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### A Constitution Contested: Governors, Assemblies, and Imperial Politics in Jamaica and New York, 1675-1730

Winston Sinclair Hill

*Yale University Graduate School of Arts and Sciences*, [winstonhill@gmail.com](mailto:winstonhill@gmail.com)

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## **Abstract**

A Constitution Contested:

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Winston Sinclair Hill

2021

This dissertation focuses on the constitutional politics of England, and then Britain's, transatlantic empire in the seventeenth and eighteenth centuries, through the lens of Jamaica and New York. In those two colonies, as in the rest of the Atlantic empire, colonial elites and imperial authorities were in perpetual political conflict. In this dissertation, I explain why the conflict persisted without resolution. Historians, though they rarely answer this question, have described fundamental transatlantic clashes of interests, and I take these as my starting point.

I argue that each side's ideological and material interests interwove with and sustained one another, and were simultaneously fundamentally opposed to those of the other side. Moreover, the political, cultural, and intellectual structures of the transatlantic empire ensured that metropolitan authorities could not simply impose their vision on the colonies. Instead, British imperial government depended upon the cooperation of local elites, who would never surrender their material and ideological interests to the crown. Equally, however, the imperial authorities would never permit assemblies to reduce the royal prerogative in the colonies as far as Parliament had done in Britain, nor would they suffer British material interests to be harmed. Both sides were thus unwilling to compromise, but neither had the means to coerce the other. I argue, therefore, that the framework of Britain's first transatlantic empire ensured fundamental and irresolvable constitutional conflict between colony and metropole. Only a revolutionary imperial transformation could provide a solution.



A Constitution Contested:  
Governors, Assemblies, And Imperial Politics In Jamaica And New York, 1675-1730

A Dissertation  
Presented to the Faculty of the Graduate School  
Of  
Yale University  
In Candidacy for the Degree of  
Doctor of Philosophy

By  
Winston Sinclair Hill

Dissertation Directors: Mark Peterson and Edward Rugemer

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My entire family have been unstinting in their affection, encouragement, and kindness during my years as a graduate student, as indeed in the rest of my life, and I thank them all. I particularly want to thank my paternal grandparents, Drs. Karen Ray and John Hill, whose blending of scholarly love of history with fond love of family is an example to emulate; my maternal grandparents, who have always been curious and enthusiastic about my academic career; my parents, who read this dissertation with the same scrupulous and tender care they took in raising me; my in-laws, who have always been ready to help however they could; and my brother, Lincoln, who has always been both my best friend and a congenially incisive reviewer.

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## Abbreviations

- CO Colonial Office Records, The National Archives, Kew, Richmond, United Kingdom. Citations are in the form “CO [series number]/[box number]/[folio number].”
- CSPC* *Calendar of State Papers, Colonial*. Citations are in the form “*CSPC*, [volume number], [document number].” Originally printed in London by HMSO, 1860-1994. Access through British History Online.
- BL Add. MSS British Library Additional Manuscripts. Citations are in the form “BL Add. MSS [manuscript number]/[folio number].”
- JAJ* *Journals of the Assembly of Jamaica*. Citations are in the form “*JAJ*, [volume number], [page number].” Volume I originally printed at Kingston, Jamaica, by Alexander Aikman, 1811; volume II originally printed at Kingston, Jamaica by Alexander Aikman, 1795. Access through the Center for Research Libraries.
- JBT* *Journals of the Board of Trade*. Citations are in the form “*JBT*, [volume number], [date].” Originally printed in London by HMSO, 1920-1938. Access through British History Online.
- JNY* *Journal of the Votes and Proceedings of the General Assembly of New York, Volume I*. Citations are in the form “*JNY* [page number].” Originally printed at New York by Hugh Gaine, 1764. Access through the New York Legal Research Library and HeinOnline.

## Usage Note

For the sake of ease of reading, I have modernized spelling, punctuation, and capitalization in primary source quotations. When I make use of primary source quotations contained within secondary works, however, I have not taken the liberty of modernization.

Though contemporaries took the year to begin on 25 March for most, if not all, of the period I discuss, I have taken the year to begin on 1 January. All dates given are otherwise in Old Style.

## Introduction

In 1675, the assembly of the English colony of Jamaica passed an act “declaring the laws of England in force” in the island.<sup>1</sup> Sixteen years later, New York’s first assembly under the aegis of the English crown passed their own declaratory act. Since both colonies were conquered from other Europeans, rather than chartered and then seized from Indigenous peoples, the crown theoretically had full license to shape the colonies’ political institutions. English colonists in both New York and Jamaica, thousands of miles across the ocean from what many still regarded as home, therefore yearned for statutory confirmation of their “birthright liberties” as Englishmen.<sup>2</sup> Like metropolitan Englishmen with the House of Commons, the colonists made their assemblies the vehicle through which they demanded and defended their rights. In both instances, however, the crown denied the colonists the assurances they craved by rejecting these declaratory laws. Determined to preserve a colonial space for the crown’s prerogative to act freely, the metropolitan authorities regarded the colonists’ claims to the rights of Englishmen as “too great and unreasonable,” and “of very evil consequence.”<sup>3</sup> Jamaica and New York were in many ways extraordinarily different, with wildly disparate demographics, economies, geographies, and societies. But their governing elites, and indeed their English-speaking White populations, shared a self-conscious Englishness.<sup>4</sup> And after imperial authorities rejected the colonists’ effort

<sup>1</sup> *JAJ*, I, 9.

<sup>2</sup> Brooke N. Newman, *A Dark Inheritance: Blood, Race, and Sex in Colonial Jamaica* (New Haven, CT: Yale University Press, 2018), 30.

<sup>3</sup> Representation of the board of trade to the lords justices, 11 May 1697, CO 5/1115/65; Robert Southwell to Thomas lord Vaughan, 28 July 1676, CO 138/3/54. I have chosen to use the term “metropolitan authorities” at times, as Jack Greene often does, because it conveys the nature of government as a collection of individuals in this period, and sometimes interchange it with “imperial authorities.” I also use the more familiar collectives “the crown,” “the ministry,” and “Whitehall.”

<sup>4</sup> In this dissertation, I have defined “colonial elites” somewhat recursively as those who held enough social and economic power to be plausible candidates for election to the assembly. This elite was much larger in New York

constitutionally to enshrine that identity, New York and Jamaica shared a fundamental conflict with the crown.

The subject matter of that conflict was as poorly defined as it was crucially important. As Alan Tully has written, the phrase “the rights of Englishmen [...] referred to an unsegmented and capacious grab bag.”<sup>5</sup> Colonial elites demanded the formal extension of statutory rights such as habeas corpus. However, they also wanted the nebulous and informal powers and privileges that metropolitan elites enjoyed—particularly self-government through an empowered representative assembly. For the colonial elites, there was no meaningful distinction to be made between these two categories of rights, for all were inextricably part of their self-conscious Englishness. Moreover, as Jack Greene has noted, colonial assemblies often sought “to secure checks on the prerogative and power over executive affairs well beyond any exercised by the House of Commons.”<sup>6</sup> In that circumstance, not only was there “no advantage [in] attempts to enumerate” the rights of Englishmen, but there was positive danger in doing so.<sup>7</sup> The idea of “the rights of Englishmen” therefore could and did apply to almost any dispute between the colonial elite and the imperial authorities, both as a cynical tool and as a sincere reflection of English political thinking, without ever acquiring recognized bounds.

than in Jamaica, and New York politicians were also responsible to a significantly more sizeable electorate. But in both places the English “oligarchical nature” of politics prevailed. See Alan Tully, *Forming American Politics, Ideals, Interests, and Institutions in Colonial New York and Pennsylvania* (Baltimore, MD: Johns Hopkins University Press, 1994), 321-9, 353-7, 365-9; Richard S. Dunn, *Sugar and Slaves: The Rise of the Planter Class in the English West Indies, 1624-1713* (Chapel Hill: University of North Carolina Press, 1972), 338-9; Trevor G. Burnard, *Planters, Merchants, and Slaves: Plantation Societies in British America, 1650-1820* (Chicago: University of Chicago Press, 2015), 92-6.

<sup>5</sup> Tully, *Forming American Politics*, 93.

<sup>6</sup> Jack P. Greene, “Political Mimesis: A Consideration of the Historical and Cultural Roots of Legislative Behavior in the British Colonies in the Eighteenth Century,” *The American Historical Review*, Vol. 75, No. 2 (Dec. 1969).

<sup>7</sup> Tully, *Forming American Politics*, 93.

Nor was “the prerogative” much more clearly demarcated. In England, kings and ministers had fought bitterly to maximize the extent of the crown’s power while resisting Parliament’s attempts to circumscribe it more neatly for decades, if not centuries, before 1675. The metropolitan authorities strove to employ the same policy in the colonies, where Parliament’s authority at this time only ran as far as the crown invited it. But there they confronted colonial assemblies’ own resistance to executive power. And just as the colonists saw the rights of Englishmen perpetually threatened by the prerogative, so too did the imperial authorities believe that the colonists’ claims of rights invariably infringed upon the prerogative. The sprawling, contested, and ill-defined nature of the two sides’ genuine claims of right thus ensured that conflict lurked around every corner.

Over the fifty-five years I cover in this dissertation, Jamaica, New York, and the empire of which the two colonies were a part underwent considerable transformations. Though its White population of 8,000 experienced no net growth, Jamaica grew from a small colony of economic promise in 1675 to the crown’s richest single possession by 1730. The buccaneers of its early days were driven into irrelevance, as were the small planters. They were replaced by a staggeringly wealthy sugar planter elite and a supporting White overseer class, perched precariously atop an enslaved African labor force of some 75,000, and threatened by free Black communities of Maroons in the interior.<sup>8</sup> New York’s White population, meanwhile, increased from about 7,000 in 1675 to over 40,000 by 1730, while its enslaved African population grew from less than a thousand to over 7,000 by the end of the period.<sup>9</sup> Its diverse economy, though an

<sup>8</sup> Trevor G. Burnard, “European Migration to Jamaica, 1655-1780,” *The William and Mary Quarterly*, Vol. 53, No. 4 (October 1996), 771.

<sup>9</sup> John J. McCusker and Russell R. Menard, *The Economy of British America, 1607-1789* (Chapel Hill, NC: University of North Carolina Press, 1985), 203; Census of New York population, 2 November 1731, CO 5/1055/226.

order of magnitude smaller than that of Jamaica, grew at about the same rate, while the colony itself physically expanded up the Hudson and Mohawk river valleys. New York's former Dutch elite largely anglicized, and embraced the idea of the rights of Englishmen, but the social complexity of British North America's premier melting pot only grew.<sup>10</sup> Indeed, across England's Atlantic empire, wealth and population grew enormously, and societies evolved in tandem. England had a Glorious Revolution, fought two imperial wars against France, became Britain, and itself grew wealthier and more populous, though not at the rate seen in the colonies. As a result of both the Glorious Revolution and decades of imperial warfare, the metropolitan government became much larger, more complex, and much more administratively capable. This expanded capacity came, in both the colonies and the metropole, with a commensurately vast increase in expense.

One thing, however, did not change. In 1726, the Jamaican assembly once again passed a bill to secure the rights of Englishmen, "which distinguish his majesty's subjects from those of arbitrary princes."<sup>11</sup> The next year, the New York assembly demanded the discontinuation of the prerogative court of chancery, calling its establishment "without consent in general assembly [...] contrary to the laws of England."<sup>12</sup> As they had for the past half-century, the metropolitan authorities rejected these colonial attempts to claim the rights of Englishmen, preferring instead to keep the colonists "in due obedience to the king and in a just and requisite subordination and dependence on their mother country."<sup>13</sup> In both New York and Jamaica, the colonial assemblies

<sup>10</sup> See Michael Kammen, *Colonial New York: A History* (New York: Scribner, 1975), 100-90.

<sup>11</sup> Address of the assembly of Jamaica to the duke of Portland, 25 February 1726, *JAJ*, II, 572.

<sup>12</sup> *JNY* 571.

<sup>13</sup> Representation of the board of trade to the king, 10 December 1730, CO 5/1125/152.

were still locked in the same conflict with the crown that had begun decades before. Time had continued to rush by, transforming England, its empire, and the world. But the transatlantic constitutional clock had stopped. I seek to explain why that was—why this conflict persisted without any settlement.

Historians have given much attention to the related question of why the conflict existed at all. There is a robust literature on the topic, with Jack Greene's *The Quest for Power* probably the weightiest contribution.<sup>14</sup> Greene sees a conflict between a belief in Whitehall "that colonial constitutions were static and that the lower houses were subordinate governmental agencies" and a belief in the colonies that "the constituents of the lower houses [...] were entitled to all the traditional rights of Englishmen."<sup>15</sup> Historians do not always accord the issue the same centrality that Greene does, but there is general agreement that Greene has indeed identified a genuine conflict.<sup>16</sup> However, they have often complicated his original argument with other factors. Some,

<sup>14</sup> Jack P. Greene, *The Quest for Power: The Lower Houses of Assembly in the Southern Royal Colonies, 1689-1776* (Chapel Hill: University of North Carolina Press, 1963).

<sup>15</sup> *Ibid.*, 13-14.

<sup>16</sup> For a range of broad statements of agreement, see Ian K. Steele, "The Anointed, the Appointed and the Elected: Governance of the British Empire, 1689-1784," in P. J. Marshall, ed., *The Oxford History of the British Empire, Vol. II: The Eighteenth Century* (Oxford: Oxford University Press, 1998), 111-2; David S. Lovejoy, "Two American Revolutions, 1689 and 1776," in J. G. A. Pocock, ed., *Three British Revolutions: 1641, 1688, 1776* (Princeton: Princeton University Press, 1980), 244-264; J.C.D. Clark, *The Language of Liberty 1660-1832: Political Discourse and Social Dynamics in the Anglo-American World* (Cambridge: Cambridge University Press, 1994), 1-9; Robert Bliss, *Revolution and Empire: English Politics and the American Colonies in the Seventeenth Century* (New York: Manchester University Press, 1993), 184; Edmund Morgan, *Inventing the People: The Rise of Popular Sovereignty in England and America* (New York: Norton, 1988) and, of course, Bernard Bailyn, *The Origins of American Politics* (New York: Alfred A. Knopf, 1968; e-book published by Random House), though Bailyn does not credit the "rise of the assembly" argument with explanatory power for his own thesis about political ideas. For agreement more pertinent to the case of New York, see Milton M. Klein, "Origins of the Bill of Rights in Colonial New York," *New York History*, Vol. 72, No. 4 (October 1991), 388-405; Paul Tonks, "Empire and Authority in Colonial New York: The Political Thought of Archibald Kennedy and Cadwallader Colden," *New York History*, Vol. 91, No. 1 (Winter 2010), 26-30; Tully, *Forming American Politics*; Eugene R. Sheridan, *Lewis Morris, 1671-1746: A Study in Early American Politics* (Syracuse, NY: Syracuse University Press, 1981), 62; Kammen, *Colonial New York*, 159-60. For agreement more pertinent to the case of Jamaica, see Hilary Beckles, "The 'Hub of Empire': The Caribbean and Britain in the Seventeenth Century," in *The Oxford History of the British Empire: Volume I: The Origins of Empire: British Overseas Enterprise to the Close of the Seventeenth Century*, ed. Nicholas Canny (Oxford: Oxford University Press, 1998), 237; Sarah E. Yeh, "Colonial Identity and Revolutionary Loyalty: The Case of the West

like Stephen Saunders Webb, have reversed Greene's preference for the assembly as the primary agent in the conflict, instead according pride of place to the crown and its servants.<sup>17</sup> Others, like Lee Wilson, have emphasized the motivating role that colonists' material interests played in these battles of rights, while others, like Abigail Swingen and Ian Steele, have pointed out the salience of Whitehall's own tangible needs.<sup>18</sup> And some historians have even rejected Greene's ideas about the conflict. Patricia Bonomi, for instance, has argued that though "the familiar 'rise of the assembly' concept still has a certain schematic usefulness when applied to the final crisis of 1776 [...] it gives few clues to New York's internal political development throughout the greater part of the century."<sup>19</sup> There is, on this question, a rich and valuable historiography.

