The Relationship between the Board of Trade and Plantations and the Colonial Government of Virginia, 1696-1775

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THE RELATIONSHIP BETWEEN THE BOARD OF TRADE AND PLANTATIONS
AND THE COLONIAL GOVERNMENT OF VIRGINIA
1696-1775

A Thesis
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In Partial Fulfillment
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by
Mary Carroll Johansen
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APPROVAL SHEET

This thesis is submitted in partial fulfillment of the requirements for the degree of

Master of Arts

Mary Carroll Johansen

Approved, April 1992

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DEDICATION

This thesis is dedicated to my parents, who have given me their love and support and a much-appreciated education, and to my brothers, for just being my brothers.
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ABSTRACT

The Board of Trade and Plantations was the agency empowered to oversee the governing of England's colonies. Although unable to legislate for the colonies, the Board's right to review colonial legislation and make recommendations to the king and the colonial governors gave it strong powers of influence. Colonial governors and legislatures shared the task of administering the colonies' day to day affairs. In Virginia, the lack of controls by the home government led both the governor and the legislature to become increasingly independent of Britain during the first half of the eighteenth century. They also tried to become independent of each other, causing many acrimonious clashes.

By 1748, however, economic interests in Britain and Virginia's attempts at self-government compelled the home government to increase its control over the plantation. From that time forward, the Board of Trade, with Parliament's support, began to tighten its grip on the colony. For the remainder of the colonial period, the legislature directed its anger less toward the governor than toward the London government.

The first chapter of this thesis examines the structures of the Board of Trade and Virginia's colonial government, as well as Virginia's movement away from home-government control during the first half of the eighteenth century. The second chapter will focus on the Board's subsequent attempts to reassert its power over the colonial government and Virginia's efforts at resistance. A central issue to examine is to what extent the Board of Trade's policies fostered a colonial desire for independence in the 1770s.
THE RELATIONSHIP BETWEEN THE BOARD OF TRADE AND PLANTATIONS
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1696-1775
INTRODUCTION

When England encouraged settlement of North America in the seventeenth century, it was not the Crown's intention to create an independent nation. Instead, royal officials attempted to follow mercantile principles, developing colonies that would be sources of raw materials and markets for English manufactured goods. Because the colonies were small and sparsely settled, and because the British isles themselves seethed with turmoil and revolution during the 1600s, few attempts were made by the English government to oversee the colonies strictly. It was not until 1696 that a monarch appointed a board whose members' sole responsibility was the monitoring of England's colonial possessions.¹

Despite the power of this Board of Trade and Plantations to review colonial legislation and to make policy recommendations regarding the colonies to the king, to Parliament, and to officials in the colonies, until 1748 it was the colonial governors and legislatures that primarily determined colonial policy. With the appointment of the Earl of Halifax as president of the Board of Trade in 1748, the agency experienced a brief surge in power. Parliament's grant of greater authority to Halifax, coupled with his willingness to exercise it, meant that the Board ruled the colonies more
directly and more thoroughly than in any previous period. With Halifax's resignation in 1761, Board power diminished once again, shifting to the Secretary of State for the Southern Department and to Parliament.²

Britain had by then invested heavily in time, men, and money for the colonies and was engaged in fighting a war for their protection. As repayment, Parliament expected the colonies to contribute revenues for the upkeep of the royal troops patrolling the colonial frontier. As it attempted to extract these funds from reluctant provincial legislatures, the frequency and intensity of Parliament's legislative clashes with the colonies increased, ultimately prompting some local leaders to clamor for independence. Many of these revolutionaries were members of Virginia's House of Burgesses. In Virginia, despite the efforts of the governors, Parliament, and the Board of Trade, the tradition of self-government remained strong, and the lower house of the legislature managed to maintain and even increase its powers over the course of the eighteenth century.

The first chapter of this thesis examines the structures of the Board of Trade and Virginia's colonial government, as well as Virginia's attempts to move away from home-government control during the first half of the eighteenth century. The second chapter focuses on the Board's subsequent attempts to reassert its power over the colonial government and Virginia's efforts to resist.
NOTES FOR INTRODUCTION


CHAPTER I

VIRGINIA AND THE BOARD OF TRADE, 1696-1748

The Board of Trade and Plantations, as constituted by William III in 1696, had a supervisory role in the government of Britain's colonies in America. The Board could not directly rule the colonies but it had the right to review colonial legislation and to make recommendations to the king, the Privy Council, and the colonial governors.

Within the colonies, the governor and the legislatures shared the power to govern. In Virginia, a royal colony, the Crown appointed the governor and the upper house of the legislature, the Council. Virginia's freeholders elected the members of the legislature's lower house, known as the House of Burgesses.

Although the Board of Trade had no power to legislate, in its role as counselor it influenced the tenor of the debate within the colonies. Since no British institution directly governed the colonies, however, the governor and the legislature were left in a struggle for power to control the colony's daily affairs. Both the governor and the legislature became increasingly independent of British control during the first half of the eighteenth century. They also tried to become independent of each other, leading to many acrimonious
clashes. But from 1748 forward the Board of Trade, supported by Parliament, began to tighten its controls over the colonies. For the remainder of the colonial period, the legislature directed its anger less toward the governor than toward the London government.

Britain founded its colonial system on two contradictory principles: while guaranteeing colonial Englishmen the same right to government by representative institutions enjoyed by Crown subjects in England, Parliament based its acts of trade and navigation on the assumption that the colonies were unequal and subordinate to the mother colony.¹ The mercantile principles inherent in this view of the colonies tended to prevail, causing the Crown to strengthen its oversight of the colonies when they threatened to become too independent in the last quarter of the eighteenth century.

The English government first formed a separate department to oversee colonial affairs in 1660 when the Privy Council organized a standing committee of ten members to "receive, heare, examine, and deliberate upon any Petitions, propositions, Memorialls, or other Addresses which shallbee presented or brought in by any person or persons concerninge the Plantations." The Council reorganized the committee as the Lords of the Committee for Trade and Plantations in 1675; William III reorganized it again in 1689. In 1696, William III replaced the lords with a separate Board of Trade and
Plantations whose members were not Privy Council members but were advisory to the council; this board governed the colonies throughout the remainder of the colonial period.\(^2\)

The Board's primary responsibility was to promote England's trade; it did not directly govern the colonies. However, the Board's advisory powers were strong. It recommended to the King in Council persons to fill the most important colonial offices, including the governorships, and maintained correspondence with them during their residence in America. The Board also examined laws passed by the colonial legislatures, advising the king which to sign and which to veto. It heard judicial appeals, and handled requests and complaints of English companies and merchants trading in the colonies. The Board shared its power with the lords of the treasury, who supervised colonial finances, and with the commissioners of customs, who regulated the enforcement of the trade and navigation acts.\(^3\)

To carry out its duties, the Board's members needed information about the colonies. Since all the members lived in England, they received their information through correspondence with the governors and through meetings with governor-appointed colonial agents. The Board's informational needs covered the entire range of life in the colonies: they requested copies of all colonial laws passed, accounts of all public receipts and payments, lists of all colonial offices and officers, accounts of the numbers of inhabitants living in each colony, and the amount of firepower each colony
possessed. The Board also asked the governors to assess the
effectiveness and the defects of colonial governments, and to
pass along suggestions "on what Improvements are or may be
made."  

The right which gave the Board the most influence was its
power to review colonial legislation. The Board reviewed
every law passed by the colonial legislatures and approved by
the governors, greatly limiting the legislatures' powers of
self-government. The Board also reserved the right to review
all legislation vetoed by the governors, thus limiting the
extent of their power as well.  

Yet, other factors limited the Board's influence. The
King and the Privy Council had retained for themselves control
of two important powers, the right to hear colonial appeals
and the right to appoint colonial governors. Despite the
existence of Poynings Law, which required all colonial
legislation to receive royal assent before taking effect, the
great distance between the American colonies and London
prevented strict adherence to the law; the colonists
frequently pleaded emergency circumstances in enacting
legislation which took effect immediately, without the
requisite suspension clause. The great volume of laws passed
in the colonies each year prevented the Board from giving
detailed attention to each law. The Board did not act alone,
however; it transmitted copies of every colonial act to the
Crown's attorney general, allowing him to rule on the validity
of each piece of legislation, and it also solicited the advice
of other government officials on laws affecting their areas of interest. Finally, although the Board sent the king position papers advising acceptance or rejection of each law, the king was free to disregard the advice, though he rarely did.6

Patronage networks also influenced the Board's practices. While the Board's earliest members had strong ties to the Privy Council, giving them influence beyond their statutory power, later members lacked these ties, and the Board's influence declined accordingly. Not until the appointment of the Earl of Halifax as president in 1748 did the Board's power rise again.

From the other side of the Atlantic, the colonists also lobbied to affect government policy. Many American politicians, office holders, and merchants had connections with well-placed individuals in England willing to lobby the Board's members for them. But the colonial governors overmatched their efforts; since they had originally risen to political power in England and had received their appointments directly from the Board of Trade, they still had the greatest opportunity to lobby the Board.7

As a royal appointee, the governor was both the king's representative in the colony and the channel of communication between the colonists and Whitehall, allowing him to shape the London government's perceptions of the needs of Virginia and the actions of the colony's local government officials. The Crown gave the governor the right to regulate all salaries and
fees, with the advice and consent of the Council. He transmitted a summary of all financial transactions to the Board of Trade every six months, along with accounts of all political decisions.

The governor also chose the recipients of government-appointed jobs in the church and state in the colony of Virginia. To receive ordination to the ministry, Virginia colonists needed a letter of recommendation from the governor to the Bishop of London. The governor ensured that each parish had a minister and that the vestry provided for his support. The governor and Council held disciplinary powers in the Anglican Church: sitting together as the General Court, they ruled on all complaints brought against ministers. In secular affairs, the governor appointed all important colonial officials. The governor also recommended all colonial officials, including councillors, who held their appointments through commissions from England. The governor could not, however, remove appointed officials without the Council's advice and consent.

The governor's powers of appointment allowed him to shape the character of the non-elected portion of the colonial government. From 1698 until 1756, royal instructions directed Virginia's governors to transmit to one of the principal secretaries of state and to the Commissioners for Trade and Plantations "the names and characters of Twelve persons Inhabitants of our said Province whom you shall esteem the best qualified for that trust [of councillor]"; as council
vacancies occurred, the Board selected new councillors from this list, with no other official comment from the colonies. The governor's appointive powers also allowed him to bestow all positions of trust and profit; governors used these positions to cultivate the good will of the council members, frequently giving jobs to councillors or their family members.9

Each time a new governor arrived in Virginia, his first duty was to call together the colony's councillors, to promulgate to them the royal commission he had received as governor. He then took and administered to the members of the Council the prescribed oaths of allegiance and supremacy and the Test Act. The governor's powers to administer these oaths—to the Councillors and the Burgesses, to all judges and justices, and to all other persons holding any public office in the colony—gave him strong symbolic power. It was only through his person that the king legitimated and gave power to the colonial government.10

The governor derived the most power from his exclusive right to approve and to transmit to London all bills passed by the Council and the Burgesses. Without the assent of both the governor and Whitehall, no bill became law. In his letters of transmittal, the governor gave his reasons for assenting to the bills; if he disagreed with the purpose of any of the bills to which he had assented, he could also voice his doubts, in hopes that the Board might then disallow the acts and receive the sole share of the colonists' blame. The
Board, charged with the overwhelming task of reviewing every piece of colonial legislation, relied heavily on the governor's legislative assessments.

Virginia's colonial governor, then, through his power to appoint councillors, to assent to or disallow bills, and to act as the sole voice reporting the actions of Virginia's government and inhabitants to Whitehall, determined which legislation became law and what view London had of the colony's ability to govern itself.

