

David Lloyd.

William Penn planted in Pennsylvania the seed of modern American democracy. It contained the idea that government rests with the consent of the governed—that representation is based upon the people rather than property—that counties and states should have equal representation, from which, in time, came an American Senate—that the legislative should be endowed with instructions from their constituency that would give them a veto upon all legislation, which was the germ of the Referendum a century before Rousseau—that there should be a body of legal learning that should pronounce upon the constitutionality of legislation. Penn also planted the paternal and proprietary idea, which was protected by his land system, his quit rents, and his private business.

David Lloyd propagated the former, James Logan, by his faithfulness and even jealousy, defended the latter. Lloyd was tireless in his support of popular rather than property representation, James Logan saw the liberty of the individual through the protection to property. Lloyd held that the right of government rested with the consent of the governed, Logan espoused the idea of the divine right to rule, resulting either from inheritance or purchase.

The Welsh Quakers, led by the Lloyds, uprooted Penn's unformed conception of the Referendum in their zeal to secure the tax-levying and law-making power in the hands of the people's representatives. After the death of Thomas Lloyd, David, who some say was his cousin, became a leader in this effort.

“According to my experience,” David Lloyd writes, “a mean [poor] man of small interest [estate], devoted to the faithful discharge of his trust and duty to the government, may do more good to the state, than a richer and more learned man, who, by his ill-tempered aspiring mind, becomes an opposer of the constitution by which he should act.” He further held that the first settlers of Pennsylvania were led to expect, from the promises made by William Penn, that they should be able to exercise greater liberties than they had at home. He insisted that the Province was not settled, as other colonies were, either at the expense of the

Crown or of any private man, "neither was it peopled with the purges of English prisons, but by men of sobriety and substance," who came chiefly because of the inducements offered by Penn's Frame of government. Their privileges were granted by a compact between the Proprietor and the settlers, and no one party to the compact had the right to change it without the consent of the other. The Charter from the Crown gave certain rights to the Freemen, which could not be withdrawn without the consent of the freemen.¹

James Logan saw, back of these ideas, a dangerous man, one who, could he have his own way, would place the Province in the condition England was under during the parliament of 1641. This, he says, would cause the colony to decline into a "state, very little, if at all distant from a democracy; a proposal, that might perhaps not prove displeasing to some who have thought that England never so truly knew liberty as when some proceeded so vigorously in rooting up of there grievances, that with them they rooted up the Royal Family, and afterwards made themselves the greatest grievance the nation had ever known."² He saw in the Pennsylvania Assembly, as led and guided by David Lloyd, a menace to what he called an English Constitution; he held that the people must not be invested either with the sole power of legislation, or an approach to the same. These views of Logan's were deepened by his master's financial condition, brought on by the dishonesty of the Fords.

These fundamentally different conceptions of government could not, when espoused by James Logan from Ireland, and David Lloyd from Wales, avoid friction. This struggle became a personal one; its bitterness has turned many away from a sincere study of the development of the Pennsylvania legislature. Logan, in defence, threw himself behind the reputation of his employer. The bitterness that ensued deepened the shadow that hung over the advancing years of the Founder. These things made him like unto a house divided against itself. The faithful and honest service of Logan to Penn's private interests added weight to his coloured representations of affairs in the colony. These, with the exaggerated accounts given by the return of his wayward son, led Penn to see in David Lloyd the secret motives of an enemy.

¹ *Minutes Penna. Provincial Council*, vol. ii., p. 281.

² *Penn-Logan Correspondence*, vol. ii., p. 365.

David Lloyd was born in North Wales, county of Montgomery, parish of Manoron, in 1656. Thirty years later he came to Pennsylvania with William Penn's commission as Attorney-General. From certain manuscript papers which he had copied, that were of a legal nature, it might be inferred that he was educated in England. His wife, Sarah, came from Circencester, Gloucestershire. It is most probable that he lived in Chester (Pennsylvania), until about 1700. In 1689 he purchased in Chester, from the heirs of Neeles Laerson, a considerable tract of land, which had previously held an uncertain title, a part of it having been used as a commons. The following year, he secured permission from the Council to lay out a street thirty-eight feet wide, on the line of the present Second Street, from Chester Creek to the property he had purchased. These transactions made him enemies, some claiming that he even bought the Swedish burying ground, which was not the case. He represented Chester County in the Assembly until 1700. He also lived on Second Street in Philadelphia, opposite the "Slate Roof House," on the site of the old coffee house, which subsequently became the location of the old Philadelphia Bank.