The question that guides this dissertation, however, has received much less consideration. Few historians have sought to explain why the transatlantic constitutional conflict between the

Indies," in Stephen Foster, ed. *British North America in the Seventeenth and Eighteenth Centuries* (Oxford: Oxford University Press, 2013), 205-6; Lee B. Wilson, "A 'Manifest Violation' of the Rights of Englishmen: Rights Talk and the Law of Property in Early Eighteenth-Century Jamaica," *Law and History Review*, Vol. 33, No. 3 (August 2015), 544, 572-3; Newman, *Dark Inheritance*, 10, 28-31; Alvin Rabushka, *Taxation in Colonial America* (Princeton: Princeton University Press, 2008), 102-4.

<sup>17</sup> Stephen Saunders Webb, *The Governors-General: The English Army and the Definition of the Empire, 1569-1681* (Chapel Hill, NC: The University of North Carolina Press, 1979); Stephen Saunders Webb, *Marlborough's America* (New Haven, CT: Yale University Press, 2013). For a different view of assertive crown agency at the end of this period, during the era of so-called "salutary neglect," see Amy Watson, "The New York Patriot Movement: Partisanship, the Free Press, and Britain's Imperial Constitution, 1731-39," *The William and Mary Quarterly*, Vol. 77, No.1 (January 2020), 33-64; Steve Pincus and James Robinson, "Wars and State-Making Reconsidered: The Rise of the Developmental State," *Annales. Histoire, Sciences Sociales: English Edition* Vol. 71, No. 1 (March 2016), 9-34; Pincus, *The Heart of the Declaration: The Founders' Case for an Activist Government* (New Haven, CT: Yale University Press, 2016), 9-16.

<sup>18</sup> Wilson, "A 'Manifest Violation'"; Abigail Swingen, *Competing Visions of Empire: Labor, Slavery, and the Origins of the British Atlantic Empire* (New Haven, CT: Yale University Press, 2015); Steele, "The Anointed," 115, 117-9. See also Kammen, *Colonial New York*, 189; Tully, *Forming American Politics*, 377; Patricia U. Bonomi, *The Lord Cornbury Scandal: The Politics of Reputation in British America* (Chapel Hill, NC: University of North Carolina Press, 1998), 174; Mary Lou Lustig, *Robert Hunter, 1666-1734: New York's Augustan Statesman* (Syracuse: Syracuse University Press, 1983), xiii. Bonomi and Lustig both lay particular emphasis on "salutary neglect" and "Walpole's economically determined provincial policy" in causing a slackening of conflict.

<sup>19</sup> Patricia U. Bonomi, *A Factious People: Politics and Society in Colonial New York* (New York: Columbia University Press, 1971), 13.



crown and the colonial assemblies remained fundamentally unsettled by 1730. In part this is because historians generally do not favor this period in either British North America or the Caribbean, instead concentrating either on the founding years of England's Atlantic empire or on the decades preceding the American Revolution. Moreover, the scope of the question is quite broad. Considering just four colonies over an eighty-year span took Greene well over four hundred pages, and he did not even consider a fourth of all the colonial assemblies in the British Atlantic. Examining all of them exhaustively is evidently impracticable; doing any less opens up a historian to charges of excessive generalization. I suspect there is also a sense that the whole "rise of the assembly" idea has been "done," and in any case belongs to an earlier era of narrow concentration on an institutionally driven history of constitutional politics.<sup>20</sup> Even those historians who might otherwise be tempted to test the waters may believe that there is little to add to a field in which some very prominent historians have already engaged themselves at some length. And, lastly, the question I have posed is of a slightly unusual nature for historical inquiry. It does not ask about change over time, but rather about the absence thereof; why did something *not* happen, as opposed to why something did. The Scylla of counterfactuals lurks to one side, the Charybdis of determinism to the other, and most historians presumably see little to be gained by risking the passage.

Some historians have, however, suggested or implied answers to the question of why there was no settlement of this transatlantic constitutional conflict. Edmund Morgan has argued that no settlement was in fact necessary. Though he has acknowledged the conflict, he has asserted that "the political system within which they operated, despite its tensions, did work" and

<sup>20</sup> Greene himself suggests as much. See Jack P. Greene, *Negotiated Authorities: Essays in Colonial Political and Constitutional History* (Charlottesville: University of Virginia Press, 1994), xvi-xvii.

therefore that “both sides could and did take considerable pride in it.”<sup>21</sup> Bernard Bailyn has taken a different point of view, advancing a two-part theory in *The Origins of American Politics*. He has contended that “the area of prerogative power that had been severely reduced in England in the settlement after the Glorious Revolution [...] was reproduced in many of the colonies in all its archaic force.”<sup>22</sup> Colonial elites resented this Atlantic asymmetry deeply, and sought to strengthen their assemblies to restrain the theoretical powers of the imperial executive in the colonies. Governors, Bailyn has argued, lacked the independence, the authority, and the patronage to apply the techniques of parliamentary management in Britain, and so could not calm the “bitter, persistent strife” in the colonies. As a result, “conflict was inevitable [...] conflict that had no easy resolution.”<sup>23</sup>

Jack Greene has taken issue with Bailyn’s emphases in this argument. Instead, Greene has argued that the overriding issue was that the colonists had “powerful mimetic impulses” that impelled them to mimic the House of Commons in their assemblies.<sup>24</sup> Greene makes the Glorious Revolution even more central than does Bailyn. The pro-Parliament, anti-prerogative settlement of the Glorious Revolution in England was not applied to the colonial assemblies, which “directly frustrate[d] their memetic impulses” and left the colonists in justified fear of “the most pernicious form of tyranny” that had prevailed at times under the pre-revolution Stuarts.<sup>25</sup> Crown and colonists were therefore caught in a long struggle between “the Crown’s exaggerated claims for prerogative in the plantations and the immoderate responses those claims evoked from

<sup>21</sup> Morgan, *Inventing the People*, 144-5.

<sup>22</sup> Bailyn, *Origins of American Politics*, location 948 in Kindle e-book.

<sup>23</sup> *Ibid.*, l. 1514.

<sup>24</sup> Greene, “Political Mimesis,” 343.

<sup>25</sup> *Ibid.*, 351.

the legislatures.”<sup>26</sup> Greene expands on this argument in *Peripheries and Center*, arguing that the incompatibility between colonial insistence on their rights as Englishmen and the crown’s prerogative claims “meant that the colonists would never be able to extract [...] formal and explicit guarantees from metropolitan authorities.”<sup>27</sup> The conflict, he argues, therefore persisted, and “remained a source of deep anxiety for both colonial leaders and metropolitan authorities.”<sup>28</sup>

I believe that the repeated anger of confrontations over rights between the crown and the Jamaican and New York assemblies belies Morgan’s assertion that the imperial constitution was essentially satisfactory. Instead, I believe that Bailyn and Greene have both described a crucial part of why there was no settlement of the constitutional conflict between the crown and the colonial assemblies in this period. However, the two together cover only a part.<sup>29</sup> Neither Bailyn nor Greene gives much explicit consideration to the role of the material interests of both parties to the conflict. They also do not accord the crown the agency I believe it is due, instead looking at a transatlantic conflict from a very American perspective. Though both give great credit to the Glorious Revolution as an inflection point in the conflict, neither accords full weight to the other inflection point of the 1690s—the beginning of two decades of imperial warfare that strained existing institutions in the metropole and in the colonies. By marrying these insights from other

<sup>26</sup> Greene, “Political Mimesis,” 353.

<sup>27</sup> Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Polities of the British Empire and the United States, 1607-1788*, paperback edition (New York: Norton, 1990), 43.

<sup>28</sup> *Ibid.*, 44.

<sup>29</sup> I do not go so far as Alan Tully, who calls this a “single-strand interpretation of colonial politics.” Tully, *Forming American Politics*, 441. That seems to me to be fundamentally unfair, since Greene is careful to point out that there were other interests and questions that animated colonial politics. A fairer statement would be that Greene perhaps should not have left it to others to describe those mechanisms if he wished to offer “an alternative general framework of interpretation.” See Greene, “Political Mimesis,” 338, 354-5.

segments of the historiography with Greene and Bailyn's interpretations, I hope to present a more complete analysis.

Three factors prevented the settlement of the constitutional conflict between the English/British crown on the one hand, and the assemblies of New York and Jamaica on the other, in the period 1675-1730. First, as Greene and Bailyn have pointed out, both sides had ideological interests that were fundamentally opposed to one another, which only worsened after the Glorious Revolution brought institutional dissonance to England's Atlantic empire. Despite the vicissitudes of politics, across this half-century the colonial assemblies consistently demanded the rights of Englishmen for their constituents, at the expense of the prerogative. The metropolitan authorities, on the other hand, were determined throughout these fifty-five years to use the prerogative to maximize freedom of action for imperial government in New York and Jamaica, at the cost of colonial exercise of the rights of Englishmen. The conflict was further intensified by both sides' mixture of ends and means. For the colonists, the assembly was not only the guardian of their rights, but a crucial—perhaps the most crucial—right of Englishmen in itself. For the imperial authorities, the prerogative was not only a tool to ensure control of the colonies, but also something to be preserved for its own sake. These ideological interests also prevented both sides from turning to Parliament to settle the dispute. The colonial assemblies did not want parliamentary interference with their powers, and the crown, though tempted by the massive resources Parliament could offer, could not simultaneously uphold the prerogative and invite Parliament to legislate.<sup>30</sup> There would be, in this period, no outside intercession in the principled antagonism of crown and assembly.

<sup>30</sup> See Morgan, *Inventing the People*, 133 for a good statement of this disinclination on the colonial side.

Second, both sides had material interests that were inextricably intertwined with their ideological interests. Contrary to Greene's suggestion, "self-interested and sordid ambitions" did not simply inspire behavior that colonists then transmuted into "heroic struggle."<sup>31</sup> Instead, material and ideological motives often acted in harmony for both crown and assembly. This was nowhere more clearly seen than in struggles over the power of the purse. Fiscal power was not only the strongest force that either side could deploy to substantiate its ideological pretensions, but also the means by which both sides sought to enrich their adherents. However, material and ideological interests could also work to destructive cross-purposes. When Whitehall faced the impossible task of arbitrating between upholding the prerogative, financing imperial defense, defending commercial concerns in the metropole, and paying imperial officials in the colonies, some of the crown's interests would invariably be compromised for the sake of the rest.<sup>32</sup> The colonial assemblies enjoyed a distinct advantage in the struggle on this point, for both the material and ideological interests of colonial elites tended to align with the pursuit of further rights and powers.

Third and finally, the structural constraints of England's Atlantic empire obstructed any effort by either side to impose a settlement on the other. Three related structures are of particular importance here.<sup>33</sup> The first was a fact of geography and technology that neither side could alter. In the age of sail, months invariably passed between the dispatch of news from the colonies and

<sup>31</sup> Greene, "Political Mimesis," 355.

<sup>32</sup> This problem was, as this dissertation will show, endemic to the whole period. It was not, as Greene argues, peculiar to the years after 1721, when he argues for a new pattern in which "metropolitan authorities repeatedly sacrificed long-standing goals for bringing the colonies under closer supervision to immediate economic and political advantage whenever it seemed necessary and expedient to do so." This was the pattern for the whole of these fifty-five years. Greene, *Negotiated Authorities*, 100.

<sup>33</sup> They are rarely given full consideration together, particularly in the context of transatlantic constitutional politics. Greene has made insightful but sadly brief references to the constraints I describe in some of his works. E.g., Greene, *Negotiated Authorities*, 14-15 and Greene, *Peripheries and Center*, 44-5.

the arrival of a response from London. This provided ample time for intention to be overtaken by events, either in the colonies or at home, and often confused transatlantic conversation.

Moreover, this distance of time and space constrained the crown to act through an executive agent—the governor. This delegation of authority promoted a politics that “operated at two levels,” as Bailyn remarks, which could work to the detriment of either side.<sup>34</sup> Colonial assemblies’ deals with the governor could always be overturned in London, as the Jamaican assembly found repeatedly in the first decades of the 1700s.<sup>35</sup> On the other hand, the governor’s independent interests always imposed an agency cost on Whitehall’s colonial policy, as nearly every governor the crown sent out to each of these two colonies in this period compromised against its interests.<sup>36</sup> The net effect of this two-tiered politics was to place significant barriers in the path of revisions to the status quo, which militated against either side achieving its aims.

The second structural element primarily constrained the crown. Colonial affairs were a tertiary concern for the metropolitan authorities. Domestic policy came first and foremost. Then, as Trevor Burnard writes, “Europe always loomed larger than America in statemen’s calculations.”<sup>37</sup> Only when there were no domestic or European disturbances could Whitehall afford to concentrate on colonial affairs. And, as Greene remarks, there was always a “press of

<sup>34</sup> Bailyn, *Origins of American Politics*, I, 1195.

<sup>35</sup> Occasionally the mechanism could operate to cool tensions, as when Robert Hunter struck a deal with the New York assembly for an immediate issue of paper money in 1717, which was expressly against his instructions. The metropolitan authorities were loath to reverse Hunter’s decision, however, since the money had been circulating for months by the time they heard of it. Nevertheless, even in these circumstances one side’s interests were the loser.

<sup>36</sup> The principal exceptions are those who died too soon to accomplish anything in the colonies they went to govern, such as William Selwyn in Jamaica in 1702, and John, lord Lovelace in New York in 1709. The only governors in these pages who did not strike such a compromise were William O’Brien, earl of Inchiquin and governor of Jamaica from 1690 to 1692, and Edward Hyde, lord Cornbury, governor of New York from 1702 to 1709.

<sup>37</sup> Burnard, *Planters, Merchants, and Slaves*, 91.

domestic and international affairs.”<sup>38</sup> As a result, the metropolitan authorities could never muster the sustained care and interest that a long-term, stable settlement of the constitutional disputes between the crown and the colonial assemblies would have required. Indeed, Whitehall often ran short of attention even when crises in colonial governance demanded it. The Exclusion Crisis in England precluded serious concentration in the metropole on the Poynings’ Law crisis in Jamaica at a critical point in 1678 and 1679. The crown’s desperate governor, the earl of Carlisle, therefore received no instructions, and the Jamaican assembly no discouragement, for a full thirteen months. On a lesser scale, partisan political struggle in England and the end of the war of the Spanish Succession left Robert Hunter, governor of New York, with no help from London for years as he tried to secure a renewal of the colony’s lapsed revenue. The crown simultaneously forbade governors from taking initiative and demanded that they solve their own problems. It is little wonder that the results were incoherent at best, and outright damaging to the crown’s interests at worst.<sup>39</sup>

Moreover, metropolitan priorities ensured that the crown was also extremely reluctant to expend resources on the project of prerogative government in the colonies. The strategic position of New York in imperial competition in North America prompted the crown to spend some £9,000 per annum to sustain four understrength, underpaid, underfed companies in that colony, while spending rather more for a larger, but equally ill-served garrison to ensure productive

<sup>38</sup> Greene, *Negotiated Authorities*, 100.