Virginia's Council and House of Burgesses were not powerless. The Council predated the governor in Virginia's political history. The first body to govern Virginia was a council appointed by the London Company, with one councillor serving as president. Following the London Company's bankruptcy in 1625, Charles I declared Virginia a royal colony and appointed the first royal governor.¹¹

However, the Council still retained a measure of its power. The councillors individually were influential men, drawn from the families with the highest social positions and the most money in the colony; they included Commissary James Blair and members of the wealthy Byrd and Carter families. In addition to the Council's powers of influence, it also held legislative powers. Although the Council could not initiate legislation, it could approve, amend, or reject all bills passed by the assembly; no bill became law without the Council's consent. The governor called, prorogued, and
dissolved the Assembly with the advice of the Council.

The governor had a close working relationship with the Council because he presided over Council meetings at the beginning and end of each session and often during the session, as his schedule permitted. Until 1682, the governor and the Council sat together as the General Court to form the colony's highest court of appeal. The Council also served as an advisory board to the governor, since as inhabitants of Virginia its members were attuned to the colony's needs. If the colonial governor died or became incapacitated, the senior member of the Council served in his place until the Crown could send a new governor to the colony.12

Despite the close relationship with the governor, the Council's interests tended to lie more with the Assembly in the eighteenth century. Since councillors were by then native Virginians, their needs and wishes often matched more closely the needs of the wealthy Virginia-born Burgesses than those of the English governors residing temporarily in the colony. In addition, after about 1700, the Crown did not allow councillors to hold additional appointive offices, including the lucrative posts of customs collectors and naval officers. This ruling diminished the governor's ability to reward councillors who supported his policies and also left the councillors with less reason to try to curry favor with the governor. During the eighteenth century, councillors tended to combine with the Burgesses to stymie the efforts of objectionable governors by refusing to make appropriations or
Virginia's freeholders elected the men who sat in the colony's lower house, the House of Burgesses. Any white man holding property who was at least 21 years old and not a convict could vote. The Burgesses did not set the first minimum property requirement for a voting freehold until 1736, when it specified that a freehold be at least one hundred acres of unimproved land or twenty-five acres with a house and a plantation. This requirement remained in effect throughout the remainder of the colonial period.

Virginia's lower house initially held annual elections and sat jointly with the governor and Council. But when the news of the House of Commons' overthrow of Charles I reached the colony, the legislators reacted in kind. The Burgesses had gained the right to sit separately by 1651. Now, in 1652, the Burgesses declared that the governor and Council exercised their powers only through a grant from the Burgesses, as Cromwell theoretically held power only through the consent of Parliament. Even after the Crown reimposed royal control in 1660, the Burgesses did not entirely surrender their powers; during the next two decades, the lower house consolidated its exclusive right to initiate legislation.

The Burgesses' elections became biennial in 1659; three years later the house lost its right to annual meetings when Governor William Berkeley adopted the practice of proroguing the assembly from session to session. The house now held
elections and sessions only at the governor's pleasure; sometimes several years passed between sessions and often many years passed between elections. In 1715 the house passed an act calling for frequent meetings, but the governor refused to give the bill his assent.16

The first power the Burgesses seized was the important power of the purse. In 1629, the house began to issue detailed appropriations bills limiting the governor's discretionary power. For the remainder of the colonial period the house insisted that the governor use ordinary tax revenues to cover only the costs the house authorized. This meant that the governor had to call the Assembly each time he required an appropriation not already covered by legislation. No tax or appropriation was legal without the Burgesses' consent. To ensure that the funds it appropriated would be used only for the purposes it specified, the Burgesses challenged the governor and in the 1690s won the right to appoint a treasurer to oversee Assembly funds.17

By detailing the uses for funds it appropriated, the House encroached on the governor's executive power; it also limited his military powers by detailing the precise uses of men and funds it approved. By the Seven Years' War, the house was even directing military operations and appointing and removing the Virginia militia's officers.18

The Burgesses also assumed the power to settle fees by statute early in the seventeenth century. Initially, the house only regulated the fees charged by lesser colonial
officials—sheriffs, collectors and naval officers, clerks and constables—but by the mid-seventeenth century it also regulated the fees collected by the governor, the attorney general, and the speaker, sergeant at arms and clerk of the House of Burgesses.

Beginning in 1679, the Crown gave the governors authority to establish fees without the Burgesses' consent, but only Governor Francis Howard challenged the legislature's authority. In the mid-1680s the governor tried to impose a fee of two hundred pounds of tobacco to affix his seal to land patents. The Burgesses appealed the fee to the Privy Council on the grounds that the Council and Burgesses had not approved. The Privy Council disallowed the fee, although solely on the grounds that Howard had failed to secure the Council's consent, implying the consent of the Burgesses was not necessary. Still, no other governor challenged the Burgesses' power to set fees until 1751.¹⁹

One undisputed right the Burgesses enjoyed was the ability to elect their own speaker, though the governor did symbolically approve the speaker. The governor also had the right of annually renewing the Burgesses' "Ancient Rights and privilidges," including "That They and Their Servants in Their persons and Estates might be free from Arrests and other Disturbances, That in all their Debates they might have freedom and Liberty of Speech and as Occasion Requires access to his Honours person."²⁰

The House of Burgesses did, however, lack several
important rights that left it dependent upon the governor. In 1697 the Board of Trade specifically forbade the approval of any Assembly law "by which the number of the assembly shall be enlarged or diminished, the duration of it ascertained, the qualifications of the electors or the elected fixed or altered," but this law merely confirmed early practices. The Board also denied the Assembly the right to convene, adjourn, or prorogue itself, as to do otherwise would be "highly detrimental to our royal prerogatives"; the Assembly met only at the governor's pleasure.21

Of even greater consequence to the house was the question of the appointment of an agent for the colony. Agents, appointed by the governors, acted as the colonies' representatives in London. Their duties included: securing approval of colonial legislation; promoting colonial trade; protesting and lobbying against Parliamentary legislation detrimental to the colonies; handling appeals of the colonies to the Privy Council; drafting and presenting petitions to Parliament and the Board of Trade; and serving as clearinghouses for information for both London and the colonies. The House of Burgesses repeatedly tried to gain the power to appoint the agent because having him on their side would be a vital aid when disputes between the governor and the Assembly came before the Board of Trade. The Burgesses appointed several special agents to represent their interests in London, although the house did not gain the power to appoint the colony's official agent until 1759.22
Thus the lower house in 1750 was still in the process of developing its power. The House held the sole right to initiate legislation, including money bills, and claimed the right to audit accounts and control expenditures, to set fees and salaries, and to control their internal proceedings. On the other hand, it had no control over the frequency of its elections or sessions; it had no standing committees to provide continuity from session to session; and it did not have its own agent to lobby the Board of Trade when disagreements arose between the governor and the legislature.23

Yet the colonial legislatures still had one important power—the power to refrain from action. Although the board issued instructions to the governors directing them to have the legislatures pass certain laws, the Board could not directly rule the colonies. As long as the legislatures were willing to enact the Board-requested legislation, relations between the two remained placid. But when the legislatures refused, as they increasingly did during the eighteenth century, Parliament became more willing to step in to legislate for the Board.24

William III's decision to strengthen and reorganize the Lords of Trade in 1696 was in part a response to the economic and political problems he saw in the British plantations at the time. Several issues arose in the last decade of the seventeenth century which gave the Crown further impetus to
tighten its control over Virginia in particular.

The first was the colony's slow economic development. Many officials in Virginia and in London blamed the problem on the plantation system; they feared that the plantations were too large to be efficient and too diffuse to encourage rapid settlement. Beginning with Governor Thomas Culpeper's administration in 1679, the Crown instructed the legislature to grant plantations near each other to encourage continuous settlement, and to lay out "towns on every river, and especially one on at least every great river" through which imports and exports would flow; the Crown hoped these measures would protect the colony from invasion, and allow for better enforcement of the collection of customs duties and trade regulations.25

The size of colonial plantations was a second area of dispute. Concerned that the Virginia land grants were too large to permit full settlement and use of the land, and that by patenting all of the most desirable land in the colony they discouraged new settlers from coming to Virginia, the Crown directed the governors to seek legislation to limit their size and so create a class of middling farmers. The Council preferred, however, to continue to issue large land grants to settle English planters on Virginia's land before the French could encroach upon it from the west; governors Francis Nicholson and Edmund Andros were willing to overlook Crown instructions in the 1690s and to allow the Council to continue to approve large land grants.26
The final area of contention was the creation of a college in the colony. In 1691 the House of Burgesses, Council, and governor approved Councillor James Blair's proposal to create a college. In 1693, Blair received a royal charter for the college, as well as a 20,000 acre site for the school, a grant of 2000 pounds sterling from the royal quitrents, and the right to levy a penny per pound tax on all tobacco shipped from Maryland and Virginia to any destination in the empire other than England to help support the school. Construction, however, proceeded slowly. Blair finally accused Governor Andros of thwarting his attempts to build the college; the two men fought at the April 19, 1695 Council meeting, leading Andros to permanently suspend Blair from the Council. But Blair had acquired powerful patrons in London; a King's order restored him to the Council in 1696. In 1697, Blair returned to England, where he used his influence on the recently constituted Board of Trade to help secure Andros's resignation.27

The Board of Trade thus quickly came to fill an important role as a mediating body between the Virginia legislature and the governor; both houses had the right to bring complaints regarding the governor's conduct directly before the Board of Trade, and other parties with interests in the colonies could also press charges before the Board, in cases involving a minimum of one hundred pounds sterling (raised to three hundred pounds in 1685). The first appeal to the Board came in the 1690s, when two creditors appealed a Virginia law
exempting councillors from debt prosecution. In hearings before the Board, James Blair and two other Virginia officials coincidentally in London, Edward Chilton and Henry Hartwell, corroborated the assertion made by Surveyor General Edward Randolph that Virginia's governors, councillors, and burgesses had combined to create a land grant system that kept vast stretches of land off the markets and thereby retarded colonial growth. The Board decided to issue new instructions curtailing the power of the governors and the councillors. They required the governor to report his reasons for suspending a councillor and submit to the Board the defendant's replies to his charges. The Board also ruled that councillors were now subject to debt prosecution and could no longer hold the lucrative positions of customs collectors and naval officers. In addition, the Board ordered a survey to be made of the land holdings in each colony to aid in the collection of back quitrents, and an end to large, speculative land holdings. Stung by the Board's criticism of his actions, and in poor health, Andros resigned. However, a pattern of dispute between the governor and the legislature had begun. 28

Two intertwined issues caused the most severe of the disputes dividing these two branches of Virginia's government: the appointment of agents and the conduct of colonial wars. Both issues involved questions of independence and control. The governors attempted to conduct colonial warfare free from the Assembly's restrictions, while the Burgesses sought to
address their grievances to the Crown independent of the governors' censorship. The result was a standoff. While the colonial legislatures insisted upon detailing the uses of its wartime appropriations, the governors financed several wars with private funds. Although the Burgesses did not win the right to send an official agent to London, they did find funds to send several unofficial agents.

The Board of Trade's instructions ordered the governors, not the assemblies, to provide for the colonies' defense. They requested the governors to insure "that all planters and Christian servants be well and fitly provided with arms... and when and as often as shall bee thought fit mustered and trained." The Board also ordered the governors to assist any other plantation in distress "with what aid the condition and safety of your government can spare." This directive caused many disputes between the governors, who sought to comply with the Board's directions, and the Burgesses, who wished to conserve the colony's men and money. Even when the Assembly agreed to provide the necessary supplies, the Burgesses generally tried to put specific limitations on the sums of money they appropriated, stipulating the purpose of the appropriation, the number of men and officers to be raised, the rate of pay, the place and period of service, and the apportionment of supplies.29

In 1701, the Board of Trade requested every colony to provide men and money to erect and maintain forts on the northern frontier of New York, which was under threat from
French and Indian raiding parties. Apportioning the levies according to the resources of each colony, the Board required Virginia to contribute the greatest amount of money, nine hundred pounds sterling, and the second largest number of men at 240.

