

EXCERPT: From *Lawmaking and Legislators in Pennsylvania, Volume Two, 1710-1756*, pp. 561-568

For complete essay see *Lawmaking and Legislators in Pennsylvania, Volume Two, 1710-1756*, pp. 561-589

Sir William Keith

ASSEMBLY: Phila. Co. 1726, 1727

b. c. 1669, Peterhead Parish, Aberdeenshire, Scot. arr. 31 May 1717. d. 18 Nov. 1749. Father: William Keith (d. c. 1721). Mother: Jean Smith (Keith). m. c. 1704 Ann Newbury (Diggs) (c. 1675-1740); children: William, Alexander Henry, Jane, Robert, James.¹ Offices: Scot.: commissioner of supply, 1702; British Cols.: surveyor general of the customs for the southern district in America, 1714-15; Pa./LC: deputy governor, 1717-26.²

Sir William Keith, a baronet from Aberdeenshire, Scotland, descended from a prominent Scottish family, served for nine years as the controversial governor of Pennsylvania and for two terms in the Assembly, his second term also resulting in controversy.

Keith was born about 1669 the eldest son of Sir William Keith, third baronet of Nova Scotia, and Lady Jean Keith, at the family's estate of Ludquhairn, Peterhead Parish, Aberdeenshire, Scotland, and was baptized in the Church of England on 16 February 1680.³ As eldest son, Keith would inherit the baronetcy.⁴

In 1687 Keith graduated master of arts from Marischal College, the University at Aberdeen. Like many Scot's Anglicans in the northeast of Scotland, Keith resented the overthrow of James II and the imposition of Presbyterianism on the Anglican Church in Scotland by the Whig settlement of 1690. Consequently, he joined the exiled king and queen's court at the palace of St. Germain in France for at least several years. The contemporary Whig historian Gilbert Burnet wrote that Keith "had free access" to the exiled royal couple and "hoped they would have made him under secretary for Scotland."⁵

Keith probably returned home in the spring of 1702, along with other exiled Scottish Jacobites, to take advantage of the act of indemnity issued at the commencement of Queen Anne's reign. He was living, shortly after her accession, in Aberdeenshire, where he held the office of county commissioner of supply. Apparently not content with the mundane work of a tax official, Keith became actively involved in the intrigues of the Scottish Jacobites as a trusted associate of James Douglas, fourth duke of Hamilton, leading to Keith's arrest in the winter of 1703 for suspicion of treason, a capital offense. He was subsequently released on bail, prompting the House of Lords in February 1704 to question the attorney general over the release. That officer, although justifying the bail, admitted to the Lords: "I agree Keith is capable to do mischief and dexterous and ingenious. In the whole proceedings there does not seem anyone to be more charged than he is." Consequently, Keith was again arrested, that time by order of the House of Lords' investigative committee to be interrogated. Keith was in a very tight spot. Upon learning of Keith's arrest, the proprietor of the Marine

Coffeehouse in London had supplied the English ministry with two letters, written in code, that were addressed to Keith under the pseudonym of "Smith." The "coffee man" explained to the House of Lords that, at Keith's request, he had delivered six to eight such letters to him the previous summer. Under interrogation, Keith admitted knowledge of the plot, although he insisted that the conspirators had no other design than to make sure that James Francis Stuart would reign after Queen Anne. Despite initial anger by the House of Lords at Keith's evasive answers, he escaped the noose as the English authorities were unable to secure the necessary two witnesses to find him guilty of treason. Shortly before 5 April 1704 he was released into the custody of his "very solicitous" father, after posting security that he would not depart the realm. At most, Keith appears to have been guilty of little more than routine spying on behalf of the court of St. Germain.⁶

Keith began almost immediately to redirect his life, entering the Middle Temple in London on 3 July 1704, and marrying at about that time an English widow, Ann Newbury Diggs, albeit only after a marriage settlement was arranged between the couple protecting the wealth she brought to the marriage. Keith never completed his legal studies.⁷

Keith wisely began to align his future, not with the Jacobites, but with the British government, at least in the short run. By September 1710 he had acquired sufficient political support to make a bid for a seat from Aberdeenshire in the House of Commons on behalf of the interest of Robert Harley, the moderate Tory leader in Queen Anne's government. Harley was strongly supported by the Scottish Tories, including the Jacobites, who anticipated the peaceful restoration of the exiled Stuarts under the Harley ministry after the death of Anne. Yet, despite his own personal appeal to Harley for assistance in his election bid, Keith, who claimed to be devoted to "the Monarchy and present establishment of the British Government" and utterly opposed to any encroachment upon "Her Majesty's sacred authority," failed to receive any assistance from the minister and went down to defeat in his parliamentary effort. Nor did Keith receive any subsequent award in Scotland for his having worked on the ministry's behalf, failing apparently to receive any support from the powerful Scottish aristocratic interest, or from Harley; Keith may have been hampered by his shadowy Jacobite past.⁸

Undaunted in his quest for office, Keith successfully petitioned Harley in the fall of 1713 for the surveyor generalship of the customs for the southern district in America, vacated by the death of Robert Quarry. On 7 January 1714 Keith obtained the position, making him the chief customs officer in the colonies of Pennsylvania, Maryland, Virginia, North and South Carolina, Jamaica, and the Bahamas at an annual salary of £280.⁹