It is probable that Lloyd lost his wife, Sarah, a few years after his arrival. In 1697, he married Grace Growden, daughter of Joseph Growden, of Trevoise, Bucks County. Their only son, Thomas, was born in Philadelphia, 11th mo. 27th, 1697, and died of fright when about four years old. This sad experience was occasioned by one in charge, who, during the mother's absence, placed the little fellow in a dark closet for punishment. "Grace Lloyd," writes Penn, "bears her loss with sweet Christian fortitude." He was unable, in this connection, to see how her husband could have such a trial, and at the same time oppose him and his proprietary plans.

When David Lloyd arrived in the Province in 1686, he found the government struggling to exercise its functions under the Frame of 1682. The Assembly, having only a veto power in legislation, was busy with its impeachment prerogative. Nathaniel More, a leading magistrate, had been removed from office, and Patrick Robinson, Clerk of the County Courts, had recently been before the Assembly, and, when called to answer for his "insolent conduct," threw himself in a rage of passion upon the floor. Within a month after Lloyd's commission as Attorney-General

had been received, he was established in the place of Patrick Robinson. The following year, 1687, he was selected as Clerk of the Assembly, and most likely it was about this time that he became Attorney-General for the County. Robinson was a man of considerable ability. He became David Lloyd's tireless enemy. Four years later he secured the position of Attorney-General for the County.

David Lloyd's most natural political affiliations were with Thomas Lloyd and the Welsh Quakers. Penn's Frame provided for a plural executive during the Proprietor's absence. Thomas Lloyd, the ablest man and most polished scholar in the Province, favoured a central executive. As President of the Council, which was chosen for legislative purposes, and expected to exercise judicial functions, Thomas Lloyd was unable to wield any executive power. David Lloyd was a cheerful supporter of this view. The Lloyds displeased the Proprietary by permitting the repeal of a customs duty that would, in after years, have yielded Penn a handsome income. Doubtless, this was largely influential in the selection of Captain Blackwell, a Puritan from New England, for Governor.

This selection did not sit comfortably upon the shoulders of men, some of whom had been whipped at the cart-tail in the northern towns. The Lloyds felt it as a rebuke to their policy of favouring the people and the infant commerce. The Welsh were the most outspoken in the expression that the Proprietary could not select a deputy without consulting the Freemen. According to the Frame, twelve members constituted a quorum in the Council; Blackwell could rarely secure more than five or six. With this number he set about passing laws, and demanded that Thomas Lloyd, as Master of the Rolls and Keeper of the Great Seal, should duly ratify them; Lloyd refused, saying that the laws were not legally made.

Then Blackwell attempted to secure possession of the seal, but the Lloyds outwitted him. At the following election Thomas Lloyd was re-elected to the Council. Blackwell refused him a seat, Lloyd took it. Blackwell adjourned the Council to his private rooms, and attempted to impeach Thomas Lloyd, but found that he was too well thought of among the people.

Failing in this, Blackwell turned his attention to the Deputy Master of the Rolls and the Clerk of the Courts, David Lloyd. He demanded from him the papers and seal that

he had failed to secure from his chief, and the documents of the Courts. David Lloyd refused to comply unless directed to do so by the magistrates. Blackwell and his four or five faithful adherents construed this reply as disrespectful to the Governor and the Council. For this he was not only deprived of his commission as Clerk of the Courts, but was arrested while acting as Clerk of the Assembly. Certain papers, however, he refused to deliver, saying that he was forbidden by Thomas Lloyd. Before any thing further could be done, Blackwell was removed from his post, which removal he accepted with gratitude, saying that he had been most unequally yoked.

The overthrow of the Blackwell administration filled the public mind with questions upon the right of the Proprietary to name a deputy without consulting the people. The act of the Crown in removing the government of the Province from the control of William Penn and appointing General Fletcher, governor of New York, as governor for the King, quickly dispelled any further expression upon such a revolutionary subject. The Council was not a little awe-struck at the presence and authority of the new Governor. The Lloyds were nothing daunted. They well knew that no proprietary colony could be made a Royal one without a writ of *Quo warranto*, which the keen-scented David knew had not passed. Accordingly they acted as if the advent of Fletcher was but a temporary ruse to frighten the "assertive" into recognition that the Crown at least could appoint a governor.