The Burgesses, however, charged that New York's request for forts was made under false pretenses "merely to gain a Contribution the better to enable them to build forts for the Security of their Indian trade." The Burgesses also pointed out that forts on the northern New York frontier provided no security for Virginia, while sending 240 militia men to New York would leave Virginia vulnerable to attack. They concluded that they were "content to relye upon God Almighty's Protection without any greater means of human Provision for our defense and Security than those directed by our Lawes in force and such Acts as we are now about." (Although unstated in their message, the Burgesses also probably preferred to allow the governor to rely on his own reserve of several thousand pounds sterling--gained from his crackdown on quitrent evasion--to finance the war effort without raising more taxes.) The Burgesses passed a bill instructing William Byrd II to present this answer to the king.30

Governor Nicholson cautioned the Burgesses that failure to provide for New York's defense "may be of fatall Consequence not only to this his Majestys Colony and Dominion but likewise to the rest of his Majesties Provinces on the Continent."31 The governor and Council, who could not use
public funds for troops without the Assembly's compliance, sent a joint message to the house declaring it wrong to believe that New York sought forts merely to improve its fur trade.

But the Council, concurring with the Burgesses' belief that forts erected in New York would not keep invaders out of Virginia, ultimately decided to support the lower house's resolutions. The Council not only already approved the Burgesses' bill, but a committee of councillors met with Assembly representatives of the lower house to refine the response to the king's request and the instructions for Byrd. Although Nicholson asked the Council to support the king's position, the Council refused to back down, stating it could not do so "without transgressing the Rules of Assemblyes and soe hazarding a Breach with the House of Burgesses, which we humbly conceive would be both to his Majesties Your Excellencys and the Countreys Diservice."32

Nicholson refused to consent to a three hundred pound sterling payment to Byrd for his salary and expenses, since the colony already had a gubernatorially-appointed agent in London. Byrd nevertheless went to London to present the Burgesses' response to the Board of Trade, where he met with a chilly reception. The Burgesses' use of an agent to present its grievances angered the Board as much as the colony's refusal to comply with its directives. In a letter to Queen Anne, the Board noted that to permit such a form of address would be of "ill consequence" lest "the Councils and
Assemblies should thereby be encouraged to make Representations to your Majesty, by particular Agents of their own appointment, without the Governours Consent"; the Board noted the legislature could appoint its own agent only to make a complaint against the governor for maladministration, or when the governor refused to transmit the house's proposals. The Board also offered the Queen its opinion "that the reasons therein offered for excusing themselves from the foresaid Constitution are Insufficient" and asked her to write again to request the Burgesses' compliance.33

The legislature, though, refused to back down; it passed a resolve stating that the colony could not afford to send New York nine hundred pounds and asked the Council to concur. The Council requested a conference to discuss the resolve, that "being the constant and approv'd method to clear all doubts, and to keep a good understanding between the two houses of assembly." The Burgesses refused to meet with the Council until it had expressed its opinion on the resolve of refusal; the Council refused to comply, considering it out of their province to express an opinion on the Burgesses' denial of a monetary grant.34

The Council then drew up its own letter to the Queen, apologizing for addressing the late king through an agent but claiming: "we were altogether free from any ill design in this Method," never having known before that addresses from the plantation could be made only through the hands of the governor. "In this particular case our Governor had signified
so much of his disapprobation of the proceedings of the General Assembly on Account of the said Address that we judged it would have been improper to have desired or expected his mediation or Concurrence therein," the Council explained. It concluded that the colony was unable to spare nine hundred pounds for the expedition; it transmitted the letter to London through the governor's hands.35

Governor Alexander Spotswood was even more eager than Nicholson to comply with the Board's order to aid neighboring colonies threatened by common enemies, occasioning several clashes with the lower house, which refused to concur with his military policies. The first disagreement came in 1711, when the governor asked the Assembly to appropriate funds to permit him to carry on a war and make treaties with the Indians; the Assembly rebuffed him. Noting that all money bills had to originate in the lower house, the Burgesses told Spotswood that they "did Judge it most proper to waite the Event of that Warr" before raising money to provide men and arms.36

In 1712, Spotswood again assembled the two houses to request them to aid the North Carolina inhabitants attacked by the Tuscarora Indians. The governor also sought money for a campaign to sign treaties with friendly Indian tribes who would act as buffers against the Tuscaroras. The Burgesses refused this request, although they appropriated twenty thousand pounds for an all-out war against the Tuscaroras, financed by a tax on manufactures. The Council refused to pass the bill, forcing Spotswood to carry on a reduced war,
privately funded.37

After the Indian campaigns ended, Spotswood received Assembly concurrence to several acts he requested, including a proposal to create forty inspectors of tobacco who would check the quality of tobacco exported from the colony. British officials feared that the act would cut customs revenues by cutting tobacco shipments, but Spotswood pacified them by pointing out that the act would curb smuggling. The Burgesses approved the bill partly because they stood to receive a share of the two hundred fifty pound a year inspectorships.38

In 1715, Queen Anne's death and the outbreak of the Yamassee War forced Spotswood to call new elections. Virginia returned only sixteen of the fifty-one Burgesses to office, and only one who had supported the tobacco act. When Spotswood asked the Burgesses to appropriate money to send guns and men to South Carolina's aid against the Yamassee Indians, the Burgesses refused to concur unless the governor agreed to repeal the act establishing tobacco inspectors. Spotswood declined; he decided instead to use royal revenues to aid South Carolina.39

The Council sent the house a message defending the governor and his policies and urging the Burgesses to reconsider their actions lest they endanger the colony's peace by their refusal to appropriate defense funds. The house refused to yield, so Spotswood dissolved it in September with a speech condemning its ineffectiveness. He relieved the
speaker of the task of summarizing the actions taken by the assembly during the session, noting that due to the lack of legislation passed he would "Spare you the Confusion of telling your own Actions." Spotswood said that although the king had requested Virginia to provide aid for South Carolina, "neither his Writts nor his Speeches Seem to be of any Significancy with your House," for the Burgesses had addressed only affairs of local concern. Spotswood concluded his speech by saying that "to keep Such an Assembly on foot, would be Discrediting a Country that has many able and worthy gentlemen in it." 40

Spotswood did not reconvene the Assembly until April 1718, after the Indian wars had ended. One of the new house's first acts was a vote not to include Spotswood's dissolution address in the legislative journal, as to do so would be "without precedent and unwarrantable." The house compounded the insult one day later by voting sixty pounds for construction of a monument to the late Governor Nott in memory of "his prudent and Easye Administration."41

The Burgesses also passed a message to the king addressing "several Attempts of Your Lieutenant Governor towards the Subversion of the Constitution of our Government, the depriving us of our ancient Right & privileges and many hardships which he daily exercises upon your Majesty's good subjects of this Colony." The house transmitted the address to William Byrd II in London with instructions to present it to the king, and to request from the king permission for the
Assembly to appoint its own agent whenever the need arose. The Board not only disagreed with the petition, it also observed that the appointment of a special agent was "not only very extraordinary but contrary to His Majesties Instructions which do not allow of such separate addresses."

Spotswood again refused to agree to the Burgesses' appropriation of three hundred pounds sterling to pay Byrd. In an address to the Assembly, the governor said that he could not "allow a person to be Agent for this Colony . . . who is only appointed by a Vote of your House, without the concurrence of the other Members of the Legislative power." He also noted that he was willing to transmit the house's address to Virginia's official colonial agent, and that he was sure it would "be as agreeable to his Majesty to receive the Addresses of his Subjects of Virginia by the hands of Colonel Blakiston, whom his Majesty has allowed to be Agent for this Colony as from the Honorable William Byrd (as you call him)."

Spotswood then adjourned the legislature for two years.

During the adjournment Spotswood moved to replace several councillors, including Byrd, who had been in England for the past three years. Although Byrd managed to retain his seat, the Board of Trade did name three of Spotswood's supporters to vacant seats. When the Council reconvened in 1720, the members reached a truce with Spotswood. They agreed that in case of disagreement each side would prepare "a fair and impartial State of the Case" and send them to the Board of Trade for adjudication. The Burgesses also resolved their
differences with Spotswood, acknowledging "the Satisfaction we have to See our Country in So prosperous and flourishing a Condition as to want no Supplys from us, as well as to be under the Administration of So just a Governour."4

Nevertheless, the Burgesses made one final attempt to secure a colonial agent, passing a resolution in 1720 to appoint an agent to solicit in Great Britain regarding "all such . . . matters as may hereafter be agreed on by this General Assembly." The Council, following an address by Governor Spotswood in which he observed "how far such a proceeding will be conformable to our Sovereigns pleasure," refused to assent to the bill, killing it. The house did not petition for its own agent again until 1753.45

Although the house lost its battle to appoint an agent, it had more success in trying to regulate the colonial wars. Unable to conduct full-scale war campaigns, Governor Spotswood negotiated treaties with the Iroquois in the north as well as with the tribes neighboring Virginia to the west, temporarily securing peace for the colony. In the 1740s, however, the British government entered into a series of imperial wars which would last into the 1760s and require the assistance of the American colonies.

In 1740 Governor William Gooch brought the house a message from the king regarding the newly-begun King George's War. The king requested the colonies to support the cost of raising a militia for the upcoming battles since they "by their situation, are made capable of bearing a Part in them,
and most likely to be Gainers by any successful Attempt upon the Enemies Territories in New-Spain." The Burgesses agreed that it was "reasonable that the American colonies, who are at least equally concerned, should contribute to the Expense of it." But the house pleaded financial distress and appropriated only five thousand pounds toward the expense; the governor assented to the act without comment.46

The Crown again approached the colonies in 1746, to request money and men to support an expedition to French Canada. The house passed a bill granting four thousand pounds for the expedition, although with the condition that a house committee disburse the funds; the president of the Council, acting in place of the ill Governor Gooch, gave the bill his assent.47

When the governor requested an additional sum for the troops the following year, after the original four thousand pounds had been spent, the house refused. The Burgesses's response to the governor noted "we are humbly of Opinion, the Sum of Four Thousand Pounds, given by the said Act, is sufficient to answer the Purposes then intended by this House." The governor, who could not coerce legislative action, had to let the matter drop. But the question of colonial support for English wars would be of vital importance in the second half of the eighteenth century.48

The governor's right to select the colonial agent was not the only appointive power the Burgesses challenged. The Burgesses also wanted power to select its own leaders.
Although the legislature retained the power to choose its own speaker, in 1686 it lost the right to appoint the clerk who recorded lower house's meetings and kept its records. When Clerk Robert Beverley demonstrated the power of his office by contesting the governor's veto powers and altering the Burgesses's records, the Crown dismissed him and authorized Governor Francis Howard to appoint a successor.