In August 1714 Keith arrived in Virginia to begin what was to prove a short but extremely troublesome assignment, in part because of local obstructionism in Virginia, but particularly because of the ferocious opposition to the royal customs collectors from Governor Charles Craven of South Carolina, a shipowner and merchant, who at one point dismissed Keith's collector for the port of Charleston. Keith ultimately retaliated by persuading Governor Alexander Spotswood and his Council in Virginia to issue an order, on 4 November 1714, for the customs officials in Virginia not to admit ships from South Carolina without the proper clearances from the dismissed collector.¹⁰ The situation was not much better in Jamaica, where Keith stayed from January through May 1715, encountering bitter opposition from Governor Lord Archibald Hamilton. Keith was aided there, however, by the Jamaican Assembly, then in the midst of fierce clashes itself with the governor.¹¹

Despite letters to the customs commissioners in London, in which Keith complained about the outright disobedience he had encountered in Virginia, South Carolina, and Jamaica, he ultimately received little assistance from the British government, although the customs commissioners, pleased with Keith's work, urged the Treasury to seek the redress of his grievances. Keith had ingratiated himself with those commissioners by sending them an impressive report, based on "an actual survey" of the state of the customs, and containing "various propositions" for the better management of the customs. In Jamaica Keith persevered until he had recovered nearly half of a debt of £8,000 owed the crown on prize goods carried into the island, for which action he received a £650 reward from the government. Governor Spotswood was also impressed with his performance, praising Keith's "diligence and exactness" while in Virginia. In effect, as surveyor general, Keith had been a zealous and efficient colonial royal officer, willing to do battle both for the crown's service and his own fees and rewards. However, the death of Queen Anne and the subsequent Whig ascendancy under George I led to Keith's dismissal in July 1715. At about the same time, his father was implicated in the armed Jacobite uprising of 1715, and had fled to St. Germain with Keith's brother George. The family's estate and well-being evidently were at stake, just as clearly as Keith's future. Moreover, his old patron Harley, after being imprisoned on a trumped-up charge of Jacobitism, had also fled to St. Germain.¹²

In April 1716 Keith visited Philadelphia where he met with acquaintances on the Provincial Council about returning to England to complain over his dismissal. His personal misfortunes, however, coincided with the misfortunes of Pennsylvania, for the councilors, desperately unhappy with their headstrong governor, Charles Gookin, fastened upon Keith as a person who would make an excellent replacement. Keith quickly agreed to their proposal that, in exchange for their endorsement for the governorship, he would personally solicit the Penn family and the British government for approval.¹³ Eight councilors then wrote to Hannah Penn on 25 April 1716 in support of the change, expressing their desire "to be partakers of that Ease under him, which ... all men might promise themselves under his Administration." On the surface their untempered enthusiasm for Keith appears rather odd, for royal surveyors general in the colonies generally were not friends of proprietary interests; his predecessor, Robert Quarry, had at times been their worst nightmare, harasser of merchants and the inveterate enemy both of Quakers and proprietary government. There were, however, many factors in Keith's favor. His professed admiration for William Penn, his apparent inclination to be a popular governor, and his affable, pleasing manner impressed them. He was an acquaintance of the Penn family, having met William Penn shortly after the proprietor's return to England, evidently while frequenting Tory circles in London¹⁴; as surveyor general, he had come to Philadelphia "warmly recommended" to the councilors by William Penn's son, William. Keith displayed a tolerant attitude toward Quakers, which he later attributed to having been "acquainted" when he was young "by a near alliance and affinity" with the family of the famous Scottish Quaker, Robert Barclay. James Logan, the proprietary secretary, believed that Keith "could not fail of pleasing wherever he had but an opportunity of being known to persons of Judgement" in England.¹⁵

Keith arrived in England in the late spring or early summer of 1716 and had little difficulty in winning the approval of the Penn family, "who treated him civilly, and like themselves." Hannah Penn and William Penn, Junior, were about as impressed with Keith's potential to be a good governor as the councilors had been. Obtaining William Penn's approval appears

not to have been a problem, other than coaxing him to sign his consent, for the proprietor was "very incapable of business," having been incapacitated by strokes.¹⁶ Negotiations proved very difficult with the three trustees of Pennsylvania, essentially because of Keith's serious financial needs, for he required large loans if he was to settle with his family in Pennsylvania. He needed to protect his wife's marriage settlement, and evidently had both creditors to satisfy and a grand style of living to support.¹⁷ As Keith later related, the negotiations with the trustees dragged on for three months; an agreement was finally reached when, after "good comfortable Eating and Drinking, after the manner of the City, at Sir William's proper Cost and Charge, he found means to sooth the Gentlemen into an unanimous Compliance with his Design." The design apparently involved having the trustees use their influence to secure substantial loans for Keith from a number of London merchants. By February 1717 the financial arrangements were completed. Although exasperated by Keith's aggressiveness in the matter, Henry Gouldney, a trustee, admitted that "considering his wifes fortune the Settlement was unreasonable." On his part, Keith resented the expectation that he should contribute substantially to the costs of attaining his post, including paying the fees for the drafting of his commission.¹⁸

On 1 September 1716 Keith arrived at Hampton Court to lobby for the position. Six weeks later, on 16 October the Board of Trade recommended his appointment to the Privy Council, having received "a good character of Mr. Keith." A month later Keith exulted to Hannah Penn that "all Difficulties" were "at last overcome," but not until 17 December did the Privy Council authorize his appointment. Presumably, Keith's Jacobite past had caused some qualms on the part of the government; perhaps Keith's interest with the duke of Argyll, who, as commander-in-chief in Scotland, had defeated the 1715 Jacobite uprising, helped smooth the way. He may also have been assisted by the Penn family's powerful friends, particularly the duke of Marlborough and the earl of Sunderland.¹⁹ Hannah Penn wrote to James Logan on 12 February 1717 that Keith had been approved "by so General a Consent, that whatever become of Proprietary Governments" (at that time under attack by the British government) he would be continued in the post. In her estimation, Keith was "an Understanding Man & Man of Temper" who seemed to have already "made himself Master of the Affairs of the Province."²⁰