<sup>39</sup> A possible exception is colonial policy under James II. However, as Richard Dunn notes in his comparative essay on Massachusetts and Jamaica, James “and his ministers treated Massachusetts and Jamaica with a curious blend of autocracy and ennui,” and “showed slight interest in either Colony” after their initial policy prescriptions. Richard S. Dunn, “Imperial Pressures on Massachusetts and Jamaica, 1675-1700,” in Alison Gilbert Olson and Richard Maxwell Brown, eds., *Anglo-American Political Relations, 1675-1775* (New Brunswick, NJ: Rutgers University Press, 1970), 64.

Jamaica's internal security against enslaved Africans and Maroons.<sup>40</sup> This paled in comparison to the sums expended on domestic and European concerns—throughout most of this period, the civil list alone was over £700,000 per annum.<sup>41</sup> Assuming the fiscal burden of civil administration, in order to remove the colonial executive's dependence on the assemblies for grants of funds, was never seriously contemplated even under Charles II and James II. After the Glorious Revolution settlement confirmed Parliament's fiscal supremacy, and two decades of warfare sent the costs of empire skyrocketing, such largesse from the crown was inconceivable.<sup>42</sup> Instead, metropolitan authorities were determined to sustain empire on the cheap.<sup>43</sup>

<sup>40</sup> New York's garrison had a theoretical strength of four hundred soldiers from the mid-1690s until the end of the period. Jamaica's was more variable, from the two hundred soldiers under Carlisle in the late 1670s, to over a thousand during the mid-1690s, back down to three hundred in the latter 1710s, and then rising again towards a thousand with the advent of the Maroon Wars in the 1720s. This calls into question the applicability of Webb's "garrison government" thesis to these two colonies. See Webb, *The Governors-General*, ch. 6 for his description of garrison government in Jamaica in the 1670s; Webb, *Marlborough's America*, 105-10 for garrison government in Jamaica in the first decade of the 1700s; and Webb, *Marlborough's America*, 262, 300-1, 308, 319 for garrison government in New York under Robert Hunter in the 1710s. Ironically, the real period of "garrison government" in Jamaica began after Webb's consideration ceases, and it was directed at suppression of enslaved and free Africans rather than imposition of imperial authority on White settlers. See Edward Rugemer, *Slave Law and the Politics of Resistance in the Early Atlantic World* (Cambridge, MA: Harvard University Press, 2018), ch. 4.

<sup>41</sup> E. A. Reitan, "The Civil List in Eighteenth-Century British Politics: Parliamentary Supremacy versus the Independence of the Crown," *The Historical Journal*, Vol. 9, No. 3 (1966), 319.

<sup>42</sup> For much of the first two decades of the eighteenth century, the crown did pay the salary of the attorney general in New York, which was some £150.

<sup>43</sup> Scholars have also emphasized the crown's unwillingness to bend its patronage appointments towards the aim of effective colonial government. And it is quite true that from the beginning of the period to its end, Whitehall elevated domestic political considerations above the particular circumstances of any given colony when handing out all positions in the colonies, from the governorship downwards. As many historians have noted, this crippled governors' efforts to employ the English model of "influence" in colonial politics, which could and did make a difference at the margin. However, Whitehall's limited attention to the colonies, and its disinclination to spend money in them, were both consequences of the low priority of colonial affairs that greatly outweighed the distribution of patronage. See Bailyn, *Origins of American Politics*, l. 971; Steele, "The Anointed," 115, 117; Rex Maurice Naylor, "The Royal Prerogative in New York, 1691-1775," *The Quarterly Journal of the New York Historical Association*, Vol. 5, No. 3 (July 1924), 251; Lustig, *Robert Hunter*, ix; Tully, *Forming American Politics*, 226; Greene, "Political Mimesis," 353-4. For dissenting voices, see John M. Murrin, "The Great Inversion, or Court versus Country: A Comparison of the Revolution Settlements in England (1688-1721) and America (1776-1816)" in Pocock, ed., *Three British Revolutions*, 384 and Alison Olson, *Anglo-American Politics, 1660-1775: The Relationship Between Parties in England and Colonial America* (Oxford: Clarendon, 1973), 80-1. Though Bailyn correctly identifies the issue, he incorrectly dates the development of metropolitan dominance of patronage to the beginning of the eighteenth century. As patent officer absenteeism in both Jamaica and New York in the 1690s indicates, the problem was already well-established by then. See Stephen Saunders Webb, "William Blathwayt,



The third structure was probably the most influential. Both the colonial elites who sat in the assemblies, and the metropolitan elites who made colonial policy in London, shared a set of assumptions about politics and society that sharply limited their imaginative possibilities. On both sides of the Atlantic, Englishmen held that political power ought to be exercised by those who held social and economic power; that the rule of English law was essential to their identity; that the monarch sat atop a rightful hierarchy; and, particularly after the Glorious Revolution, that coercion of fellow English elites not in armed rebellion was beyond the pale.<sup>44</sup>

Each of these firmly held ideas, in its own way, fueled and complicated the conflict between crown and assembly in Jamaica and New York. The shared conviction about distribution of power meant, in England, that local elites *were* the government. In the colonial context, this idea led the crown to establish the assemblies that continually troubled it, and then never seriously to consider abrogating them. The colonists, on the same principle, proceeded to try to exercise in their colonies all the power that English elites enjoyed in the metropole, at the expense of the crown. Belief in the rule of law and the rightful hierarchy meant that the colonists, however frustrated they were with Whitehall, did not in this period entertain the notion of

Imperial Fixer: From Popish Plot to Glorious Revolution,” *The William and Mary Quarterly*, Vol. 25, No. 1 (January 1968), 3-21 for a view at odds with both Bailyn’s and my own.

<sup>44</sup> Greene makes a succinct but general statement of these mentalities in *Negotiated Authorities*, 15-6. Elsewhere Greene has argued at greater length for the critical role that English conceptions of law played in the colonists’ drive for rights, e.g., Greene, *Peripheries and Center*, 11-16; Greene, “Empire and Identity from the Glorious Revolution to the American Revolution,” in Marshall, ed., *The Oxford History of the British Empire, Vol. II*, 208-12, 221-3. However, Greene does not emphasize the degree to which metropolitan elites shared in these mentalities, and how that shared worldview influenced the transatlantic constitutional struggle. On a separate point, it should be noted that coercion of non-elite persons was very much an option. Peter Linebaugh and Marcus Rediker have made clear that the use of force against all of the “lower orders” of society was acceptable to English elites; see Linebaugh and Rediker, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston: Beacon, 2000). Nor did the colonial elites who feature in this dissertation object to coercion of people with whom they did not identify. Jamaica was a society founded on violence towards enslaved Africans, and one-sixth of New York’s 1730 population was likewise Africans held in bondage. The Jamaican elite were also perfectly happy to employ force against Irish indentured servants, while the New York elites did not object in the least to Hunter’s coercion of the Palatine refugees in the early 1710s.

legislating purely by themselves, let alone the thought of breaking away. The crown, for its part, never thought of unilaterally amending objectionable colonial legislation, but neither did it refrain from haughtily and belligerently insisting on the primacy of the prerogative. And the elite consensus that coercing other elites was unacceptable made imperial authorities shy away from even mentioning the possibility of the use of force to settle their conflict with the assemblies of New York and Jamaica.

The interactions of the three factors of fundamental ideological conflict, reinforcing material interests, and the structural constraints of empire were many, and I will not catalogue them here. But the nexus of qualms about involving Parliament, the problem of distance, and the low fiscal priority of colonial affairs deserves singling out, for in combination with English common beliefs, it evened the playing field between the crown's theoretically extensive resources and the colonists' comparatively meager means. In the first place, this nexus turned the ideological preference for reliance on local elites into an absolute necessity. The crown simply could not do without the cooperation of a critical mass of local elites in any given colony, given these parameters. But its commitment to prerogative government, and the colonists' equally strong and antithetical commitment to realizing the rights of Englishmen, meant that the crown had often foreclosed on cooperation with its measures before they ever saw an assembly floor. In the second place, this nexus, in combination with the English aversion to coercion of fellow elites and the colonists' insistence on their rights and material interests, effectively precluded any possibility of the crown using force to resolve the conflict. Neither, however, were metropolitan authorities willing to give up their pretensions to prerogative government in the colonies. The crown's threats were empty, and the colonists came to know it, but still the metropolitan

authorities could not stop. And escalation to no final purpose did little but deepen the transatlantic antagonism between crown and assembly.

In the chapters that follow, I trace the contours of this conflict chronologically, to best illustrate both how much and how little changed in these fifty-five years. The first chapter examines the crown's attempt to impose Poyning's Law on Jamaica in the late 1670s. It was the most explosive episode in this dispute for either New York or Jamaica, and illustrates more starkly than any other the structural constraints that bound all parties. The second and third chapters take up Greene's contention about the stress of political mimesis after the Glorious Revolution, in parallel with the pressures exerted on imperial institutions by the great wars of the turn of the century. In the second chapter, I consider political discontent in Jamaica in the 1690s and 1700s, provoked by a relic of James II's government that the colonial elite thought the Glorious Revolution would have swept away. In the third chapter, I explore the submersion of the conflict between crown and assembly beneath New York's own very troubled legacy of the Glorious Revolution, and then address how that conflict burst through to claim center stage in the early 1700s.

Chapters four and five home in on the structural problem of the governor. Robert Hunter and Archibald Hamilton contemporaneously governed New York and Jamaica, respectively, in the 1710s. Their divergent experiences show that the level of a governor's competence could make a substantial difference in imperial governance. But Hunter and Hamilton's governments also demonstrate that the fundamental terms of the antagonism between crown and assembly, and the structural constraints of the transatlantic empire, precluded any individual from meaningfully altering the course of the conflict.

In the sixth chapter, I conclude the story of Jamaica in this period. I follow the twists and turns of the crown's successful journey to securing a perpetual revenue in the colony in 1729, after having essayed it repeatedly in the previous fifty-five years. I explain how the Jamaican elite were disappointed in their quest to secure statutory confirmation of their rights in exchange, but I also make clear that the crown had won a hollow victory that settled nothing fundamental in its conflict with the Jamaican assembly. Chapter seven concludes the narrative for New York. In that chapter, I show how even New York's famously bitter factionalism did not prevent the assembly from battering the power of the prerogative in the colony to a low station indeed by 1731. I also illustrate how, by that point, Whitehall was out of leverage in New York and bereft of solutions to the problem of prerogative weakness.

Two colonies, even two so different as New York and Jamaica, cannot provide the historical basis to make a final, definitive statement about the mechanisms at work in the whole of the English/British Atlantic empire. Nevertheless, I believe the political experiences of these colonies between 1675 and 1730 substantiate my hypothesis that fundamental ideological and material antagonism combined with the structures of the transatlantic empire to frustrate any settlement of the conflict between the crown and the colonial assemblies. Moreover, I think New York and Jamaica in this period show not only that the conflict was not settled, but that it could not be settled within the confines of the first British empire.<sup>45</sup> The dispute was too vital to stop, but the tensions it produced were too agonizing to continue. Only a radical transformation in the transatlantic empire could resolve the crisis.

<sup>45</sup> Greene does, as seen above, come quite close to making this argument in a general sense in *Peripheries and Center*, 44. Through the lens of Jamaica and New York, I intend to offer the substantiation that will allow me to be less circumspect.

## Chapter I

### The Poynings' Law Crisis in Jamaica, 1675-1680

In 1677, the lords of trade sent Charles Howard, the earl of Carlisle, to Jamaica to impose Poynings' Law on the colony. Passed in Ireland at the end of the fifteenth century to “curb the legislative initiative of the Anglo-Irish parliament, as well as that of the administration,” Poynings' Law stripped the Irish parliament of its deliberative powers, and allowed it only the privilege of approving laws conveyed from England.<sup>1</sup> Now London was determined to do the same to another recalcitrant colony that had repeatedly flouted the prerogative and harmed the crown's material interests. However, the lords of trade gave up the effort to enforce Poynings' Law in Jamaica in 1680, after three years of transatlantic constitutional crisis. The attempted imposition of Poynings' Law was the most confrontational and centralizing approach Whitehall ever took towards Jamaica, and it failed spectacularly. But why did it fail?

Scholars generally agree that the Jamaican elite's resistance to the loss of the assembly's powers partly motivated the ultimate decision to withdraw Poynings' Law. The new frame of government for Jamaica was “stymied by colonial [...] contumacy”; “faced passive but persistent political resistance”; and ultimately made no headway against “the stubborn resistance of the Assembly.”<sup>2</sup> However, the Jamaican elite's refusal to accept Poynings' Law has rarely played a starring role in any historian's retelling of the crisis. For some historians, a focus on English politicians and policymakers' decisions and reactions in their search for a “Political solution” to secure obedience and revenue from the colony has minimized the agency of colonial elites in this

<sup>1</sup> David B. Quinn, “The Early Interpretation of Poynings' Law,” *Irish Historical Studies*, Vol. 2, No. 7 (March 1941), 243.

<sup>2</sup> Bliss, *Revolution and Empire*, 183-5; Webb, *The Governors-General*, 290; Agnes Whitson, *The Constitutional Development of Jamaica, 1660-1729* (Manchester: Manchester University Press, 1929), 107.

crisis.<sup>3</sup> This is particularly common in works with an extensive temporal or geographic sweep, such as Bliss's *Revolution and Empire*, Alvin Rabushka's *Taxation in Colonial America*, or Richard Dunn's "The Glorious Revolution and America."<sup>4</sup> The peculiar political circumstances of 1677-1680 have also led some to grant pride of place to contingency in England. Stephen Saunders Webb goes farther than most in arguing that the abandonment of Poynings' Law was "the Anglo-American outcome of the Exclusion Crisis."<sup>5</sup> But Abigail Swingen's milder statement that "during the Exclusion Crisis, the government simply did not have the manpower, money, or overall legal support to compel sweeping constitutional changes in Jamaica" is typical.<sup>6</sup> An emphasis on the legal formalism mentioned by Swingen has also reduced the explanatory impact of Jamaican resistance to Poynings' Law. Agnes Whitson, in 1929, argued that "the chief cause of the lords of trade's surrender" was that "the law officers could not find legal support for the policy of the crown," and in the subsequent ninety years, scholars have often been content to repeat her thesis.<sup>7</sup>

None of these arguments is wrong. The crown did take the initiative in the crisis, and it did not want to jeopardize the revenue from Jamaica; the Exclusion Crisis did hamstring colonial policymakers at a crucial juncture; and the law officers and judges did decline to support the lords of trade's arguments in 1680. Nor does any historian fail to include the Jamaican elite's

<sup>3</sup> Qtd. in Bliss, *Revolution and Empire*, 186.