David Lloyd came into the Assembly from Chester County (1693) the same year that Fletcher became governor. With slight intervals, he was active in legislative work for thirty-six years. His first experiences entitle him to be called the father of the Pennsylvania Assembly. Fletcher had declared that the old laws were no more; they had not been recorded, or sealed, therefore they were void. Lloyd said that their validity depended upon the approval of the Assembly and the Proprietary. He made Col. Markham acknowledge in the presence of the Governor that 203 laws had been made in Penn's time, that 174 of them had passed the age limit of five years, and had not been revoked by the Crown. Then, holding up the copies, he asked, "Are these true copies?" Markham, the Secretary, consented. Said Lloyd:—

That is all we desire ; we came not to dispute the form and validity of the laws for want of a seal or not being legally published, but we are here to decide if these be the laws or not ; you confess it, here the matter ends. . . . It is not the seal that gives the law validity, it is the consent of the Governor, the Council, and the Assembly. If we submit to the injustice of losing our laws for the want of a seal or some such ceremony, what must we expect from the future ? Will it not be possible for every new governor to annul all former laws because he finds some fancied omission in the publishing and making ? So great are the evil consequences of this matter, that if it is yielded now, we will have no assurance for any permanency for our laws in the future.³

Fletcher and Patrick Robinson made a stubborn resistance, but their cause was lost, and so recognised by Lloyd when they rallied about the one law in reference to wrecks, which they feared would obstruct the establishment of a Court of Admiralty at some future day. "Believe me that will make no rub," said Lloyd, conscious of having won a victory that saved to Pennsylvania the best that Penn gave her.

If Blackwell had been unequally yoked, Fletcher was far more so. The Assembly gained more under the latter than the former. Fletcher said there would be no past, the old laws were void, they would start new. Lloyd saved the laws, then took the Governor at his word. He led the Assembly to assume, without any constitutional warrant other than Fletcher's word, full legislative powers to adjourn and convene by their own act, under the storm of the Governor's invective. This was their first experience in the liberty of almost unfettered legislative freedom.

Thus the Fletcher administration lost to the Province much of the Frame of 1682. When the Province was restored to Penn, and Markham made deputy, the people were unable to resume the old order of things. Lloyd was transferred from the Assembly to the Council, because it was thought that there would be the future seat of the legislative activity. This brought on the so-called Markham's Frame, and led to the Concessions granted by Penn in 1701. Lloyd looked upon this as a great step in advance, Logan considered it the source of all the troubles that ensued.

William Penn and James Logan arrived in 1699. Patrick Robinson was removed from the secretaryship of the Council, and Logan put in his place. Penn found the Province deep in a quarrel with the Vice-Admiralty Court. This had been instituted by the order of the Crown through

³ *Minutes Penna. Provincial Council*, vol. 1, pp. 417, 421.

the instrumentality of the Governor of Maryland. Lloyd declared that to yield to a Vice-Admiralty Court was as bad as yielding to ship money in Charles's time. The people believed Lloyd. Penn saw at once that the false representations of Col. Robert Quarry, the leader, would cost him the Province unless Lloyd was suppressed. It was only a short time before he sailed from England that he told the Board of Trade that Patrick Robinson, the Secretary, was not of his making, that "David Lloyd, a Quaker, and the Attorney-General, is reputed an honest man, and the ablest lawyer in the Province, and a zealous man for the Government, none that know him will deny, he having often given such proof in cases wherein the interests of the Crown has been concerned."⁴

Having arrived in the Province and heard Quarry's reports, and received letters from the Board of Trade, Penn could no longer defend Lloyd. About a year before Penn's arrival, an uncertificated vessel was held at New Castle, and the goods taken by the Marshall of the Admiralty. The owner, in his distress, made the mistake of going to Markham before applying to Quarry for redress. At first Markham made an honest effort to have the matter settled. Quarry became indignant at such interference. Markham then refused any further assistance. Adams, the owner of the goods, insisted that he was ruined; health and credit were gone. The people became incensed. Lloyd declared that the Marshall had not received his commission when he seized the goods; and he had doubts if the Vice-Admiralty had been legally erected at the time the merchandise was taken. He further advised Anthony Morris, one of the magistrates, to issue a replevin for the removal of the goods from the Marshall's possession; it was the right of the subject. Quarry brought the case into the Courts. Lloyd, as Counsel for the merchant, asked the Marshall, in the examination, by what right he took possession of these goods. The Marshall, having since that time received his commission, promptly shook it out before the Court. The appended seal, the King's portrait, and the little tin box were intended to produce an effect. To counteract this, Lloyd sarcastically replied, "What is this? Do you think to scare us with a great box and a little babie? 'Tis true fine pictures please children, but we are not to be frightened at such a rate." Col. Quarry construed this into treasonable reflections