In mid-February 1717 Keith, accompanied by his wife and their children, left for Pennsylvania, arriving at Philadelphia on 31 May, having been put into Antigua for some time because of storms. At the landing Keith was greeted by Governor Gookin and the provincial councilors; his commission then was publicly read at the courthouse, thereby superseding Gookin's commission. Keith spoke warmly to the crowd, declaring his obligation to "prosecute the Proprietor's interests by all means ... consistent with ... loyalty and obedience to the King and the just regard" he had "for the good people" of Pennsylvania. On 3 June 1717 Keith wrote of his arrival to his "worthy Friends," the trustees of Pennsylvania, adding that his son James had been born during the passage. Keith was also happy with his public reception: "the generall Satisfaction of a good people both at Newcastle and in the City was Expressed with all possible marks of Joy."²¹

Keith was confronted with the tricky task of handling the former governor's "late custom" of slandering his chief opponents "with the Characters of Jacobites, Socinians & Enemies to the King." Gookin privately told Keith that James Logan and John French were Jacobites who, were it not for his timely intervention, would have publicly declared for the Pretender.

As an ex-Jacobite, Keith was in an uncomfortable position, for while he doubted the veracity of the accusation, he was "apprehensive that there might be some snare in it." On 22 June 1717 Keith notified the Provincial Council about his intention of investigating the charges, in order either to remove the accused (if proven guilty) from posts in the government or otherwise to allow them to clear their reputations. At the 26 June council meeting, Keith told Gookin of his great surprise at the accusation, for as surveyor general he had been acquainted with most officials in the government and had never had the slightest suspicion of anyone being disaffected. He asked Gookin to present his proofs. Instead Gookin admitted that his "former accusations" were groundless, "the Effects of his passions" and of "a great Indisposition of Body which had Disordered his Head." Keith and the council cleared Logan and French of all charges.²²

Keith waited until 31 July 1717 to issue writs for his first meeting with the provincial Assembly, for (in the absence of urgent business) he had deferred to the preference of rural legislators not to meet during the harvest season. In his speech of 20 August 1717, Keith predicted that "the Country's and the Governor's Interest" would be "so effectually established upon one Bottom, as that he who truly wishes well to either, cannot but find himself engaged to serve both." Keith was rewarded with the House's warm reply that included a pledge of £500 for his support. During the nine-day session, Keith signed laws for better regulating the elections of sheriffs, coroners, and assessors and for raising a supply for the government by a land tax. He also received an immediate grant of £50 to defray his house rent, having settled with his family in a handsome mansion in Philadelphia, facing Dock Creek near Second Street.²³

Proprietary supporters such as James Logan and Isaac Norris* (1671-1735) feared that cooperation between Keith and the Assembly would inevitably deteriorate because of the legislators' customary refusal to grant a regular, adequate salary to the governor.²⁴ Norris, in particular, worried that if the "country" interest obtained electoral success, even Keith's "skill and good genius" would not secure him a decent salary. In fact, that faction did succeed in capturing all of the seats on the Philadelphia County delegation in the 1717 Assembly. In his opening speech to the 1717 Assembly, Keith made a strong pitch for a good salary, assuring the legislators that they would receive, in return "proportionable Advantages to the Publick Welfare." On 17 January 1718 the predominantly Quaker legislators, undoubtedly influenced by Keith's stated desire to assist them in securing the legal use of the affirmation in the colony, resolved without dissent to grant £800 for his support that year.²⁵

Keith soon discovered, however, that his good relations with the House (and the eventual receipt of his salary) were likely to be derailed by a conflict between the assemblymen and the provincial councilors over the mode of taxation. For several years, the "country" legislators (who had dominated the 1713-1715 assemblies) had opposed land taxes while the powerful city merchants (who dominated the council) opposed the farmers's penchant for raising funds by relying on import duties only.²⁶ Intent upon avoiding a replay of that quarrel, Keith bypassed the councilors by reviewing bills and offering amendments independently of them in mid-February. On 21 February 1718 he allowed the council only a "very short Time" to review six bills, all but one of which contained duties to raise revenue; those bills were accompanied by a House message with the veiled warning that the legislators hoped he would "see no Cause for any Amendment to any of them." The legislators predictably rejected some of the proposed amendments to the six bills, and returned those

bills, along with three other bills, to the council. Keith expressed his apprehension to the council that "if the Bills were not passed without any Delay, they might all be in Danger of miscarrying." At the 22 February meeting, Keith did not permit the bills to be read paragraph by paragraph, as was the normal procedure, but attempted to rush the nine bills through the council without more than brief debate. After abruptly cutting off debate on the county levy bill, Keith told "such gentlemen" as held "substantial objections" against the passing of that bill, that they might insert the reasons for their dissent into the minutes. He added that, if he should decide to pass that bill or any other measure against the opinion of the council's majority, he would also insert his reasons into the minutes. Councilors James Logan, Jonathan Dickinson,* Isaac Norris, and Richard Hill* walked out in protest. Keith then met with the Assembly and enacted the nine bills into law. Dickinson complained bitterly of the "new sett of Laws Levying the whole support of government on trade, not one doit on the planters."²⁷

