The Powers of the Governor in Early Eighteenth-Century Virginia

Anita Joy Lonnes
College of William & Mary - Arts & Sciences

Follow this and additional works at: https://scholarworks.wm.edu/etd

Part of the Public Administration Commons, and the United States History Commons

Recommended Citation
https://dx.doi.org/doi:10.21220/s2-fxhg-xf54

This Thesis is brought to you for free and open access by the Theses, Dissertations, & Master Projects at W&M ScholarWorks. It has been accepted for inclusion in Dissertations, Theses, and Masters Projects by an authorized administrator of W&M ScholarWorks. For more information, please contact scholarworks@wm.edu.
THE POWERS OF THE GOVERNOR IN
EARLY EIGHTEENTH-CENTURY VIRGINIA

A Thesis
Presented to
The Faculty of the Department of History
The College of William and Mary in Virginia

In Partial Fulfillment
Of the Requirements for the Degree of
Master of Arts

By
Anita Lennes
August 1964
APPROVAL SHEET

This thesis is submitted in partial fulfillment of
the requirements for the degree of
Master of Arts
College of William and Mary in Virginia

Anita Lennes, Author

Approved, August 1964:

W. W. Abbot
William W. Abbot, Ph.D.

Ira D. Gruber
Ira D. Gruber, Ph.D.

Edward M. Riley
Edward M. Riley, Ph.D.
ACKNOWLEDGMENTS

The writer wishes to express her appreciation to the many people who have assisted her in this study through their suggestions and timely encouragements. Her special thanks goes to Mr. William W. Abbot, who graciously undertook the task of advising her during the summer months. His guidance and criticism have been invaluable in helping to complete this project.
# Table of Contents

ACKNOWLEDGMENTS ........................................ iii

ABSTRACT ................................................. V

INTRODUCTION ............................................ 1

Chapter
  I. COMMISSION AND INSTRUCTIONS .................. 5
  II. BRITISH VIEW ...................................... 11
  III. COLONIAL PRACTICE ............................. 31
  IV. COLONIAL WRITINGS ............................... 56

CONCLUSION ............................................... 70

BIBLIOGRAPHY ............................................. 74
ABSTRACT

The purpose of this study is to explore the ideas prevalent in the early eighteenth century concerning the powers of the royal governor of the colony of Virginia.

The view of the British officials concerning the powers they felt the governor ought to have is compared with that inferred from actions taken by the colonists in their local governmental bodies and that expressed in the contemporary writings about Virginia published at that time.

Through actions taken by the governmental bodies, the colonists were successful in preventing the full exercise of the potentially great powers given the governor by the home officials. This suggests that they felt the governor's authority ought to be curtailed.

The contemporary writings express a view of the governor's powers similar to that of the British officials, a fact which must be explained differently for each author. Hugh Jones, as an Anglican minister, friend of the royal governor, and recent immigrant to the colony, represents the royalist view. The other authors complain that the governor has too much power, which indicates opposition to his exercise of it. Henry Hartwell, James Blair, and Edward Chilton belonged to the anti-governor faction in the colony. In writing their report for the Board of Trade, they perhaps exaggerated the governor's actual authority in hopes of obtaining his removal from office. Robert Beverley's antagonism can be traced to reasons unique to him. The governor's actions were often contrary to Beverley's personal interests.
THE POWERS OF THE GOVERNOR IN

EARLY EIGHTEENTH-CENTURY VIRGINIA
INTRODUCTION

By the beginning of the eighteenth century, the governmental institutions in America followed a similar pattern in each of the royal colonies. There were in each province under crown control institutions which could be classified as legislative, executive, or judicial according to the functions they performed. The provincial assembly, elected by the colonists, performed in primarily a legislative capacity. The governor's council had a three-fold character. It served as an upper house of the legislature, as an executive council in advising the governor, and often as judges of the General Court, the highest court in the colony. The executive authority in the colony was vested in the crown, which was represented by the royal governor.

The royal governor was the focus of the politics and government in the colony. Appointed by the crown, he was its direct representative in the province. He reflected the power and distinction of the royal prerogative and was responsible for guarding that prerogative in anything that concerned the royal interest. In describing the connection of the governor to the crown of Great Britain, Governor Francis Burnet of Massachusetts stated that "The Governor is but [the king's] officer, to act by his instructions and to have no inclinations, no temptations, no bias that may divert him from
obeying his royal master's commands."

It is the purpose of this study to explore the ideas prevalent during the early eighteenth century concerning the powers of the royal governor in the colony of Virginia. The emphasis in previous studies of colonial political practice during this period has usually been placed on the gradual seizure of power by the assembly, which was a largely empirical process and not necessarily unconscious. In this paper, however, the emphasis has been placed upon the powers of the executive. The attempt has been made to explore what powers were given to the governor by the home government and the differences between this "official view" and the "colonial view" as reflected in the actions of the colonial governments, on the local as well as the provincial level.

The time focus for the study is the early part of the eighteenth century, particularly when Alexander Spotswood was Lieutenant Governor of the Virginia colony. After the Glorious Revolution in England, the prerogative of the crown declined at home but remained largely intact in the colonies. The royal governor, as the representative of the crown in the colony, was responsible for upholding this prerogative within his province. During this period the provincial assemblies were developing rapidly and contesting for the dominant place which they were later to obtain in the colonial government.

striving continually for additional powers, some of which had previously been exercised through the office of the executive, the provincial assemblies minimized the powers which the governor was able to practice within the colony. Such an encroachment upon the power of the crown in the colony was to become significant in light of the later constitutional arguments which carried a heavy appeal to custom and precedent in fighting against British control over the colony and in asserting the assembly to be equal in status with Parliament.

In Virginia, the period of Alexander Spotswood's administration was a time in which disagreements between the governor and the colonists over the extent of executive power came to the fore. Spotswood served as Lieutenant Governor of Virginia when the governorship was held as a sinecure by George Hamilton, Earl of Orkney. There had not been a governor in the colony since the death of Edward Nott in 1706, and during the ensuing four years the president of the council served as the chief executive in the province.

Spotswood proved to be an energetic governor and attempted to wield the powers granted to him by the home government. This course of action often brought him into conflict with the leading men in the colony who were active in the House of Burgesses, the Council, and the local governmental units, and such conflict provides the student with material for a study of political thought and action.

---

of the period.

An examination of the differing views of the powers of the royal governor during the early eighteenth century in Virginia suggests that there was a clash between British and colonial constitutional theories even at this early date. The governor in Virginia often found it impossible to effect certain powers which had been granted to him by the home government; the colonists either prevented the exercise of those powers or reduced their full impact by actions taken through their local institutions of government.

An interesting sidelight to such a study is an exploration of the colonial writings of the period. In the contemporary works on Virginia published during the early part of the eighteenth century, the view of the governor in full possession of his powers and prerogatives prevails. It is interesting to note that the writers, all of whom lived in Virginia, seem outwardly to accept the "official view" rather than that which is revealed in colonial practice. The expressed colonial theory here lies behind practice, perhaps indicating that the "colonial view" was being developed unconsciously.
CHAPTER I

COMMISSION AND INSTRUCTIONS

The powers of the royal governor were generally defined in the commission which he received from the crown. The governor's instructions were more specific in nature and usually stated the exact manner in which the governor was to execute his powers. The commissions and instructions were "issued in the spirit of government 'by royal grace and favor'" and remained static and unchanging throughout the century prior to the American Revolution. These documents, nevertheless, retained an important place in the governmental system of the colonies. Constitutionally speaking, they formed a basis for the provincial constitutions, and "there were no documents above these to which appeal could be taken." They were to serve the governor as a guide to the actual frame of government and to the policies which the home officials expected him to pursue.

Of these two documents, the commission was the highest in authority. It was issued under the great seal of England and contained the actual appointment of the governor to his post. Since the appointment was enjoyed during the king's pleasure, the death of a
sovereign made the issuance of a new commission necessary. In the commission given to the Earl of Orkney in 1715, he was reappointed as governor of Virginia by George I.

George by the Grace of God of Great Britain France & Ireland King Defender of the Faith &c. To our right Trusty and right wellbeloved Cousin George Earl of Orkney Greeting. We reposeing Especiall Trust & Confidence in the Prudence Courage & Loyalty of you the said Earle of Orkney Of our especiall Grace . . . have thought fitt to Constitute & Appoint and by these presents doe Constitute & Appoint you the said Earle of Orkney to be our Lieutenant and Governor Generall of our Colony and Dominion of Virginia in America with all the rights . . . and appurtenances whatsoever therunto belonging.⁴

Although the commissions had the higher authority and "constituted the highest expression of the prerogative" in the royal province, the instructions had a greater significance for the "practical politicans of the colony." The instructions contained the vital details, whereas the commission was broad in character and general in its grant of powers. The actual policy of the home government was expressed in the instructions to the royal governor.

Another significant difference between the instructions and the commission was that the commission was to be read publicly upon the governor's induction into office, whereas the instructions were to be kept

---

⁵ Labaree, Royal Government, 8.
⁶ Ibid., 95.
⁷ Ibid., 95.
secret unless a conflict or similar event forced the governor's hand.

Included in the instructions to Virginia governors throughout the eighteenth century was the following, which regulated the communication of the instructions to the council:

You are forthwith to communicate unto our said council such and so many of our instructions wherein their advice and consent are mentioned to be requisite as likewise all such others from time to time as you shall find convenient for our service to be imparted unto them. 9

The fact that the instructions were to be revealed in the colony only in certain instances suggests that the powers contained in them were likely to be contested by the colonists. The home officials were no doubt aware that the royal governors would be more likely to be able to exercise greater power in the colony if the specific grant of power were unknown there.

Since the instructions were more specific in nature, they differed more widely from province to province than did the commissions, although there were some instructions which were applied to every royal colony. The instructions could be, and often were, drawn up to meet a situation confronting an individual governor.

There were, in general, three different categories of instructions issued to the royal governors. The first of these contained the general instruction — those relating primarily to the

---

8 Ibid., 8, 97.

civil government of the colony. Included among these would be those concerned with the governor's powers in relation to the assembly and council, his powers over appointments, the military establishment; and his position as head of the established church.

A second category, the trade instructions, first drawn up in 1685, constituted a document separate from the general instructions and, together with the latter, were issued at the time the commission was granted. Concerned with the enforcement of the trade acts which applied equally to all the colonies, trade instructions were generally uniform for all the colonies and changed little during the eighteenth century. The conduct of the officers in the colony directly concerned with the enforcement of trade regulations, naval officers, customs collectors, and admiralty officials, also came within their scope.