In 1691, Governor Nicholson allowed the Burgesses to choose their own clerk, but Nicholson's successor, Edmund Andros, denied the lower house's request and appointed a clerk without consultation. Throughout the rest of the colonial period the governors appointed the clerk, though they selected men acceptable to the house. Moreover, since the clerk relied upon the house to appropriate his salary, the Burgesses exerted a measure of control over his actions.49

In 1688, the Burgesses, through Virginia's agent Philip Ludwell, requested permission to appoint a treasurer to examine the governor's accounts of permanent Crown revenues, including quitrents, fines, forfeitures, and tobacco taxes. The Board refused the house's request and the governor continued to appoint the treasurer. In 1691, however, Governor Nicholson allowed the legislature to nominate and appoint by statute its former speaker, Edward Hill. The following year, Nicholson gave Hill a collectorship and appointed Councillor Henry Whiting treasurer; the Council supported him and Whiting remained treasurer until his death two years later. A five-year power struggle followed, as the
house refused to appropriate money to rebuild the recently-burned capitol until the governor allowed them to appoint the new treasurer. In 1699 Nicholson finally allowed the Burgesses to name speaker Robert Carter to the post.50

The lower house retained this power of appointment throughout the colonial period, generally naming either the current or a former speaker treasurer. This was a shrewd parliamentary move, since the governor could hardly refuse to appoint as treasurer a man whom he had already approved as worthy of the office of speaker. In 1702 the Crown's instructions directed the governor to permit the Assembly "from time to time to view and examine all accounts of money disposed of by virtue of laws made by them." Although this order permitted the Burgesses much less latitude than they had requested in 1688, it did give them official Crown recognition of their role in overseeing colony finances. By 1738 the governor and parliament tacitly approved the Burgesses' power to nominate and appoint the treasurer; when a vacancy occurred in the post that year during a period when the Assembly was not in session, Governor Gooch and the council appointed a temporary replacement, to serve only until the house could meet and nominate its own treasurer.51

The power the Burgesses gained was vital since the government body which controls financial appropriations is the body which shapes legislative policy. The Burgesses' power to appoint the treasurer, combined with their right to initiate legislation, gave them a large measure of control within the
As the Burgesses' political strength grew, their numerical strength grew as well, due to the colony's westward expansion. Virginia's expanded settlement rested in turn upon the cultivation of tobacco. As tobacco prices rose in the eighteenth century, farming in Virginia became more profitable. Individuals and companies began to request large western land patents from the governor and the Council, raising the question whether Virginia's government had the authority to expand the colony's borders and risk encroaching upon land claimed by Indians, the French, or the Spanish.

The Board of Trade, beginning with its instructions to Governor Thomas Culpeper in 1680, tried to encourage concentrated, rather than expanded, settlement in the colony of Virginia. Noting that the town-based province of Massachusetts was more economically developed than was the plantation-based colony of Virginia, the Board recommended the establishment of port towns. The bills approved by the Assembly in 1680, 1684, and 1691, however, all called for the encouragement of manufactures in the towns, leading the Crown to disallow them. Early in the eighteenth century, the Crown made one final attempt. The royal instructions Governor Edward Nott brought to Virginia advised that the establishment of port towns on the four great rivers on the eastern shore of Virginia would "be particularly useful and serviceable in bringing the people to a more regular settlement, and of great advantage to trade in the more expeditious lading and unlading
of ships." As an added benefit, by directing all ships to port towns, rather than allowing planters to load ships from their private wharves, the act would increase customs collection and limit smuggling.

Virginia's legislature accordingly passed An Act for Establishing Ports and Towns, which Nott signed in 1706. But when the governor passed the act on to the Board, they signalled their disapprobation to the queen. The Board complained that the bill extended further than the Crown had intended because it established the ports as separate or free boroughs, with markets twice a week and fairs once a year, a merchant guild, and all the customs and liberties commonly belonging to a free borough. Moreover, the Board feared that the ports would encourage manufacturing, which Britain's mercantile policy discouraged. Accordingly, the queen repealed the act.52

While the Board of Trade concerned itself with ensuring the faithful collection of customs duties on tobacco, the governor and legislature worked together to raise the price and quality of Virginia's tobacco products. With his proposal to appoint tobacco inspectors, Governor Spotswood was the first governor to suggest legislation in this direction. Spotswood also ignored his royal instructions by allowing the Burgesses to enact a bill raising to five pounds sterling per head a duty on slaves imported into Virginia; the Burgesses intended to thereby curb tobacco production and thus drive up the price of tobacco. Although the Board of Trade permitted
this act to stand, it was cool to the idea of tobacco inspectors, regarding the bill as a restraint on trade and a control on tobacco production and therefore on revenue. The Board allowed the original tobacco inspection act to remain in effect, although in 1717 it recommended the disallowance of a 1714 bill extending the act through 1718. At the same time the Board asked the king to approve an additional instruction to the colonial governors, forbidding them to approve any acts which could in any way affect trade or shipping unless the acts contained a clause suspending enforcement pending royal approval.\textsuperscript{53}

In 1730, Governor Gooch proposed a bill similar to the one repealed in 1717; it called for the inspection of all tobacco shipped abroad and the destruction of all unacceptable tobacco, and for the maintenance of detailed records to prevent tobacco smuggling. The Burgesses and Council passed the bill, entitled An Act for Improving the Staple of Tobacco, following intense lobbying from the governor. Gooch then sent a memorial to the Board of Trade, assuring the commissioners that the act would, by raising tobacco prices, encourage farmers to plant more, thus increasing Crown revenue. The Board approved the bill for a four-year trial period. Riots broke out when the bill first took effect because small farmers feared it would cut into their profits. But the Assembly, meeting that spring, moved to amend the most objectionable portions of the bill and expressed to the governor "the Sense this House has of the Expediency of that
Fortunately for Gooch, the price of tobacco did indeed rise, though due more to poor weather than to the act's effects. Nevertheless, the Virginians and the Board of Trade credited the tobacco act and it remained in effect.

As tobacco prices rose, the push for westward expansion across the Allegheny Mountains to the Ohio River valley intensified. James Patton made the first petition for land in April 1743, requesting 200,000 acres on the "three branches" of the Mississippi. Governor Gooch and the Council initially refused the request because they feared that it would lead to conflict with the French. As more petitioners made applications for land, however, the Council decided to stake Virginia's claim to the land and grant Patton title to one hundred thousand acres, with an additional one hundred thousand acres to follow when he had settled one hundred families.

In 1747, the Ohio Company petitioned for a land patent, but Governor Gooch again refused to grant it. Instead, he forwarded the petition to the Board of Trade, noting that he feared that granting the petition would antagonize the French. The Board ruled that the suggested expansion of settlement would promote peace "in as much as Our Loving Subjects will be thereby enabled to cultivate a Friendship and carry on a more extensive Commerce with the Nations of Indians inhabiting those parts," and also expressed a hope that Virginia's westward expansion might encourage other colonies to follow suit. The Board therefore drafted instructions to Gooch...
empowering him to make the land grant, to temporarily exempt the settlers from payment of quitrents, and to authorize the building of a fort in the territory.55

Thus by 1750, Virginia was growing in geographic size and in economic strength. The colony would not long tolerate controls on its political power. When the Board of Trade and Parliament tightened their controls over the colonies and increasingly legislated for them in the second half of the eighteenth century, they set themselves on a collision course with the colonial legislature.

By 1748 economic interests in Britain compelled the home government to attempt to increase its control over its plantations. The American colonies had become more vital to Whitehall as their trade had gradually but steadily grown over the preceding one and a half centuries. And Virginia was the jewel in the crown, paying into the royal exchequer more revenues than any other North American colony. According to Surveyor General Robert Dinwiddie's 1743 report to the Duke of Newcastle, Virginia colonists owned fifty trading ships which helped them to export annually products worth 380,000 pounds sterling, including wheat, Indian corn, flour, bread, pork, deerskins, lumber, and iron and 35,000 hogsheads of tobacco. Virginia imported an additional 180,000 pounds sterling of goods each year.56

Factors within Britain also pulled for tighter control over the colonies. Due to the colonial Indian wars and the
imperial wars, Britain had by now expended large sums of money and men to retain the colonies, creating a sizable national debt. British merchants had also invested money in the colonies, extending to them the large sums of credit necessary to maintain the trading partnership; these merchants had allies in the House of Commons willing to protect their interests. Finally, the Crown strengthened the hand of the Board of Trade by appointing the Earl of Halifax to lead it; he increased the Board's oversight activities over the next decade. 57

At the same time, however, the colonies were pulling away from Great Britain. By now, native-born Americans controlled every branch of government in the colonies except the governorships; these rulers worried more about colonial problems than about Britain's needs.

A 1701 letter from the Board of Trade to William III had advised him of the refusal of the proprietary and chartered colonies to comply with royal instructions; instead these colonies ignored trade and navigation acts, made laws contrary to the laws of England, harbored illegal traders and goods, and refused to aid in colonial defense by supporting the militia. The Board's remedy was simple--to revoke the independent charters entitling them to absolute government and to reassume them to the crown. 58

Fifty years later, Virginia and the other royal colonies appeared to be behaving in a similar manner. The Board of Trade and Parliament now faced a choice: either to accept the
primacy of the colonial assembly and involve the colonists in their own governance, or to assert the primacy of the imperial bureaucracy and increase Whitehall's control over the colonies. They chose the latter course, leading to increasingly frequent and acrimonious clashes with the colonies over the next quarter century.\textsuperscript{59}
NOTES FOR CHAPTER I


7. Henretta, Salutary Neglect, 142-146.


9. The royal instructions in place from 1756 until the Revolution directed the governor to nominate three qualified persons for each vacant Council seat; the Board of Trade made the final selection. Labaree, ed., Royal Instructions, I: 50-51; Flippin, Royal Government, 91-92.


15. Jack P. Greene, The Quest for Power: The Lower Houses of Assembly in the Southern Royal Colonies, 1689-1776 (Chapel Hill, N.C., 1963), 26-31; McIlwaine, ed., Burgesses Journals, 1619-1658/59: 82. Jon Kukla argues that the Burgesses and Council met separately after 1643, and that the Burgesses selected their first speaker in that year. See Kukla, Speakers and Clerks of the Virginia House of Burgesses, 1643-1776 (Richmond, Va., 1981), 12-14. There are, however, few surviving records from these early sessions of the General Assembly, and until those for the year 1651 it is unclear whether the Burgesses and Council met together or separately.


18. Flippin, Royal Government, 209-213; Greene, Quest for Power, 101-104.

19. Greene, Quest for Power, 158-166; Billings et al., Colonial Virginia, 213-215.

20. McIlwaine, ed., Burgesses Journals, 1695/96-1700/02: 58; 1702/03-1710/12: 239-240; Greene, Quest for Power, 214.


22. Greene, Quest for Power, 266-267, 278-284.

23. Greene, Quest for Power, 7-8, 26-31; Griffith, House of Burgesses, 157-158.


25. Billings et al., Colonial Virginia, 131-135; Labaree, ed., Royal Instructions, II: 545.

26. Billings et al., Colonial Virginia, 139, 146-148.


44. Billings et al., Colonial Virginia, 192-197; McIlwaine, ed., Burgesses Journals, 1712/14-1723/26: 254.


54. Billings et al., Colonial Virginia, 236-241; McIlwaine, ed., Burgesses Journals, 1727/34-1736/40: 117, 120, 164-165.


57. Henretta, Salutary Neglect, 181; Billings et al., Colonial Virginia, 253-254.


CHAPTER II

VIRGINIA AND THE BOARD OF TRADE, 1748-1775

The Board of Trade was a unique entity in the British government. It did not exercise final authority; its decisions were subject to the review and approval of the Privy Council and the king. It did not owe its allegiance to any one ministerial or administrative office. Instead, it had close ties to the Privy Council, Parliament, the secretary of state for the Southern Department (hereafter SSSD), and the Treasury; these departments could, and often did, have conflicting interests. It did not have formal connections with the two bodies with which it most closely worked, the Southern Department and the Privy Council, but it served as an information clearinghouse and as a source of policy recommendations for both. While these arrangements gave the Board some flexibility and some chances to act as a swing vote, it also meant that the Board's power was tenuous and easily encroached upon by other ministers.¹