Keith's rude behavior "Surpriz'd his friends" on the council, who were accustomed to working in close cooperation with him. Logan was optimistic that he and the other councilors would be reconciled with Keith, noting that prior to the walkout there had not been "one Syllable of any Difference" publicly expressed between him and the governor. Keith requested that the four protestors express to him their reasons in writing for withdrawing from the council, which they did on 27 February, in effect, arguing for a legislative role for the council, in part because of the British constitutional system and in part because an appointive council provided a "more steady Balance" to the vagaries of elected assemblies, "frequently chosen with a Spirit of Opposition to the Preceding" assemblies. Although conceding that the legislative role of the council had been omitted in the 1701 Charter of Privileges, the councilors argued that the defect had been supplied by proprietary instructions to the governors as well as by the practice of all previous governors. In his rebuttal, Keith boldly asserted that the constitution of Pennsylvania was based upon the royal charter and the colony's laws, neither of which mentioned any legislative role for the council, and "not upon the Proprietary's private Sentiments, or Instructions to his Lieutenants." Under Pennsylvania's unique frame of government, he stressed, the governor was "very aptly and solely the necessary Balance" to the Assembly while the councilors, as voters or potential assemblymen, shared "in the Division, Humour and Influence of that House." Keith, however, sprinkled his rebuttal with a few conciliatory comments, to the effect that the councilors were honorable men and that he wanted to return to a state of friendship with them.²⁸

Logan later commented that Keith, in denying the council's authority, had briefly come under the influence of David Lloyd,* the chief justice of the supreme court and a masterful anti-proprietary politician. Keith "soon discovered & afterw[ar]ds own'd his Error," evidently persuaded by Attorney General Andrew Hamilton* and a councilor, William Trent* (1666-1724), "in whom he also very much confided," who urged him "very earnestly" to work with the council's advise and consent. Trent was also the speaker of the 1717 Assembly. The legislators also wanted the breach to be healed; on 27 May Trent, on the House's behalf, assured the councilors that the House was "willing, and desirous, to have their Opinion and Consent in all Matters of Moment."²⁹

The necessity of securing the affirmation was the overriding issue which united Keith, the council, and the Assembly. Former governor Gookin had thrown the colony into an uproar

by suddenly insisting that the clauses in the English affirmation act, forbidding the use of the affirmation to qualify officeholders and witnesses in criminal trials, extended to the colonies; if enforced, those clauses would effectively prohibit the Quakers from holding office and participating in criminal trials. In January 1718 the House asked Keith to assist the members in reviewing, amending, and altering the colony's laws to convince the crown that the Quakers were "a well-meaning People," who deserved "to act in such Stations" in which they could "best serve the Publick." Keith agreed and actively promoted the 1717 Assembly's campaign to win the sanction of the British government for the affirmation by bringing the colony's criminal code into conformity with English common law. It was an attempt at a grand bargain, with the colonists remedying one of the British government's main complaints about Pennsylvania (the colony's failure to adopt the harsh English criminal code) in exchange for the Privy Council approving the use of the affirmation in the colony.³⁰

In May 1718 Keith met twice with House committees to develop the strategy to gain the approval of the affirmation in England; moreover, he wrote on his own initiative to King George I praising the industriousness and loyalty of the colony's Quakers and arguing pragmatically that because the Quakers were the majority of the population, the functioning of the government and courts depended on them and consequently, on the use of the affirmation. The crowning achievement of the campaign was the enactment of the law for the advancement of justice on 31 May 1718, which brought Pennsylvania law into greater conformity with English law and which allowed for the use of the affirmation. At the Assembly's request, Keith and the council arranged for a London agent to lobby for the law's approval in England.³¹

Perhaps even more significant, at least symbolically, was Keith's unswerving support for the use of the affirmation by judges, jurors, and witnesses at the April 1718 trial in Chester of the accused killers of Jonathan Hayes. Keith, in fact, had appointed two prominent Anglicans, William Trent and Jasper Yeates,* and two prominent Quakers, David Lloyd and Richard Hill, to preside at the trial. Moreover, on 15 April he delivered an oration before a crowd at the Chester courthouse, just prior to the arraignment of the accused murderers. In his speech Keith's defense of the affirmation's legitimacy was wholehearted and his attack on those strident Anglicans who denied that legitimacy was unrestrained; in his mind, only those individuals who had "lost all Sense of Religion and Virtue" could object to the trial. As events transpired two of the accused murderers were found guilty and subsequently executed.³²

On 31 May 1718 Keith congratulated the Assembly for having passed "valuable and wholesome Laws." Among the 16 new laws were measures for the building of prisons and workhouses in the counties, and for empowering justices of the peace to set reasonable prices for liquor in taverns and alehouses.³³ Thus far, Keith's tenure as governor had been a rousing success.

In response to a request from the Board of Trade and with the assistance of James Logan, Keith wrote a report in February 1719 "on the Progress of the French." The conclusions by Keith did not meet with Logan's approval. Keith warned that measures needed to be taken to protect the British mainland colonies from encirclement by the French. He urged that a series of forts should be constructed throughout the colonies, and that to secure the peace a uniform set of laws regulating the Indian trade should be established. Colonial governors,

moreover, should be instructed to adhere to Indian treaties negotiated by other governors. The Board of Trade found Keith's report commendable.³⁴

Generally speaking, from 1718 to 1721 Keith seemed to be on extremely good terms with the provincial councilors. He had a compelling reason to work harmoniously with them, for to impress them was to maintain his good relations with the House. The leadership of the assemblies of 1718, 1719, and 1720 substantially overlapped with the membership of the council, and the outlook of the two groups, in any case, was similar. Councilors Jonathan Dickinson, Richard Hill, Isaac Norris, and William Trent were leaders of two or more of those assemblies; the same group of wealthy merchants, sympathetic to the proprietary and moderately conservative in their outlook, were enormously influential in both the council and the House, where the city merchants once again dominated the Philadelphia County delegation. Councilors who served in the House, moreover, were influential in persuading the assemblymen to raise Keith's salary from £800 (1717 Assembly) to £900 (1718 Assembly) and then £1,000 (both the 1719 and 1720 assemblies).³⁵