Additional instructions sent to the royal governors during their terms of office constituted a third category. Some of these are referred to as circular instructions because they were sent simultaneously to a number of royal governors and each had practically identical wording. Whether they were sent to only one or to a number of governors, the additional instructions gave the home officials an opportunity to express their wishes on a specific subject or problem.

Labaree, Royal Government, 14.

Ibid., 14.

Labaree, ed., Royal Instructions, II, 752-797, passim.
within the colony or the empire as a whole, to amend some article of the already existing documents, or to clarify further the governor's duties. As such, the additional instructions were not limited in scope but could relate to any of the functions of the governor's office.

The royal commission and instructions were not the only instruments by which the governor was to be guided in his administration of the colony. In the commission to the Earl of Orkney, the crown stated:

And Wee doe hereby require and Comand you to doe and Execute all things in due manner that shall belong unto your said Comand and the Trust wee have reposed in you according to the Severall powers & directions granted or Appointed you by this present Comission And the Instructions & Authoritys herewith given you Or by Such further powers under our Signet & Sign Manuall or by our Order in our Privy Counciill and according to Such reasonable Laws & Statutes as are now in force or hereafter shall be made and Agreed upon by you with the Advice and Consent of our Counciill and Assembly of our said Colony under your Government in Such forme as is hereafter Expressed. 14

Other documents issued under the sign manual might include various commissions and royal proclamations, which were an independent expression of the royal will. Although they were relatively few in number, they often had great importance in the political and economic development of the colonies. As a royal command in regard to a particular matter, they

13 Labaree, Royal Government, 14.
14 King George to the Earl of Orkney, 15 January 1714/15, P.R.O., C.O. 5/190, 46.
were usually carried out in a large number of the colonies, if not all 15 of them.

Of greater importance to the governor in his administrative duties, however, was the correspondence to him from the home officials. In these letters, opinions of the officials in Great Britain were revealed more clearly than was possible in the commissions and instructions. The official view was given concerning a specific set of events in the colony and often clarified a clause in the instructions which contained a more general grant of power. In some instances, the reasoning behind a particular grant of power to the royal governor was provided, giving a further insight into the official opinion concerning the powers of the royal governor.

From the official correspondence between the governor and the home officials, it is possible to gain a more comprehensive view of the system of royal government in the colony. These communications show how the system set up by the commission and instructions actually worked in practice, what its weak spots were, and, in many instances, why the royal prerogative finally lost most of its strength through the growing power of the assemblies. Through this correspondence it can be seen that "The governor was one thing in the instructions of the Board of Trade and quite another in Williamsburg, Boston, or New York."

---

CHAPTER II
BRITISH VIEW

The royal governor in a colony such as Virginia was the most important of the colonial appointees. Since he was appointed by the king and held office during the king's pleasure, he had a close connection with the home government. As the direct representative of the king within the province, he took first place in all colonial functions and was "endowed with prerogatives which in Great Britain belonged solely to the king."

Within the colony the governor was the principal connecting link between the home officials and the colonial government and was endowed with great executive powers, including the exercise of most of the ancient prerogatives of the English crown. This view of the governor's power was reflected in all commissions and instructions issued by the home government, including those in force in Virginia during the service (beginning in 1710) of Alexander Spotswood. The commission and instructions issued to the Earl of Orkney, governor of Virginia in absentia during Spotswood's term, outlined the powers he was to exercise in the colony, and the lieutenant governor, by his commission, was "authorized to execute and perform all and singular the powers and directions' contained in the governor's commission, upon

---

1 Labaree, Royal Government, 92, 123.
the death or absence of that official, 'according to such instructions as are already sent or shall hereafter from time to time be sent unto him' [the governor] or according to such orders as the lieutenant governor himself might receive from the king or the governor.'

Those were pervasive powers reflecting prerogatives which earlier had been held by the English crown. Most related to internal relations rather than those of the province with neighboring areas. Although some of the prerogatives did touch on external relations, those which were most significant in the politics of the colony fell within the province, and were best executed through the royal governor.

One area of the governor's authority related to the other branches of the government. In Virginia these were the House of Burgesses and the governor's council, which also sat as the General Court, the highest court in the colony. Concerning the legislature, the governor was given the power to consent to laws, along with its counterpart, the right to veto legislation. Orkney's commission stated that, as the governor, he "with the Consent of our said Councill & Assembly or the Major part of them respectively shall have full power and Authority to make Constitute & Ordaine Laws Statutes & Ordinances for the publike peace Welfare and good Government of our said Colony and of the people Inhabitants thereof and Such others as shall resort thereto and for the benefit of us our heires & Successors." Such

---

2 Ibid., 20.
3 King George to the Earl of Orkney, 15 January 1714/5, P.R.O., C.O. 5/190.48.
a grant of power implies the right of the governor to withhold his assent from the laws passed by the colonial legislature. His instructions mentioned specific instances in which he was to withhold his assent from a law. One of these was in an act affecting the prerogative. The instructions stated:

... we do hereby will and require you not to pass or give your consent hereafter to any bill or bills of our said province of unusual and extraordinary nature and importance wherein our prerogative or property of our subjects may be prejudiced, without having either first transmitted unto us the draft of such a bill or bills and our having signified our royal pleasure thereupon, or that you take care that there be a clause inserted therein suspending and deferring the execution thereof until our pleasure be known concerning the said act, to the end our prerogative may not suffer and that our subjects may not have reason to complain of hardships put upon them on the like occasions.

The governor was generally able to exercise this power. Spotswood mentioned in a letter to the Lords Commissioners of Trade that "There was one other Act prepared this Session ... which your Lordships will perceive by the Assembly Journal I refused to pass, because it having been once re-enacted before, and now again made temporary, it would have been contrary to one of the Royal Instructions, which prohibits the re-enacting any temporary Law for the good Government of the Colony more than once without his Majesty's express Consent."

---

4 Labaree, ed., Royal Instructions, I, 141-2.
The prerogative of the crown is also upheld in the instructions which gave the governor the particular powers to call, adjourn, prorogue, and dissolve the Burgesses. These powers were embodied in the commission to the Earl of Orkney, in which it was stated: "And We do hereby Give and Grant unto you full power and Authority with the Advice & Consent of our said Councill from time to time as need shall require to Summon & Call General Assemblies of the said Freeholders and plantations within your Government according to the Usage of our Colony & Dominion of Virginia . . . . And You shall and may likewise from time to time as you shall Judge it necessary Adjourn Prorogue & dissolve all Generall Assemblies as aforesayd." By the use of this power, the governor would at least be able to say, along with Spotswood, "if I have not the Dexterity to apply them to her Majesty's service, I shall at least have the courage and honesty to prevent their acting any thing contrary to it."

In his relations with the council, the governor also enjoyed certain powers over them which were unlike those which he had in relation to the Burgesses. The council was, like the governor, appointed by the authorities in England, and, as such, would theoretically help the governor in the exercise of his powers. In their three-fold

6 King George to the Earl of Orkney, 15 January 1714/5, P.R.O., C.0. 5/190, 48, 49.
capacity of being the upper house of the legislature, the advisory body to the governor, and the judges of the General Court, the council members shared the administrative, legislative, and judicial power and prestige with the governor. The council, it was felt, should have a certain dependence upon the crown, and the governor, in exerting his powers over the council, aimed at bringing such a situation about, if it did not already exist. Spotswood fully agreed with this theory and wrote to the Council of Trade: "And though there was formerly a Law in the Country ascertaining the Sallary of the Council yet I have not suffered any establishment to be inserted in this Act, because it is certainly more agreeable to that dependence which they ought to have on the Crown that they should owe their Support, as well as their promotion, Entirely to her Majestie's Bounty and not to claim it by a Law here." In this case, the governor was using one of his powers over legislation to uphold the royal prerogative in an indirect way. By keeping the councillors financially dependent on the crown, they would be more likely to sustain the view of the governor over any local pressure contrary to it.

The governor also had an influence over the council through his power, explicitly specified in instructions, to make nominations to fill vacancies therein. The commission to the Earl of Orkney stated:

9 Spotswood to the Council of Trade, March 6, 1710 [1711], in Brock, ed., Spotswood's Letters, I, 49.
But that our Affairs may not Suffer for want of a due Number of Councillors att that distance if ever it shall happen that there be less than Nine of them residing in our said Colony, Wee doe hereby Give and Grant unto you the said George Earle of Orkney full power and Authority to chuse as many persons out of the principall freeholders Inhabitants thereof As will make up the full Number of our said Councill to be Nine and no more which persons sse chosen and Appointed by you shall be to all Intents & purposes Counsillors in our said Colony until either they shall be Confirmed by us or that by the Nomination of others by us under Our Signs Manual & Signet Our Said Councill Shall have Nine or More persons in it.10

Although the crown granted the governor the power to nominate men to be members of the council, it retained for itself the right to appoint them. At times, the officials in England appointed someone who had not been nominated by the governor but who had presented his own petition. This practice lessened the governor's influence in the colony and impaired his ability to uphold his own power and that of the crown. It was this situation which Spotswood was protesting when he wrote to Nathaniel Blakiston: "... but I think it is doing little honor to the Government to have its Council appointed in the Virginia Coffee House, and I believe a Governor who has a power under the Great Seal to constitute and appoint Persons who are to be, to all intents and purposes, Councillors, until confirmed or removed by the Crown, has a[s] good a title to name and is as capable of Judging of the qualifications requisite for Persons in that Port as an Merchant in London who has no other Rule to judge of a man's merit.

10 King George to the Earl of Orkney, 15 January 1714/5, P.R.O., C.O. 5/190, 47.
than by the Number of his Tobacco hogsheads." Usually, however, the crown would appoint those persons nominated by the governor himself. A statement from the Queen's Council in 1711 said that they had looked at a report from the Lords Commissioners for Trade and Plantations saying that Spotswood had informed them of the death of two members of the Council "and humbly Proposing William Basset; and William FitzHugh Esquire to succeed therein, being Persons recommended by the said Governor as fitly qualified to serve Her Majesty in that Station . . . . Her Majesty in Council Is pleased to Order, That the said William Basset and William FitzHugh be constituted & appointed Members of Her Majesty's said Council of Virginia . . . And the Right Honorable Earl of Dartmouth Her Majesty's Principal Secretary of State is to cause a Warrant to be prepared for Her Majesty's Royal Signature for that purpose and Requiring the Governor & Commander in Chief of the said Island for the time being to swear & admit them into the said Stations accordingly."

