost touch with the Council's work. Isaac De Cou was his deputy in Burlington. In 1728 the Council elected John Burr and notified Alexander, who refused to give up the records. Alexander then appealed to Governor Montgomerie and was continued as surveyor general until his death in 1756.

During the remaining years before 1738 when New Jersey became a colony with her own royal governor, the work of the West Jersey Council was routine. As always, owing to a cumbersome system of rights and dividends, it was difficult to tell what shares or proprieties were still outstanding, who owned them, and what dividends were still owing on certain shares or fractions thereof. The minutes were fairly well kept until 1729; then for many years thereafter, carelessly.

The boundary question loomed large for both proprietary boards. The boundary between East and West Jersey and between New Jersey and New York had agitated both proprietries from the beginning. Negotiations concerning the boundaries were long-drawn-out and involved, with each of the three parties striving to gain an advantage over the others. The problem became more serious in Governor Hunter's time, since the settlers along the upper Delaware did not know in which jurisdiction they were living. Speculators like James Johnstone and George Willocks had a field day.

In 1718, after nearly thirty years of anarchy, negotiations between the proprietors of East Jersey and West Jersey were reopened under the auspices of James Logan, the Penns' sagacious agent. The Penns held large proprietary interests in both provinces. Neither side was pleased with the agreement of 1688 between Dr. Daniel Coxe and John Barclay which would have extended the

Keith line northeast from Dobie's plantation to the north branch of the Raritan, thence by various streams to the Delaware River at 41° N. Logan, although upholding the West Jersey proprietors in their insistence that the Barclay-Coxe agreement was valid, pointed out the absurdity of a division that would yield West Jersey 8000 square miles and East Jersey but 2400. He urged a revision that would be fair to the purchasers of the shares of each division. By an act passed in 1719 by the legislature, the Coxe-Barclay arrangement was set aside and a return was made to the quintipartite deed of 1676 which designated the division line as running from Little Egg Harbor to the northernmost branch of the Delaware at $41^{\circ} 40'$ N. This line was to be run "straight and direct," and provision was made to recompense individual owners who lost by the arrangement.

The Coxe interests succeeded in delaying indefinitely the surveying of the line, and it was not until 1743 that the East Jersey proprietors, taking the offensive, employed John Lawrence to run it. Though some of the West Jersey proprietors questioned the justice of some of the Lawrence surveys, they nevertheless accepted them. A decision of a royal commission in 1769, in connection with the New York-New Jersey boundary dispute, threw the northernmost station point some distance eastward, to the advantage of West Jersey.

The establishment of a boundary between East Jersey and New York was likewise shrouded in difficulties. An effort in 1686 to establish a northwestern station point common to all three provinces failed because of the difficulty of ascertaining which was the main branch of the Delaware. These same surveyors then endeavored to determine the exact location of 41° N. on the Hudson, the northeastern station point. They finally recommended Tappan Point, at the mouth of Tappan Creek. New York questioned the surveyors' findings, claiming that the true point lay west of Yonker's Mills, farther south, then advanced the proposition that a line from this point should be run westward to the forks of the

Delaware in the latitude of Easton! No line, then, was run in 1686. Again because of the activity of speculators like Johnstone and Willocks such bad feeling was engendered in 1718-1719 that the New York boundary question became of pressing importance. Upon Governor Hunter's insistence, New Jersey joined New York in passing an enabling act appointing boundary commissioners. New Jersey in the subsequent negotiations obtained a victory. It was unanimously agreed that the Fish-Kill should be designated as the main branch of the Delaware and that the north partition point should be placed at $41^{\circ} 40'$ on that stream.

Agreement was not reached in establishing a point at 41° N. on the Hudson, which led to an unhappy situation where for many years the inhabitants endeavored to avoid paying taxes to either jurisdiction. Finally, in 1767 a commission was named by the Crown which in 1772 ran the line from $41^{\circ} 21' 19''$ ($41^{\circ} 40'$ proved to be outside the bounds of New Jersey) on the Delaware to a newly determined but close-by point at 40° on the Hudson. New Jersey was the loser, but accepted the award. New Jersey was still engaged in minor boundary adjustments until well into the twentieth century.