On 3 November 1718 Keith informed the council of the death of William Penn. In his eulogy, Keith praised Penn in the most exalted terms, as a man of perfect general character and great capacity. He credited the proprietor with Pennsylvania's achievements, declaring that it was his "generous Regard to mankind, & his Sublime humanity that first framed the Scheme, & then Laid the Solid foundation of this flourishing Colony." Keith and the council then issued a proclamation announcing Penn's death and continuing the government. Fortunately for Keith, he was able to remain at his post without interruption because of a provincial law which allowed for the continuation of the government in the event of the proprietor's death, until such time as orders were received from either the crown or the proprietor's heirs. Keith also eulogized Penn before crowds in Philadelphia and New Castle, moving James Logan to observe that Keith "by his great abilities & Sweetness of Temper & Carriage" had gained "much on the affections of the People."³⁶

Keith continued to cultivate the Assembly's support. In speeches and messages to the 1718-1720 assemblies, he persistently argued that the interests of the governor and the people should be indissolubly linked, but he added that those interests could be expensive to maintain.³⁷ In fact, his professed desire to promote the people's interests was influenced by his economic needs, for the legislators were nearly his sole source of support (the perquisites of his office were few), and he admitted to the 1718 Assembly that his needs were immediate. But Keith embraced the role of the popular governor with a gusto that belied the notion that he was mercenary in his motives; whatever the origin of his enthusiasm, he passionately adopted his new identity and made it the emblem of his pride and honor, enthusiastically explaining to the Assembly in May 1720 that his "greatest Enjoyment and Satisfaction" was in seeing "the Governor and the People" promoting "the Ease and Happiness of the other." The legislators responded in kind, for they were grateful to have a governor, particularly after Gookin, who was eager to accommodate them.³⁸

That was a quiescent period for Keith and the legislature. Although the liquor excise law, at his request, was revised by the 1718 Assembly to circumvent evasion and remedy a shortfall in government revenues, no other legislation was enacted during the 1718 and 1719 assemblies.³⁹ That legislative drought ended with the 1720 Assembly, in which Keith signed into law eight bills, including measures renewing import duties, erecting and maintaining pounds, and regulating the tanning and currying of leather. In his speech of 15 October 1719

Keith proudly announced to the House that the law for the advancement of justice had been ratified by the Privy Council, which by legalizing the common form of the affirmation had secured for the colonists "the full Enjoyment of English Liberties."⁴⁰

On 9 November 1719 Keith informed the council that eleven laws (including three for establishing the courts) passed during Gookin's administration had been repealed by the Privy Council. Faced with the imminent closing of the courts, Keith issued new commissions to the county and supreme court justices, commanding them to continue acting under the repealed acts, until new laws were enacted. Then, on 3 May 1720 Keith, believing that the colony still needed to have a provincial court of equity, informed the House that, having consulted with "Gentlemen learned in the Law," he had been persuaded that neither he nor the Assembly had the legal power to erect a court of chancery, and that, furthermore, the office of chancellor could only be legally undertaken by the governor as the king's representative. The next day Keith was presented with the House's unanimous resolution for the establishment of such a court, with Keith as chancellor assisted by those provincial councilors he saw fit, who had not heard the case in the lower courts. On 6 August the council endorsed the resolution; Keith, "speaking to his own want of Experience in Judicial Affairs," insisted that he would only accept the office if assisted by the councilors, to which proviso they agreed and a proclamation establishing the court followed.⁴¹

Keith's position as governor was threatened by the dispute over the proprietary succession. He waited for news of the "fresh Commission" that Hannah Penn promised would be secured for him as soon as possible. Her uncle Simon Clement, who was handling Pennsylvania affairs on her behalf, planned on both establishing Keith as governor and completing the sale of the government to the crown that William Penn had arranged in 1712. In a 27 November 1718 letter to Cadwallader Colden, Keith complained that, in effect, he was being left to dangle in the wind, which uncertainty had given rise to an "infinite variety of politicks" in the colony. Keith had also written to William Penn, Junior, explaining his decision not to publish the commission as governor which he had given to Keith in London, to be declared on the proprietor's death. Keith evidently pleaded with Penn not to insist that he act under a commission that had not been approved by the crown. Penn, who was brimming with desire to succeed his father as proprietor, was not to be deterred. On 26 April 1719 Logan received a package from Penn containing a new commission, lacking royal approval, appointing Keith governor, a set of instructions, and the opinion of three lawyers in favor of Penn's right to the government. While professing "a very Great friendship" for Keith, Penn issued a blunt warning to Keith to accept the commission or he would regard the refusal as a personal affront.⁴²

Keith disregarded Penn's instruction to publish the commission and on 28 April the councilors agreed to his suggestion to call the Assembly in order for Penn's "Right & Title to the Government" to be jointly recognized. Keith and the councilors had decided to uphold the commission because they had not heard from anyone "concern'd on the side of the Wid[ow]," and because they were at least half-convinced by the younger Penn's definitive tone that he was legitimately vested with the powers of government. Two days later a message was received from Simon Clement, indicating that efforts were underway to renew Keith's commission, that Penn's will had been probated, and that the younger Penn did not have the powers he had claimed. In reaction, Keith decided "to Govern himself by the Joynt Advice of the Councill & Assembly," in order to avoid offense, if at all possible, to either

William Penn, Junior, or Hannah Penn, by achieving popular sanction for whatever decision was made. Speaking to the House on 7 May 1719, Keith adopted a neutral stance, apprising the legislators of the situation and asking them to assist him with their advice after examining the requisite documents that he supplied to them, including a copy of William Penn's will and probate.⁴³