<sup>4</sup> For the last two mentioned works, see Rabushka, *Taxation in Colonial America*, 101-4 and Richard S. Dunn, "The Glorious Revolution and America," in Nicolas Canny, ed., *The Oxford History of the British Empire, Vol. I: The Origins of Empire: British Overseas Enterprise to the Close of the Seventeenth Century* (Oxford: Oxford University Press, 1998), 448-9.

<sup>5</sup> Webb, *The Governors-General*, 323.

<sup>6</sup> Swingen, *Competing Visions of Empire*, 120.

<sup>7</sup> Whitson, *Constitutional Development*, 107. Brooke Newman, for example, has recently written that "the lords of trade conceded" after they "had uncovered no legitimate legal basis for revoking subordinate legislative powers once granted to a colonial body." Newman, *A Dark Inheritance*, 57.

resistance to Poyning's Law as part of their explanation of the lords of trade's failure. All agree that Jamaican resistance combined with the practical concerns of colonial policymakers, domestic political pressures, and the lack of convincing legal arguments to move the lords of trade to withdraw Poyning's Law. The differences among scholars here are mostly questions of emphasis.

In the aggregate, however, that emphasis has shifted too far away from the Jamaican elite and their assembly. Too much of the story is told in reference to the crown, its officials, and its governor. Some drift in that direction is inevitable, both because metropolitan elites generated the vast majority of the pertinent surviving sources, and because it was the crown seeking to revise the status quo with Poyning's Law. The result, however, has been that a genuinely transatlantic conflict now takes place, in the historiography, primarily in England. Even when the story does shift to Jamaica, agency and initiative still belong principally to Carlisle, the governor.<sup>8</sup> I do not claim to have rowed against the current of the sources so far as to foreground the Jamaican elite in my investigation of the Poyning's Law crisis. But I have sought to push the center of gravity of the conflict away from England and towards Jamaica. And in so doing, the structural constraints on transatlantic constitutional politics resolve from shadowy shapes in the background into concrete outlines.

The unified resistance of the Jamaican elite made it structurally impossible for the lords of trade to impose Poyning's Law on Jamaica. English government, in the colonies as in the metropole, relied upon the cooperation of a critical mass of local elites. Poyning's Law, however,

<sup>8</sup> Webb, though his argument on Poyning's Law has a more emphatically transatlantic framework than the others cited here, is a particular culprit here, as the title of *The Governors-General* suggests. Moreover, even his transatlantic partnership of "country" parties still deprives the Jamaicans of agency. He argues that "without metropolitan English assistance, no faction of 'local' country leaders could resist the governor-general's absolute authority." Webb, *The Governors-General*, 318.

threatened to eliminate the political rights and powers the Jamaican elite expected by dint of their English heritage. As a result, there was no local support for the crown's measures. The lords of trade were forced to seek other alternatives, only to discover there were none. Neither hectoring assertions of the prerogative nor haughty deployments of royal prestige could compel the Jamaican elite to surrender their deliberative assembly. There was no will in either the metropolitan executive or Parliament to employ armed coercion against a colonial population not actually in rebellion. When the lords of trade quietly admitted defeat on 3 November 1680, they did so because the constitutional structures of England's transatlantic empire had left them no other choice.

#### *Jamaica before Poyning's Law*

Jamaica had only been an English colony since 1655, ever since Penn and Venables had taken it from the Spanish as a consolation prize of Cromwell's Western Design after failing at Hispaniola. Despite the island's status as a conquest of the Protectorate, and Charles II's more accommodating attitude towards the Spanish, after the Restoration the king decided to retain the island. Jamaica held out promise as a colony of plantations producing cash crops, like Barbados and Virginia, which would redound to the benefit of the king's customs. It was also attractive, however, to those "in hopes of plunder" from Jamaica's "geographical location 'in the Spaniard's bowels and in the heart of his trade.'"<sup>9</sup>

It was privateering, and closely allied smuggling, that took off first. In the 1660s, together they fueled a remarkable growth in wealth that made Port Royal, the buccaneer base, the largest and busiest port in the English Caribbean. Henry Morgan's raid on Portobelo in 1668 took some

<sup>9</sup> Qtd. in Nuala Zahedieh, "Trade, Plunder, and Economic Development in Early English Jamaica, 1655-89," *The Economic History Review*, Vol. 39, No. 2 (May 1986), 215.



£75,000 in plunder, “more than seven times the annual value of the island’s sugar exports.”<sup>10</sup> The island’s governor from 1664 to 1670, Thomas Modyford, was happy to connive at this valuable evasion of international treaties and the navigation acts, especially since, as Richard Dunn alleges, he received at least £1,000 a year “in fees and kickbacks” from privateers and illegal traders.<sup>11</sup> The attraction of violence and law-breaking on the high seas was such that though “the island’s white population was fewer than 8,000” in 1670, some 1,500 were privateers based out of Port Royal.<sup>12</sup>

1670 marked an inflection point in the fortunes of privateers and smugglers. The Treaty of Madrid that year established a relatively unambiguous peace between England and Spain in the Americas, unlike the 1667 treaty that “Modyford [had] blatantly ignored.”<sup>13</sup> Morgan’s 1671 raid on Panama could not be ignored like the 1668 Portobelo raid. Thomas Lynch, a Jamaican sugar planter, was made governor, with instructions to curb the privateers and encourage the planters, who had come to believe “that farming and freebooting were incompatible.”<sup>14</sup> He did so with gusto, thereby touching off “a bitter internecine struggle for control of the island” that lasted for two decades, which the planters would ultimately win.<sup>15</sup>

In the 1670s, however, that victory was far off. Moreover, the political battles between the “plunder faction” and the planter faction should not obscure the degree to which the two were

<sup>10</sup> Zahedieh, “Trade, Plunder, and Economic Development,” 216.

<sup>11</sup> Dunn, *Sugar and Slaves*, 155.

<sup>12</sup> Mark G. Hanna, *Pirate Nests and the Rise of the British Empire, 1570-1740* (Chapel Hill, NC: University of North Carolina Press, 2015), 114-5.

<sup>13</sup> *Ibid.*, 112.

<sup>14</sup> Dunn, *Sugar and Slaves*, 150.

<sup>15</sup> *Ibid.*

intertwined.<sup>16</sup> As Nuala Zahedieh has pointed out, starting a sugar plantation was an extremely expensive business, requiring perhaps £3,600 in startup capital for a 100-acre plantation, and then a three-year wait to see any profits.<sup>17</sup> The tremendous wealth required for such planting came from Port Royal's "profits of trading and looting."<sup>18</sup> Lynch himself had derived his initial wealth from Port Royal, as had such planter luminaries as William Beeston and Peter Beckford senior, the latter of whom would eventually become the richest man in Jamaica. Even Henry Morgan himself had invested his ill-gotten gains in sugar plantations, and would die one of the largest landowners in the island. Sympathy and alliance between planters and privateers, given the right circumstances, was by no means out of the question.

Moreover, like the privateers, the planters depended on violence and transatlantic trade for their material well-being. Their sugar plantations depended on the labor of enslaved Africans, who made up just over half of Jamaica's population in the mid-1670s.<sup>19</sup> The Jamaican planters were already well on their way to establishing "one of the most savage and brutally exploitative slave systems in the Atlantic world," in which the death rate from ill-treatment and disease far outpaced the birth rate in the enslaved population.<sup>20</sup> The planters' desire for profits therefore required the continual importation of more enslaved Africans. This unceasing demand for enslaved labor, and Europe's growing hunger for sugar, wove the planters as tightly into the transatlantic economy as raiding and illegal trading did the privateers, though in a rather different manner.

<sup>16</sup> Hanna, *Pirate Nests*, 116.

<sup>17</sup> Zahedieh, "Trade, Plunder, and Economic Development," 208-9.

<sup>18</sup> *Ibid.*, 221.

<sup>19</sup> Burnard, "European Migration to Jamaica," 771.

<sup>20</sup> Newman, *Dark Inheritance*, 6.

Immigration from England also kept White Jamaicans tied to their homeland. Given the recency of the conquest, practically every White Jamaican man in the mid-1670s was an English immigrant, either directly from the home country or indirectly from English colonies in the Caribbean. Their ranks were constantly refreshed by new English immigration, on which they were demographically dependent. The small population of women and the ravages of disease meant that the death rate in the White Jamaican population well outpaced the birth rate.<sup>21</sup> White Jamaicans were therefore self-evidently and self-consciously Englishmen. By Charles II's 1661 proclamation encouraging the settlement of Jamaica, they "carr[ied] English liberties with them to Jamaica," and could pass them on to their children born in the island.<sup>22</sup> However, White Jamaicans also believed they enjoyed the rights of Englishmen inalienably by birth. Importantly for the coming crisis, they knew the language of that "long-standing political tradition," and were familiar with the last five decades of conflict between the rights of Englishmen and the prerogative of the crown, particularly with respect to the powers of the House of Commons.<sup>23</sup>

*Prelude to Crisis, 1675-1677*

Though Jamaica had enjoyed an assembly since 1664, when the king ended the semi-martial government of the island that had prevailed since the conquest, the assembly of 1674-5 was the first to launch an expansive challenge to both the governor and the prerogative. The governor, Thomas, Lord Vaughan, was "an inexperienced outsider" who had "an extremely difficult time making allies of either Morgan's privateering party or Lynch's planter cronies in

<sup>21</sup> Burnard, "European Migration to Jamaica," 772-3, 775.

<sup>22</sup> Newman, *Dark Inheritance*, 50-1.

<sup>23</sup> *Ibid.*, 8; Dunn, *Sugar and Slaves*, 158; Rabushka, *Taxation in Colonial America*, 104.

the assembly.”<sup>24</sup> The planters also resented the Royal African Company’s recently established monopoly on the slave trade, believing that the company had failed “to furnish this island annually with a plentiful supply of negroes at a moderate rate,” and therefore preferred to buy from interlopers, as independent slave traders were called.<sup>25</sup> There was also general antipathy to a saving clause on the governor’s military authority the metropolitan authorities had instructed Vaughan to press for in a militia bill, which the Jamaican elite worried would give Vaughan legal *carte blanche* in governing the island.

The dominant planter faction in the assembly, led by William Beeston and the Cromwellian soldiers-turned-planters Samuel Long and John Colebeck, took advantage of Vaughan’s political isolation to redress their grievances.<sup>26</sup> They amended the militia bill to limit Vaughan’s powers, appropriated the revenue “to the king for the public use of the island” rather than simply to the king, and passed an act “declaring the laws of England in force in this island” to secure permanent statutory recognition of their rights as Englishmen.<sup>27</sup> Vaughan assented to these bills, for they were the price of the taxes that would pay his salary. Though he turned back the re-enactment of a bill “for a free importation of negroes,” he also connived at the council’s limitation of the admiralty’s jurisdiction to prevent the seizure of the *Saint George*, an interloping slave ship.<sup>28</sup> Not for the first time—and certainly not for the last—financial and

<sup>24</sup> Dunn, *Sugar and Slaves*, 157; Swingen, *Competing Visions of Empire*, 94.

<sup>25</sup> *JAJ*, I, 10; Swingen, *Competing Visions of Empire*, 100; Hanna, *Pirate Nests*, 129.

<sup>26</sup> *JAJ*, I, 8. Long was elected speaker of this assembly.

<sup>27</sup> *Ibid.*, 10; “Acts, Laws, and Statutes of Jamaica,” CO 138/2/128; Minutes of the lords of trade, 11 September 1677, CO 138/3/81; Hanna, *Pirate Nests*, 131; Dunn, *Sugar and Slaves*, 158. Long would later be accused of having erased the words “the king for” from the revenue bill, making the appropriation only “to the public use of the island.” Swingen, *Competing Visions of Empire*, 95. Meanwhile, the declaratory act excluded all English statutes that specifically had to do with taxation.

<sup>28</sup> *JAJ*, I, 9; Swingen, *Competing Visions of Empire*, 100; Hanna, *Pirate Nests*, 129.

political necessity had forced a colonial governor to acquiesce in encroachments on the prerogative and the crown's material interests.

Vaughan sent the legislation back to London, breezily recommending to his superiors “a good body of laws [...] municipal, and particularly adapted to the interest of this place.”<sup>29</sup> There, in 1676, Jamaican legislation met metropolitan review for the first time. Charles II had constituted a new committee of the privy council with responsibility for the colonies, the lords of trade and Plantations, in 1675.<sup>30</sup> Charged with realizing the “imperial assumptions” of the earl of Danby, the Lord Treasurer, the committee would seek to implement “an ambitious plan of imperial centralization and increased metropolitan control of imperial affairs.”<sup>31</sup> In the colonial context, that meant “render[ing] governors and assemblies obedient by asserting the king’s legislative power.”<sup>32</sup> That assertion of power itself depended upon securing a “permanent local revenue from the colonies for the support of their colonial government.”<sup>33</sup> Such a permanent revenue—or “perpetual,” as it was usually termed by contemporaries—would remove the leverage that local assemblies otherwise possessed. Instead of negotiating with the assemblies for concessions that frequently limited the prerogative in exchange for revenue, the governor could simply carry out the crown’s orders, secure in the knowledge that his government’s fiscal needs would be met. The crown was already compelled to negotiate with Parliament in England in this manner—it had no desire to see the rise of as many new little Parliaments as there were colonies.

<sup>29</sup> Vaughan to lords of trade, 28 January 1676, CO 138/3/28.

<sup>30</sup> Hereafter “the lords of trade” or “the committee,” as historians have variously called them.

<sup>31</sup> Webb, “William Blathwayt, Imperial Fixer: From Popish Plot to Glorious Revolution,” 5; Swingen, *Competing Visions of Empire*, 96.

<sup>32</sup> Bliss, *Revolution and Empire*, 183.

<sup>33</sup> Rabushka, *Taxation in Colonial America*, 101.

In that respect, the news from Jamaica was alarming. Vaughan had made exactly the sorts of concessions that the lords of trade did not wish to see. The revenue act was “derogatory to his Majesty’s just prerogative,” and indicated an undutiful distrust that the money would be “employed [...] for the necessary support of the government of the island.”<sup>34</sup> The declaratory act, meanwhile, would restrict the authority of the governor that the militia bill had sought to expand, “for the laws of England favor not any guards or standing forces.”<sup>35</sup> The committee also feared that the declaratory act would disempower the appointed council of Jamaica, “the statutes here hav[ing] taken away the power and authority of the council board,” and were anxious to avoid “leav[ing] all in confusion, if everything that is law in England should [...] be strictly put in execution.”<sup>36</sup>

Vaughan’s actions with respect to the slave trade had also deeply aggravated the committee. The duke of York, the king’s brother, took an active role with the lords of trade and was the patron of the Royal African Company, while the members of the committee also owned its stock. Moreover, “gaining control of a larger share of the transatlantic slave trade” would, they believed, increase the crown’s power and England’s wealth.<sup>37</sup> The committee therefore were hostile to the “encroachments on the African Company’s authority in Jamaica,” and was determined to brook no further interference in the company’s interests.<sup>38</sup>

The lords of trade also perceived a larger crisis in imperial affairs in 1676. King Philip’s War was roiling New England, while Barbados was petitioning against its permanent revenue

<sup>34</sup> The earl of Carlisle’s propositions to the lords of trade with responses, 10 November 1677, CO 138/3/89.