X

THE PROPRIETORS AND THE QUITRENTERS, 1738-1776

"THE ADJUSTMENT of conflicting land claims was the most annoying and distracting feature of New Jersey history during the colonial period," wrote Dr. Edgar J. Fisher in 1911. These continuous conflicts, varying in ferocity, certainly retarded the growth of the colony. It was not until the end of Governor Jonathan Belcher's administration in 1757 that relative calm settled over the province. The proprietary and anti-proprietary cleavage was aggravated by the fact that many members of the provincial council were proprietors or held large estates, while in the assembly there was always support and sympathy for the quitrenters and for the common folk generally.

The administration of the East Jersey Board changed but little from 1730 to the Revolution. John Hamilton succeeded Lewis Morris as president; Hamilton was succeeded by Andrew Johnston in 1748, and Johnston by James Parker in 1762. James Alexander, the energetic surveyor general, died in 1756 and was succeeded by his son, William Alexander, Lord Stirling. In 1771 John Rutherford was appointed to the post. Lawrence Smyth was acting register or secretary in 1738; in 1748 John Smyth succeeded him. When the Revolution broke out,

John Smyth left for New York carrying the records with him. Ferdinand John Paris, an able London lawyer and a staunch defender of proprietary rights, was the Board's agent in London for over thirty years, until 1759. The members of the East Jersey Board comprise a veritable catalogue of New Jersey's most distinguished names during the colonial period.

The qualification for membership in the West Jersey Council was but one thirty-second share. The West Jersey Board was closer to the people, since the proprietary rights were more widely distributed; and its members were not so active politically. Moreover, the majority were Quakers and for the most part descendants of the original shareholders. There were no massive quarrels with the inhabitants as in East Jersey. Following James Alexander's death, Daniel Smith of Burlington was elected their surveyor general by the West Jersey Council, and he held that office until 1774.

During the period 1738 to 1776, the roots of the East Jersey land troubles lay in the Nicolls purchases, especially the Elizabethtown purchase and the Monmouth purchase. As we have seen, the proprietors had a clear legal case against the Nicolls purchasers and against those who claimed ownership through Indian purchase. The Nicolls grants had been made after ownership had passed from James, Duke of York, to his friends, John, Lord Berkeley and Sir George Carteret. One important consideration was, however, a want of notice by the Duke of York, "which makes it great equity, that the present proprietors should confirm such grants to the people who will submit to the concessions and payment of the present proprietors common quitrents." Since the king in council had granted Jones a reversal of decision in the *Fullerton vs. Jones* ejectment suit, anti-proprietary discontent had smouldered. In the Clinker Lot Division in 1699 when East Jersey was at a white heat, the Elizabethtown claimants had surveyed and divided a huge tract in utter disregard of proprietary rights. Then followed the *Vaughan vs. Woodruff* decision in 1718, with

the tables turned again in favor of the quitrenters in the *Lithgow vs. Robinson* case in 1733. The Elizabethtown quitrenters then began to organize, following which they brought suits of ejectment against several landowners with proprietary titles, and this action was reciprocated by the proprietors. The settlers of Middletown and Shrewsbury, too, were far from happy, and their dissatisfaction took the form of claiming exemption from all quitrents.

The Elizabethtown settlers decided to petition the Crown and employed legal counsel to draw up a petition that was signed by 309 persons. It was read to the king's council in July, 1744, and referred to the Board of Trade for a recommendation. Nothing further was heard of it.