In addition to the power to nominate members of the Council, the governor was able to suspend members of that board if he felt there was cause for so doing. The home officials stated this in the

12 Order of the Privy Council, St. James's, 19 December 1711, P.R.O., C.O. 5/11, f. 160.
commission to the Earl of Orkney, and in a circular instruction sent to the governor of Virginia in 1707, a set of specific conditions under which the governor was to suspend members of the council was set forth. "It is Our Will and Pleasure," they stated, "that if any of the Members of Our said Council shall hereafter willfully absent themselves when duly summoned without a Just and Lawful Cause and shall persist therein after Admonition You Suspend the said Councillors so absenting themselves till Our further pleasure be known. . . ." In 1715, however, the addition of a clause in the instructions added a restriction to this power by stating that the governor could not suspend a member of the council without good cause "nor without the consent of the majority of the said council." Such a restriction Spotswood vehemently protested in a letter to the Lords Commissioners of Trade in 1716, in which he said that the clause would be injurious to the prerogative of the crown and would be likely to "expose his Majesty's Authority to the Contempt of those he intended to displace."

---

13 King George to the Earl of Orkney, 15 January 1714/5, P.R.O., C.O. 5/190, 47.
14 The Earl of Sunderland to Thomas Handasyde, Commander in Chief of Jamaica, Kensington, 20 November 1707. (A like letter was sent to Governor Hunter of Virginia.) P.R.O. C.O. 5/210, 70.
15 Labaree, ed., Royal Instructions, I, 60.
16 Spotswood to the Lords Commissioners of Trade, May 23, 1716, in Brock, ed., Spotswood's Letters, II, 155.
The powers of nomination and suspension were not, however, limited to that over the members of the council board. The governor's patronage extended over a great many other offices as well. In many instances the governor was simply empowered to nominate persons to fill the offices or to appoint someone to fill an office temporarily. The final decision as to the appointee was reserved to the crown officials in England. Thus the instructions to Virginia governors from 1702 to 1756 included the following:

You shall not by color of any power or authority granted unto you take upon you to give, grant, or dispose of any place or office within our said province which now is or shall be granted under the great seal of this kingdom, or to which any person is or shall be appointed by warrant under our signet or sign manual, any further than that you may upon the vacancy of any such office or place or upon the suspension of any such officer by you as aforesaid, put in any fit person to officiate in the interval, until you shall have represented the matter unto our Commissioners for Trade and Plantations in order to be laid before us as aforesaid, which you are to do by the first opportunity, and till the said office or place be disposed of by us, our heirs, or successors, under the great seal of this kingdom, or until some fit person shall be appointed thereto under our signet and sign manual, or that our further directions be given therein.17

As was the case with appointments to the council, the governor did appoint officers who were often accepted by the home officials. Governor Spotswood wrote to England on more than one occasion that he

17 Labaree, ed., Royal Instructions, I, 379.
had appointed someone to fill an office made vacant in the colony by
the death or suspension of the previous officer.

The suspension of an officer was left in the hands of the
governor, although there was the possibility that this could be
reversed by the home officials if the suspended officer appealed
to them. The instructions directed the governor: "upon the
misbehavior of any of the said patentees or their deputies to suspend
them from the execution of their places till you shall have represented
the whole matter and received our directions therein . . . ."

Spotswood took the opportunity to do this and wrote that "my Duty
obliges me to inform your Lordships that the mismanagement of his
Majesty's Revenues in this Colony have laid me under a necessity to
suspend one of the officers thereof, Mr. Ludwell, who acts as Auditor."
He also found that his instructions empower'd him, "without the Council's
participation, to suspend Officers and to transmitt my reasons to

---

18 In 1720 he had appointed William Robinson to be Naval
Officer of the district of the York River. Spotswood to the Commissioners
of the Customs, December 20, 1720, in Brock, ed., Spotwood's Letters,
II, 346. In 1713, he wrote that the attorney general had died and he
had "Commissionated in his place Mr. Jonathan Clayton." Spotswood to
the Lords Commissioners of Trade, March 9, 1713, ibid., IX, 61. On another
occasion he had commissioned Edmund Jennings to the office of secretary.
Spotswood to the Board of Trade, October 22, 1720, ibid., II, 344.

19 Labaree, ed., Royal Instructions, I, 358.

20 Spotswood to the Lords of the Treasury, May 23, 1716, in
your Lordships and to the Commissioners of the Treasury, which was
the method he had pursued in the above mentioned case.

The governor's power of appointment also extended into the
realm of the judiciary. In this connection his commission read:

"And we do hereby Authorize & Impower you to Constitute & Appoint
Judges and in Cases requisite Commissioners of Oyer & Terminer Justices
of the peace and other necessary officers and ministers in our said
Colony for the better Administration of Justice and putting the
Laws in Execution. . . . " The judicial commissions were to be
given by the governor with the advice and consent of the council, and
no limitation of time was to be expressed in them, a stipulation which
was designed to prevent arbitrary removals from office. The governor
was, however, empowered to suspend justices, and Spotswood wrote of
an occasion in which "one Justice was turned out of Commission for
acting contrary to Law and to his Oath, by being of Councill in
Causes wherein he set as a Judge."

In addition to the power he had over the appointment of
justices, the governor was entrusted with the authority to establish
courts within the colony, a power which he held in conjunction with
the council. The commission to the Earl of Orkney stated that the governor

21
Spotswood to the Lords Commissioners of Trade, July 3, 1716,
Ibid., II, 171.

22
King George to the Earl of Orkney, 15 January 1714/5,
P.R.O., C.O. 5/190, 50.

23
Labarea, ed., Royal Instructions, I, 512.

24
Spotswood to the Lords Commissioners of Trade and Plantations,
was given "full power and Authority with the advice and consent of our said Counciell to erect Constitute & establish Such & sev many Courts of Judicature & publick Justice within our said Colony & Dominion as you and they shall think fitt and necessary for the hearing & determining of all Causes as well Criminal as Civill ... ." In 1707 an instruction was given to the governor to appoint two courts of oyer and terminer yearly, but made no mention of the need for consent by the council. The power to constitute this court and appoint its judges was lodged solely in the governor. Apparently the power to regulate the time of meeting of the courts in the colony was deemed to be a part of the executive prerogative. Both the governor and the home officials tried to protect this prerogative by having it recognized in the laws passed by the Burgesses. An instruction to the governor directed him to propose that a clause be added to an act regulating the time of holding general courts which would provide that the power of "appointing courts to be held at any time whatsoever" should remain lodged in him. Governor Spotswood reported in 1714 that, since he had "always looked upon it to be the prerogative of the Crown to fix both the times and places for holding his Majesty's Courts," he had gotten a clause added to a recent act for altering court days in the counties which "saved his Majesty's

25 King George to the Earl of Orkney, 15 January 1714/5, P.R.O., C.O. 5/190, 49.
26 Labaree, 2d., Royal Instructions, I, 336.
27 Ibid., 163.
prerogative in both these points."

Also among the powers of the executive was the direction of the military establishment within the colony. In his commission the governor was given command of and authority over the militia of the colony. As captain general and commander in chief of his province, he was to be able to employ all persons residing in the colony for its defense and to send them to any of the other colonies in America if he felt it was necessary. His instructions gave him more specific powers within the realm of the military. In one clause, the Virginia governor was instructed to raise and muster the militia, "You shall take care that all planters and Christian servants be well and fitly provided with arms, and that they be listed under good officers, and when and as often as shall be thought fit mustered and trained, whereby they may be in a better readiness for the defense of our said province under your government." The commission, in an even broader statement of his military authority, gave the governor "full power & Authority to Levy Arm Muster Comand and Employ all persons whatsoever residing within our said Colony and Dominion of Virginia and as occasion shall Serve to March from one place to another and to embark them for the resisting & withstanding of all Enemies

---

30 Labaree, ed., Royal Instructions, I, 392.
pirates & Robbers both at Sea & Land And to transport Such Forces
to any of our plantations in America if necessity shall require for
the defence of the Same against the Invasion or Attempts of any of our
31
Enemies."

The Virginia governor's military authority included special
provisions for the defense of the frontier. He was empowered to
"appoint fit officers and commanders in the several parts of the country
bordering upon the Indians, who upon any invasion may raise men and
arms to oppose them until they receive your directions therein."
The powers to erect fortifications and to keep arms and ammunition with
which to furnish them also were specifically included in the commission,
but their exercise was subject to "the Advice and Consent of our
33
said Council of Virginia" and the support of the House of Burgesses.
The instructions directed the governor to get the Burgesses to pass
the acts necessary to carry out this work, and, it was added, they
did "not doubt of their cheerful concurrence from the common security
34
and benefit they will receive thereby."

In Virginia, the power of the governor was also extended
to the granting of land. Since it was a royal colony, the titles to

31
King George to the Earl of Orkney, 15 January 1714/5,
P.R.O., C.O. 5/190, 50.
32
Labaree, ed., Royal Instructions, I, 407.
33
King George to the Earl of Orkney, 15 January 1714/5,
P.R.O., C.O. 5/190, 51.
34
Labaree, ed., Royal Instructions, I, 441.
all Virginia land rested with the king, and the crown's prerogative of granting lands in the colony rested with the governor, who was its direct representative there. The specific conditions under which land grants were to be made were usually included in the governor's instructions, and these changed according to conditions in the colony. The governor's ultimate power over land grants came through his authority over the use of the seal of the colony. The seal was affixed to all patents for land, and, since he had sole authority over the use of the seal, the governor could theoretically refuse to affix the colony's seal to patents of which he disapproved.

Another area in which the governor's power was theoretically great was that of financial affairs. In his instructions, the governor was given power over the expenditure of the public funds. He was told: "And you are not to suffer any public money whatsoever to be issued or disposed of otherwise than by warrant under your hand by and with the advice and consent of our council."

In Virginia, there was a perpetual revenue arising from a duty of two shillings per hogshead on tobacco exported, out of which the salaries of the governor and other royal officials were paid. The Burgesses voted any other taxes which would be needed from time to time to finance war, erect public buildings, or undertake other

35 Labaree, Royal Government, 113.
36 Labaree, ed., Royal Instructions, I, 203.
projects which had been authorized by the legislature. In the eyes of
the home officials, the governor was to have a large amount of control
over all these financial matters. His instructions regarding money bills
of the Burgesses were specifically designed to foster and maintain
executive influence over tax legislation. He was to pass no law
which impaired the royal revenues or which did not recognize the right
of the Commissioners of the Treasury in England to audit the accounts
of a levy in the colony. The crown officials also sought to uphold
the governor's authority over finance by instructing him to get an
act passed which authorized general levies.