The representatives were extremely wary of William Penn, Junior, because of his irresponsible behavior during his brief residence in Pennsylvania and especially his aggressive stance commanding the governor to work vigorously to promote the Anglican interest in the colony.⁴⁴ In their reply to Keith, the legislators firmly argued that since the proprietor's will did not vest the power of government in his son, and the commission had not been officially endorsed in England, the governor should "forbear to publish the said Commission." Keith and the council agreed with that assessment, and Keith then wrote to the Privy Council defending his decision not to accept the commission, and, to his satisfaction, received in return an order for him to continue as governor under his original commission.⁴⁵ In November 1719 Keith wrote to Hannah Penn that, in effect, everything was under control, especially since he had removed her kinsman Robert Assheton from both the council and the Naval Office for allegedly divulging to William Penn, Junior, secret council debates and for accusing Keith of disloyalty to the younger Penn. Keith appointed Thomas Graeme, his own stepson-in-law, to replace Assheton at the Naval Office.⁴⁶

Keith's relationship with Hannah Penn was polite but rather distant. He had written her at least four letters during his first year in the colony, but neither she nor the trustees had responded.⁴⁷ She was preoccupied with family matters. After her husband's death, she began writing occasionally to Keith, but in her letters she demonstrated scant interest in learning about the situation in Pennsylvania except in the broadest terms. Only Simon Clement, on behalf of her side of the family, was deeply interested in Pennsylvania affairs, but he preferred to correspond with Logan rather than Keith. Consequently Keith, who had wanted a more regular correspondence, wrote less frequently to Hannah Penn and troubled her with only what he thought was necessary.⁴⁸ Nonetheless, she and Clement were well-satisfied with Keith's "Prudent Management" as governor, until they received alarming news late in 1719 of Keith's involvement in the case of Rebecca Richardson Clark.⁴⁹

Keith had signed into law a measure that empowered trustees to sell a city house that had belonged to Clark, the widow of the son of William Clark,* in order to pay a debt that her husband owed. Hannah Penn and Clement were deeply disappointed in Keith for enacting a measure which they believed robbed a widow of her lawful property, since the house and lot had been her marriage settlement. Moreover, they learned that Keith had approved the law without consulting his council, despite proprietary instructions calling for such consultation on important matters; when two or three councilors had told Keith of their dislike of the bill and asked for a debate in council, "he answer'd it was a private bill & that he had the Attorney Generalls opinion on it, and so past it." To make matters worse, that attorney general, Andrew Hamilton, who at the time of the law was renting the House, subsequently purchased the property, thereby securing the improvements he had made on the property. Early in 1720 Simon Clement and Hannah Penn wrote separately to James Logan advising him to warn Keith to prevent "the Principal Contrivers & promoters" of the measure from

ever holding office in Pennsylvania and to avoid such misconduct in the future or be replaced.⁵⁰

Keith was angered, but not intimidated when he read those letters to Logan. In his reply to Hannah Penn, Keith protested that she and Clement should not have judged him before he had been heard. He enacted the law, he insisted, only after an "abundance of time" had been spent by him with the Assembly "narrowly examining the equitable Foundation of that Bill." Keith rejected the charge that he had acted illegally, but most of all, he sharply attacked Clement for having maligned his character to her, declaring that anyone who insinuated at a distance that he had acted unjustly "must either be a very weak unintelligable person, or else a very Malicious vain Calumniator." He warned her that he might not continue acting with restraint if Clement insulted him again.⁵¹

Keith's defiance of proprietary wishes stretched the patience of Hannah Penn and Simon Clement near its limits, although they were very reluctant to dismiss Keith because his administration had been "easy & Satisfactory to the People." In two letters to Clement, Logan strenuously intervened on Keith's behalf, defending his role in the Clark case, and insisting that Keith's fit of temper, after being "loaded with so much blame," was an understandable reaction, particularly since he valued both his honor and "the punctuale Discharge of his Duty" above all things. The issue faded after the Privy Council repealed the law on 8 January 1720, but relations between Keith and the proprietary had been damaged, the governor believing that he had been abused, while Penn and Clement became wary of a man they had trusted.⁵²

[For complete essay see *Lawmaking and Legislators in Pennsylvania, Volume Two, 1710-1756*, pp. 561-589](#)

¹There may have been a sixth child, John, who died young, although a reference by Hannah Penn in Feb. 1717 to an additional child may have referred to Ann, daughter of Keith's wife by her first husband (see ECK; PPLL, 1:74-75).

²MPC, 2:631, 3:113-15, 250-51; Jones, Inns of Court, xv; Wendel, "Keith," vii, 2, 4, 7-8, 289-90; Baronetage, 2:370-71; PAG, 7 Aug. 1740, 8 Oct. 1741; Keith, "Wife and Children," 1-2, 4-7; Keith, "Keith," 3; RCC; Votes, 2:366-67; PPAP, 15; CTB, 29, 2:619-20.

³Wendel, "Keith," vii, 2, insists unequivocally that, contrary to several historical and genealogical studies, Keith was not born shortly before his baptism on 16 Feb. 1680, but in 1669. See also Baronetage, 2:370-71; Jones, Inns of Court, xv; Keith, "Keith," 3.

⁴IGI, Aberdeenshire; Keith, "Keith," 3-4; Wendel, "Keith," 2. For more on Keith's heritage, see Baronetage, 2:370; Lewis, Scotland, 2:369-70; Taylor, Families of Scotland, 1:105-6, 113, 124.

⁵Wendel, "Keith," 3; Lenman, Jacobite Risings, 52-75; Lenman, "Scottish Episcopal Clergy"; Jacobites, 63-65; Keith, "Keith," 4-5; Burnet, 746-47.