<sup>35</sup> Southwell to Vaughan, 28 July 1676, CO 138/3/54.

<sup>36</sup> Ibid.

<sup>37</sup> Newman, *Dark Inheritance*, 42.

<sup>38</sup> Swingen, *Competing Visions of Empire*, 100.

and the Royal African Company's monopoly.<sup>39</sup> Most alarmingly, Bacon's Rebellion in Virginia had shaken royal government there, put a major dent in the crown's customs revenue, and would eventually cost the crown over £100,000 to subdue.<sup>40</sup> John Rainbolt writes that imperial authorities believed that the Virginia house of burgesses "directly and indirectly was responsible for the rebellion," and were "easily persuaded that the root of the trouble in Virginia was identical to the source of elsewhere-irresponsible legislative bodies."<sup>41</sup> As a result of the rebellion, Swingen notes, "the idea [was] growing popular in London that colonies, if given too much autonomy, could disintegrate into anarchy."<sup>42</sup> It seemed plausible to the lords of trade that the Jamaicans, "by openly flouting laws and the jurisdiction of the crown, [were] headed in the same direction."<sup>43</sup> Some, like Henry Coventry, secretary of state for the south, also bemoaned the unwillingness in Jamaica to restrain the privateers effectively, worrying that Jamaica might become a "Christian Algiers."<sup>44</sup> Some restraint of the Jamaican elite and their assembly was evidently necessary.

It was not only these defensive concerns, however, which prompted the lords of trade to think of methods for bringing Jamaica under closer imperial control. As Michael Braddick has

<sup>39</sup> Swingen, *Competing Visions of Empire*, 97, 99.

<sup>40</sup> Webb, "William Blathwayt, Imperial Fixer: From Popish Plot to Glorious Revolution," 7; John C. Rainbolt, "A New Look at Stuart 'Tyranny': The Crown's Attack on the Virginia Assembly, 1676-1689," *The Virginia Magazine of History and Biography*, Vol. 75, No.4 (October 1967), 389.

<sup>41</sup> Rainbolt, "A New Look at 'Stuart Tyranny,'" 391-2.

<sup>42</sup> Swingen, *Competing Visions of Empire*, 103.

<sup>43</sup> *Ibid.*, 104.

<sup>44</sup> Henry Coventry to Vaughan, 8 June 1676, BL Add. MSS 25120, f. 74.

written, “part of the equation was [...] revenue potential.”<sup>45</sup> A colony like Massachusetts, which produced no valuable commodities and lay outside direct royal control, could make do for a time with “tribute payment to keep the Crown at bay,” as Mark Peterson has argued.<sup>46</sup> It was not so, however, for the crown colonies that grew cash crops. Barbados and the Leeward Islands, the crown’s other major sugar colonies, had voted a perpetual four and a half percent duty on their exported produce in 1663 in response to pressure from the Restoration imperial government. That revenue could have been worth in excess of ten thousand pounds per annum to the crown.<sup>47</sup> Virginia also produced a considerable revenue for the crown through metropolitan customs, and had already voted a tax on tobacco to finance the colonial executive.<sup>48</sup> Jamaica had only produced £1,870 in revenue in 1670, the last year for which the lords of trade had hard data, and as yet did not bring great return to the customs.<sup>49</sup> If the crown could keep the island in good order under royal authority, it might be able to secure the four and a half percent in Jamaica, while ensuring the stability that would enable the colony to produce an ever-larger sugar crop and commensurate customs revenue. Charles II and his ministers, desperately trying to fend off the specter of financial reliance on Parliament, jumped at the chance.

<sup>45</sup> Michael J. Braddick, “The English Government, War, Trade, and Settlement, 1625-1688,” in Nicholas Canny, ed. *The Oxford History of the British Empire, Vol. I: The Origins of Empire: British Overseas Enterprise to the Close of the Seventeenth Century* (Oxford: Oxford University Press, 1998), 301.

<sup>46</sup> Mark Peterson, *The City-State of Boston: The Rise and Fall of an Atlantic Power, 1630-1865* (Princeton, NJ: Princeton University Press, 2019), 148.

<sup>47</sup> David Eltis, “New Estimates of Exports from Barbados and Jamaica, 1665-1701,” *The William and Mary Quarterly*, Vol. 52, No. 4 (Oct. 1995), 631-48. I say “could have been” because price and volume data are both sketchy for this period; the duty was collected in sugar, requiring either use in the islands as currency or exportation and resale on the king’s behalf; and there was always fraud associated with the collection and disbursement.

<sup>48</sup> Greene, *The Quest for Power*, 130. That tax would become permanent in 1680 as a result of the crown’s clampdown after Bacon’s Rebellion.

<sup>49</sup> “His majesty’s revenue of the island of Jamaica,” 20 September 1670, CO 138/1/56.



### *Enter Poyning's Law*

After the assembly re-enacted all their old laws in the spring of 1677, and moved to impeach the king's appointed receiver-general of the revenue, the lords of trade made their recommendation on 13 November 1677.<sup>50</sup> Though Jamaica's status as a conquered colony meant that the king could "impose what form of constitution both of government and laws he pleaseth," the crown had condescended to grant the Jamaicans an assembly like those in the rest of its colonies.<sup>51</sup> However, "this authority derived unto the said freeholders and planters [had] received a daily increase by the resolutions they have taken less agreeable to your Majesty's intentions."<sup>52</sup> The lords of trade therefore suggested sharply limiting that authority. The laws transmitted by Vaughan ought to be revised in London and sent back with the earl of Carlisle, "who [...] may offer them unto the next assembly, that they may be consented unto as laws originally coming from your majesty."<sup>53</sup> No further assemblies were to be called without the governor first sending home "a scheme of such acts as he shall think fit and necessary."<sup>54</sup> Only after revision in London could the governor then call an assembly to consent to them. The end result would be "that the same method in legislative matters be made use of in Jamaica, as in Ireland, according to the form prescribed by Poyning's [*sic*] Law."<sup>55</sup> The lords of trade meant to exercise the crown's theoretical powers over a conquered colony, and in so doing curb Jamaican infringements on the prerogative and English material interests forever.

<sup>50</sup> *JAJ*, I, 11-19; Representation of the lords of trade to the privy council, 13 November 1677, CO 138/3/90-2.

<sup>51</sup> *CSPC*, IX, no. 987.

<sup>52</sup> Representation of the lords of trade to the privy council, 13 November 1677, CO 138/3/91.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

An order in council three days later identified the key component of the legislative scheme the lords of trade intended to impose.<sup>56</sup> The order provided that the lords of trade draft “a law for establishing a perpetual revenue in Jamaica for the support and maintenance of the government there,” along the lines of a bill that Vaughan had succeeded in passing two years previously, but without objectionable phrasing and restrictions.<sup>57</sup> This was the other piece of the puzzle to ensure effective royal government in Jamaica. The application of Poynings’ Law would prevent the assembly from legislating of its own accord, while the establishment of a perpetual revenue would remove the crown’s need to depend on that assembly’s periodic levying of taxes. The metropolitan authorities’ desires for Jamaican governance would consequently meet with no effective interference from an assembly stripped of power. The Jamaicans would be taxed and governed, but not represented.

The lords of trade foresaw some level of resistance, but most of them evidently viewed the prospect without trepidation.<sup>58</sup> Either the resistance would not be strong enough to prevent the passage of their legislative program when first put to the assembly, or it could be broken by a second and more awesome deployment of the authority of the crown. Even if their gambit failed, the upside was worth the risk. True, royal prestige would be tarnished if the Jamaicans successfully rejected Poynings’ Law, and all the other colonies would take note. However, if Poynings’ Law became the frame of government for Jamaica, the crown stood to win much more. Not only would it gain income, prestige, and freedom of action in one colony, but it could use Jamaica as a model or a threat for the other colonies under its authority. The policy of

<sup>56</sup> Though they were quite clearly concerned as well about the saving clause in the militia bill, it did not warrant a separate order in council.

<sup>57</sup> Order in council, 16 November 1677, CO 138/3/94.

<sup>58</sup> Webb, *The Governors-General*, 282.

“increasing imperial control over transatlantic colonies” would receive a tremendous substantive boost.<sup>59</sup>

However, the lords of trade had embarked on this policy almost wholly ignorant of actual conditions in Jamaica. Without firsthand experience of the colonies, they had relied principally on the acts transmitted to them and a few letters from governors to form their impressions. Carlisle, who owned a plantation in the island and had regular correspondence with Jamaicans, was the only member of the committee with fuller knowledge of the colony. He was best placed to appreciate the truth of Thomas Lynch’s 1671 remark that “the people here look on it as [...] their Magna Charta that they shall be governed according to these municipal laws and those of England, and not have anything imposed on them but by their own consents.”<sup>60</sup> Moreover, though the rest of the lords of trade could launch their salvos from the heights of the prerogative, Carlisle had to engage the Jamaicans face to face to implement the crown’s measures.

He had therefore sought to persuade his fellows to allow the Jamaicans to continue to “have liberty to raise money in the king’s name for the use of the said island,” to ensure that he could secure funds in the likely event the Jamaicans refused to acquiesce to the crown’s measures.<sup>61</sup> But the lords of trade flatly rejected his request as inimical to the prerogative. Carlisle also applied to have some ability to make minor changes in the laws to ease their passage, but was again rebuffed.<sup>62</sup> Carlisle therefore sailed for Jamaica with no compromise in

<sup>59</sup> Swingen, *Competing Visions of Empire*, 100.

<sup>60</sup> Sir Thomas Lynch, “The Present State of the Government of Jamaica, under his Majesty’s Governor and Commander in Chief of the said Island Sir Thomas Lynch, Knight, this 20<sup>th</sup> August 1671,” CO 138/2/7.

<sup>61</sup> Carlisle’s propositions to the lords of trade, 10 November 1677, CO 138/3/89.

<sup>62</sup> *Ibid.*

hand, no ability to make a compromise when he arrived, and no power to compel the Jamaican assembly to vote itself into irrelevance.

The difficulty of Carlisle's situation only became clearer once he informed the Jamaicans "that the laws which were to be made for the future were to be made like as they are made in Ireland."<sup>63</sup> He wrote to Henry Coventry, secretary of state for the south, in August of 1678 that some of the council were "much dissatisfied at the alterations in the laws and manner of passing them."<sup>64</sup> Nor did he have a persuasive case to present to the Jamaican elite. The best substantive argument he could muster in September, when he met the assembly, was that since the Jamaicans "were under great obligations to his Majesty for his particular care and extraordinary charges in maintaining this island [...] he hoped it would oblige us to such suitable returns as his Majesty might be pleased with."<sup>65</sup> This appeal to the Jamaican elite's sense of duty and gratitude did not outweigh their fear and outrage at the prospective loss of their rights as Englishmen. Nor did Carlisle hide his own resignation and half-heartedness from the assembly, remarking that "the restraint that both he and we lie under in the new laws he brought over cannot be altered, for that he had no power to do it, but should be glad if he had."<sup>66</sup> It was no surprise, therefore, that Carlisle noted that the assembly were also "so dissatisfied with the alterations in the government that I question whether they will pass any of these laws."<sup>67</sup>

<sup>63</sup> Carlisle's speech to the assembly of Jamaica, 2 September 1678, BL Add. MSS 12429, f. 163.

<sup>64</sup> Carlisle to Coventry, 14 August 1678, CO 138/3/132. The secretary of state for the southern department was the minister immediately responsible for the American colonies.

<sup>65</sup> *Ibid.*, 163.

<sup>66</sup> Carlisle's speech to the assembly of Jamaica, 2 September 1678, 164.

<sup>67</sup> Carlisle to Coventry, 11 September 1678, CO 138/3/134. Not only had the expected complaints emerged, but there was also distinct objection to the form of the militia act, which the council felt "[made] it legal to execute all instructions that either are or shall be sent to me, or any other succeeding governor," and therefore might permit any governor to act arbitrarily if the king willed it so.

Of those laws, “the first would be the act of the revenue,” and it immediately encountered difficulties.<sup>68</sup> Though Carlisle had disingenuously suggested that the bill was primarily intended to pay off debts arising from fort construction, the assembly quickly noticed that it “differ[ed] from all the former” revenue bills in nearly every respect.<sup>69</sup> Most worrying was the bill’s perpetuity, which the assembly feared would make it susceptible to “be formed or diverted to other uses.”<sup>70</sup> The colonial executive’s dependence on the assembly for repeated grants of funds was a cornerstone of the assembly’s defense of the rights of Englishmen and their own material interests. If the governor became fiscally independent of the legislature, the assembly could not restrain any arbitrary actions on his part, rein in corruption, or exert leverage to secure his consent to bills they wanted. Practically all of the Jamaican elite, whether planter or privateer, had a distinct interest in making sure this never happened. Led by William Beeston as speaker, John Colebeck, Samuel Barry, Samuel Bernard, and Peter Beckford senior, the assembly therefore threw the revenue bill out on 25 September, despite Carlisle’s continued lobbying. They then threw out the militia bill, with its objectionable saving clause, and all the rest of the bills Carlisle had brought over the course of the next few days.<sup>71</sup>

The metropolitan authorities’ program had failed in scarcely three weeks. Dissolution of such a recalcitrant assembly would probably have been, in their view, the logical next step. That, however, Carlisle could not afford to do. Vaughan had failed to pass a short-term revenue act before leaving the island in 1677, and so Carlisle found himself with an empty treasury and no

<sup>68</sup> Heads of the earl of Carlisle’s speech to the assembly, 2 September 1678, *JAJ*, I, 23. This contradicts Webb’s assertion that the crown had sent over “a code of laws headed by a militia act.” Webb, *The Governors-General*, 281.

<sup>69</sup> *JAJ*, I, 26.

<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid.*, 32-3.

authority to fill it.<sup>72</sup> If he wanted his salary, and any recompense for the expenses of government, he would have to ignore the theoretical imposition of Poynings' Law and get the assembly to pass a revenue bill. He sought a long-term bill, but the assembly refused, "from a fear that if they should have made it perpetual, they should be assembled no more, but be governed by governor and council, as they were in Col. Doyly's time."<sup>73</sup> The last clause was crucial. Save for those few lucky enough to be on the council, the Jamaican elites had direct experience of taxation without representation, and government by decree. And now they were "of a better understanding than to give the reins out of their own hands."<sup>74</sup> The assembly therefore first used the time granted by Carlisle's needs to organize their reasons against the new frame of government. Then they passed a one-year revenue bill on 11 October, whereupon Carlisle promptly dissolved them.<sup>75</sup>

By the time of the dissolution, Carlisle believed that the opposition to Poynings' Law had reached a dangerous pitch. The rejection of the perpetual revenue bill, he believed, was "a mark of their disallowing the new method of government," and the Jamaican elite were "so highly incensed that they were near questioning the king's power and authority to do it."<sup>76</sup> Carlisle was particularly angry with Samuel Long, now a councilor and chief justice. Long had not only held that "it was against law and justice to [...] subject her [Jamaica] to any form but that of England, which is an Englishman's birthright," but had broken his promise to Carlisle not to say so

<sup>72</sup> Carlisle to Coventry, 24 October 1678, CO 138/3/150; William Beeston, "A journal kept by Col. William Beeston from his first coming to Jamaica," BL Add. MSS 12430, f. 67.