And whereas it is necessary that some further
care be taken for defraying the contingent charge
of that our government, for which, the constant revenue
now raised not being sufficient, no other means
can be found out for supplying the same without
calling an assembly on the least occasion that
may happen, which by charges contracted by the
members and officers attending them is often
found to exceed the whole levy which they are
convened to raise; to the intent therefore the
public necessities may be the more easily answered,
you are to propose the same unto the next assembly and
use your best endeavors that a law be passed
empowering our governor and council for the time
being to raise as there shall be occasion a general
levy for the better support of the government, which
levies may be also accounted for the next assembly.39

These instructions show that the home officials believed that the governor
of the colony should have extensive control over its financial matters.

37
Ibid., 171.
38
Ibid., 172.
39
Ibid., 203.
As the crown's direct representative, the governor was the head of the established church in Virginia. As such he was to take measures for the protection and encouragement of the established church, as was specifically directed by his instructions.

You shall take especial care that God Almighty be devoutly and duly served throughout your government, the Book of Common Prayer as by law established read each Sunday and holy day, and the Blessed Sacrament administered according to the rites of the Church of England. You shall be careful that the churches already built there be well and orderly kept and that more be built as that province shall by God's blessing be improved; and that besides a competent maintenance to be assigned to the minister of each orthodox church, a convenient house be built at the common charge for each minister and a competent proportion of land assigned him for a glebe and exercise of his industry. And you are to take care that the parishes be so limited and settled as you shall find most convenient for the accomplishing this good work.40

It was apparently from this instruction that Spotswood inferred the power of the governor over the erection and division of parishes, for he wrote to the Council of Trade in 1710 that he considered this to be a part of the prerogative. "But finding in my Instructions," he said, "that her Majesty hath given power to her Governor to bound and settle Parishes as he shall think fitt, without even naming the intervention of the Council, I am apt to believe that the Erection or Division of parishes may be a branch of the Crown's prerogative in

40 Ibid., II, 482.
Also reserved to the governor as a part of his prerogative in affairs relating to the church was the right of preferring ministers to benefices and inducting them into their office. This was an important power for a governor in Virginia, where the church played an important role in the lives of the people. The power of collation was given to the governor in his commission. Here it was stated by the home officials: "Wee doe by these presents Authorise & Impower you to Collate any person or persons to any Churches Chappells or any other Ecclesiastical Benefices within our said Colony as often as any of them shall happen to be void." This power was also reserved to the governor in his instructions. In a statement of the ecclesiastical jurisdiction of the Bishop of London, which included the colony of Virginia, the governor's rights were specifically stated.

And to the end the ecclesiastical jurisdiction of the said Bishop of London may take place in the said province so far as conveniently may be, we do think fit that you give all countenance and encouragement to the exercise of the same, excepting only the collating to benefices, granting licenses for marriages, and probate of will, which we have reserved to you our governor and to the commander in chief of our said province for the time being.

---

42 King George to the Earl of Orkney, 15 January 1714/5, P.R.O., C.O. 5/190, 50.
43 Labaree, ed., Royal Instructions, II, 489-90.
This power of collation to benefices and induction to office was an important part of the prerogative invested in the governor.

In the eyes of the British officials, the governor of Virginia represented the crown and exercised the royal prerogative within the province. The commission which gave him his appointment also gave him many powers which he could exercise. These, along with those enumerated in his instructions, left to him a great deal of authority in many specific areas. In addition, one of his instructions gave him general discretionary powers.

And if anything shall happen which may be of advantage and security to our said province which is not herein or by our commission provided for, we do hereby allow unto you, with the advice and consent of our said council, to take order for the present therein, giving unto us by one of our principal secretaries of state and to our foresaid Commissioners for Trade and Plantations speedy notice thereof, that so you may receive our ratification if we shall approve the same; provided always that you do not by color of any power or authority hereby given you commence or declare war without our knowledge and particular commands therein, except it be against Indians upon emergencies, wherein the consent of our council shall be had, and speedy notice given thereof to us as aforesaid.44

Thus the official view gave the colonial governor large theoretical powers over areas such as legislation, appointments, the judiciary, the military, land grants, financial affairs, and the church.

At times, however, the instructions seemed to diminish the

44 Ibid., I, 82.
powers enjoyed by the governor by inserting a clause which required him to obtain the advice or approval of others. But these usually gave any authority taken from the governor to other crown officials, often those residing in England, or to the crown itself. Thus the royal prerogative remained intact, which was always a prime consideration of the home officials.

Those who held this view of a colonial governor with a large amount of power were generally those who remained in England and attempted to regulate policy within the colony from a vantage point over three thousand miles away. They were often not aware of the conditions within the colony, which often forced a change from this position. Local political practice, traditions, customs, and precedent entertained their own view of the powers of the colonial royal governor, and this was, at times, different from that of the home officials.
CHAPTER III
COLONIAL PRACTICE

In Virginia the royal governor had to contend with forces that did not directly confront the officials in England who drew up his instructions and regulated colonial policy in general. Conditions in the colony produced institutions, customs, and precedents differing from those at home. These, along with the circumstances at any given time, were powerful factors in shaping governmental policy in Virginia.

The governor who came to the colony from England was often ignorant of the situation there; indeed, this was something he could hardly learn without firsthand experience. The men with whom he worked most closely in governing the colony, however, were very well versed in this matter. The governor's council in colonial Virginia was composed of men who were members of Virginia's ruling class — the planter-aristocracy. Although they were nominated by the governor and appointed by the crown, they often did not scruple to place local, colonial interests above the prerogative of the crown. By the early eighteenth century, the Council had become very powerful in the Government and was the champion of the colonial cause in Virginia.

The members of the House of Burgesses also were generally chosen from the plantation gentry. Council members were often
chosen from among the Burgesses, and the two bodies were closely akin to one another. Although they did not enjoy the power which the Council held during the early eighteenth century, they were steadily gaining more power and influence.

These were the colonists with whom the governor had to deal directly in his management of the colonial government. He also came into contact with them in the local governments, for they, or their neighbors who entertained similar ideas, were members of the county courts and local vestries, with which the governor was at times concerned in the exercise of his power. The actions of the colonists as members of these governmental bodies show that they did not believe that the royal governor should have all the powers which the home officials would have him exercise. His theoretically large powers, conferred by his commission and instructions, were often curtailed by the actions taken by the colonists in their governmental councils. More often than not the colonists did not consciously think of undermining the prerogative of the governor, and thus of the crown. If it were brought to their attention that a proposed action was against the prerogative, they would generally profess no wish to contest it. In an address to Governor Spotswood in December, 1711, the Burgesses declared: "Wee have declined coming to any resolution upon the message Sent to this House by your Honour the 27th of November in the year 1710 relating to the Dividing Countys and Parishes because we would Endeavour to avoid all Contest with the Royall
Prerogative although that power hath been continually exercised here by the Legislative Authority." At times, they even went so far as to insert a clause in a proposed bill which would recognize the crown's rights in a certain area. This happened when, in November, 1710, the Burgesses passed "An Act to Explain part of An Act of Assembly Intitled An Act for Establishing The General Court and for regulating And Setting the proceedings therein." This, the Burgesses explained to Spotswood, was a "Bill Declaring her Majestys Prerogative Royal of Granting Commissions of Oyer and Terminer And Constituting Such Courts of Record as she shall Think fitt; and also of Receiving Appeals from The Judgement of The General Court." The governor and the Lords Commissioners of Trade had previously complained that this clause in the initial act had derogated from "her Majesty's Royal Prerogative."

Despite these protestations of loyalty and actions, which outwardly complied with the home officials' (and often the governor's) idea of the royal prerogative and the powers of the executive, the colonists also infringed upon these powers by taking actions which usurped some of this power for themselves, or by neglecting to act when their lack of support meant that the governor could not exercise his powers. In cases such as these, the colonists did not consciously act for the purpose of hindering the governor in the execution of

1 John P. Kennedy and Henry R. McLwaine, eds., Journals of the House of Burgesses of Virginia, (Richmond, 1905-1913), 1702/3-1712, 344. (Hereafter cited as JHB)
2 Ibid., 285.
3 Ibid., 262.
his powers. More often there was a more immediate purpose of self-interest which would encourage their action. Nevertheless, the effect was to stifle the governor in his attempt to use the authority ostensibly given in his instructions and commission for the administration of the government.

One of the areas in which the governor's theoretically great power was curtailed was that of financial affairs. It has been noted that the governor was given authority over the expenditure of the public funds through an instruction which stated that public money was to be issued or otherwise disposed of only by his warrant. But the significance of this power rested on the willingness of the Burgesses to appropriate funds, an action not always forthcoming. The Burgesses frequently refused to authorize a claim made against the public money, much to the disgust of the governor (and sometimes the Council) who felt that if a person had expended money in doing something which would benefit the colony, the Burgesses should allow the claim.

One such claim was that of Susanna Allen. She had presented a petition to the House "praying to be allowed for Dyinging Indians [which were later referred to as prisoners taken off a French sloop] according to the Governours order" early in the session of 1711, but it was disallowed by the Burgesses. They based their action on the fact

---

4 Labaree, ed., Royal Instructions, I, 203.
5 JHB, 1702/3-1712, 307.
that such a charge was not directed to be paid by any act of the House. In a message to the Council, which adhered to the governor's opinion in this case, they state that they "cannot be of Opinion to allow the Claim of Susanna Allen the Law of the Country Directing that no Debts shall be paid by the Publick but Such as are Enjoyned to be paid by Some particular Act of Assembly And the Burgesses conceiving that the Said Claim if paid by the Publick will not be warranted by any Law of this Country therefore they insist upon the disallowing the Same." The Council, however, stated that the claim should be allowed as being expended for the service of the colony. It was the Council's opinion "that the Claime of Susanna Allen for dyeting the fffrench prisoners & the marines that guarded them be allowed, because as the taking those prisoners must be acknowledged a Service to the Country Nothing can be more reasonable than that the Country should bear the Charge of their Subsistence til they could be transported." Despite the upbraiding which they received from the Council and the governor on this point, the House continued to disallow the claim, although they did acknowledge it to be a "just claim." The House adhered to the opinion of the Committee of Public Claims: "That the Claim of Susanna Allen of One hundred pounds Fourteen Shillings and Eight pence for Dyeting Eighty one French Prisoners 53 Days and for Dyeting Twenty one Mariens Eight

5 JHB, 1702/3-1712, 307.
6 Ibid., 345
7 Ibid., 340-1.
Days &c Appears to be a Just Claim" but that "the Said Claim is no Country Charge."