⁶Lenman, Jacobite Risings, 72-74; Burnet, 746-50; Wendel, "Keith," 4-7; Riley, Union, 25, 32-37, 39, 62-63, 67-76; Brown, Legislative Union, 15-16, 18-19, 26-31, 35-36, 39-42, 64-68; DNB, Douglas, James (fourth Duke of Hamilton); Stewart, Alexander (fifth Lord Blantyre); Riley, Ministers, 17-18; Lords, 5:300-302, 304; CSPDA, 2:479, 593, 596; CTB, 28, 2:422-23; PPP&B, 3-11; Lillywhite, 359-60.

⁷Jones, Inns of Court, 111-12; Keith, "Wife and Children," 1-2; PFP, 2:103; Keith, Vindication, 7-8; ECK, Lady Keith to Jane Yeeles, n.d.

⁸Riley, Ministers, 140-73, 233-42; Szechi, 35-45, 62-67, 85-88, 200; Portland, 10:224-25, 229-30, 339-41, 462-63.

⁹CTB, 27, 2:376, 397, 429, 438, 28, 1:78; CTP, 4:517; Wendel, "Keith," 10-12.

¹⁰EJCCV, 3:375, 417; CSPC, 28:211-12, 216; Barrow, 84-105, 300; CTB, 29, 2:560-61.

¹¹CSPC, 28:xxxvi-xli, 96, 121, 157-58, 216, 29:xliv-lv, 83-90, 188-89; Letters of Spotswood, 2:103; CTBP, 1:40-41; CTP, 5:144, 213; JDLBk., 124, 170.

¹²CSPC, 28:211-12, 216, 219, 277; CTP, 5:144, 213; CTB, 28, 2:560-61, 29, 2:619-20; CTBP, 1:40-41; Letters of Spotswood, 2:103-4; FUP, 2:211-12; Owen, Eighteenth Century, 3-11; Wendel, "Keith," 14-15, 216. At St. Germain Keith's father became poverty-stricken.

¹³PPAP, 15; LLB, 1717-18, 27-31; Keith, Vindication, 2; CSPC, 29:181. Possibly Keith lived in Va. after his dismissal; he was at New Castle, on his way to Va., when the councilors first contacted him about their proposal.

¹⁴Penn, seeking political support for his proprietorship, was a well-established figure within those circles. That Keith, the political intriguer and Scottish Anglican tax assessor, would have met Penn in another context appears a remote possibility. Probably, Keith also became acquainted at that time with the Tory politician who proved so instrumental in furthering his career, Robert Harley (later the earl of Oxford).

¹⁵Olson, "Proprietary Government"; Votes, 2:436; PPAP, 15; LLB, 1717-18, 27-31; Lawmaking and Legislators, 1:47-53; Barrow, 38, 52, 57, 98-100; LLB, 3:351; ETPEQPF, 84; Letters of Spotswood, 2:105-6. While surveyor general in Va., Keith had appointed a Quaker (who had been dismissed as naval officer for the district because of his refusal to take an oath) as searcher for the lower district of the James River.

¹⁶Keith, Vindication, 3; PPP&B, 3-11; PPOC, 1:53; PPLL, 1:69, 74-75, 89-91.

¹⁷PPLL, 1:90. On 1 Feb. 1718, William Penn, Jr., urged Logan to make provisions for Keith's maintenance "Answerable to the Quality of the person" who was to govern the colony.

¹⁸"Case of the Proprietor," 202-3, 213; PPLL, 1:74-75, 89-92; PWP Micro., 14:190, 583; PFP, 2:103; Keith, Vindication, 1-3; PWP, 4:771-73; Logan, Vindication, 1-2; LLB, 1717-18, 26. Hannah Penn and William Penn, Jr., both commented at that time on Keith's great or considerable expenses in obtaining his post.

¹⁹Keith's claim in 1727 that the Penn family had had no "interest" at court that assisted him in securing his appointment was ridiculed, probably quite accurately, as false and dishonest by Logan. However, his interest with the duke of Argyll may have been essential, for the notoriously brash and demanding nobleman was one of the most powerful men in Scotland. Although temporarily out of power, Argyll retained some influence at the court. Keith quite possibly developed an acquaintanceship with Argyll during the 1710 elections in Scotland that he afterward cultivated to his advantage. Although normally a Whig, the duke of Argyll, because he felt excluded under Godolphin's ministry, had been one of the chief managers in support of Harley's interest in the election to the House of Lords. See Riley, Ministers, 143-47, 240, 257-65; Szechi, 63-66; DNB, Campbell, John (second Duke of Argyll).

²⁰CSPC, 29:181, 186, 196, 232; PPOC, 1:53; PWP Micro., 14:190, 583; NOLB, 8:32-33, 36-37; PPLL, 1:74-75; Logan, Vindication, 2; Keith, Vindication, 3; .

²¹JDLBk., 117, 119, 124-25; PMHB, 23:489-90; MPC, 2:631; LLB, 2:63; *ibid.*, 1717-18, 9, 12, 16; PPOC, 1:61.

²²LLB, 2:171-73; *ibid.*, 1717-18, 29-30; Votes, 2:196-98, 205; PPAP, 17, 19; PPLL, 2:82; MPC, 3:16-18; NOLB, 8:36-37.

²³MPC, 3:25, 27; Votes, 2:210-11, 213, 215; Statutes, 3:128-40; Scharf/Westcott, 1:158; Watson, 1:368-70. A drawing of the mansion can be found in Watson, facing p. 364.

²⁴NOLB, 8:79-80, 103-4; LLB, 1717-18, 26-30. Hannah Penn and William Penn, Jr., shared their concern (see PPLL, 1:74-75, 89-90).

²⁵Votes, 2:217, 219-21, 225.