<sup>73</sup> Carlisle to Coventry, 24 October 1678, CO 138/3/150.

<sup>74</sup> *Ibid.*

<sup>75</sup> *JAJ*, I, 36-40.

<sup>76</sup> Carlisle to Coventry, 24 October 1678, CO 138/3/149.

publicly.<sup>77</sup> Long was the most prominent of a group of several men, including Colebeck and the councilor Thomas Freeman, who had “arrived with the army in 1655 [and] end[ed] up among the island magnates,” and now were among the leaders of the resistance to Poyning’s Law.<sup>78</sup> Carlisle may well have feared they, with their Roundhead history and sympathies, formed the core of a true antimonarchical opposition.<sup>79</sup>

Carlisle therefore demanded that each councilor and assemblyman either acknowledge the king’s power or repudiate the prerogative by answering the question “do you submit to this frame of government, which his majesty hath been pleased to order for this island of Jamaica?”<sup>80</sup> Carlisle ultimately won affirmation from all of them, though often “neither [...] clear nor cheerful,” but only after he had suspended Long and threatened others.<sup>81</sup> The response also revealed that much of the council had united with the assembly, traditionally their institutional foes, in opposition to the crown’s measures. The council would retain their judicial function as the last court of appeal within the island, and their role as advisors to the governor. But they too would lose deliberative legislative power, which was an essential part of their prestige and

<sup>77</sup> *CSPC*, X, no. 1512. This element of the substance of Carlisle’s dislike for Long only came out two years later, when Carlisle presented his charge of treason against Long in 1680 before the lords of trade.

<sup>78</sup> Dunn, *Sugar and Slaves*, 175-6. I have followed Webb in presuming the assemblyman Samuel Barry to be the son of the Cromwellian colonel Samuel Barry, and not the latter man himself. Webb, *The Governors-General*, 298.

<sup>79</sup> Henry Morgan had argued as much already in May 1677, calling the assembly “‘some Commonwealth Spirits that do what they can to lessen his Majesty’s prerogative & ye honour of his government & governor.’” Qtd. in Swingen, *Competing Visions of Empire*, 101.

<sup>80</sup> *Ibid.* The phrasing was slightly different in the two questions; I have used the phrasing as it was put to the assembly.

<sup>81</sup> Carlisle to Coventry, 24 October 1678, CO 138/3/151. This was the extent of Carlisle’s coercive efforts. Webb argues that Carlisle “had neither used the absolute authority of his commission nor employed his military might to coerce the colonists to assent to the new model” because he had “promised that, as a matter of principle, he would not do so.” I suspect, however, that Jamaica’s “forty-five hundred officers and men” of the militia against Carlisle’s two understrength and underpaid companies of foot—both facts sourced from Webb—might have had something to do with Carlisle’s reluctance as well. Webb, *The Governors-General*, 279, 282, 289.

authority as an institution. They had little more reason to support Poynings' Law than did their elected colleagues in the legislature.

Carlisle told Coventry that "some [were] much dissatisfied" with his actions, and understandably so.<sup>82</sup> After all, he had displayed the exact kind of high-handedness on behalf of the prerogative that the Jamaican elite feared Poynings' Law would bring. Resentment of Carlisle's behavior was likely to be longer-lasting than whatever pacification he had temporarily achieved. Nor would the Jamaican elite necessarily consider themselves bound to submit as they had sullenly promised. Like their Spanish counterparts, who could obey without complying, the Jamaican elite were quite capable of the rhetorical gymnastics required to acknowledge the king's right in theory while denying it in practice.

The assembly had laid out that case for obedience without compliance in their 4 October address to Carlisle. They asserted that there was "nothing that invites people more to settle [...] this remote part of the world than the assurance they have always had of being governed in such manner that none of their rights should be lost, so long as they were within the dominions of the kingdom of England."<sup>83</sup> The 1661 proclamation had indeed been calculated for exactly that end.<sup>84</sup> Now, however, the imposition of Poynings' Law would strip White Jamaicans of "a deliberative power in the making of laws," leaving them only with "the negative and barely resolving power [...] not according to the rights of Englishmen, and practiced nowhere but in those commonwealths where aristocracy prevails."<sup>85</sup> In consequence, Jamaica would "disappoint

<sup>82</sup> Carlisle to Coventry, 24 October 1678, CO 138/3/151.

<sup>83</sup> Address of the assembly of Jamaica to Carlisle, 4 October 1678, *JAJ*, I, 36.

<sup>84</sup> Newman, *Dark Inheritance*, 50-1.

<sup>85</sup> Address of the assembly of Jamaica to Carlisle, 4 October 1678, *JAJ*, I, 37.



those hopes which his majesty hath ever had,” as the loss of English rights would not only discourage future immigrants, but encourage people to leave the island for more politically salubrious climes.<sup>86</sup> However, if Jamaica were “encouraged by good government and wholesome laws [...] it will effectually serve very many interests, both of his majesty’s crown and of the nation’s trade.”<sup>87</sup> The assembly had not explicitly argued that the king could not exercise his rights. But they had argued that Poyning’s Law violated their own rights, and that it harmed the material interests of all parties, therefore implying that the lords of trade could safely retreat from it without any harm done.

To ease the path of retreat for the metropolitan authorities, the address also presented the characteristic alternative in seventeenth-century English political culture to direct criticism of the king: “extol[ling] the king’s righteousness while condemning the officers’ culpability.”<sup>88</sup> The assembly expressed their gratitude in the address for “the princely care which his majesty hath been ever pleased to have” of Jamaica. But they argued that the king would never have imposed Poyning’s Law on them “had he been truly informed of his own interests.”<sup>89</sup> Instead, they contended, “the false colors of interest and design” had obscured “that which at a great distance is impossible to be known.”<sup>90</sup> Ministers less interested in confrontation, or perhaps the king himself, could safely pin the blame for the Poyning’s Law project on overzealous officials, and then affairs could return to the prosperous situation of the mid-1670s.

<sup>86</sup> Address of the assembly of Jamaica to Carlisle, 4 October 1678, *JAJ*, I, 37.

<sup>87</sup> *Ibid.*

<sup>88</sup> Morgan, *Inventing the People*, 28-9.

<sup>89</sup> Address of the assembly of Jamaica to Carlisle, 4 October 1678, *JAJ*, I, 36-7.

<sup>90</sup> *Ibid.*, 37.

Carlisle had a different solution to the conflict in mind. He had “met with the difficulties here I foresaw, but could neither avoid nor prevent in England,” but could not change course without orders from London.<sup>91</sup> But he did have some sympathy with the Jamaican elite’s position. He informed the lords of trade that “the present form appointed for the making and passing of laws, considering the distance of the place, is very impracticable, besides very distasteful to the sense of the people.”<sup>92</sup> To settle Jamaica on a firmer footing, he had worked with several Jamaican notables—most prominently the assemblyman Charles Atkinson—to formulate a new set of draft laws, which he dispatched with Atkinson to England.<sup>93</sup> They included a new declaratory act and a revenue act appropriating the king’s quit-rents to the island, suggesting Carlisle appreciated some part of the Jamaican elite’s concern for their rights and their fears over the diversion of the revenue.<sup>94</sup> Carlisle asked for instructions to call a new assembly, which would give him the flexibility to negotiate with the Jamaicans, and thereby “order the matter to conclude effectually to his majesty’s service.”<sup>95</sup> Carlisle had evidently decided that compromise was preferable to continued conflict, probably not least because he would never get any money from the assembly for his own use until the situation was resolved.<sup>96</sup>

<sup>91</sup> Carlisle to lords of trade, 24 October 1678, CO 138/3/145.

<sup>92</sup> Carlisle to lords of trade, 15 November 1678, CO 138/3/146.

<sup>93</sup> *Ibid.*, 147.

<sup>94</sup> Carlisle did not refer specifically to the laws in his letter, but the presence of these two is revealed by the report of the lords of trade to the privy council on the matter some months later. See *CSPC*, X, no. 954.

<sup>95</sup> *Ibid.*

<sup>96</sup> Swingen argues that “Carlisle, realizing he was fighting a losing battle, chose to strike a deal with the colonists: if the assembly passed a temporary revenue bill, he would make sure their case was heard in England.” This is certainly quite possible, but I think it goes beyond what the evidence strictly supports. Swingen, *Competing Visions of Empire*, 115.

However, despite his dispatch of the declaratory act, Carlisle minimized and derided the rights-based opposition to Poyning's Law. His gloss on the assembly's address mentioned not a word of that document's complaints about the loss of the rights of Englishmen. Moreover, in writing to Coventry, he had dismissed Jamaican arguments about their rights by noting that "popular discourses prevail here as well as in England," and so "the leading men of the assembly rather set themselves to frame arguments against the present constitution, than to accommodate things under it."<sup>97</sup> By associating principled resistance to Poyning's Law with popularity, Carlisle implied that those who professed the principle affected it to seize political advantage, and predisposed the metropolitan authorities against the "leading men of the assembly." Carlisle was certainly correct to say that performative concern for the rights of Englishmen could endear assemblymen to the electorate, and secure a basis of popular support for resistance to Poyning's Law. The mere fact of performance, however, did not preclude either the assemblymen or the electorate from sincerely believing that Poyning's Law would trample on those rights.<sup>98</sup>

Carlisle's misrepresentation to the lords of trade was thus a product of unconscious biases and conscious choices both. Unconsciously, his sympathy for the Jamaican elite ended where their resistance to the idea of the king's authority began. Furthermore, as a member of the English elite, he would have been as horrified by popular appeals as those to whom he was writing. Consequently, he probably did genuinely regard some of the Jamaicans' ideological opposition to the crown's measures as illegitimate and pretended. Consciously, Carlisle was well aware that the lords of trade were unlikely to be swayed by any but practical considerations.

<sup>97</sup> Carlisle to Coventry, 11 September 1678, CO 138/3/135. Carlisle particularly blamed Long, whom he said was "more faulty in this than any man in the island."

<sup>98</sup> Particularly, it seems implausible that the Jamaican electorate would have preferred a transfer of power from people whom they could hold to account to those whom they could not.

Moreover, he was trying to push a compromise of his own design. He had simultaneously to convince the lords of trade that resistance to their measures was too great to be overcome, that his measures would meet with acceptance, and that preferring the latter to the former would be no great loss to the prerogative. His emphasis on the impracticality of Poynings' Law as the major obstacle and his characterization of the rights-based opposition as the work of a few insincere ringleaders served those ends. Since he was, as the governor, the lords of trade's primary source of information on the colony, he thereby handicapped their understanding at a crucial juncture.

### *The First Response in London*

Domestic political priorities, however, precluded the lords of trade from making any rapid determination on either Carlisle's or the assembly's proposed solutions. While Carlisle was failing to convince the assembly to accept Poynings' Law, the popish plot was occupying the minds of the king's ministers and the privy council. In fact, Titus Oates testified to Parliament only a single day before Carlisle wrote to both Coventry and the lords of trade to inform them of his dissolution of the Jamaican assembly. Coventry therefore wrote Carlisle on 16 November 1678, in response to the latter's letter of 14 August, that the issue of the plot was delaying all business, and that "we must be out of this disorder before we can maturely resolve anything."<sup>99</sup> It was not until 28 March 1679, seven months after Carlisle had first described the resistance to Poynings' Law, that Coventry could inform him that the privy council had considered Jamaican affairs. By that point, the Commons had impeached Danby, the inspiration of the new centralizing colonial policy, and had overridden the king's pardon for Danby's offenses. The proponents of the royal prerogative were very much on the defensive. Coventry therefore

<sup>99</sup> Coventry to Carlisle, 16 November 1678, BL Add. MSS 25120, f. 132.

cautioned Carlisle that “till we can come to some settlement in our new parliament, it is morally impossible to take any steady measures.”<sup>100</sup>

The lords of trade finally made a preliminary report on 2 April 1679 to the privy council, in which they rejected Carlisle’s suggested compromise, taking especial offense at the quit-rent and declaratory acts.<sup>101</sup> They returned on 4 April to recommend that the Jamaicans should be warned that “unless they consent to the laws transmitted thither, the king will govern the island according to the commission formerly given to Colonel Doyly and others, and reduce all things to the first principles of that government.”<sup>102</sup> This was a threat to revert to government without any assembly whatsoever, and an even more strenuous attack on the Jamaicans’ rights as Englishmen than the imposition of Poynings’ Law. In the circumstances, it was not surprising that the full privy council were unprepared to go that far. They instead simply stated that there was “no reason why any alteration should be made in the method of making laws according to the usage of Ireland.”<sup>103</sup> Coventry was to inform Carlisle that a more extensive justification for that position would be forthcoming at a later date. In the meantime, the privy council authorized Carlisle to continue the laws passed in Vaughan’s time by proclamation, to avoid literal lawlessness in the island.

<sup>100</sup> Coventry to Carlisle, 28 March 1679, BL Add. MSS 25120, f. 138. Swingen claims that “in spite of the apparent distractions of the Popish Plot and the growing movement for Exclusion, the lords of trade began an investigation into Jamaican affairs as soon as they learned of Jamaica’s recalcitrance in the spring of 1679.” See Swingen, *Competing Visions of Empire*, 116. This is a slight exaggeration. Carlisle had described the initial resistance in letters that had arrived in London in fall 1678 and winter 1679, but the lords of trade took no action beyond making a firm recommendation that Carlisle adhere to the militia bill as written. Moreover, I see no need to disbelieve the explicit assertions of the historical actors themselves on this point.

<sup>101</sup> *CSPC*, X, no. 954.

<sup>102</sup> *CSPC*, X, no. 960.

<sup>103</sup> Order in council, 4 April 1679, CO 138/3/152.

The lords of trade presented their full report to the privy council six weeks later, on 28 May. They had entered into a vigorous debate on the report on 22 May, “and by reason of their disagreement in their opinions agreed to present the same unto his majesty (without signing).”<sup>104</sup> This was a most unusual step. It indicated both that the issue was important enough to provoke contention, and that some of the lords of trade, like the privy council on 4 April, had doubts about the wisdom of escalating the confrontation—for that is exactly what the report did.

Most of the report was taken up with forceful rejections of the objections the lords of trade understood the Jamaican elite to have made. The lords of trade claimed Jamaican scruples about the militia bill were aired with “the greatest presumption,” since “the sole supreme government, command, and disposition of the militia [...] is residing in your majesty.”<sup>105</sup> Jamaican opposition to the revenue bill “hath as little ground,” especially since it was “not suitable to the duty and modesty of subjects to suspect your majesty’s justice or care for the government of the colony [...] carried by your majesty’s tender regards and by the great expense of your own treasure.”<sup>106</sup> The lords of trade also dismissed the impracticality complaint, asserting that “nor is it likely that this colony is subject to greater accidents than your kingdom of Ireland,” blithely eliding the difference between a round trip of some seven hundred miles with one of nearly ten thousand.<sup>107</sup> There was no sympathy here for the Jamaican elite’s arguments, nor any hint that the lords of trade were prepared to resolve the crisis through compromise.

<sup>104</sup> Memorandum of the lords of trade, 22 May 1679, CO 138/3/156.