⁴ *MSS. of the House of Lords*, vol. ii., p. 457.

upon the Crown. His representations had weight in England, and an order was received demanding the removal from office of Anthony Morris and David Lloyd, unless they made satisfactory reparation to Col. Quarry. Morris did this in Quarry's presence after a reprimand from the Proprietor. But David Lloyd would do nothing of the kind. He begged the liberty to plead the case at Westminster, affirming that this Provincial Court of Admiralty had assumed to itself more authority than the Court of Admiralty in England.

Penn was under the necessity of adjusting the affair; and at the same time he felt that Lloyd should be more compromising, and that more deference and consideration was due to the station and character of the Proprietor.⁵ He had a meeting in his own rooms, where in the presence of twelve men he gave Lloyd an opportunity to apologise to Col. Quarry. Lloyd's refusal was reported years afterwards by Penn to Logan as very foolish. Four charges were brought against Lloyd, (i.) that he advised the magistrates to issue the replevin; (ii.) that he acted as Attorney against the Admiralty's Marshall, and used disrespectful words against the King's seal and picture; (iii.) that in open Court he once said that the Admiralty did not sit at that time by any commission from the King; (iv.) that he had said that those who encouraged the erection of a Court of Admiralty were greater enemies to the liberties and privileges of the people than those that established and encouraged ship money in Charles's time. Witnesses were called to prove these charges, although (iii.) and (iv.) were made before the commissions to the Admiralty had been received. Lloyd asked permission to put his defence in writing. Penn told him that this was not his trial but an examination to ascertain if what was laid to his charge was sufficient to suspend him from representing the people in Council.⁶ This was done, and Lloyd never sat in that capacity again.

From the time that Lloyd was expelled from the Council until Pennsylvania became a Commonwealth, there never ceased to be a Proprietary and Anti-proprietary party. Lloyd's friends were prompt in expressing their disapproval of Penn's action. Lloyd was immediately employed by the Assembly to frame its bills, and was elected

⁵ *Penn-Logan Correspondence*, vol. i.; pp. 17, 18.

⁶ *Minutes Penna. Provincial Council*; vol i.; pp. 603, 604.

a member at the next ensuing election. He was instrumental in framing the petition to the Proprietor that secured the Concessions of 1701. This petition contained many things that wounded the feelings of Penn. It asked protection against such representatives as Penn should leave in the event of his going to England—that these men should be of character and substance—that a document should be given protecting the landholders against Indian claims, and from delays in confirming and granting land patents and protections from “the Proprietor, his heirs and assigns for ever.”

Penn hastily granted the various requests, known since as the Concessions of 1701, and a Charter to the City of Philadelphia, and departed for Europe feeling that Lloyd was the source of the personal reflections, which were aggravated by Logan’s interpretation. Indeed, it is quite probable that this interpretation is what kept the Proprietary and Anti-proprietary feeling alive during the lifetime of Penn himself. Could Logan have consistently followed the advice he gave Penn four years later, after the Proprietary’s support to the policy Logan framed had begotten the issues with the populace that Lloyd headed, many sad misunderstandings might have been avoided. In 1705, after Penn had faithfully followed a number of Logan’s suggestions, the Secretary writes as follows: “Thou wast large in thy declarations and prints, which, by their [the settlers] accepting thy proposals altogether, becomes a part of the contract . . . the baseness and ingratitude of some . . .” which is here enlarged upon, does not change the fact “that when they have all the privileges they at first contracted for, or were given to expect, ’tis certain they have no more than their due, and these are not so much to be accounted acts of grace as performances of a covenant.” At that time, Lloyd could not have believed that such sentiments could have emanated from James Logan, since they were his own identical opinions, and the basis of all his operations in behalf of the people and towards William Penn himself.

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To be concluded.