The Nicolls purchasers were joined by those who claimed title by virtue of Indian purchase, despite the fact that the assembly of 1683 had forbidden such purchase without a license from the governor. Henceforth proprietary governors had issued licenses upon condition that their transactions conformed to the Concessions of 1665 and to the laws of the province. This meant absolute proprietary control. Cornbury's instructions forbade him to allow any persons except the proprietors to purchase lands from the Indians. These instructions held good until the Revolution. The prospective purchaser of Indian lands must prove his "proprietary rights" to the Board of Proprietors, and on its certification he would receive a license from the governor. During the Morris administration, especially during the years 1741 to 1743, there was a spate of suits over the validity of Indian titles, which were invariably decided in favor of the proprietors. The quitrenters claimed that the juries in these cases had been tampered with. Under the sting of supposedly unjust persecution, the people displayed a dangerous temper in the riots that followed.

Violence finally broke out at Newark where, in 1745, Samuel Baldwin, a member of the Essex County Committee, was arrested for cutting logs on a proprietary tract. A crowd of Baldwin's supporters broke into Newark jail

and released him. Governor Morris immediately asked for a militia act or other laws to halt such disorders. The lower house, irked by demands for revenue, replied that the present laws were sufficient to quell any disorder. Morris then ordered the attorney general to prosecute those who had taken part in the release and directed the Essex County sheriff to apprehend the participants. Three were arrested, but all of them were freed by the rioters. The assembly then saw the light and brought in a new militia bill.

In answer to several pamphlets asserting that their "Rights, Properties and Possessions" had been invaded, the proprietors at their meeting in March, 1746, reiterated that by law all titles to East Jersey lands originated in the proprietors. They scornfully blamed the rioters for upholding titles procured "from strolling Indians for a few Bottles of Rum."

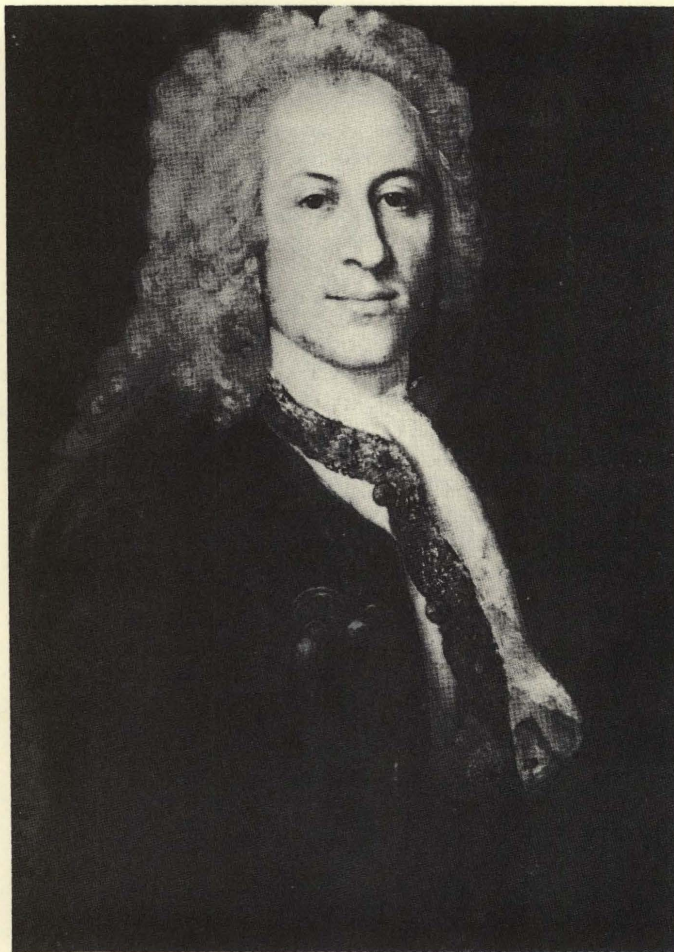
Several influential proprietors, including James Alexander and Robert Hunter Morris, brought ejectment suits against squatters on what was known as the Horse-neck Purchase. Before doing so they endeavored, in vain, to reach a settlement with the intruders. In the language of the day the proprietors urged the squatters "To flie the Mercy of the Laws for the Expiation of their criminal riots and to the Mercy of the Owners of the Lands they have been pillaging." In April, 1746, two groups of rioters petitioned the lower house of the assembly to stay all ejectment and similar processes until the king's pleasure was known. Samuel Nevill, a former speaker, argued against the petition, but the house brushed him aside. The lower house and the council were split asunder on the question of the rioters.