The Board of Trade's powers diminished during the second quarter of the eighteenth century, particularly during the Duke of Newcastle's tenure as SSSD. The secretaries of state were ex officio members of the Board of Trade, and the SSSD was responsible for overseeing English affairs in the southern
European states and in the colonies. Newcastle, through the force of his position and through his ties to other cabinet officials, was able to appropriate many of the Board's duties. The Board, composed at the time of men with little interest or talent in colonial affairs, permitted the takeover of its duties and lapsed into lethargy. The Board reasserted itself, however, when the Earl of Halifax became first lord of the Board in 1748.²

Halifax believed that the SSSD had infringed too much upon the Board's powers. All letters from colonial officials relating to important matters went directly to the secretary. The Southern Department had assumed many of the powers found in the Board of Trade's commission, including the rights of "recommending what may be proper to be passed in the assemblies, of hearing complaints of oppression and mal-administration and representing thereupon."³

When Halifax assumed the office of first lord, he demanded and received the powers of a secretary of state.⁴ He regained powers which Newcastle had assumed, such as the right to correspond with the colonial governors: the governors now sent their letters and reports directly to the Board, unless they had business specifically with a secretary of state. Halifax also acquired new rights, including the authority to nominate colonial officials. In 1752 he secured passage of an Order-in-Council confirming the Board's right to nominate men for all offices not under the jurisdiction of either the treasury or customs offices. The patronage this order brought
significantly increased the Board's power while it correspondingly diminished that of the secretary of state. Halifax also increased the Board's power by his own energy, ambition, and political influence, and by recruiting able men to serve on the Board. The greater importance of colonial affairs during the war years of 1739 further strengthened the Board.5

During the Seven Years' War, the Board was partially responsible for the colonies' defense; it passed on to the Ordnance Board of the Privy Council, with recommendations of approval or disallowance, the governors' appeals for additional forts and military stores. The Board also framed a plan for colonial union (which was never tried)6; provided a system to superintend the Indians; tried to establish fixed and permanent revenues for the support of the local government; revised the governors' instructions to impress upon the colonists the weight of government control; and sought ways to restrain illegal trade.7

Halifax found that the lack of regular mail service between the colonies and Great Britain hampered his administration. Letters were entrusted to merchant vessels, which sailed infrequently and often indirectly between North America and England. By complaining of the "great inconvenience and prejudice to Your Majesty's service and to the trade and commerce of Your Majesty's subjects," the Board secured regular packet service across the Atlantic in 1755.8

But the Board still faced other difficulties, including
limited government funding, and its additional responsibilities for trade matters limited the time it could devote to colonial affairs. The Board saw its authority challenged from above by the SSSD, by Parliament, and by the Treasury, and from below by the growing power of the colonial assemblies. Halifax maintained the Board's power, but with his resignation in 1761 authority over colonial affairs shifted once more toward the Southern Department.9

An Order-in-Council of 1761 rescinded the Board's right to nominate colonial officials, depriving it again of control of patronage in North America. The Board lost the rest of its powers five years later when, in the words of the Earl of Hillsborough, the Board's new first lord, an Order-in-Council "provided the board should be altered from a board of representation to a board of report upon reference only; that the order to the governors in America to correspond with the Board of Trade only be rescinded; and that every executive business that has by degrees crept in to the board should revert to the proper offices, particularly Treasury business."10

By 1766, the SSSD had gained the supervisory role for the American colonies; he directed the colonies' defense, controlled their patronage, and handled their correspondence; the secretary supervised the Board of Trade and decided what business it would handle.11

In 1768, the president of the Board of Trade was made a full secretary of state for the colonies, giving him
independence from the SSSD; this arrangement remained in effect until the abolishment of the Board in 1782. Paralleling this change, however, was the greater control the Treasury department and Parliament were beginning to exert over the colonies. The war years of 1739 to 1763 placed an unprecedented burden on the Treasury department, which raised and provisioned the British troops stationed in North America during and after the wars, and also reimbursed the colonial governments for their military expenditures. George Grenville, chancellor of the exchequer from 1762 to 1765, designed commercial regulations which would also generate revenue to support the military. Grenville, seeking a more efficient way to administer the colonies, sought to draw them closer to England.¹²

To enact his policies, Grenville needed Parliament's support. Parliament had begun to take a more active role in the management of the colonies in the 1730s, when it passed the Molasses Act prohibiting the importation of sugar and rum from the West Indies. The Proclamation of 1763, the Currency Act of 1764, the Sugar Act, and all the acts which followed in the decade before the Revolution, increased Parliament's presence in the colonies to an unprecedented extent. These parliamentary taxes, sponsored and enforced by the British Treasury, as well as the Treasury's strict enforcement of the customs acts, were basic among the causes of the American Revolution.¹³
The Board of Trade's greatest problem in America also stemmed from the appropriation of taxes. In theory, the elected assembly was supposed simply to vote taxes to meet the colony's expenses; the governor, with the advice and consent of the royally-appointed council, was to determine how to spend the revenue. But in practice, the assembly limited the governor's discretion by appropriating taxes only to cover particular expenses. This meant that a group of men over whom the Board exercised no effective control shaped the colonies' politics. The assemblies' power became especially strong during the Seven Years' War, when each colonial assembly determined the amount of money and the number of men its colony would grant the British war effort. After 1763 Britain sought to reassert imperial control by challenging many of the powers the assemblies had acquired over the previous century, particularly the exclusive right to tax.

At the end of the Seven Years' War, the Virginia Burgesses' powers included: the exclusive right to frame money issues; the power to appropriate all revenues and to appoint committees to dispose of them; and the authority to audit all accounts of public officers. The Burgesses occasionally authorized the emission of paper money to finance Virginia's wartime expenses; the Board could not disallow the paper currency without hampering the war effort. The Burgesses established a committee of trade, to consider all matters relating to the colony's trade, with the power to subpoena the persons, papers, and records it needed. The Burgesses had
freedom of speech and freedom from arrest while the assembly was in session. They could determine disputed elections, expel members, and regulate internal procedures. Because they claimed many of the same rights possessed by the House of Commons, the Burgesses began to view the Council and the Assembly together as a miniature Parliament; this custom explains in part why they found the British Parliament's attempts to restrict their powers in the 1760s and 1770s particularly infuriating.

Many restraints still remained on the Assembly. If the Burgesses could determine the qualifications for voters, the Crown still decided when they voted. Virginia's General Assembly passed an act in 1762 which required that an election for the House of Burgesses be held every seven years, and that the Burgesses meet at least once every three years. The Board of Trade vetoed the act, leaving the power to prorogue and dissolve the Assembly and to call for new elections in the hands of the colonial governor.

Many of the "rights" claimed by the Burgesses were simply customs, not laws. Although the Burgesses, in imitation of Parliament, had claimed exemption from arrest during session since 1624, the Board of Trade disallowed the Burgesses' attempt to write the custom into law in 1769. Likewise, since 1699 the Burgesses had routinely appointed the speaker to serve as the colony's treasurer as well. This, though, was merely a long-established custom which could be ended at any time by a directive from the governor or from the Board of
One of the most significant powers the Burgesses gained during the Seven Years' War was the right to appoint a colonial agent. These agents were the colonies' lobbyists in London. They sought approval of colonial legislation and lobbied against parliamentary legislation detrimental to the colonies' interests; they promoted the colonies' trade, handled appeals to the Privy Council, presented petitions, and served Parliament as sources of information on the colonies. By controlling the agents, the lower houses ensured that they would have a voice before the Board of Trade anytime they were involved in a dispute with the colonial governors. Virginia's Assembly passed a bill appointing a colonial agent in 1718, but the Council rejected the bill. In 1753, the Burgesses sent Peyton Randolph to act as an unofficial agent and directed the treasurer to fund him from the money in the colony's treasury. Three years later the Burgesses again passed an act appointing an agent, but the Council refused to grant its assent.¹⁹

The Burgesses renewed the attempt in 1759, drawing up a bill appointing Edward Montagu agent. According to the bill's terms, he would serve under the direction of a committee of correspondence comprising four Councillors and eight Burgesses. He would receive five hundred pounds sterling annually from the colony's treasurer and serve for seven years, although the committee could remove him from office if necessary. The Assembly attempted to attach the agent's bill
to a money bill to secure its passage. Newly-arrived Governor Francis Fauquier refused to permit the rider, although he agreed to a separate agent's bill because he "could not see the ill consequence of letting them have an Agent, upon their raising money on themselves to pay him." Fauquier meanwhile reassured the Board of Trade that "[n]otwithstanding this appointment of an agent by Act of Assembly, Mr. [James] Abercrombie is still continued as Agent to me and the Council to transact all business relating to the Royal Revenues, and such other affairs as are immediately under our cognizance only." The Burgesses, holding a majority on the committee of correspondence, were now ensured of having a voice at Whitehall to represent their interests, rather than just those of the governor or Council.20

The Burgesses had gained the right to appoint an agent at a time when the agents were at the height of their power. During the Seven Years' War, the agents were vital sources of information for the officials directing the war effort from Whitehall. The agents achieved a degree of cohesion because their wartime duties, including negotiating, apportioning, and receiving treasury reimbursements for the colonies' respective defense expenditures, necessitated regular meetings and cooperation. The colonies were quick to see that the agents had strength in numbers. Writing to agent Edward Montagu in 1764, Virginia's Committee of Correspondence directed him to work with the other colonial agents, "[s]ince we find, upon other occasions, that you have met with a ready disposition in
the Agents of the other Colonies to Cooperate with you, whenever the general Interest of the Continent of America seems to have been concern'd." The high point of the agents' cooperation occurred in 1765 when they lobbied to secure the repeal of the Stamp Act.

But the agents faced problems as well. Since they could act only under colonial instruction, the slow pace of communications between England and the colonies meant that they could not respond quickly to policy changes from Great Britain. In the post-1766 period, when the colonists' views toward imperial government changed rapidly, the agents were often ignorant of current thinking, leaving Britain partially unaware of the growth in colonial radicalism.

By 1761, the Board of Trade had decided not to interfere with the selection of colonial agents and forbade the colonial governors to interfere either, noting that "the Representatives of the People are and ought to be free to chuse whom they think proper to act, in whatever concerns the affairs and interest of the Colony here and with whom they and the Council only can correspond." With Halifax's resignation in 1761, however, the Board lost influence. Power shifted to the Southern Department, where the Earl of Hillsborough, secretary of state for the American Department, contended that all three branches of the colonial governments should agree to appoint only one agent. In 1771, Hillsborough told agent Benjamin Franklin that "[t]he House of Representatives has no right to appoint an agent. We shall
take no notice of any agents, but such as are appointed by acts of Assembly, to which the governor gives his assent."²⁴

The Virginia Burgesses had already become disappointed in agent Montagu's performance; in 1770 they had resolved not to continue him in office. Instead, the Burgesses lobbied Parliament and the king from that time forward through their committees of correspondence.²⁵

Although both burgesses and councillors were natives of Virginia, they did not always cooperate, as the Council's refusals of the Burgesses' agent bills demonstrate. Unlike in England, where the members of the upper house held their seats by birthright and could not be removed by the Crown, in Virginia, the Councillors received their appointments from the king, served during pleasure, and could lose their seats at any time. The governor had the right to preside over all Council meetings. So the ties between the appointed Council and the Crown were much closer than those between the Crown and the elected Burgesses. When Virginia began to pull away from Britain in the 1760s and 1770s, the Burgesses, not the Councillors, led the way.²⁶

The governor of Virginia was largely independent of the Assembly's control. In recompense for Bacon's Rebellion, the General Assembly voted the Crown a perpetual fund to pay Crown officials, placing them beyond local control. The governor also received wide discretionary powers from the Board of
Trade. Governor Dinwiddie's instructions provided that if anything occurred "which is not therein or by our commission provided for, we do hereby allow you, with the advice and consent of our said Council, to take order for the present therein, giving unto our foresaid Commissioners for Trade and Plantations speedy notice thereof."