In a similar case, the Burgesses rejected a claim of Nicholas Curl for hiring a "Spye-Sloop." In this instance, however, the governor informed them that "The Spye-boat was hyred upon the Councils unanimous Opinion of the necessity thereof, and Since it cannot be pretended that it was Sott out with any other view than the Countryys Safety; or Imploied in any other than the publick Service of this Colony; I must look upon it to be as much a Country Charge as any Article in your Book of Claimes." The Burgesses still refused to allow the claim to be paid out of revenue raised by them, but instead, allowing that "the Claim of Mr. Nicholas Curle of One hundred and Twenty One pounds Fourteen Shillings and Nine pence for Disbursements &c on the Spie Sloop Fanny and Mary appears to be a Just Claim," they resolved "That the Said Claim ought to be paid out of the Revenue Appropriated for the better Support of the Government of her Majesties Colony and Dominion of Virginia." Thus the governor's power over the public funds was curtailed when the Burgesses refused to allow certain public claims. The governor had probably encouraged some of the claims presented. If he could have persons reimbursed by the assembly for actions taken

---

8 JHB, 1712-1726, 14.
9 JHB, 1702/3-1712, 353.
10 JHB, 1712-1726, 14.
under his order or encouragement, it would have increased his power over the appropriations of the public revenue. But the House remained unmoved and retained its control in this area.

The revenue appropriated for the "support of the Government of her Majesties Colony and Dominion of Virginia" was that which arose from the duty of two shillings per hogshead on all tobacco exported. This was a perpetual revenue granted by the House of Burgesses in the 1680's, and was used to pay the governor's salary and to cover the standing expenses of the government. The governor enjoyed control over the disbursement of this revenue independent of the House, but at times it proved to be inadequate, and the governor would have to appeal to the Burgesses for additional funds. This was the case in 1712 when Spotswood asserted in an address to the House that: "According to the present State of that Revenue you may Observe that without Some Additionall Supply it is not in my power to pay the Setled Sallary's of the Government And to discharge those Debts which you have Voted to be Just Claims Notwithstanding." When the matter finally came up before the House in 1714 (the Burgesses had postponed it to the next session of the assembly since it was so near the end of the present session), the Burgesses, rather than provide a new source of revenue within the colony, resolved to appeal to the crown to permit the colony to employ the revenue from the quit-rents toward the

11 Ibid., 41.
present deficiency. They accordingly drew up an address to the King which stated:

That upon a diligent search of presidents how the like deficiencies have been made good in former times we find that by a letter of his Majesty King Charles the Second dated in the year 1684 and directed to the Lord Effingham then Governor of Virginia his Majesty is graciously pleased to declare his royal intentions to apply all the profits and advantages accruing by the revenue of quit rents of this colony for the better support of the government thereof, and that accordingly the deficiency of 2 shillings per hoghead have been always supplied by your Majestys predecessors out of the said fund of the quit rents, which for that purpose was reserved in this country ready for all emergencies of this government till about nine years ago, that the same was called into the exchequer in England.

We humbly pray your Majesty will therefore be graciously pleased to direct the quit rents of this country back into their old channel, and that out of them the present deficiency of the revenue may be made good with power also to your Majestys Governor with advice and consent of the council to apply the same for answering any sudden emergencies where your Majestys service might suffer for want of a more timely supply than application at so great distance will admit subject nevertheless to be duly accounted for as formerly to your Majesty.12

The governor had, in reality, no choice but to concur in this plea, which had been seconded by the council, and although some additional revenue was received from this source, it still proved to be deficient

12 Ibid., 109.
in the eyes of the governor, who wrote to Nathaniel Blakiston in 1717 that "even his Majesty's late Bounty out of the Quit rents has not yet made it sufficient to discharge the usual Salaries."

This reluctance of the House to levy taxes and grant appropriations also hampered the governor in the exercise of his authority to provide for the defense of the colony. Although his commission and instructions had empowered him to raise a militia, build fortifications, and provide them with arms and ammunition, it did not specify the means by which funds for such undertakings would be supplied. In fact, they did not expect that it would be difficult to obtain such moneys from the colonial assemblies. The House of Burgesses, however, proved them to be wrong. In more than one instance during Spotswood's administration, they refused to vote the money which the governor felt was necessary to supply military aid to neighboring colonies for the defense of the frontier.

One case of this type was directly involved with the assembly's right to initiate all bills providing for the levying of taxes and to direct the method in which such duties should be laid. In 1711, upon hearing from the governor that there had been an uprising of the Indians along the frontiers near North Carolina, the Burgesses resolved "That the Governour be addressed to declare Warr against the Tuscarora Indians and their Adherents and that he be assured that this

---

House will Exert it Self to the utmost in giving Such Speedy and
effectuall Supply as may Enable him to prosecute and carrye on the
Said War til he shall procure a safe and Lasting peace."

Accordingly, a bill was passed by the House "granting to her Majesty
certaine Dutys upon Severall goods and Merchandizes for carrying on
a Warr against the Tuscarora Indians their Adherents and Abettors."

Both the Council and the governor, however, rejected the bill which
had been passed by the Burgesses because of its unusual nature of
levying the duties prescribed. Spotswood told the Burgesses that
he was "Surprized at the Incongruous proceedings of your House when
after you have by a Solemn Address & Resolution assured me of timely
and Sufficient Supplys for carrying on a Warr and makeing Treatys.
you now will offer no other Bill than One which cannot be passed for
its unusuall and Extraordinary nature until a draught thereof be first
Laid before her Majestye And should I venture to pass it, yet it would
not raise One penny in time nor One third of what you your Selves have
judged to be barely requisite for the Expedition." The House replied
with a statement of their right to levy taxes and lay impositions.
They reasoned that "where the Security of the Country and Interest
of the people are So much concerned as necessarily to require the
raising money wee with all Submission take it to be the undoubted
right of this House that Acts of that nature ought to have their

---

14 JHB, 1702/3-1712, 319.
15 Ibid., 327.
16 Ibid., 339.
foundation from us," and further believed "the Granting of Aids and
the method of Laying Impositions and Dutys to be the undoubted Right
and Inherent priviledges of the Burgesses in assembly representing the
people of this Colony." They refused to consider any amendments
to the act which related to the alteration of the duties laid or
the time for which they were laid, preferring to have the bill fail
in passage than to infringe upon what they believed to be their rights.
They stated in a message to the governor that: "Wee did believe we
had performed our Duty to our Queen and the People we represent And
if any misfortune should befall this Country (which God avert) for
want of that Succour which we desire to give Wee humbly are of Opinion
it cannot be justly laid to our charge." Thus, since the Burgesses
refused to acquiesce in this matter because they felt it would be
infringing upon their rights, the governor was prevented from carrying
out his powers and commitments for the defense of the frontier due to
lack of funds.

A similar case arose in 1715 when Virginia was sent a request
for aid against a combination of Indians which had attacked the settlers
in South Carolina. Spotswood had sent arms and ammunition and a
force of men to aid in fighting the Indians and then convened the House
of Burgesses in order that he would be able to give further assistance

\[17\] Ibid., 343, 338.
\[18\] Ibid., 344.
and better provide for the colony's own defense. Spotswood apparently thought this necessary, for he wrote to England: "as there is some grounds to suspect that this heathenish Combination may be more general over the main, it is to be feared that this Colony will have occasion to arm in its own defence." The House, however, did not seem to share the sense of urgency evident in Spotswood's opening speech, for, although they did make a resolution that the House would "endeavour to Raise mony Sufficient to Enable the Governor to perform the Treaty he hath Concluded for the Assistance of South Carolina," their main concern seemed to have been a debate with the Council concerning a question of privilege in redressing grievances. The resolution to raise funds for South Carolina was carried out by tacking a clause to levy an additional duty of one shilling per hogshead on tobacco exported onto the bill to repeal the Tobacco Act which had passed during the previous assembly. The passage of this tobacco act had been one of Spotswood's main accomplishments during the assembly of 1712-14, and the Burgesses, he said, now tacked this duty onto a "Bill that you were Sensible would never pass the Council or me." As a result, no funds were voted to enable the governor to give more

19 Spotswood to Mr. Secretary Stanhope, May 27, 1715, in Brock, ed., Spotswood's Letters, II, 112.
20 JHR, 1712-1726, 139.
21 Ibid., 152.
assistance to South Carolina, and the only relevant legislation passed was "An Act for the Encouragement of Such Persons as have gone and Shall go Voluntarily into the Service of South Carolina." Again the Burgesses' concern for their own rights and privileges rendered the governor unable to exercise his powers fully because of lack of sufficient support.

Actions by the House of Burgesses in passing bills for the better regulation of the militia also served to lessen the governor's power in the eyes of the colonists. The Burgesses had begun to regulate the militia in Virginia in 1685 through short term legislation, thereby setting a precedent regularly followed. The absence of a law regulating the militia was deemed to be a hardship on the colony, especially by the governor. Without such a law in force, the governor found it difficult to do anything with the militia. This seemed to be the case when Spotswood wrote to the Lords Commissioners of Trade in 1715 that "the Laws of the Country are so very defective that it is impossible to bring the Militia to a better regulation." At that time, there were no militia laws in force, despite the governor's efforts to move the House to action. His own feeling of the need for a militia law is reflected in his message to the Burgesses during the

---

22 Ibid., 166.
23 Spotswood to the Lords Commissioners of Trade, July 15, 1715, in Brock, ed., Spotswood's Letters, II, 120.
It has been the Care of former Assemblies to Make provision from Time to Time for Defence of This Colony as Well against foreign Invasions as Intestine Commotions; but The Laws made for That purpose being only Temporary are som Time since Expired, Tho 'tis not to be doubted but That The Reasons on Which They were grounded do Still Subsist. I think it Therefore Necessary to put you in Mind, That in order to Encourage both The officers And Soldiers of Your Militia, to be Resolute in The Defence of your Country, it is fit That provision be made for the payment of Such of the Militia, as I shall find Requisite to Call together And Keep up in Time of Invasion, Insurrection or other Danger, and That Suitable power be given for Impressing And provision Made for paying Such Artificer, Sailors Sloops and vessells as may be found Necessary on such emergencys.