In April, also, seven rioters proposed a test case against one Francis Speirs of Horseneck tract. They soon discovered that the proprietors had engaged all the lawyers in the province, and when told that the Supreme Court, on application, would supply a lawyer, they dropped the whole proceedings. When in May, 1746,

Lewis Morris died, acting governor John Hamilton asked the assembly to take strong action against rioting lest the Crown intervene. Nevertheless the assembly took no action, and when it asked to be dismissed on November 1, the request was granted. The disorders continued: a rioter was released from Somerset jail, and threats were made against Nevill, now a judge for Middlesex County. Meantime one Joseph Dalrymple and his family were ousted from their land because it was held under a proprietary title. In May, 1747, Hamilton again urged the assembly to legislate to prevent riots, but to no avail. The procrastination of the assembly was popularly believed to be consent for the people to carry on.

In June a mob released a prisoner at Perth Amboy. Chief Justice Robert Hunter Morris wrote pessimistically to James Alexander that no action would be taken by the assembly and that the grand jury at Perth Amboy would fail to indict the rioters. Conditions in East Jersey were fast reaching a state of anarchy. The frequent ejectments cemented the quitrenters together, and public sentiment had hardened in their favor.

Much was expected by both factions from Governor Jonathan Belcher (1747-1757): by the popular party because Belcher had joined the First Presbyterian Church of Elizabeth; by the proprietors because, as former governor of Massachusetts, he was regarded as a man of experience in ruling. But when the popular party sent a congratulatory message to the governor and expressed a hope for the welfare of "the oppressed poor and crushed needy ones," Belcher informed them at once that he was prepared to support the king's authority and punish the breakers of the public peace. In August, 1747, he urged that all departments of the government unite to restore quiet. Both houses solemnly gave their approval, and each appointed a committee of nine to adopt the means. But the lower house procrastinated until December, when a riot broke out in Hunterdon County. When the assembly learned that a "tumultuous procession" would



Governor Jonathan Belcher

march upon the legislature as a protest, they took alarm and passed resolutions stating that this procedure would be an infringement of the liberty of the legislature.

Under the pressure of events the assembly in May,

1748, passed two acts: one for the suppression of riots and the other a measure of amnesty. The first made it a felony for twelve or more persons to assemble and then refuse to disperse. The penalty for violation was death. The second act provided for a pardon for all those who would take an oath not to participate in riots in the future. Only nine erstwhile rioters, at the last moment, asked for pardon.

In October, new riots broke out at Perth Amboy and Newark. The East Jersey proprietors, alarmed, petitioned Belcher to invoke the king's authority, since it was clear that the rioters had no intention of asking for pardons. These men, they believed, were readying to throw off their dependence on the English Crown. The governor again lectured the assembly, but the lower house insinuated that the laws were not being fully executed. The provincial council supported the governor, asserting that not enough revenue had been voted to enable the governor to uphold the laws. The council charged that the assembly was guilty of sheer neglect and urged Belcher to appeal to the king. Belcher, nettled, told the council that when their advice was needed, he would ask for it!

Ignoring the governor, both the council and the Board of Proprietors petitioned the Crown, asking protection for private property in New Jersey. Ferdinand John Paris, the proprietors' agent, was requested to persuade the Board of Trade or the Secretary of State for the Southern Department, the Duke of Bedford, either to order Belcher to act or to send royal troops (from New York) to quell the disturbances. Paris later replied that at most only a strong instruction from the king to Belcher calling upon the assembly to enforce the laws could be expected.