<sup>105</sup> Representation of the lords of trade to the king, 28 May 1679, CO 138/3/158.

<sup>106</sup> *Ibid.*, 158-9.

<sup>107</sup> *Ibid.*, 159.

Instead, the lords of trade sought to justify harsher measures. They reminded the king and council that “the assembly have endeavored to grasp all power,” and in so doing “entrenched upon your Majesty’s prerogative, and exceeded the bounds of their duty and loyalty,” particularly in their actions under Vaughan.<sup>108</sup> Poyning’s Law had been intended “to put a restraint upon these enormities, and to take the reins of government into your own hands,” but “against their duty and allegiance,” the assembly had rejected it.<sup>109</sup> The lords of trade argued that the Jamaicans had no right to reject any frame of government the crown imposed, nor indeed any “farther privileges than have been granted to them” by royal action. But now, in their determination to preserve the powers of the assembly, the Jamaican elite were “pretending a right to that which hath been allowed them merely out of favor.”<sup>110</sup> This could not be tolerated, especially since “your majesty’s resolutions in this case are like to be the measure of respect and obedience to your royal commands in other colonies.”<sup>111</sup> The lords of trade therefore reiterated their recommendation of 4 April that Carlisle should call a new assembly, who would either accept Poyning’s Law or see the assembly wiped out of the constitution of Jamaica. This time, the king and council accepted the lords of trade’s report, and Carlisle was instructed to “govern himself accordingly to their Lordships’ opinion.”<sup>112</sup>

The lords of trade, in seeking to win the confrontation with the Jamaican elite, had made some extraordinary assertions, with equally startling implications. The Jamaican assembly, they had made plain, was not in their view a natural outgrowth of the rights of Englishmen, but

<sup>108</sup> Representation of the lords of trade to the king, 28 May 1679, CO 138/3/160.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid., 161.

<sup>111</sup> Ibid.

<sup>112</sup> Order in council, 28 May 1679, CO 138/3/162.

merely a privilege granted by the king's favor. Nor was it a privilege with any durability, for the king might issue new instructions at any time that could abrogate it. Indeed, the king was not bound to extend the Jamaicans any degree of representative self-government whatsoever. He could remodel the government as he chose, "according to the power your majesty had originally over them" as a result of the English conquest of the island.<sup>113</sup>

Denying the Jamaicans representative self-government deprived them, in their view, of a right inherent in Englishmen, and therefore attacked a cherished part of their identity.<sup>114</sup> But the danger did not stop there. The lords of trade's insistence that the island's entire constitutional structure was merely "temporary and for probation" must have been chilling. All White Jamaicans relied on the 1661 royal proclamation for legal surety that they still enjoyed their rights as Englishmen, and now the crown had informed them that none of its grants were irrevocable. They might well have asked themselves if due process were next on the block, and the 28 May order in council would have unsettled, rather than reassured them. The lords of trade had therefore thoroughly foreclosed on the possibility of compromise, by launching a full-scale rhetorical assault not only on the Jamaicans' assembly, but also on the very concepts that assembly both embodied and defended. Bitter and unyielding Jamaican resistance to the orders of the lords of trade, and thereby the privy council and the king, was assured.

There were two bright spots that might encourage that resistance. The first was that even the lords of trade still evidently preferred securing the consent of the Jamaican assembly to

<sup>113</sup> Representation of the lords of trade to the king, 28 May 1679, CO 138/3/161.

<sup>114</sup> It is also logically possible that the lords of trade believed that they could bar the Jamaicans from having an assembly because Englishmen did not have an inherent right to representative self-government. Their queries to the attorney and solicitor general of 11 March 1680, however, suggest they preferred the "Jamaicans did not enjoy all the rights of Englishmen" argument; see CO 138/3/197-9. And even if the documentary evidence did not exist, it would still seem highly unlikely that the lords of trade would have espoused this position, which would have been extremely difficult and dangerous to defend.



imposing a new frame of government by decree. That preference gave the Jamaican elite time, and perhaps some hope that the metropolitan authorities would see the need to obtain consent in Jamaica for any major changes to the island's government. The second was that the king's letter to Carlisle of 31 May, conveying his new orders, ameliorated the lords of trade's position. Carlisle was enjoined to call a new assembly and propound the laws to them once more, and "if they should still persevere in their refusal, you will act according to the powers of your commission and instructions, or in other cases by the advice of your council."<sup>115</sup> Notably, Carlisle was not explicitly authorized to behave as Doily had done, leaving it unclear whether Carlisle could make laws with the simple advice of the council. That ambiguity was probably deliberate, showing a degree of pragmatism about the Poyning's Law crisis in the full privy council that the lords of trade did not display. If legislation by decree in Jamaica worked, then the crown would be satisfied. If it did not, then the crown could disavow Carlisle's actions and force him to shoulder the blame for violating the rights of Englishmen. The opportunity was there for Jamaican resistance to make the difference, while Carlisle's situation had become even more uncomfortable.

#### *Carlisle under Pressure*

Carlisle had received the 4 April letter, but not that of 31 May, when he called an assembly for 19 August 1679, using the power granted him in an emergency.<sup>116</sup> The revenue was in dire straits, with the bill he had passed the previous year proving unequal to the task, and about to expire in any case. His government's expenditure had outrun its income by over a thousand pounds, he wrote Coventry, "so that I am very much straitened in my condition of

<sup>115</sup> *CSPC*, X, no. 1011.

<sup>116</sup> *JAJ*, I, 41.

living here, where everything but fruit is at excessive rates.”<sup>117</sup> Carlisle went on to say “that which much aggravates my private wants is the great arrear for the two companies of foot established here upon the king’s pay, for which arrears the people’s impatience grows greatly upon me.”<sup>118</sup> With the governor feeling the pinch, and the paltry armed forces on the island practically destitute, there was no choice but to turn to an assembly—exactly the situation the metropolitan authorities’ imposition of Poynings’ Law had been designed to avoid.

Carlisle recognized that he could not force through Poynings’ Law. He therefore asked the assembly only for a revenue bill of eighteen months’ duration, and informed them that he had already dispatched the councilor Francis Watson to England “to negotiate for us the ancient form of making laws.”<sup>119</sup> The bill needed to span eighteen months because Carlisle intended to follow Watson and attempt the negotiation himself, and there would be no legal way to call an assembly while he was gone.<sup>120</sup> However, the assembly held substantial leverage over Carlisle. If he wanted his revenue bill, he would have to make concessions.

The assembly swiftly made their demanded price clear. A committee led by Samuel Bernard called the receiver general before them to review his accounts without first asking the governor. The full assembly resolved to raise and appropriate a revenue for only six months, to be paid to their own collector, and not to the receiver general.<sup>121</sup> The bill also included a tax preference for Jamaican to English shipping, and made express provision for taxing imports from

<sup>117</sup> Carlisle to Coventry, 15 September 1679, CO 138/3/178.

<sup>118</sup> *Ibid.*

<sup>119</sup> *JAJ*, I, 43.

<sup>120</sup> *Ibid.*

<sup>121</sup> *Ibid.*

France as if that trade were legal.<sup>122</sup> Carlisle at first sought to resist these demands, as did the council. But the assembly refused to allow the council to amend a money bill, in line with the Commons' resolutions of 1671 and 1678, and asserted "their undoubted and inherent right" to appropriate the revenue and examine the accounts.<sup>123</sup>

Faced with an assembly determined to press its advantage, and under the grave necessity of securing money, Carlisle sacrificed the interests least allied to his own. On 29 August, he passed the revenue bill as the assembly had framed it, and then ended the session. The tax provisions were clear violations of the navigation acts and English material interests, but neither had any negative impact on Carlisle himself. Meanwhile, the assembly's appropriating the money, examining the accounts, and appointing a collector were all infringements on the governor's and the crown's rights as understood by the metropolitan authorities.<sup>124</sup> However, Carlisle needed money far more than he cared to defend his rights or those of the crown, especially since he had already resolved to lobby against Poyning's Law in England. The six months' duration of the act probably made it easier for Carlisle to justify his consent to the assembly's constitutional aggression, but he had allowed a precedent to be set. The Jamaican elite, for their part, had adroitly exploited the distance between the lords of trade's uncompromising position in London and Carlisle's necessities in Jamaica to win a real, if temporary, victory for their own interests.

Then, in September, Carlisle received his new commands from London to press for Poyning's Law. Though he now knew that the metropolitan authorities lacked both interest in his

<sup>122</sup> Lords of trade to Carlisle, 16 January 1680, CO 138/3/182, details these elements of the bill as complaints against it.

<sup>123</sup> *JAJ*, I, 45-6.

<sup>124</sup> *Ibid.*, 43.

compromise and understanding of his difficulties, he nevertheless wearily undertook to put the laws to the Jamaicans once again when the assembly reconvened. However, he cautioned the lords of trade that he found “the same averseness as formerly.”<sup>125</sup> Furthermore, the Jamaican elite now deployed a new argument against Poyning’s Law, declaring that they would “submit to wear, but never to make chains, as they term this frame of government, to their posterities.”<sup>126</sup> Grotesque though this phrasing was in the mouths of literal slaveholders, the argument was a reconciliation of the two warring imperatives the Jamaican elite felt. On the one hand, they owed the king deference and obedience, but on the other hand, they prized their rights as Englishmen. The new formula allowed them simultaneously to proclaim a willingness to accept the royal will in the present, to continue to resist its permanent imposition for the future, and to affirm that the crown was violating their rights. It also allowed the Jamaican elite to cast their opposition as even more noble-minded than a simple defense of the rights of Englishmen, by claiming that their real concern was for the rights of generations of Englishmen not yet born.

They were also apparently ready to resist Carlisle’s more contentious instructions. Carlisle wrote Coventry on 15 September that his new instructions would force him “by my order and the council’s [to] keep the revenue on foot [...] of which some will make great opposition.”<sup>127</sup> The Jamaican elite had already petitioned Parliament against the Royal African Company’s monopoly, “hop[ing] to take advantage of the perceived weakness of the royal prerogative at home” to secure their material interests.<sup>128</sup> They had further threatened to make an

<sup>125</sup> Carlisle to lords of trade, 15 September 1679, CO 138/3/173-4.

<sup>126</sup> *Ibid.*, 174.

<sup>127</sup> Carlisle to Coventry, 15 September 1679, CO 138/3/177.

<sup>128</sup> Swingen, *Competing Visions of Empire*, 116.

“address to the Commons of England who, tis reported here, were about making an act to punish any levying of money but by consent of Parliament.”<sup>129</sup> That the Jamaican elite were contemplating involving Parliament in the constitutional dispute showed how determined they were to reject Poyning’s Law. Positive encouragement of Parliament’s right to legislate for the colonies in this instance could, after all, be the beginning of the slipperiest of slopes. Perhaps it was for that reason that the Jamaican elite had not committed to involving Parliament in the Poyning’s Law crisis, but had merely threatened to do so.

If they were bluffing, however, it was a bluff Carlisle was happy not to call. He had neither the desire nor the means to enforce revenue collection on resisting White Jamaicans. Their threat of appeal to the Commons allowed him to plead the “hazard [...] being complained of” for having defied Parliament, and thereby plausibly decline to carry out his ambiguous orders.<sup>130</sup> Instead, he implored Coventry to send him “such positive and clear orders as may justify me and the council in our obedience.”<sup>131</sup> Carlisle had refused to accept the latitude the crown had sought to permit him, and had thereby also dodged sole responsibility for exercising “arbitrary power.” He would not use the authority granted to him by the king’s letter of 31 May unless the crown issued him orders that would unequivocally transfer the ultimate blame back across the Atlantic.

Carlisle tried instead to persuade the assembly, once they resumed sitting on 28 October, to pass the body of laws with which he had been sent one more time. The assembly, however, still had no good reason to comply. Carlisle was evidently unwilling to force the old Doyly

<sup>129</sup> Carlisle to Coventry, 15 September 1679, CO 138/3/177.

<sup>130</sup> Ibid.

<sup>131</sup> Ibid.

government upon them, and in any case rule by governor and council would not be enormously different from what was promised by the imposition of Poyning's Law. Moreover, the year-long delay between the assembly's 4 October 1678 address and the beginning of the 28 October 1679 session indicated that there was indeed some value in resistance. Unsurprisingly, after "many pressures from my Lord to pass the laws, and ma[king] as many delays [...] at length the whole body of laws sent from England were by degrees voted against."<sup>132</sup> Nor did Carlisle succeed in passing "a bill of revenue indefinitely" that he and the council had composed, for the assembly threw it out on 14 November, "it not arising in the house."<sup>133</sup>

Instead, a committee that included Barry, Beckford senior, Bernard, and Colebeck drafted an address ostensibly to Carlisle, but in reality aimed at the lords of trade.<sup>134</sup> Carlisle preferred to focus his ire on Long, claiming that the address was "founded greatly on [his] advice," since the assembly "esteem[ed] him the patron of their rights and privileges as Englishmen."<sup>135</sup> Certainly the address to the king the assembly approved on 15 November 1679 gave a vigorous defense of those rights and privileges. Much of the address, in the early modern English tradition, devoted itself to rebutting the lords of trade's rebuttals of the assembly's earlier objections to Poyning's Law. But the assembly also found room to make new arguments against "that Irish model of government" that they "could not imagine [...] was ever intended for Englishmen."<sup>136</sup> In that

<sup>132</sup> William Beeston, "A journal kept by Col. William Beeston from his first coming to Jamaica," BL Add. MSS 12430, f. 73; *JAJ*, I, 48-9.

<sup>133</sup> Carlisle to lords of trade, 23 November 1679, CO 138/3/192; *JAJ*, I, 50.

<sup>134</sup> *JAJ*, I, 50.

<sup>135</sup> Carlisle to lords of trade, 23 November 1678, CO 138/3/192. Long also stood accused by Carlisle of having erased the king's name from the revenue bill when Vaughan was governor.

<sup>136</sup> Address of the assembly of Jamaica to Carlisle, 15 November 1679, BL Add. MSS 12429, f. 184.

vein, the address contended that the imposition of Poynings' Law was contrary to tradition, the proclamations of royal officers and the king himself, and even parliamentary legislation.

First, the assembly rejected the lords of trade's assertion that Jamaica had only "been governed by such instructions as were given by your majesty unto your governor."<sup>137</sup> They informed the imperial authorities that though former governors had indeed called assemblies "by order of his royal majesty," it was done "according to the method of his majesty's more ancient colonies."<sup>138</sup> Between Thomas Modyford's arrival in 1664 and Carlisle's in 1678, the form of government in Jamaica had not changed, "which necessarily infer[s] the goodness and reason of it, as well as the satisfaction of the people."<sup>139</sup> This was an argument inflected by the rights of Englishmen, but based on the deep respect for custom and tradition shared throughout the English Atlantic. The Jamaican assembly, in its relatively brief existence, had conformed to the customs of the other colonial assemblies, some of which could plead several decades' uninterrupted standing. That adherence to tradition had been salutary, for Jamaica's White people were happy and the island prosperous under the customary form of government. Distinguishing Jamaica's assembly from the rest through the imposition of Poynings' Law, however, was a dangerous break from tradition, and to be deplored as contrary to the shared values of the English Atlantic.