The fact that the governor was encouraging the House in this case shows that the custom of having the militia regulated by an Act of Assembly had taken a firm hold in the colony.

The acts themselves showed that the colonists did not agree with the home officials' idea relating to the powers of the governor in this case. These laws conferred upon the governor the powers relating to the militia which were also given to him in his commission, "to organize, train, and muster the militia; to appoint its officers, and to call it into service in times of emergency." Thus, through

---

24 JHB, 1702/3-1712, 277.

these laws, the colonists expressed their belief that the authority for the powers of the governor relating to the militia came from them rather than from the home government. That these laws contained specific instructions concerning the organization of the military force, the rates of pay, and who should serve, reinforced the notion that the ultimate power over the military establishment rested with the people of the colony rather than with the English government.

In some cases, the exercise of the governor's powers as outlined in his commission and instructions was openly challenged in the colony, usually by asserting the rights of the colonists to condition the circumstances and extent of their exercise. Nevertheless the end, which the colonists sought through a challenge to the governor's authority, had the ultimate effect of reducing the power of the governor. In Virginia during the early part of the eighteenth century, especially during Governor Spotswood's years in office, such challenges came in two different areas. One of these involved the governor's powers over the system of courts in the colony; the other related to the church.

In his commission and instructions from the home officials, the governor was given authority over the establishment of the courts and the appointment of judges to serve in them. Specifically, he was empowered to set up two courts of oyer and terminer yearly and to appoint the justices to sit in them. The colonists had no objection to the governor setting up the additional courts, which
were to be held for "the prevention of prisoners lying in gaol above a quarter of a year before their trial." The Burgesses had even expressed their thanks to the Queen for allowing these courts to be constituted, and so "That There might be no Obstruction in Establishing The Said Courts of Oyer and Terminer," they had passed a bill which amended a previous act concerning the establishment of courts in the colony. The challenge to the governor's prerogative was made concerning his power to appoint judges to serve in the courts of oyer and terminer.

The governor's instructions had stated that he could appoint these courts without any mention of the need for concurrence by the Council. Spotswood had also taken care to get this power approved by an Act of Assembly. He interpreted his instructions to mean that he could appoint whom he pleased to be judges in the newly constituted courts. The Council disputed this, however, claiming that only Council members could serve on the courts of oyer and terminer. This belief they founded on the fact that they, as judges of the General Court, were accorded sole jurisdiction over cases involving life and

26 Jones, Present State of Virginia, 69.
27 Burgesses address to the Queen, November 28, 1710, in JHB, 1702/3-1712, 283.
28 Ibid., 285.
29 See Above, 33.
and limb, and, since such cases would be tried in the new courts, the Council should be constituted as sole judges there, too. In a representation to the governor, they stated that "if it should be otherwise, we beseech your Honor to reflect How much the Generall Court will be divested of its Jurisdiction, which is not only founded on the late law, but also upon the constant usage of this Dominion, no instance being upon Record that any other stated Court of Judicature hath had cognizance of Life and member but the General Court only." They based their contention not only upon the Charter and an Act of Assembly, but also upon custom and precedent in the colony. They informed the governor also that "when we were appointed members of the Council, we found this Jurisdiction confined only to the Judges of the Generall Court, and we should be unwilling that our successors should reproach us with having willingly Departed from it." The Burgesses concurred with the Council in their belief and petitioned that the Council members be granted what they believed to be their undoubted right.

Therefore we most Earnestly pray That your Majesty out of your great goodness will direct by your Royall Instruction to your Governour That the Judges of your Generall Court (who being appointed by your Majesty out of the ablest and discreetest of your Subjects in this Colony, and holding their places during your Royall pleasure have alwaies with great Honour and Justice and to the generall Satisfaction of your People Discharged that great Trust) may be declared the only Justices of the Said Courts of Oyer

and Terminator. Or that your Majesty will
be pleased to restrain this dangerous power
in such other manner as you in your great
wisdom shall think most proper.32

Both the Council and the Burgesses were contending for what they believed
to be the right of the Council as judges.

The governor, however, continued to fight for what he believed
to be his right, and the right of the crown. Despite the spirited
opposition of the Council, he appointed men who were not members of
the Council to be judges in these courts to serve with Council members.
This provoked the opposition further. "I thought it necessary to
appoint five of the Councill and four other of the principal
Gentlemen of the Country to be the Judges," he wrote, "but some of
the former resolving still to adhere to their former opinion that the
Council ought to be the sole Judges in all Criminal matters, refused
33 to sit." Spotswood had presented the dispute to the authorities
in England for their opinion in the matter, and they had replied with
a judgment of the controversy in his favor. Sir Edward Northey, the
Attorney General, stated in his opinion "That it is most plain the
Power of appointing Special Commissions of Oyer and Terminer & was
& is in the Crown, and is well given to the Governor by his Commission,
And in such special Commissions of Oyer and Terminer such Persons may
be appointed Commissioners therein with or exclusive of the Council."34

32 JHB, 1712-1726, 208.
33 Spotswood to the Lords Commissioners for Trade and Plantations,
34 H.R. Mollvaine and W.L. Hall, eds., Executive Journals of the
Council of Colonial Virginia (Richmond, 1925-1945), III, 494.
The Council, however, still refused to acquiesce, and, in the end, Spotswood yielded to their demands. Although he still believed that it was in his power to appoint whom he pleased to be judges of the courts of oyer and terminer, he actually appointed only members of the Council. The Council, in return, conceded him this power in theory. He had told them that

as he intended to appoint the Council & none other to be Judges of the said Court so he expected a declaration from them that they do not Claim it as their Right to be sole Judges in such Courts, but that, According to the Opinion of Sir Edward Northey his Majestys Late Attorney General they do acknowledge that the Power of Nominating Commissioners in such Special Commissions of Oyer & Terminer with or exclusive of the Council is Vested in the Crown and is well Given to the Governor of this Colony by his Commission.³⁵

Although the governor had won the capitulation of the Council in theory, in effect, he had lost this power granted to him by his commission. In this case, it cannot be said that the Council was consciously fighting to reduce the power of the royal governor. If that had been the case, they surely would not have recognised the right of the governor to appoint such judges as he thought fit without the consent of the Council. Rather, their immediate purpose was one of self-interest — protecting their own rights — which had the effect of diminishing the governor's power.

The governor's authority relating to the established church

³⁵Ibid., 493–4.
was also directly challenged. The commission had given him the right
to prefer ministers to benefices and to induct them into office. Once
inducted by the governor, the minister held his position for life.
It had long been the practice in Virginia to have the local vestries,
which were self-perpetuating bodies and jealous of their power,
choose the minister for their parish and present him to the governor
for induction. By the early part of the eighteenth century, however,
it had become the generally accepted custom of the vestries to make
agreements with their ministers on a yearly basis and not present
them for induction. Thus the tenure of the uninducted clergyman rested
solely on the wishes of the vestry. Regarding this situation,
Robert Beverley wrote that:

The only thing I have heard the Clergy complain
of there, is what they call Precariousness in their
Livings; that is, they have not Inductions generally;
and therefore are not intituled to a Free-hold: But
are liable without Tryal or Crime alleged, to be
put out by the Vestry: And though some have prevailed
with their Vestries, to present them for Induction;
yet the greater number of the Ministers have no
Induction: But are entertained from year to year, or
for term of years, by agreement with their Vestries;
yet are they very rarely turned out, without some
great provocation; and then if they have not been
abominably Scandalous, they immediately get other
Parishes: For there is no Benefice whatsoever in that
Country that remains without a Parson, if they can
get one, and no qualified Minister ever yet returned
from that Country, for want of Preferment.36

Spotswood apparently understood the plight of the vestries in obtaining
suitable ministers, for he once wrote to the Bishop of London that

---

36 Robert Beverley, History and Present State of Virginia,
Louis B. Wright, ed. (Chapel Hill, 1947), 264.
"it is observable that those Shepherds here oftener leave their Sheep than that the Sheep aim at changing their Shepherd."

Spotswood foresaw to some extent the difficulties that he would have if he tried to press his authority over induction too vigorously, and, during the first years of his administration he did not attempt much exercise of it. Since the practice of induction by the governor had long been neglected in the colony, he believed "that by how much this Practice has been neglected by my Predecessors in this Government, with so much the more Caution I am to proceed in the reviving it here, and that as yet it may be too dangerous for me, whilst a stranger, to attempt." Thus the long standing custom in Virginia of having the vestries present the ministers for induction and the practice of the vestries in neglecting to do so undermined the governor's power of induction of the clergy.

On the matter of collation, Spotswood, later in his term, ran into vigorous opposition from the vestries, the House of Burgesses, and the Reverend James Blair, the commissary of the Bishop of London in Virginia. In this controversy, Spotswood claimed that he had the right of collating ministers to benefices, that is, of appointing

---

38 Ibid.
39 Blair seems to have taken some delight in opposing the royal governors in Virginia, for he had previously had disputes with both Andros and Nicholson and is said to have been instrumental in having them removed from office.
them to parishes. The vestries argued that they were the patrons of the church and had the sole right of presentation of ministers, upon which the governor's power of collation would infringe. They based this claim on an Act of Assembly of 1662, in which it is stated that "the Governor is hereby requested to induct the said minister into any parish, that shall make Presentation of him." Since the governor is to induct the minister upon presentation by the parish, and no mention is made of his right to present a minister, the sole right of the vestries to the presentation of ministers is inferred. The governor, however, adhered to the opinion that, as the direct representative of the king in the colony, he exercised the king's ecclesiastical authority there, and included in this was the right of collation of the clergy. He also based his position on his instructions and commission, which expressly reserved this right to him as governor. He wrote to the Board of Trade in 1718 concerning this controversy:

I do not conceive that That Single Clause in their Act, which sayd the Governor is requested to Induct a Minister into any Parish that shall make presentation of him, is a sufficient foundation to sett up the Vestry's Claim of Patronage, and to destroy the King's Right of Collation, much less can I allow that these Words give the Vestrys a Liberty to supply vacancys in their Church, or to make them again at their pleasure, or that they can

---

entertain any Minister without the Licence of the Governor, who has, by his Majesty's Letters Patents, the Power of the Ordinary as well as the Rights of the King to Collate Jure Coronal. 41

Both the colonists and the governor were fighting for what they believed to be their rights. Although the governor attempted to exercise his power of collation, he was thwarted in this effort by the refusal of the vestries to accept and provide for the support of his candidates. The Burgesses also brought a charge against him by ordering that it be brought to the attention of the home officials "That he insists upon his having a Right of Patronage and hath presented and Inducted Ministers contrary to our Law, and contrary to Sir Edward Northey's opinion upon our Laws." It was finally agreed by both sides in the controversy to enter into a law suit against the governor's claim, and appeal to England for a decision. In a letter to the Bishop of London, Commissary Blair related his view of the controversy:

For he without any new Instruction, but pretending to understand his old ones

41 Spotswood to the Board of Trade, August 11, 1718, in Brock, ed., Spotswood's Letters, II, 293. In a letter to St. Anne's Parish, Spotswood explains his position on collation. Perry, comp., Historical Collections, I, 205-6.