The February, 1749, assembly had neglected to take any action against the rioters—which gave the latter great satisfaction. Belcher, in appealing to the Board of Trade, reiterated that the assembly would not appropriate funds to protect the jails and quell the disturbances. He stated

that he would await the Crown's orders. In June, 1750, the Board of Trade made its statement to the Privy Council, characterizing the rioters as a "Set of Freebooters who enter upon any lands, and cut down and destroy the timber, tho' the lands have been ever so long granted to others under the King's title." In view of the fact that the governor was forced to be subservient to the popular will, and because the assembly withheld any financial support, the Board of Trade recommended that three or four companies of militia be sent from New York to deal with the situation, and if that remedy did not work, New Jersey should be reunited with New York. The Privy Council ordered the Board of Trade to express dissatisfaction with the assembly for its inactivity and to appoint a commission to inquire into the grievances of the inhabitants. An act of indemnity was promised those who merited pardon. The commission, however, was never appointed, probably because the Board of Trade felt that its own exhaustive investigation was enough. Had there not been so many conflicting legal decisions, the Board would have preferred a test case at law.

There was no surcease of violence in the province. Essex, Middlesex, and Bergen counties were the scenes of new disorders. Two men named Ball and Burwell were arrested, were rescued by the mob, returned voluntarily to prison, and then boldly demanded a speedy trial. The assembly requested the governor to convene a court of oyer and terminer, but he did not do so because he and his council believed that impartial juries could not be found in Essex County. In February, 1750, the governor again appealed to the assembly, for another riot had taken place at Horseneck; but that august body advised that legal action be taken, adding that the governor should have heeded the request for a commission of oyer and terminer in the Essex cases.

After a brief respite there was another jailbreak at Perth Amboy and the release of a prisoner accused of high treason. On consulting the provincial council, the

governor was advised to await the anticipated orders from the Crown before pursuing the matter further. The council had given up hope that the assembly would take any action whatever and believed that it would be useless to call another session of the legislature. Belcher did the best he could "according to the known laws of the land." When in 1754 new riots took place in Hunterdon County, he issued a proclamation commanding the magistrates to arrest the guilty persons. A year later, in the same situation, another proclamation ordered the sheriff to apprehend the offenders. The assembly did nothing at its meeting of May, 1755.

In August, 1755, after fifty years of strife, the skies began to clear because the majority of the inhabitants finally reached the conclusion that land claims must be settled by the judicial process. They were weary of a profitless struggle, and the outbreak of war with France began to absorb people's attention. The Elizabethtown claimants had filed a lengthy answer to the proprietary bill in chancery and seemed content to await the results of that suit. In other places settlers began to surrender their claims to the proprietors. Belcher wrote to the Board of Trade that the province was in a better state of peace than before. The Board's response was that the proprietors should bring all actions of trespass to the courts for adjudication.

In Essex County, unbelievably, 60 rioters were indicted, confessed the indictments, submitted to the mercy of the court, and were fined and ordered to good behavior for three years. They paid the costs of prosecution. In Hunterdon, the plaintiffs made out such a sound case that the lawyer for the defense advised his client to withdraw from the case. In fact, the inhabitants of Middlesex and Hunterdon counties were not included in the original Nicolls purchases. The general restlessness in Essex and Monmouth simply spread to them because they, too, shared the age-old resentment of quitrents and of the eternal questioning of their land titles by the proprietors.

At Elizabethtown the controversy came to an end but, ironically, not through any legal decision. On April 13, 1745, there was filed in the chancery court of the province the famous Elizabethtown Bill in Chancery—a suit by the Earl of Stair and other proprietors against Benjamin Bond and other Clinker Lot Right men. This document was published by James Parker in 1746. The bill was an exhaustive defense of the proprietary claims and was signed by James Alexander and Joseph Murray, counsel for the complainants. The bill petitioned that the defendants be commanded to appear in court to answer the charges, and the governor was asked to grant writs of injunction to prohibit all entry upon the proprietors' lands, whether or not to cut timber.