²⁶The "country" 1714 Assembly did pass a land tax, but only because Gookin would not otherwise agree to duties (see Votes, 2:178-80, MPC, 2:592-94).

²⁷Votes, 2:228-32, 427, 429-30; MPC, 3:38-39; JDLBk., 181; see also JDLBk., 163, 176-78, 180, 188.

²⁸PPOC, 1:171, 193; LLB, 2:177-78; MPC, 3:1-33 *passim*; Votes, 2:425-30.

²⁹MPC, 3:43; PPOC, 1:169-71, 193; Votes, 2:238.

³⁰Votes, 2:194-97, 200-207, 219-22; MPC, 2:614-16; NOLB, 8:32-33.

³¹Votes, 2:233-38, 240-42; MPC, 3:43-44; Statutes, 3:199-214; LP, 1:120; PPOC, 1:89, 93; CSPC, 30:366.

³²MPC, 2:615, 629, 3:27, 33, 40-42; Votes, 2:196, 214-15, 218, 224, 227, 234; PPAPC, 30; PPOC, 1:65; LLB, 1717-28, 16-17. Keith's speech was published (see Keith, Letter).

³³Votes, 2:241; Statutes, 3:141-228; LLB, 2:177-78.

³⁴CSPC, 31:31-41; LP, 10:20; PPAML, 1:23; Wendel, "Keith," 75-84.

³⁵PPOC, 1:169-71, 193; LLB, 2:177-78; *ibid.*, 1717-18, 28, 83; MPC, 3:13-159 *passim*; NOLB, 8:79-80, 103-4.

³⁶MPC, 3:58-59; PPPCOR, 1:55.

³⁷Votes, 2:247-50, 261, 265-67, 269-71, 275-76, 288-89. Keith regularly visited the governors of neighboring colonies as well as entertained them during their visits to Phila.

³⁸LP, 10:21; Votes, 2:247-49, 259-60, 265-66, 271, 278.

³⁹The lack of legislation did not indicate disaffection toward Keith, in part because the members first awaited confirmation of Keith's legitimacy as governor and then they awaited the reasons for the repeal of 11 laws in England (see Votes, 2:256-58, 266-67; PPOC, 1:69, 93; LLB, 2:210-12).

⁴⁰Votes, 2:251, 253, 265, 287, 295; Statutes, 3:141-44, 229-63.

⁴¹MPC, 3:75-76, 90, 105-6; PATBk. 5:389-92, 398-99; Votes, 2:270-71, 273.

⁴²PPFC, 1:80; PPOC, 1:69, 79; LLB, 2:195, 210-12; PRP, box 2, fol.11, #64, 30 Dec. 1718, 6 March 1718/19; PWP, 4:76n, 707-8; Colden, 1:94; PPLL, 1:92-93.

⁴³MPC, 3:63-65; LLB, 2:195, 210-12; PPOC, 1:69; LP, 1:22, 10:21-22; PRP, box 2, fol. 11, #64, 6 March 1718/19; Votes, 2:258-59.

⁴⁴PPLL, 1:92; MPC, 3:63-64; NOLB, 8:213; LLB, 1717-28, 20. William Penn, Jr.'s, stance was publicly revealed in his instructions to Keith and in his letter to John Talbot, an Anglican missionary notorious for his opposition to the affirmation.

⁴⁵Votes, 2:259-60; PPOC, 1:69; LP, 10:22; NOLB, 8:213; MPC, 3:67-68; CSPC, 31:148-50. Three councilors, including Richard Hill,* dissented, apparently believing an order of the proprietor's heir should be obeyed, as required by provincial law. In a letter to Cadwallader Colden, in June 1719, Keith admitted that "the bottom" he stood upon was "very precarious" (Colden, 1:96).

⁴⁶PPOC, 1:83, 119, 2:195, 197; MPC, 3:71-72, 77. As there was no outcry at the time regarding Assheton's removal, he was probably guilty of the charge.

⁴⁷PFC, 2:103; PPOC, 1:65. Keith's first two letters to Hannah Penn have not been found, but he refers to them in his third letter. In his fourth letter, Keith expresses his concern that he had "never yet had the Hon[ou]r of a line" from the Penn family since he had arrived in the colony.

⁴⁸PPOC, 1:69, 79, 83, 89, 93, 101; PFC, 1:80-81; PPPCOR, 1:55; PRP, box 2, fol. 11, #64, 30 Dec. 1718, 6 March 1718/19; LP, 10:21; PMHB, 23:527-28. Two of Keith's letters to Hannah Penn, of 6 Nov. 1718 and 30 March 1719, have not been found, but his other letters and her replies suggest a marked reticence on his part. Hannah Penn urged Keith to write more often, but she otherwise did little to engage him in a fuller correspondence.

⁴⁹PRP, box 2, fol. 11, #64, 30 Dec. 1718, 6 March 1718/9; PFC, 1:81; PPLL, 1:78.

⁵⁰Statutes, 3:225; PPOC, 1:89; NOLB, 8:215-17; PPLL, 1:78; PMHB, 23:527-29.

⁵¹PMHB, 23:527-29. Keith also wrote Clement a forceful, although considerably more restrained, letter protesting his mistreatment (see GRGP, case 2, box 21, 18 May 1720).

⁵²PMHB, 23:527-29; PRP, box 2, fol. 11, #64, 30 Dec. 1718, 6 March 1718/9; GRGP, case 2, box 32, 14 Sept. 1720; PPOC, 1:93, 101; LLB, 1717-28, 121, 178-80; *ibid.*, 3:11-12; PMHB, 23:527-29; Statutes, 3:228; Lawmaking and Legislators, 1:273-78. Keith turned a deaf ear to Hannah Penn's request that he initiate legal action in Pennsylvania voiding the sale of the house.