At the same time, the governor was to keep a tight rein on the House of Burgesses. They were not to assent to any bills "by which the number of the assembly shall be enlarged or diminished, the duration of it ascertained, the qualifications of the electors or the elected fixed or altered;" if the Assembly queried his instructions, he was to "accordingly insist upon It that they have no right to adjourn themselves otherwise than in de die in diem except Sundays and holidays without leave from you our governor," as to do otherwise would be "highly detrimental to our royal prerogative." The governor was not to assent to any bill of less than two years' duration, as a bill of a shorter duration would expire before the Board could review it, nor to any bill "of unusual and extraordinary Nature and Importance" which lacked a clause suspending it until the Board could review it. The Board's instructions forbade the governor "to suffer any publick money whatsoever to be issued or disposed of otherwise than by Warrant under Your hand, by and with the advice and Consent of the Council" or to assent to any law regarding trade and manufacture whereby Virginia's residents "may be put on a more Advantageous footing, than those of this Kingdom."
In addition to the support he received from the Board for his decisions, the governor's position was strengthened by the fact that he alone was authorized to communicate with the Board of Trade. If the Assembly wished to complain about a policy decision made by the governor or by the Board, it had to send its address through the governor. He passed along the Burgesses' letters with sometimes less-than-flattering comments. In 1760, for example, Governor Fauquier wrote to the Board to explain why the Burgesses, instead of keeping a regiment in the colony's constant pay to guard the frontiers, only appropriated money when danger was imminent: "whoever charges them with acting upon a premeditated concerted plan don't know them; for they mean honestly, but are Expedient-Mongers in the highest degree, even to their own cost daily."

The governors were hampered, however, by poor communication between the colonies and Britain. Not only were ships slow and service unscheduled, but those ships that did sail were prey to pirates and privateers. In post-1748 colonial Virginia the generally short tenure of the lieutenant governors weakened their position. Two governors died during this period (Francis Fauquier in 1768 and Norborne Berkeley, baron de Botetourt, in 1771), leaving the government in the caretaker hands of the Council president until London appointed a new lieutenant governor. The powers held by acting governors were more limited than those of lieutenant governors, so the Council and the House of Burgesses grew in strength proportionately. The acting governor could not
dissolve the Assembly, remove or suspend any Councillors, or other civil and military officials, without the advice and consent of seven of twelve Councillors, nor could he "pass any Acts but what are immediately necessary for the Peace and Welfare of Our said colony without [the King's] particular Order for that purpose." As Virginians, these acting governors were sometimes more sympathetic to the Burgesses' point of view than the newly-arrived lieutenant governors. Acting Governor William Nelson, for example, in writing to the Board to explain the Burgesses' reasoning behind an act disallowed by the king, noted that "[i]t is to be lamented that the Remoteness of our Situation from the Royal Presence may too often subject our Assembly to some degrees of Censure, however unexceptionable their Conduct may be." 

The British government could most effectively control the colonies by requiring them to submit their laws for review by the Board of Trade and the Privy Council and by forbidding the governors to assent to any law which was not in the proper form. All colonial laws had to receive the assent of the governor, Council, and House of Burgesses; they had to be of indefinite duration; and those of an unusual nature required a suspending clause. The governor had to send all laws to London for the king's approval within three months from the time of passage. 

The Board of Trade received all colonial laws, either directly from the colonies or indirectly via a secretary of
state or the Privy Council. A Crown counselor serving as the Board's legal adviser reviewed all colonial legislation; he ensured that the laws would not conflict with British constitutional law or with parliamentary law regulating colonial trade, and would not be detrimental to the royal prerogative. The Board could also refer bills to other government departments, such as the Treasury, for reports on their probable effects. The Board, in light of this evidence, then made its final recommendation for confirmation or disallowance to the Privy Council; in the majority of cases the Privy Council accepted the recommendations. The Privy Council disallowed only 4.3 percent of all of colonial Virginia's legislation; the average disallowance rate for all colonies was 5.5 percent. Of all laws passed by legislatures during the colonial period, not more than one fourth received recommendations for either confirmation or disallowance; the Board simply allowed them to stand.

The Board was most concerned with preventing colonial laws from encroaching upon the royal prerogative. The Board discouraged the assemblies' attempts to re-enact English statutes or to declare the laws of England wholly or partially in force in the colonies lest they decrease the colonies' sense of subordination and dependence or deprive the Crown of its right to veto each individual law. The Crown could veto a law passed by a royal colony at any time, even years after the law had gone into effect. The Crown did permit appeals of vetoes and disallowances to the Board of Trade; this allowed
the Board to mold colonial constitutions and to force the assemblies to amend certain acts which the governor and the council had not managed to make them change.\textsuperscript{35}

But lack of knowledge about local demands for laws impeded the Board's ability to judge fairly colonial legislation. The Board had to depend for its information on representations from the legislature, on comments from the governor, and on reports from colonial agents.\textsuperscript{36}

At the close of its 1745 session, Virginia's General Assembly appointed a committee to revise the colony's laws, since they had not been recodified in forty years. The 1748 assembly spent nearly its entire session reviewing the committee's work. Revision was completed and the laws were approved by the governor in 1749; he sent them to England for a routine review. In 1752, the Assembly, believing that the king had had sufficient time to consider the laws, had them printed and promulgated. But in April 1752, the governor informed the Assembly "that he had just received his Majesty's Order in Council, repealing Ten Acts passed in the last Session of Assembly and Confirming Fifty Seven Others."\textsuperscript{37}

Rather than giving the laws a cursory glance, the newly reinvigorated Board under the Earl of Halifax had carefully scrutinized each of the seventy-seven acts passed by Virginia. It recommended to the king that he approve fifty-seven acts which appeared "to relate chiefly to the particular Convenience and Government of Your Majesty's said Colony, and
to be no way contrary to the Laws of the Kingdom or Your Majesty's Instructions to Your Governor." The Board recommended probationary status for seven laws, referred three more to the Treasury for further consideration, and recommended disallowance of ten laws for a variety of reasons, such as encroaching upon the royal prerogative, creating inconveniences, and repealing previously enacted laws without including suspending clauses.\(^{38}\)

The disallowance of the ten laws inconvenienced Virginia, since the new laws had already taken effect; it required the Assembly to temporarily resurrect the old laws and review recent judicial decisions. More worrisome to the General Assembly was the royal signature affixed to the other fifty-seven acts, because they could now only be revised by laws carrying a clause suspending execution pending royal approval.\(^{39}\)

The Board's action was its first taken under a 1738 royal instruction forbidding the governors to assent to any temporary laws, reenactments of previously disallowed laws, or measures which repealed previously approved laws but lacked suspending clauses. The Board severely restricted the Virginia Assembly's flexibility while simultaneously increasing its own power.\(^{40}\)

The Burgesses and Council drew up a joint resolution explaining the colony's need for the laws which the Board had disallowed and the problems created by their disallowance. The General Assembly also expressed its concern that the king
had ratified fifty-seven acts as "We apprehend we have not full Power now to revise alter or amend the same, without such suspending Clause, which if understood in a strict Sense will subject Us to great Hardships and Inconveniences" whenever an act required a speedy alteration.41

The Burgesses, perceiving that Governor Robert Dinwiddie sympathized with their plight, petitioned him to support the joint resolution. Dinwiddie promised "to have the Representation you intend to make, jointly with the Council, presented and introduced to his sacred Majesty in a proper manner. And will add all my Interest, and do every Thing in my Power, in representing the Facts in so strong a Manner, as to obtain such just Relief, as your humble Address prays and requires."42

To further strengthen its position, the House resolved to appoint an agent to London "to solicit the Address, and Representation of the Council and this House, to his Majesty." The Burgesses accepted the governor's suggestion to delegate the task to the Council's agent, James Abercrombie.43

Despite Virginia's united front, the Board refused to alter its decision to confirm and to disallow the colony's laws. Virginia had to include suspending clauses in its future legislation.44

Although the Burgesses and Governor Dinwiddie concurred on the question of the Board's review of colonial laws, relations between the two sides quickly deteriorated. Seeking to augment his salary as lieutenant governor, Dinwiddie
decided to require the substantial fee of one pistole to affix his seal to a land grant patent. The Council approved of the charge, but the Burgesses did not and asked Dinwiddie by what authority he demanded the fee. The Burgesses reminded Dinwiddie that King William III had disallowed Lord Howard of Effingham's attempt to charge a fee for the use of a seal, and they informed him that the fee would "be an Infringement of the Rights of the People, a great Discouragement to the settling the Frontiers of this Colony, and a Prejudice to his Majesty's Revenue of Quitrents." Dinwiddie refused to back down, so both sides appealed to the Privy Council.

The Privy Council ruled that Dinwiddie did have a right to collect the pistole fee, but it directed the Board to prepare a letter forbidding the governor to collect the fee on patents of less than one hundred acres or to collect a fee on the lands lying west of the Allegheny Mountains, because the king wished to promote western settlement.

The Parson's Cause was the third major issue involving Virginia to come before the Board of Trade during the Halifax era. In 1748, Virginia's General Assembly passed an act guaranteeing the colony's Anglican ministers an annual salary of sixteen thousand pounds of tobacco. The King in Council confirmed the act in 1751.

Virginia's tobacco crop in 1755 was small, which meant that the planters had little tobacco with which to pay their debts, but that what they could sell brought a high price. The Burgesses passed, and Governor Dinwiddie approved, a bill
to relieve Virginia's planters by allowing them to discharge their tobacco debts in money for that year at the rate of 16s., 8d. per hundredweight, a price below the market price. Three years later, another poor tobacco crop again prompted the Burgesses to pass a law permitting the discharge of tobacco debts in money in 1758. Governor Francis Fauquier, newly arrived in Virginia, assented to the law on the basis of precedent.48

Virginia's clergy protested the two laws because they believed that the rate of exchange was too low, depriving them of their rightful salaries. The Rev. John Camm, a professor at William and Mary and rector of Yorkhampton Parish, presented a memorial to the Privy Council requesting that the Council declare the two acts null and void from the time of passage, thereby permitting recovery of the clergy's salary.49

After hearings, the Board of Trade recommended disallowance of the two acts (though only from the date of disallowance, not from time of passage) as contrary to royal instructions; the Board noted that they were of less than two years' duration, they set aside previous legislation and they lacked suspending clauses. The Board ordered Governor Fauquier not to assent in the future to any law which repealed an allowed law but lacked a suspending clause. The Board of Trade had demonstrated again the power inherent in its right to review legislation.50

During the Seven Years' War, the House of Burgesses
reasserted its authority. Although the British government sent money and men to North America to fight its French and Indian enemies, it also depended on receiving contributions from its North American colonies. The Burgesses appropriated some money to provision and pay the salaries of Virginia regiments, but it required the appointment of a legislative committee to direct expenditures and military operations; to secure the funds, Governor Dinwiddie had to agree. The committee was in place from 1754 through 1757; in 1758 the Burgesses concluded that the committee was too expensive to operate and issued a detailed appropriation bill instead.51

In October 1748, the General Assembly passed an act permitting the governor, in case of invasion, "to levy, raise, arm, and muster, such a number of forces, out of the militia of this colony, as shall be thought needfull for repelling the invasion."52 When the French began to move into the Ohio Valley region in 1754, Governor Dinwiddie sent out a small expedition under George Washington to warn the French to leave and to construct a small fort. The French, however, drove the Virginians out and captured the fort. Virginia now had to finance a war effort, which the Burgesses were reluctant to do.53 Governor Dinwiddie reported to the Board of Trade that only "With Persuasions, many Arguments and much Trouble" did he secure a bill providing one thousand pounds sterling for the colony's defense, and that bill "was so clogged with unreasonable Regulations and Incroachments on the Prerogative" that he agreed to it only because military needs required
When the Burgesses reconvened in the fall, they voted twenty thousand pounds sterling for the colony's defense although attaching to it a clause ordering the Treasurer to pay twenty-five hundred pounds sterling to an agent to be appointed by the Burgesses. The Council refused to assent to the bill if the clause was included; the Burgesses charged that the Council's vetoing of the bill "at this time of great and imminent Danger . . . is highly injurious to his Majesty's Interest and the Safety of this Colony." Dinwiddie chastised both houses for withholding their aid when they knew the colony was in danger and in September he prorogued the Assembly for a month and a half. Dinwiddie complained to the Board that it was "impossible to conduct any Expedition in these Parts with the Dependence of a Supply from the Assemblies without a British Act of Parliament to lay a Poll-Tax on the whole Subjects in these Provinces, to bring them to a Sense of their Duty to the King."  