The Elizabethtown claimants engaged William Livingston and William Smith, two prominent attorneys, to prepare "An Answer to a Bill in the Chancery of New Jersey," which was completed in August, 1751, and published the next year. The "Answer" was signed by 449 freeholders and inhabitants of Elizabethtown. Strangely, the case never was heard in court! Many of the leaders on both sides died, as the matter dragged along year after year. New events—the war with France, the Stamp Act, and the outbreak of the Revolution—completely absorbed the attention of the province. There was a suspension of legal business during the long period of the Revolutionary War, and after New Jersey became a state the suit was never reopened.

The "Bill" and the "Answer" remain as inconclusive witnesses of a century of strife in colonial New Jersey. The issues in the long conflict between the proprietors and the Nicolls patentees was never resolved judicially.

XI

EPILOGUE

BY THE TIME of the American Revolution the main distribution of New Jersey lands was over. The East New Jersey proprietors had through their dividend rights issued warrants for approximately one million acres and the West Jersey proprietors certainly as much since West Jersey contained far more land than East Jersey. It should not be forgotten that the West Jersey Society, holding 22 of the 100 properties, had been selling lands of its own through its agents. Before discussing the later status of these three groups, let us turn briefly to the end of the quitrent story.

In West New Jersey, as we have seen, there was little effort made to collect quitrents although their imposition was provided for in the West Jersey Concessions of 1677. The collection of quitrents was made optional with each proprietor, an impracticality which led to its total abandonment. Even the West Jersey Society, which existed solely for the purpose of making money, contented itself—following the practice of the former owner of its lands, Dr. Daniel Coxe—by inserting in its deeds a nominal quitrent of “two fat capons or hens annually.” Thus the proprietors of West New Jersey, most of whom were resident rather than absentee, escaped the quarrels and antagonisms that persisted in East Jersey throughout the colonial period.

Although the East Jersey Board after 1752 continued to reserve quitrents and actually caused a quitrent roll

to be drawn up, it made little systematic effort to collect them. There were probably a few scattered receipts from quitrents after 1752, but the outbreak of the American Revolution put an end to enforcing their payment. For example, in 1809 the town of Bergen in tidying up its affairs entered into an agreement to buy up its quitrent obligations from the Board of Proprietors. In a solemn legal document the Board gave the township a release of its annual quitrent of £15 per annum for a payment of \$1500. By the terms of the original land patents, quitrents are still legally due on many holdings in New Jersey, but, in the face of a united public opinion, legal right has bowed to overwhelming social pressure.

The work of distributing lands by the Council of Proprietors of West New Jersey came to an end decades ago. The surveyor general of West Jersey, Benjamin Sleeper, stated in 1944 that in all more than thirteen thousand surveys had been made for lands scattered throughout the old province. Further, from 1900 to 1922 surveys covering only twenty thousand acres had been made. From 1922 to the present, the Proprietors Office at Burlington has made infrequent surveys, less than a dozen in all. Consequently the present proprietors have no expectation of any monetary reward. Some members of the present Council, as is the case of the Board of Proprietors of East Jersey, are descended from former members, and all of them take pride in the perpetuation of an ancient institution. Mr. Sleeper once said, "In the present day there is little use for a Surveyor General, excepting to hold the key to the office and answer questions of genealogists." Actually the records are still used to check surveys with the originals in the Proprietors Office.

The West New Jersey Society continued the accumulation of lands through dividend rights and sold tracts through its agents until the nineteenth century. For example, a huge tract of 33,000 acres, "The Great Egg Harbor Tract or the Weymouth Tract" in Atlantic County, purchased in 1748, was sold by the Society's agent, Phineas Bond, in 1802 to a group of five men.

Finally in 1814 the Society through its agent Thomas Cadwallader sold its 22 proprieties to Benjamin B. Cooper of Gloucester County, a large-scale dealer in real estate who was henceforth engaged in offering for sale what was left of the Society's lands. In 1876 the directors of the Society, as required by law, advertised that final distribution of all moneys in their possession—approximately fifty thousand dollars—would shortly be made. Thus ended an ancient New Jersey institution and, with it, its directors' time-honored annual custom of meeting, electing officers, and "enjoying a good English dinner."