42 He had appointed Mr. Bagg to St. Anne's Parish but, since Bagg had had no ordination, he was not accepted and the vestry appointed Mr. Rainsford. A few years later Bagg returned with ordination papers, and Spotswood again appointed him to St. Anne's, but the vestry refused to accept him and instead presented Rainsford for induction. Leonidas Dodson, Alexander Spotswood (Philadelphia, 1932), 196-7.

43 JHB, 1712-1726, 230.
better than his Predecessors; because in one of his instructions, if I remember right, he was directed that in Collating to vacant Benefices he should admit of no Clergyman that did not bring a licence from by Lord Bishop of London, he interpreted this as if the Parishes had no Right of Presentation at all, but that the sole power of Collation was in him; and accordingly he refused a Presentation of a Vestry upon this account. It was the vestry of this Parish that gave me a Presentation. The Country was alarmed at this new claim of the Governors, the case reaching all the Parishes in the Country; and the General Assembly and that Governor came to an agreement to have it tried at law; and accordingly a writ of Quare impedit was brought against Col. Spotswood as ordinary; but before it came to be decided he was superceded, and the writ the Lawyers agreed would not lye against Governor Drysdale.\(^4^4\)

In effect, however, Spotswood lost again in this case, for the vestries continued to present their own ministers for induction when they saw fit, thus returning to the custom that had been prevalent before Spotswood came to the colony.

The authority which the royal governor of Virginia during the early eighteenth century was able to exercise in practice was not equal to that which could be inferred from the commission and instructions which he received from the government of Great Britain. By failing to authorize appropriations against the public revenue, the Burgesses effectively prevented the governor from exercising his theoretically great power over the financial affairs of the colony.

The governor's military power was curtailed when the Burgesses failed to carry out his proposed measures, or attached a levy onto a bill unacceptable to the governor. The Council, by asserting what they felt to be their undoubted rights, prevented the governor from appointing whom he pleased to the courts of oyer and terminer. The custom of having the vestries present ministers challenged the governor's power over collation and induction. In order to be successful, a governor had to compromise and reach an accord with the colonists. By the end of his administration, "Spotswood had learned the secret of political success for a Virginia governor. To govern Virginia, he had to reach an accord with the plantation gentry -- a course followed in large measure by all of his successors."

---

CHAPTER IV

COLONIAL WRITINGS

During the early part of the eighteenth century, there were published in London three major works on the colony of Virginia. The authors of these books were men who had lived in Virginia for some time, and one was a native of that province. They were gentlemen of some prominence and had had some connection with the government, whether as members of its councils or closely allied to some public officials. Each was allied in some way with the well-to-do planter aristocracy and ruling class in Virginia.

Robert Beverley, whose History and Present State of Virginia appeared in 1705, was a native Virginian and his family belonged to the plantation gentry. The Present State of Virginia, and the College was written by Henry Hartwell, James Blair, and Edward Chilton, immigrants to Virginia from England and Scotland. Both Hartwell and Chilton served Virginia as clerk of the governor's Council during the last quarter of the seventeenth century and had held other positions in the government. Blair served as the representative of the Bishop of London in the colony and, as such, was closely associated with public figures. Each of these men had allied himself with the landed gentry
through marriages to Virginia women. The narrative which they wrote jointly in 1697 as a report on the colony for the newly created Board of Trade was published in 1727. Hugh Jones, who wrote The Present State of Virginia in 1724, had also come to Virginia from Great Britain. He had served as minister of a parish near Williamsburg during Spotswood's administration and had become familiar with the governmental machinery of the colony at that time.

Also published at the beginning of the eighteenth century was a pamphlet on the governments of the English colonies in America. Written by a Virginian who preferred to remain anonymous, this essay attempts to evaluate the governmental machinery in the colonies by airing complaints concerning it and suggesting remedies which he feels would be effective. Although the author remains unknown, it has been ascertained that he was a member of Virginia's ruling class and was acquainted with the government of the colony.

---


3 Many of the viewpoints presented in this pamphlet and in Robert Beverley's History are similar, leading to the conclusion that Beverley may have been the author. Louis B. Wright, ed., An Essay Upon the Government of the English Plantations on the Continent of America (1701) (San Marino, California, 1945), x-xvii, passim.
Since each of the authors had been closely associated with the provincial government in Virginia, they would have been in contact with the assertion of the governor's power and the ways in which this was being curtailed. In some instances, they were closely allied with those who had successfully contested the power of the royal governor. It is interesting to note, therefore, that in their published works, these men assigned to the governor the powers which they believed were granted by his commission and accepted by the colony in general. Even though they were writing about the present state of affairs, they did not take the time to formulate a theory concerning the nature of the governor's powers. Rather than presenting what powers the governor was able to exercise in the colony, they chose to enumerate those traditionally granted to him by the home officials. "All the great Offices in Virginia (being then an Infant Government) were at first heaped upon one Man, and, which is stranger, continues so to this Day."

All of the narratives agree that in the colony the governor represented the crown, and it was through him that the power of the crown was exercised. The anonymous Virginian's pamphlet stated that "Whatever Power the King hath in the Plantations must be executed by his Lieutenants," and the most important of these was the royal

4 Hartwell, Blair, and Chilton, Present State of Virginia, 21.

governor. Also included in these accounts is a general listing of the
governor's powers. Robert Beverley gives a representative view when
he states that:

He represents the Queen's Person there
in all things, and is subject to her Instructions, 
viz.
In assenting to, or dissenting from the Laws,
agreed upon by the Council and Assembly.
In giving his Test to all Laws so assented
to.
In Calling, Proroguing, and Dissolving
the Assembly.
In Calling, and presiding in all Councils
of State.
In appointing Commissioners and Officers
for the administration of Justice.
In granting Commissions to all Officers
of the Militia, under the degree of a Lieutenant-
General, which Title he bears himself.
In ordering and disposing the Militia
for the defence of the Country, according to
law.
In testing Proclamations.
In disposing of the Queen's Land according
to the Charter, and the Laws of that Country;
for which end, and for other publick Occasions,
the Seal of the Colony is committed to his keeping.
All issues of the publick Revenue must
bear his Test.
And by virtue of a Commission from the
Admiralty, he takes upon himself the Office of
Vice-Admiral.

Hartwell, Blair, and Chilton's report echoes this view in a similar
listing, and in the other narratives, this general idea prevails
although it is not stated in such explicit terms.

---
From a statement such as this it can be inferred that the governor enjoyed a great amount of authority over the administration of the government. This view follows that of the British officials, reflected in the commission and instructions, rather than that arising from colonial practice. The home officials would have given the governor the powers stated in these listings, but the colonists would have prevented their exercise. These theories arising from the writings of the colonists lagged behind colonial practice. The colonists who were opposing the governor's use of his powers in the province seem to have been unconscious of the effect their actions had upon the governor's exercise of those powers.

The question immediately arises as to why the authors assigned such powers to the governor when, in practice, they were preventing his use of them. It is difficult to give an explanation of this behavior, but it is possible to suggest reasons for the apparent difference between the colonist's practice and their expressed views. It has been noted that despite their actions which had the effect of diminishing the governor's powers, the colonists professed no desire to encroach upon the rightful prerogatives of the crown, and, at times, they amended Acts of Assembly so that it could not be said that they had blocked the exercise of these prerogatives. The general grants of powers given to the governors in these contemporary accounts can be considered as a recognition that he enjoyed the right of exercising those powers arising from the royal prerogative. But this
did not prevent the colonists from curtailing the governor's use of authority when they had the opportunity. They paid lip service to the governor's authority by stating the powers which he constitutionally held, but prevented their exercise by actions which they considered to be their constitutional right.

This explanation, however, is far from sufficient, for it does not account for the ideas concerning the governor's powers which arise from other parts of the works. In addition to the general listing of powers, the authors discuss how the governor exercised his powers, and all, save one, believe that the governor's powers are too great. The exception is the Reverend Hugh Jones, who feels that the governor ought to exercise the powers granted to him in his commission. At times, this might be a power he does not exercise, such as the protection of the sea-coasts. "To guard the coasts from the ravages of pyrates," he writes, "men of war are frequently stationed there; but they are not at all under the direction of the governor upon emergencies, though he be titular admiral of those seas; but had he some command over men of war, 'tis thought it might be of great service to the country, and security and advantage to the merchants and others." He also writes of Governor Spotswood, with whom he agreed on the governor's right of collation, with glowing praise. "Governor Spotswood, to his great honour be it spoken, always

---

8 Jones, *Present State of Virginia*, 104.
stood up for the right of collation, and was hearty in vindication of the clergy, who as he professed in a speech to them, certainly had not only his protection but also his affection; so that it is difficult to be determined in which respect he chiefly excelled, either in being a compleat gentleman, a polite scholar, a good governor, or a true churchman."

Jones's seemingly royalist view is most likely the natural result of his experience and situation in the colony, which differed from that of the other authors. Hugh Jones was born in England and educated there as a minister in the Anglican church. He first came to Virginia early in 1717 to be the professor of mathematics and natural philosophy at the College of William and Mary. He was a friend of Governor Spotswood and acquired other positions in the colony through him. During his short stay in the colony, he served as chaplain of the House of Burgesses, minister of the Jamestown church, and "lecturer" at Bruton Parish Church. In the controversy over collation, Jones sided with the governor, and in 1721, he left Virginia to return to England, possibly due to the hostility shown him by Commissary Blair, who opposed his view concerning appointment of the clergy.