When the Burgesses returned in October they voted to raise twenty thousand pounds sterling for the militia. But the Assembly required the governor to request an additional appropriation of money and men in every successive year. The Burgesses were unwilling to furnish anything above what they considered absolutely necessary to defend the colony of Virginia. In 1755 General Braddock, the commander of the British and colonial forces in North America, requested Virginia to send militiamen to garrison Fort Cumberland,
thereby freeing the fort's soldiers to fight the French. The Burgesses refused because the fort was in Maryland, and because they believed the sums already granted for the militia "for the Defense of our Frontiers is as much as the People of this Colony, in their present unhappy Circumstances are able to pay."\textsuperscript{57}

The Burgesses' complaint of poverty of both money and men was perennial. When Massachusetts' Governor William Shirley proposed that the colonies act in concert to fight the French, the Burgesses noted that "from the small Number of white Inhabitants in this Colony, and the extensive Frontiers we have to protect" it would be "very imprudent, to send so great a Proportion of them as is demanded of us to so great a Distance." The Burgesses had earlier refused to send Governor Dinwiddie to the New York conference "as we have already raised as many Men as this Country is able to support."\textsuperscript{58}

Virginia did, however, continue to appropriate money and men to protect the colony's frontiers. They defrayed the costs of the militia by levying taxes on all tithable persons, on land, slaves, and tobacco. But still they claimed poverty, noting that without the king's "further Assistance we must inevitably sink under our present Load of Debts, and become a Prey to our Enemies."\textsuperscript{59}

In January 1757, Virginia's agent James Abercrombie presented a memorial to the king requesting that he grant money to Virginia and the other southern colonies "in consideration of their great Expenses, and to encourage and
enable them the better to defend His Majesty's just Rights and Possessions." In the fall of 1760, the General Assembly received word that Parliament had granted their petition and deposited money with Abercrombie. Virginia was thereafter able to finance the war effort by bills of exchange drawn on Abercrombie or on the Burgesses' agent, Edward Montagu.

When the money granted by Parliament ran out, the Virginia Burgesses decided to end the war-time funding of the militia. Noting in November 1762 that "we have no other Means of defraying the Expense of the Regiments than by a new Emission of Treasury Notes," the Burgesses resolved not to continue "the Regiment for a longer Time than it now stands provided for." The governor agreed to transmit the reasons for discontinuance to the Board, although he lamented that "[i]t would have given me the greatest Pleasure if the Situation of the Affairs of this Colony would have encouraged you to have Kept the Regiment on Foot until we had a Certainty of a firm Peace being concluded."

The Burgesses, because they had the power to levy taxes and appropriate money, managed to a considerable extent to regulate the degree of Virginia's involvement in the Seven Years' War. Although the Board of Trade and the governors attempted to persuade them to levy additional money and men, the Burgesses maintained their independence.

But the colony greatly increased the amount of its debt during the period through its emission of paper money to finance the war. Virginia's refusal to promptly retire its
paper money led directly to the Currency Act of 1764, which required that all circulating paper money be retired punctually. It was an early and important restrictive measure passed by Parliament and it provoked strong protest.63

The Burgesses first turned to the emission of paper money in 1755, when they found that the extraordinary taxes they had enacted to finance the war had caused a shortage of specie. The paper money brought protests to the Board of Trade from British merchants, however, because the merchants feared that debts contracted with them in sterling would be "discharged in Paper Notes of a local, uncertain, and fluctuating Value, without any Provision for making Payments in such Paper Notes ad valorem of Sterling according to the Difference of Exchange at the time of making such payment."64 The Board recommended that, since the bills were already in circulation and thus repeal would be inconvenient, Virginia should amend the act to make debts contracted in sterling before passage of the act payable in sterling only. The General Assembly complied.65

In 1762 the British merchants complained to the Board again; they said that Virginia's currency act, by allowing the colony's judges to set the sterling exchange at a rate they felt just, was often prejudicial to their interests.66 The Board of Trade, reviewing Virginia's laws, ruled that the funds the colony had established to redeem its paper money were inadequate. The Burgesses promised to make up any shortfall in the fund "by a new and adequate tax." The governor passed on the Burgesses' resolutions to the Board,
although he asked "What Objection could there have been to your having bound yourselves, by a firm Resolve of the whole Legislature, to have provided for a full Payment of all the Notes outstanding . . . ?" 67

In December 1762, the Board of Trade warned the colonial agents that if the colonies continued to use bills of credit as legal tender the Board would refer the matter to Parliament. In the spring of 1764 the Board submitted a report to the Privy Council in which it said that the practice of using paper money destroyed public credit, ruined the colonies, and injured commerce; it recommended Parliamentary action and enclosed the outlines of a bill. Parliament followed the Board's suggestion and passed the Currency Act, forbidding the colonists to issue any paper currency after September 1, 1764 and ordering the prompt retirement of all currency then circulating. 68

Despite Parliament's legislation, the Burgesses petitioned the Board of Trade in 1768 to allow them to print paper money sufficient to cover the colony's shortage of hard currency. The Board recommended disallowance of the request because the Council had formally expressed their dissent to the plan. Virginia did not petition to emit paper money again. 69

The question of westward expansion also troubled Virginia's colonists in the 1750s and 1760s. In 1753 the Burgesses resolved to petition the king to grant the lands lying west of the Allegheny Mountains to Protestants willing
to settle them. The Board of Trade, believing that settlement would halt French encroachment, recommended that the King-in-Council grant the Burgesses' request.\textsuperscript{70}

Instead, at the conclusion of the Seven Years' War the British government issued the Proclamation of 1763, forbidding the colonists to settle on newly-declared Indian lands west of the Appalachian Mountains. Two years later the Board of Trade issued additional instructions to the governors of Pennsylvania and Virginia "enjoining them to cause immediate Evacuation of such Settlements upon the Indian Territory contiguous to the River Ohio."\textsuperscript{71} The Board reiterated its opposition to westward colonial expansion in 1768. In the following year the Board reconsidered the boundary line between Virginia and the Cherokee Nation and extended the colonists' land claim, although in 1770 Secretary of State Hillsborough forbade Virginia to make any further grants of land beyond the limits of the Proclamation of 1763.\textsuperscript{72}

To raise money for military expenses during the era of the Seven Years' War, the General Assembly passed several acts taxing slaves imported into Virginia from Africa and from other British colonies; the Board permitted them to stand.\textsuperscript{73} The Board, however, recommended disallowance of the 10 percent duty on slaves passed in 1766 because the bill's preamble declared "that no other duty can be laid upon our import or export without oppressing your subjects." The Board noted that the declaration seemed "highly unnecessary and improper in this place" and could "only operate to restrain and deter
the legislature of Virginia from making further Provisions if such shall be required of them in future Cases of Emergency."\(^7^4\)

In 1769 and 1772 the Burgesses passed additional acts placing duties on slaves imported into Virginia. The Burgesses tried to deter the slave trade via the act of 1772 because they considered the trade one "of great Inhumanity" which endangered the existence of the American colonies by retarding white settlement. The Board recommended disallowance of both laws because they prejudiced the commerce and manufacture of Britain as well as the culture of tobacco in Virginia.\(^7^5\)

After 1765, the most important restrictions on colonial self-government came from Parliament, not from the Board of Trade. At the end of the Seven Years' War, Britain's national debt stood at over 122 million pounds sterling. Remembering that the colonies had been reluctant to fund their share of the wartime expenses, Chancellor of the Exchequer George Grenville decided to fund a larger share of the administrative costs of the colonies through duties. Virginia accepted the Sugar Act of 1764, which tightened trade regulations, but opposed the Stamp Act, which was solely a revenue-producing bill.\(^7^6\)

In 1764 the Assembly and Council sent memorials opposing the proposed Stamp Act to the king and to the houses of Parliament. The memorial noted that Virginians "have been
invested with the Right of taxing their own People from the first Establishment of a regular Government in the Colony; from that "they must conclude they cannot now be deprived of a Right they have so long enjoyed, and which they have never forfeited." The Burgesses' agent, Edward Montagu, found an opposition member willing to introduce Virginia's memorial, but Commons refused to accept any petitions from America before passing the Stamp Act in 1765.

Patrick Henry with several other legislators drafted a set of resolutions opposing the Stamp Act, which the Burgesses passed on May 30, 1765. The resolves declared that Virginians "have without Interruption enjoyed the inestimable Right of being governed by such Laws, respecting their internal Polity and Taxation, as are derived from their own Consent, with the Approbation of their Sovereign, or his Substitute." After learning of the resolves Governor Fauquier dissolved the Assembly.

The Board of Trade warned the king that the resolutions, "as they contain an absolute Disavowal of the Right of the Parliament of Great Britain to impose Taxes upon her Colonies and a daring attack upon the Constitution of this Country, appear to us to require an immediate and Serious Attention." The response which came from Parliament in the spring of 1766 was in the form of a repeal of the Stamp Act. The Board, however, still desired to uphold the royal prerogative to impose such a tax. In its 1768 instructions to Governor Botetourt, the Board asked him to remind the Assembly of the
king's "firm resolution to support and preserve entire our ancient, just, and constitutional right to enact laws, by and with the advice and consent of our parliament, to bind all and every part of our empire in all cases whatsoever."80

A new crisis had erupted by the time Botetourt arrived in Virginia. In 1767 Parliament had passed the Townshend Acts, a revenue-producing measure taxing tea, glass, paint, and paper imported into the colonies. In April 1768 the Burgesses passed memorials addressed to the king and the houses of Lords and of Commons reiterating the Virginia colonists' "antient and inestimable right of being Governed by such Laws only, respecting their internal Polity and Taxation as are desired from their own Consent with the approbation of their Sovereign."81 When Botetourt arrived in Virginia in October 1768 he decided against delivering the speech the Board of Trade had prepared for him, but he did dissolve the legislature for calling into question Parliament's authority to tax the colonies.82

When the new legislature met in May 1769, the Burgesses adopted another set of resolves declaring "that the sole Right of imposing Taxes on the Inhabitants of this his Majesty's Colony and Dominion of Virginia, is now, and ever hath been, legally and constitutionally vested in the House of Burgesses."83 Botetourt dissolved the assembly again on May 17, 1769. The Burgesses, however, simply moved down the street to Williamsburg's Raleigh Tavern where they adopted the Virginia Association, an agreement to refrain from the
consumption of taxed goods until Parliament repealed the Townshend duties.84

In 1770, Parliament repealed the taxes, except for the tax on tea, but in June 1770 the Burgesses and merchants of Virginia again entered into an association providing for the nonimportation of enumerated goods. The agreement cited their "great and just apprehensions of the fatal consequence certainly to follow from the arbitrary imposition of taxes on the people of America, for the purpose of raising a revenue from them, without the consent of their representatives."85 The Burgesses, in a petition to the king, warned that a "partial Suspension of Duties . . . cannot, Great Sir, remove the . . . well grounded Fears and Apprehensions of your Majesty's loyal Subjects," particularly when the tea tax was retained "for the avow'd Purpose of establishing a Precedent against us."86

In March 1773, the Burgesses resolved to appoint a committee of correspondence to confer with the other North American colonies following rumors of "proceedings tending to deprive them of their ancient, legal and constitutional Rights." In a letter to the king, the Board of Trade noted that "we think that the inviting the other Colonies to a communication and correspondence upon such matters . . . is a measure of a most dangerous tendency and Effect," and recommended that the king take such actions as the king and Privy Council shall feel necessary.87

The passage of the Tea Act in 1773 again roused colonial
opposition to Parliamentary taxation. In Boston, colonists dumped the tea into the harbor, prompting Parliament to pass the Boston Port Act closing Boston harbor to commerce from June 1, 1774, forward. In response to the Port Act, Virginia Burgesses Thomas Jefferson, Richard Henry Lee, Francis Lightfoot Lee, and Patrick Henry planned a resolution making June 1 a day of fasting and prayer in Virginia. Robert Carter Nicholas introduced the resolution on May 24 and the House passed it unanimously. Two days later, Governor John Murray, the Earl of Dunmore, dissolved the Assembly. Meeting unofficially the next day, the Burgesses called for a general meeting of all the colonies and for a Virginia-wide meeting to address the question of non-importation. Virginia's period of colonial government had effectively ended. The colony's representatives now conducted their most important business at extra-legal conventions outside the control of the British governor.