From 1685 to 1964 the East Jersey Board of Proprietors declared in all twelve dividends of good land rights, seven of pine-land rights, and four of cash, the last of which was in 1959. Though the task of primary land distribution came to an end decades ago, the Office of the Proprietors in Perth Amboy, like its counterpart in Burlington, receives applications from time to time for small plots of land that turn up. These become available for a variety of reasons: variations in the compass needle are responsible for triangular and wedge-shaped parcels, mistakes in marking the location of parallel lines account for voids, and inaccurate descriptions of adjoining lands reveal small tracts without ownership. Finally, when small islands are created in the ocean and bays by the action of the tide or storms, the Board automatically acquires title. The records of the Board are monumental, including 70,000 original surveys after 1783 (the earlier surveys were either destroyed or are to be found in other archives), 24 volumes of returns of surveys, and 30 volumes containing more than one hundred and ten thousand descriptions of metes and bounds. These are frequently put to use. The East Jersey Board, unlike the West Jersey Council, has begun to publish its most valuable historical records.

By 1702 the initial colonizing effort—the sponsored "planting"—of New Jersey was over. In East New Jersey at the time of the surrender there were possibly five thousand inhabitants clustered in the area of the eight

towns. In West New Jersey there were about three thousand five hundred people, with the great majority dwelling on lands draining into the Delaware River from the Falls to Salem. The period 1702 to 1776 exhibited a steady growth in population as the settlers of both divisions pushed up the stream valleys and took possession of the arable land. In 1726 there were approximately 32,400 persons in New Jersey; in 1737, 46,300; in 1745, 61,400; and in 1772, 122,000. In 1776 a Congressional estimate gave the number as 150,000.

From 1702 until 1776, in addition to natural increase New Jersey received its share of voluntary immigrants. During this period substantial numbers came from New York and Long Island, and there was a small but steady stream from southern New England. Lewis Morris in 1720 commented that there were many immigrants from northern Ireland. Philadelphia, of course, was the center of the north Irish immigration movement. New Jersey also received a number of German immigrants, especially in the Moravian and the later Lutheran migration. By the middle of the century foreign immigration began to wane. In 1774 Governor William Franklin told the Board of Trade in London that numbers of people had "quit the colony" for Virginia, North Carolina, the Ohio, and the Mississippi. New Jersey continued its steady growth into the nineteenth century. But an account of its rise in population—184,100 in 1790, as recorded by the first federal census, to 6,066,800 in 1960—belongs to a different chapter of its history.

APPENDIX

The Proprietors of East and West New Jersey

With Alleged Right of Government

James, Duke of York	March, 1664—June, 1664
John, Lord Berkeley and Sir George Carteret	June, 1664—July, 1676
(The Dutch Reconquest)	August, 1673—Nov., 1674)

East New Jersey

Sir George Carteret	June, 1674—Jan., 1680
Elizabeth, Lady Carteret	Jan., 1680—Feb., 1682
The (Twelve) Twenty Four Proprietors including the English Proprietors and the Board of Proprietors	Feb., 1682—April, 1702

West New Jersey

Edward Byllynge and John Fenwick	March, 1674—Feb., 1675
The Byllynge Trustees	Feb., 1675—Sept., 1680
Chief Proprietor Edward Byllynge	Sept., 1680—Jan., 1687
Chief Proprietor Dr. Daniel Cox	Feb., 1687—March, 1692
The West Jersey Society, the English Proprietors, and the Council of Proprietors	March, 1692—April, 1702

Without Right of Government

Board of Proprietors of East New Jersey	April, 1702—to date
Council of Proprietors of West New Jersey	April, 1702—to date

The Proprietary Governors

Philip Carteret	June, 1664—Sept., 1682
(Col. Richard Nicolls, the Duke's governor at New York, with standby authority in New Jersey	Sept., 1664—August, 1665)
(Interlude of Dutch Reconquest	August, 1673—Nov., 1674)
(Seizure of province by Edmund Andros	June, 1679—Oct., 1680)