His book on Virginia was written in 1724, the only one of the three similar works which was written after Spotswood had come

---

9 Ibid., 124.
10 Ibid., 4, 5, 16.
Hugh Jones’s knowledge of the colonial government came through his experience as chaplain of the House of Burgesses and his friendship with Spotswood, rather than as a member of the Council or the House, as had been the case with the others. It is conceivable, therefore, that he had a closer contact with those who would uphold the governor’s power rather than attempt to curtail it, a fact which might have had some influence on young Jones.

The prevailing view among the other authors was that the governor had too much power in the colony, and his use of this power made it almost impossible to place any restraints upon him. In the pamphlet of 1701, the anonymous Virginian states that, "The King’s Governours in the Plantations either have, or pretend to have very large Powers within their Provinces, which together with the Trusts reposed in them, of disposing of all Places of Honour and Profit, and of being chief Judges in the Supream Courts of Judicature, (as they are in many Places, if not all) render them so absolute that it is almost impossible to lay any sort of Restraint upon them."

Hartwell, Blair, and Chilton also were of the opinion that the governor had no restraints on his authority. Since he had been given rather large powers, there had been devised three checks or restraints -- the royal instructions, the Council, and the General

---

Assembly — to keep him from abusing them. The governors, however, had found ways of evading these checks. Concerning the check of the Council, the three authors write that:

The Governor was appointed to act with the express Advice and Consent of the Council, who at that Time, were named by the King, and held their Place during his Pleasure, and so were, in some Sort, exempted from all Dependance on the Governor. But many Ways were found out, to take off this Check, and such effectual ones, that, instead of being a Check upon the Governor, the Council are now, and alway will be (by the present Constitution) at the Devotion of the Governor, and the ready Instruments to advise, act, or execute, not only what he expressly desires, but whatsoever, by any Manner of indirect Notice, they can imagine will serve and please him, be Governor who will.13

The attitude that the governor had absolute power is reflected by Beverley in the way in which he treats the governors of whom he gives an account. In this, he also introduces the idea that corrupt governors were abusing the powers given them and were making themselves absolute over the people. In the introduction, he states his belief concerning the governors when he tells how he will endeavor to treat them in the narrative.

It likewise gives a faithful Account, of all the successive Governours of that Country, and their Administration, together with the principal Laws, that have been enacted in the Time of Each. In the doing of which, I have been careful to mention nothing, but what I can make good by very Authentique Testimony.

12 Hartwell, Blair, and Chilton, Present State of Virginia, 22-23.
So that if I have taken the Freedom, to represent the Mismanagement of several Gentlemen, it is their Fault, that acted such Irregularities, and not mine, that report them to the World. If Men will please to be unjust, run counter to the Royal Instructions, oppress the People, and offer Violence to all the Laws of a Country, they ought to be known, and abhorred by Mankind.14

In the narrative itself, he places most of the governors in an unfavorable light, and says of Nicholson: "But no Wonder that he deals so freely with the People there, since neither Her Majesty's Instructions, nor the Laws of that Country can restrain him." 15

Although the authors of these three works had a common complaint — arbitrary and absolute power in the hands of the governor — it is impossible to try to give explanations which would be common to all. One situation, however, is significant in regard to these accounts and how they differ from that of Jones. These three works were all written before 1705 when Edward Nott came to the colony as lieutenant governor. The Virginia governors with whom the authors were familiar were Sir Edmund Andros and Francis Nicholson, both of whom were very forceful men and had much influence in the colony. The Council although not devoid of power at this time, was not as strong as it was to be at the beginning of Spotswood's term. For the half-decade between the arrival and death of Governor Nott and Spotswood's appointment in 1710, the Council had been at the height of its power, ruling without governor or assembly.

14 Beverley, Present State of Virginia, 10.
15 Ibid., 107.
When Spotswood came and tried to exert his authority, the Council was reluctant to give up what it had attained and fought many of the governor's measures. The House of Burgesses had also gained in stature by this time and took an active part in curtailing the governor's powers.

During the period when these accounts were written, the governor was able to exercise more power and had more influence in the government than was true at a later date. But the positions which the authors held in the government and the occasions for their writing the histories can also give some clue as to why they pictured the governor with almost absolute powers.

The account written by Hartwell, Blair, and Chilton was originally drawn up in 1697 as a report on the colony for the Board of Trade, which had been created the previous year. As such, it is conceivable that it had some characteristics of a piece of propaganda. These men no doubt wished to influence the Board, which was to have some measure of control over colonial affairs, and wrote accordingly. Since they apparently wished the governor to exert less authority in the colony, the account which they wrote would logically have exaggerated the arbitrary nature of the governor's actions in the hopes that something might be done about it.

It is also true that these three men were members of the college faction of the government, which opposed the governor and
was endeavoring to secure his removal at this time. Blair was the acknowledged leader of this group and Hartwell and Chilton were both closely allied to it. Chilton's father-in-law was a trustee of the College, and Hartwell had been designated a trustee in 1693. Andros' resignation in 1698 has been attributed to the persistent attempts of Blair and this faction to secure his removal, and their report to the Board of Trade in 1697 was one means by which they represented the governor's behavior to the crown officials.

Robert Beverley, however, does not fit into such a mold. He did not conform to any pattern among the ruling class in Virginia. His family was prominent among the landed gentry, and his father had been the leader of the people's faction against successive royal governors since Berkeley. Robert Beverley apparently inherited these views antagonistic to royal governors and carried them into his writing. He was also critical of measures he felt were designed to take away the inherited liberties of the people of Virginia and criticized some of Nicholson's actions on this ground.

Beverley's personal affairs must also be considered in contributing to his animosity toward Nicholson, who was the governor of Virginia when the History was written. Nicholson's action in moving the capital city from Jamestown to Williamsburg was criticized by Beverley, possibly because he owned property in Jamestown. Nicholson had also discharged Beverley from a lucrative position as clerk of
King and Queen County, which no doubt added to his wrath against the governor.

In stating that the governor enjoyed the powers granted to him by the home officials and complaining that they were absolute and arbitrary, these colonial writers reflected the circumstances in which they found themselves at the time at which they were writing. The original composition of the accounts predates the period of Spotswood's term of office, when the Council and the Burgesses were preventing the governor's use of many of his powers. The actions taken by these bodies at the later time would not have been an anathema to these writers, but more likely would have been welcomed by them.

One of the remedies proposed by the anonymous Virginian to correct the situation he felt he saw in 1701 was later employed by the House of Burgesses. He had proposed "That every Colony have an Agent constantly residing in England, to give an account from time to time, as he shall be thereto required, of all the Affairs and Transactions of the Plantation he is authorised by." In 1710, when the House felt that the agent then in London was too much a representative of

---

16 Louis B. Wright, First Gentlemen of Virginia: Intellectual Qualities of the Early Colonial Ruling Class. (San Marino, California, 1940), 295.

the governor, they appointed their own agent to represent them against what they felt to be the abuses of the governor.
CONCLUSION

In the early part of the eighteenth century, the royal governor of Virginia held an important position within the colony. He was the direct link between the colonial government and the home government in England and had the responsibility of carrying out the policy of the English government in the colony. As the king's representative in the province, he was to exercise the prerogative of the crown there.

In the commission and instructions which the British officials issued to the governor, they expressed their ideas concerning the powers he was to have in order to carry out his responsibilities within the province. These powers were potentially very great. The officials in England pictured a royal governor who would exercise the powers and prerogatives of the British crown. Although at times the instructions seemed to limit the governor's power in some way, it was generally in the direction of placing more power -- either advisory or actual -- in the hands of the crown or crown appointed officials, thus still preserving the rights of the crown.

Within the colony, however, the governor did not emerge as he was pictured in England. He was unable to put all of his powers
into use there because of the opposition he faced from the colonists themselves. Custom, precedent, and the existing situation in the colony often dictated a course of action that prevented the governor from exercising his power. He often ran into opposition from the powerful Council in Virginia, which, although nominated by the governor and appointed by the crown, very often put local and individual interests before those of the English government or empire and opposed the governor's use of his power. The House of Burgesses also prevented the governor from using his powers either by asserting their rights in a given matter, which assertion proved to be in opposition to the governor's rights, or by failing to provide the support necessary to carry out an exercise of power.

Although it is difficult to trace thought patterns where none have been specifically expressed and only actions are present, it is possible to infer from these actions what the thoughts might have been. The actions of the colonists in Virginia, in opposing the exercise of power by the royal governor, suggest that they felt the powers which the governor ought to have were not as great as those actually granted to him by the home officials. By fighting for their own rights and thereby preventing the execution of the governor's powers, they express the idea that they believed their own privileges to be more important and that they should have the power rather than the royal governor.

The contemporary writings concerning the governor's office seem to support the British rather than the colonial view, a fact
difficult to explain since the authors were, for the most part, members of the Council and the House of Burgesses, which were contesting the governor's powers. All the narratives save one, however, were written previous to Spotswood's administration when the Council and the House were less successful in curtailing the governor's authority than was to be true at the later date. The exception is the account written by Hugh Jones, an Anglican minister. As a recent immigrant to Virginia and close friend of the royal governor, he represents the royalist view in believing that the governor ought to exercise the authority granted to him.

The other authors, however, complain that the governor held absolute power over the people and wished to diminish the powers they felt he possessed, thus indicating an opposition to the governors about whom they wrote. Henry Hartwell, James Blair, and Edward Chilton perhaps exaggerated the powers exercised by the governor in an attempt to induce the Board of Trade, for whom they wrote their report, to promote the removal of Sir Edmund Andros, then governor of the colony. Robert Beverley's antagonism arose from more personal reasons, such as his family background (his father had consistently opposed the royal governors), and his removal from a lucrative office by Governor Francis Nicholson.

The colonial view, arising out of the practice in the colony, was that which prevailed in Virginia in the early eighteenth century.
The governor in the colony was not like the one in the commission and instructions from Great Britain. Colonial tradition, precedent, and practice forced the governor to compromise on many measures and thus reduced the amount of power he was able to use in the province.
BIBLIOGRAPHY

PRIMARY SOURCES:


SECONDARY SOURCES:


VITA

Anita Joy Lonnes


The author began apprentice work in the field of Interpretation of Historical Sites in July, 1963, and entered the College of William and Mary as a graduate student in the Department of History in September, 1963, in conjunction with the program combining graduate study with apprenticeship training in Historical Administration.