When the colony's representatives met in an extra-legal convention in August 1774 they selected delegates to the First Continental Congress. Meeting periodically in the following months, Virginia's representatives considered the actions taken by the Continental Congress and prepared for the colony's defense.

All pretense of direct British rule ended in June 1775 when Governor Dunmore was, as he told the Assembly, "fully persuaded that my Person, and those of my Family likewise, are in constant danger of falling sacrifices to the blind and
unmeasurable fury which has so unaccountably seised upon the minds and understanding of great numbers of People." He removed himself to his Majesty's ship, Fowey, anchored off York. Control of Virginia's government now lay entirely in the hands of the colonists.

In 1748, the British government had tried to restrain its increasingly independent American colonies by reasserting Whitehall's authority after a period of salutary neglect. But neither the Board of Trade nor Parliament managed to strike a balance which permitted a degree of colonial self-government within a framework of imperial control. Attempting to regulate the colonies completely, Britain gave them an incentive to break away.
NOTES FOR CHAPTER II

1. Arthur Herbert Bayse, The Lords Commissioners of Trade and Plantations, Commonly Known as the Board of Trade, 1748-1782 (New Haven, Conn., 1925), 176-177, 182.


4. Halifax became a member of the cabinet, but the appointment was personal, not ex officio, so the Board gained no additional influence. Bayse, Lords Commissioners, 101.


6. The Board dropped the plan of union because it feared "the ill consequence to be apprehended from uniting too closely the Northern Colonies with each other; An independency upon this Country being to be apprehended upon such an Union." Newcastle letter of Sept. 10, 1754, Add. MSS 32736, fols. 472, 473, quoted in Henretta, Salutary Neglect, 339.

7. Bayse, Lords Commissioners, 86-89.


13. Henretta, Salutary Neglect, 95; Billings, et al., Colonial Virginia, 288-289; Clark, British Treasury, 196.


27. Greene, *Quest for Power*, 147, 348; an undated notation in a Board of Trade entry book noted that "the duty of two Shillings per Hogshead on Tobacco exported granted to the Crown forever by an Act passed in 1680, together with the Revenue of Quit Rents, forms an ample and sufficient Fund for the Payment of the Civil Establishment in" Virginia. C.O. 5/216, 27, S.R. 565; Labaree, *Royal Instructions*, I, 82.


29. C.O. 5/1368, 94-95, 97-98, 103.

30. From the 88th article of 1768 instructions to Baron de Botetourt in John C. Van Horne, ed., *The Correspondence of William Nelson as Acting Governor of Virginia, 1770-1771*, (Charlottesville, Va., 1975), xxi.


40. Gwenda Morgan, "'The Privilege of Making Laws': The Board of Trade, the Virginia Assembly and Legislative Review, 1748-1754," *Journal of American Studies*, X (1976), 8; Labaree, *Royal Instructions*, I, 128-129. After reviewing Virginia's revised laws the Board of Trade recommended transmittal of instructions "to the Governors of all his Majesty's respective Colonys and Plantations in America, directing them jointly
with the Council and Assembly to revise their Laws and to frame and pass a new and well digested body of Laws." Board of Trade Mar. 12, 1752, letter to the King’s Attorney and Solicitor General in Ralph Boehm, ed., Records of the British Colonial Office, Class 5, Part 2: The Board of Trade, 1660-1782, reel 6,, vol. 1295, fol. 1.


42. McIlwaine, Burgesses Journals, 1752/55-1756/58: 89, 91.

43. McIlwaine, Burgesses Journals, 1752/55-1756/58: 96.

44. Morgan, "'Privilege of Making Laws'" JAS, X (1976), 8.


48. Griffith, Virginia House of Burgesses, 32; McIlwaine, Burgesses Journals, 1758-1761: 45; Greene, Quest for Power, 348-350.

49. Billings et al., Colonial Virginia, 258.


51. Greene, Quest for Power, 304-306; Hening, Hening’s Statutes, VI, 423 [sic., 437].

52. Hening, Hening’s Statutes, VI, 113.

53. McIlwaine, Burgesses Journals, 1752/55-1756/58: 175-177; Billings et al., Colonial Virginia, 261.


63. Greene, Quest for Power, 387-388.

64. Greene, Quest for Power, 120-125; C.O. 5/1367, 336, S.R. 846.


68. Bayse, Lords Commissioners, 139-140; Greene, Quest for Power, 387-392; Kennedy, Burgesses Journals, 1761-1765: 227.


CHAPTER III

CONCLUSION

By 1748, when the Board of Trade asserted its power over the colonies, Virginia was well on its way to becoming a politically self-sufficient colony. All the branches of government from magistrates to councillors, with the sole exception of the governorship, were in the hands of native-born Virginians. The House of Burgesses, because it approved new taxes and controlled the colony's treasurer, had become a strong rival to the governor.¹

Unlike the governors, who were frequently reminded by the Board of Trade to take an empire-wide view when making policy, the House of Burgesses concerned itself primarily with local affairs. During the 1740s, 1750s, and 1760s, Britain was almost constantly involved in North American warfare and expected the colonies to contribute men and money for defense. Although Governor Spotswood led Virginia troops into North Carolina in 1713, and in 1740 the Assembly sent a regiment of Virginians to fight in Cartagena, the Burgesses thereafter agreed only to send men to protect Virginia's borders and allocated funds only as long as encroaching foes threatened Virginia's safety. The Burgesses' provinciality was one factor prompting Britain to strengthen central control.²
Other, equally compelling, interests also existed. The wishes of the Virginia legislators—to emit paper money, to settle lands beyond the Proclamation Line of 1763, to pass locally needed laws without interference from the central government—were diverging increasingly from the policies preferred by the Board of Trade. Stricter directives, the Board hoped, would curb this provincial independence. The Board also needed to support the men whom it appointed to govern the colonies. Aside from Governor Robert Dinwiddie, the Virginia governors in this period were not particularly forceful men, and the terms they served were generally short. Four times between 1749 and 1771 the Council president served as acting governor due to the death or resignation of the governor. These men, more than regular governors, showed reluctance to side with the Board against the wishes of the House of Burgesses, and were more willing to explain the Burgesses' actions to a disapproving Board of Trade.

The colonists did, however, continue to acknowledge the Board's power. Several times in the years following 1748, members of Virginia's provincial government requested the Board to act as mediator between the governor and the House of Burgesses. In accepting the right of the Board to act as arbiter, the colonial governments strengthened the Board's right to rule the colonies. The Board's authority to hold such inquiries had been present since the earliest days of the Board's existence, when Councillor John Blair had petitioned the Board to remove Governor Edmund Andros. After the
expiration of Governor Alexander Spotswood's term, however, the frequency of the Burgesses' appeals to the Board to limit the governor's power declined until Governor Dinwiddie took office.

The Board was most effective in the role of mediator and advisor. As it had been crafted, the Board lacked authority to rule the colonies directly. Instead, officials in the colonies, subject to the approval of the king, passed the laws that guided the day-to-day life of the provinces, while the king and Parliament laid out the guidelines that shaped colonial policy. The Board was a clearinghouse, interpreting Parliamentary law and passing it along to the colonies while also receiving proposed statutes from the provinces, examining them, and recommending that the king accept or disallow them. Consequently, the Board was most effective when it had strong members, as it did in its earliest years, or a strong president, as it did when the Earl of Halifax presided.

Halifax secured extensive executive powers and regained a monopoly on correspondence with the colonies; he also controlled patronage networks that gave him influence in Parliament. His successor, Lord Sandys, however, agreed to a diminished role for the Board; the body's power to control correspondence and patronage, regained under Halifax, were stripped away by William Pitt in 1761. As a result, authority to govern the colonies shifted to Parliament and to the Secretary of State for the Southern Department. Since the most important colonial issues in the 1760s and 1770s
concerned Britain's attempts to extract revenues from the colonies and to wage war against them--policies whose nature demanded that Parliament legislate for the unwilling colonies--the Board of Trade ceased to be a vital force determining policy for the thirteen colonies.

For over fifty years, however, the Board of Trade had allowed the colonial governments of the thirteen colonies to develop a measure of self-rule, confining the Board's role to arbitrating disputes. The members of Virginia's House of Burgesses had begun to consider their branch as a miniature House of Commons, exercising the same powers as Parliament. For this reason, when the British Parliament began to pass more stringent rules regulating the colonies in the 1760s and 1770s, the Virginians appealed to the king to act as arbiter in these disputes. Unlike the members of the Board of Trade, the king seemed to ignore their requests--he preferred to allow Parliament to continue its policies. Finding that they could receive no relief via ordinary channels, provincial leaders in Virginia joined with those of the twelve other colonies to seek relief via the extraordinary avenues of the Continental Congress and the American Revolution.
NOTES FOR CHAPTER III


3. The 1752 disallowance of 10 Virginia laws offers one example. The House of Burgesses and the Council believed that the Board did not sufficiently understand the colony's need for the disallowed laws. The Board, however, saw its review as providing an opportunity to limit the colonies' discretion; henceforth, the use of suspending clauses for colonial laws was enforced. H. R. McIlwaine, ed., *Legislative Journals of the Council of Virginia*, 3 vols. (Richmond, Va., 1918-1919), II, 1082-1087; C.O. 5/1366, 479-504, S.R. 845; Warren M. Billings et. al., *Colonial Virginia: A History* (White Plains, N.Y., 1986), 254-255.

4. See, for example, Acting Governor William Nelson's contention to the Board that its remoteness from Virginia led it to censure the colony's acts, "however unexceptionable [the Burgesses'] conduct may be." Nelson letter to Secretary of State, Mar. 27, 1771, in John C. Van Horne, ed., *The Correspondence of William Nelson as Acting Governor of Virginia, 1770-1771* (Charlottesville, Va.), 132.

5. See the Burgesses' appeals to the Board to settle the Pistole Fee Controversy. McIlwaine, ed., *Burgesses Journals, 1752/55-1756/58: 143; Billings et al., Colonial Virginia, 256-257.

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