East New Jersey

Robert Barclay (absentee)	Sept., 1682—Oct., 1690
Deputy Governor Thomas Rudyard	Sept., 1682—Jan., 1684
Deputy Governor Gawen Lawrie	Jan., 1684—Oct., 1686
Deputy Governor Lord Neill Campbell	Oct., 1686—March, 1687
Deputy Governor Andrew Hamilton	March, 1687—August, 1688
(Interlude of Governor Sir Edmund Andros, Dominion of New England	August, 1688—April, 1689)
Deputy Governor Andrew Hamilton (in England)	April, 1689—April, 1692

West New Jersey

Proprietors Edward Byllynge and John Fenwick	March, 1674—Feb., 1675
The Byllynge Trustees, Deputy governors, The Ten Commissioners	Feb., 1675—Sept., 1680
Governor and Chief Proprietor Edward Byllynge (absentee)	Sept., 1680—Jan., 1687

Deputy Governor Samuel Jennings	Sept., 1680—May, 1683
Illegal governor, Samuel Jennings	May, 1683—March, 1684
Illegal acting governor, Thomas Olive	March, 1684—Oct., 1684
Deputy Governor John Skene	Oct., 1684—August, 1688
Governor and Chief Proprietor Dr. Daniel Coxe (absentee)	Feb., 1687—March, 1692
(Interlude of Sir Edmund Andros, Dominion of New England)	August, 1688—April, 1689)
Deputy Governor John Skene	August, 1688—April, 1692

East and West Jersey

Governor Andrew Hamilton	April, 1692—April, 1698
Governor Jeremiah Basse	July, 1697 (April, 1698)— August, 1699
(Acting Governor Andrew Bowne)	April, 1699—June, 1699)
Governor Andrew Hamilton	August, 1699—August, 1703

Royal Governors *

Lord Cornbury	August, 1703—December, 1708
Lord Lovelace	December, 1708—May, 1709
Lt. Gov. Richard Ingoldsby	May, 1709—April, 1710
Robert Hunter	June, 1710—July, 1719
William Burnet	October, 1720—April, 1728
John Montgomerie	April, 1728—July, 1730
William Cosby	August, 1732—March, 1736
Lewis Morris	August, 1738—May, 1746
Jonathan Belcher	August, 1747—August, 1757
Lt. Gov. Thomas Pownall	September, 1757
Francis Bernard	June, 1758—July, 1760
Thomas Boone	July, 1760—October, 1761
Josiah Hardy	October, 1761—May, 1763
William Franklin	May, 1763—July, 1776

* During intervals the president of the provincial council was acting governor, except in August, 1757, when the council as a whole acted as chief executive.

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East New Jersey. The writing of scholarly history begins with Tanner and Fisher.

There are a number of special works dealing with the proprietors and land distribution that should be noticed. *The Quit-Rent System in the American Colonies* (New Haven, 1919) by Beverley W. Bond contains important general background material on these subjects. In 1846 W. A. Whitehead, *East Jersey under the Proprietary Governments* (rev. ed., Newark, 1875) was published. This was a pioneer contribution, written long before the publication of the New Jersey archives. Despite serious omissions it is still useful. E. H. Hatfield, *History of Elizabeth* (New York, 1868), although strongly partisan in favor of the quitrenters, contains much valuable material. No one's knowledge of early New Jersey history would be complete without reading the fine historical introductions in two works: that by H. Clay Reed in *The Burlington Court Book* (see below) and that of Preston W. Edsall in *Journal of the Courts of Common Right and Chancery in East New Jersey, 1683-1702* (see below). There is a large literature on the interminable and tedious boundary disputes between the two divisions and between New Jersey and New York. This subject is excellently discussed in the pages of Tanner and Fisher. Finally, for an account of the early Scots in East Jersey one should read a portion of George P. Insh, *Scottish Colonial Schemes, 1620-1686* (Glasgow, 1922), 145-185 and 233-277.

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