Then, the assembly sought to turn the words of royal officers and the king himself back on their authors. The address declared that "they never desired any power but what your Majesty's governors assured them was their birth right, and what they supposed your Majesty's

<sup>137</sup> Representation of the lords of trade to the king, 28 May 1679, CO 138/3/161.

<sup>138</sup> Address of the assembly of Jamaica to Carlisle, 15 November 1679, BL Add. MSS 12429, f. 176.

<sup>139</sup> Ibid.

gracious proclamation assured them also.”<sup>140</sup> In support of this position, the assembly cited the king’s letter on the proceedings in a 1672 pirate trial in Jamaica “signifying your dislike that anything should be done that should cause any doubt in your subjects of not enjoying all the privileges of your subjects of your kingdom of England.”<sup>141</sup> The lords of trade had asserted that White Jamaicans enjoyed only those temporary privileges, including an assembly with deliberative power, that the crown saw fit to grant. The Jamaican elite, by contrast, “partook of a long-standing political tradition celebrating the hereditary birthright of freeborn Englishmen,” an essential component of which was an empowered assembly.<sup>142</sup> In their view, the crown had not granted their rights, but had rather confirmed White Jamaicans in their enjoyment thereof. Therefore, the assembly implied, the crown did not have the legal power to withdraw the rights of Englishmen from the island as it presently sought to do.

Finally, the Jamaican elite contended that the imposition of Poyning’s Law contradicted parliamentary legislation. The Jamaican elite asserted that “the reason the Parliament give in all their Acts which concern the plantations for obliging us” was that they were “all your Majesty’s natural born subjects of your kingdom of England.”<sup>143</sup> If Parliament were to legislate concerning the colonies, the assembly argued, “it is but equity then that the same law should have the same power of loosing as binding,” and that White Jamaicans should be treated as Englishmen.<sup>144</sup> To do otherwise was to forfeit Parliament’s right to legislate for the colonies, and therefore to forfeit

<sup>140</sup> Address of the assembly of Jamaica to Carlisle, 15 November 1679, BL Add. MSS 12429, f. 185.

<sup>141</sup> Ibid. Lynch had tried one Peter Johnson for piracy, in an affair that Hanna remarks “was mismanaged at best and brazenly corrupt at worst, from beginning to end.” Hanna, *Pirate Nests*, 120.

<sup>142</sup> Newman, *Dark Inheritance*, 8.

<sup>143</sup> Address of the assembly of Jamaica to Carlisle, 15 November 1679, BL Add. MSS 12429, f. 185.

<sup>144</sup> Ibid.



the revenues the navigation acts produced for the king and the protections they produced for English trade.

The assembly went one step further in their parliamentary argument. At the end of the address, they declared their “hope [that] their Lordships intend not that we are to be governed as an army, and the governor be empowered to lay any tax by himself and council.”<sup>145</sup> This was the most damaging rhetorical light in which the Jamaican elite could have cast the order in council, implicitly recalling as it did the regime that had executed the king’s father. The Jamaicans then contended that “your Majesty [...] discharged yourself and council, by an Act of Parliament, of any such power over any of your subjects of your kingdom of England, as we undoubtedly are.”<sup>146</sup> And, they warned, “their Lordships well know no derived power is greater than the primitive.”<sup>147</sup> In contravention of the views of the lords of trade, the assembly argued that the royal prerogative could not possibly be any more extensive in the colonies than it was in England. In this instance, an act of Parliament, the highest law of the land, expressly protected them as Englishmen from such actions as the lords of trade had directed Carlisle to take. This lent some force to the threat to petition the Commons concerning the crisis, for not only was the House at present hostile to the ministers, but the assembly could also present evidence of those same ministers overriding and ignoring the will of Parliament.<sup>148</sup>

These arguments in the address were founded upon White Jamaicans’ unequivocal belief that they enjoyed, by birth, all the rights of Englishmen, and that among these was a right to an

<sup>145</sup> Address of the assembly of Jamaica to Carlisle, 15 November 1679, BL Add. MSS 12429, f. 188.

<sup>146</sup> Ibid.

<sup>147</sup> Ibid.

<sup>148</sup> Whether the Commons would have credited the Jamaicans’ line of reasoning here is unclear, but it is certainly true that an evocative argument about the rights of Englishmen and the hostility of ministers thereto could have been made, which was not something the lords of trade were likely to welcome.

empowered assembly. The address, which Carlisle duly forwarded in his 23 November letter to the lords of trade, seemingly left the committee with only one clear avenue of rhetorical attack.<sup>149</sup> They would have to argue explicitly that White Jamaicans were not Englishmen.<sup>150</sup> The only obvious alternative was to withdraw and vindicate the Jamaican elite in their resistance to Poyning's Law. The attractiveness of retreat was considerably lessened by the degree to which both parties had escalated the crisis. Climbing down from those great heights would assure that the humiliation was seen far and wide. Contending that White Jamaicans were not Englishmen, however, was factually dubious, risked releasing the colonists from their obligations to the crown, and might well have a chilling effect on necessary emigration to the sugar islands. Therefore, the lords of trade sought legal advice.

#### *Searching for Solutions*

On 11 March 1680, they directed four queries to the attorney general and solicitor general concerning the crisis in Jamaica. Normally, questions directed to the law officers were leading in the extreme, and the two main queries were no exception. Those two queries were also, however, contradictory in approach, suggesting uncertainty and dissension within the ranks of the lords of trade. The first query asked "whether, from the past and present state of Jamaica, his majesty's subjects inhabiting and trading there have right to the laws of England as Englishmen, or by

<sup>149</sup> Carlisle forwarded an address of the council, also dated 15 November, as well. That address was much milder, eschewing the language of the rights of Englishmen, but even after Carlisle's purge of the council it still firmly opposed Poyning's Law on the grounds of distance and inconvenience. Address of the council of Jamaica to the king, 15 November 1679, BL Add. MSS 12429, ff. 189-91.

<sup>150</sup> Theoretically, the lords of trade could also have argued that the right to representative government did not inhere in Englishmen. This does not ever seem to have been seriously considered, however, and for good reason. It would have been an extremely risky argument to make even with a quiescent Parliament, let alone that of 1680. Moreover, the elite Englishmen who made up the lords of trade probably did believe that representative government was a right of Englishmen, and arguing against it would simply not have occurred to most of them.

virtue of the king's proclamation."<sup>151</sup> Since the lords of trade had already argued for the latter in spring 1679, this question suggested some appetite for a direct confrontation with the Jamaican elite on the definition of "Englishmen." The second query, however, sought to ascertain whether "his Majesty's subjects of Jamaica, claiming to be governed by the laws of England, are not bound as well by such laws as are beneficial to the king by appointing taxes and subsidies for the support of the government, as by other laws which tend only to the benefit and ease of the subject."<sup>152</sup> This argument would accept the Englishness of White Jamaicans, but mirrored the assembly's earlier maneuver in turning the assertion back on its authors. If the Jamaicans wanted Englishness, they would have to bear the totality of its burdens as well as enjoy its benefits. Subsequent queries made it clear that the lords of trade were seeking to apply tonnage and poundage duties, which had been voted to Charles II for life by the Cavalier Parliament, to Jamaica. They would thereby win their perpetual revenue, the foundation for the exercise of the prerogative in Jamaica, without a vote of the Jamaican assembly.

Neither propounded solution, however, was promising. The Jamaican elite would never accept that their rights as Englishmen were determined by a revocable grant from the king. Lynch, the former and future governor, had told the lords of trade as much when they asked him for his opinion in December 1679. The Jamaicans, "being English [...] think they have right to be governed as such," he wrote, "and to have their liberties and properties secured by the laws of England or others of their own making."<sup>153</sup> Vaughan had agreed, noting that "the island seemed to believe that it was their right [...] to be continued under the form of passing laws by the

<sup>151</sup> Queries of the lords of trade to the attorney general and solicitor general, 11 March 1680, CO 138/3/197-8.

<sup>152</sup> *Ibid.*, 198.

<sup>153</sup> *CSPC*, X, no. 1234.

governor, council, and assembly (like the Parliament of England).”<sup>154</sup> Even if the law officers gave the lords of trade a favorable answer to the first query, therefore, two trusted sources had now confirmed to the lords of trade that the Jamaican elite would not acknowledge the superiority of London’s formal legal position. And that would leave the lords of trade back where they started, casting around for some way to browbeat colonial elites into surrendering political power.

The method suggested in the second query, by contrast, might be self-defeating for prerogative government in the colonies. Though that government would be supported by a perpetual revenue, applying parliamentary legislation to the colonies would legitimize and strengthen Parliament’s role in colonial governance. Moreover, enforcing the body of English laws in Jamaica would grant the colonists rights and liberties the lords of trade had denied them in rejecting the declaratory act. The lords of trade clearly envisioned an extremely selective application of the laws of England. But precedent was deeply influential in the English Atlantic, and both colonists and Parliament were generally eager to use it as a springboard to attain new heights of constitutional power. Extending laws across the Atlantic that did not explicitly include the colonies, therefore, might leave the crown worse off than it had been at the beginning of the crisis.

Both solutions to the problem also shared a common difficulty—the question of enforcement. Lynch had already told the lords of trade in December 1679 that if the revenue laws were continued by proclamation, “the judges etc. would quit, and juries constantly give against the officers,” and that “it would be the same or worse if any order went hence to that

<sup>154</sup> Thomas lord Vaughan, “Account of the government of Jamaica,” CO 1/43/319.

purpose.”<sup>155</sup> A sly application of the tonnage and poundage act to Jamaica would certainly face the same obstacle of general concerted noncompliance, to say nothing of any attempt to abrogate the current form of government completely. Nor had any exploitable fissure opened in the Jamaican elite between buccaneers and planters, threatened as they all were with the loss of rights and power. Depriving the Jamaicans of an assembly with the power to check the colonial executive would require coercion from London. And in that, save in the case of actual armed rebellion in Virginia, the crown had shown no interest. Nor, after suppressing Bacon’s Rebellion and contending with the Exclusion Crisis, did it have the means.<sup>156</sup> Yet the lords of trade persisted in believing they could dispatch Jamaican resistance to their measures, if only they could find the appropriate legal silver bullet.

The committee were to be disappointed even in that quest. The law officers were unwilling to commit themselves on any of the lords of trade’s four queries, saying that the queries “were of such difficulty as to deserve the opinion of the judges.”<sup>157</sup> However, the solicitor general, Heneage Finch, ruled that “the word Dominion in the act of tonnage and poundage seems not to include the plantations.”<sup>158</sup> This rendered the lords of trade’s second query pointless, since they desired only to take advantage of existing legislation, not to invite Parliament into making new legislation for the colonies. On the other hand, the attorney general, Creswell Levinz, opined that the Jamaicans had “no right to be governed by the laws of England,

<sup>155</sup> *CSPC*, X, no. 1234.

<sup>156</sup> John Rainbolt notes that the one thousand troops the crown sent to Virginia had cost at least £100,000, which combined with the loss of customs revenue to produce a “shock to the shaky crown finance” of some £200,000 in losses. Rainbolt, “A New Look at ‘Stuart Tyranny,’” 389.

<sup>157</sup> *CSPC*, X, no. 1347.

<sup>158</sup> *Ibid.*

but by such laws as are made there and established by his majesty's authority."<sup>159</sup> This partly supported the lords of trade's position, but not as much as they might have hoped. Levinz's prescription for Jamaican government would still force the metropolitan authorities to win consent in Jamaica for their measures, which they had proven utterly unable to do over the past two years.

Despite this lukewarm reception, the lords of trade continued their quest for an unassailable legal solution.<sup>160</sup> An order in council of 23 June enjoined the law officers and the judges to consider the question of "whether by his Majesty's letter, proclamation, or commissions annexed, his Majesty hath excluded himself from the power of establishing laws in Jamaica, it being a conquered country, and all laws settled by authority there being now expired."<sup>161</sup> William Jones's opinion as attorney general in 1676 in the *Saint George* case supported this implied position, holding that "by his majesty's acquisition of that colony he is absolute sovereign, and may impose what form of constitution [...] he pleaseth."<sup>162</sup> Jones, however, had given no guidance as to what specific rights the king had granted the Jamaicans, or whether they were revocable. The lords of trade now sought confirmation that the king had made no irrevocable grant of representative government, and therefore assurance that he could legislate for Jamaica by decree, by virtue of its status as a conquest of English arms. They also attempted to turn the assembly's resistance to Poynings' Law into a strength, by suggesting that the

<sup>159</sup> *CSPC*, X, no. 1347.

<sup>160</sup> The original two queries were referred to the judges, but there is no evidence they were considered before the lords of trade passed on to a new topic of inquiry.

<sup>161</sup> Order in council, 23 June 1680, CO 138/3/201.

<sup>162</sup> *CSPC*, IX, no. 987.

assembly's recalcitrance had made the imposition of laws by decree absolutely necessary to ensure order.

Caution once again prevailed in London in evaluating this remarkable assertion of the extent of the prerogative in the colonies. No reply to the 23 June order in council survives in the archives, indicating either that the judges' reply was unfavorable, or that they never responded—neither of which would be surprising. Jones gave his opinion in 1676, when the crown's relationship with Parliament was fraying but not adversarial, and when the question of ruling Jamaica by royal fiat was far more theoretical than it was practical. In the summer of 1680, the situation was much different. England was gripped by the Exclusion Crisis, and the crown was readying itself to fight a desperate rearguard action in Parliament in the autumn. Now, the lords of trade had decided to move direct royal rule of Jamaica from thought to action. The policy would have been extraordinarily contentious at the best of times, and in 1680, it was an absolute non-starter.

Further efforts to resolve the crisis thus waited until September, when Carlisle arrived from Jamaica. He had departed in April almost immediately upon receiving the king's leave to do so, and had brought Long, Beeston, and other opponents of Poynings' Law with him, in order to bring a final resolution to the crisis. Long was also to be tried for treason, but the lords of trade, giving a portent of their lack of resolution, essentially dismissed the charge against him within a week.<sup>163</sup> They made a last feeble effort to seize some legal high ground on 14 October. In the presence of the king, they inquired of the chief justice of the common pleas, Sir Francis North, whether the king had “divested himself of the power he formerly had to alter the forms of

<sup>163</sup> *CSPC*, X, nos. 1511, 1517.

government in Jamaica.”<sup>164</sup> North responded unfavorably six days later, but did indicate that the revenue act passed in Lyttelton’s government in 1663 might still be in effect.<sup>165</sup>

The Jamaicans attending the committee objected vociferously. In response, for the first time in the crisis, the lords of trade offered a compromise. Already on 14 October they had suggested that in exchange for a perpetual revenue, the crown might confirm some laws the Jamaicans desired in perpetuity as well.<sup>166</sup> Now the committee determined to make the offer. On 21 October, Long, Beeston, and others were directed to confer with North, “to explain their chief wants to him, whereby they may be induced to pass an act for revenue, to the end that matters may be brought to an accommodation.”<sup>167</sup> The Jamaicans offered a perpetual revenue for the governor’s salary and a seven-year act for the rest of the government’s needs, in exchange for the scrapping of Poyning’s Law and assurance “of the laws of England as concern their liberty and property.”<sup>168</sup> The lords of trade came to their decision on 28 October, and it was confirmed by order in council on 3 November 1680.

By the king’s letter to Carlisle, the governor was once more empowered to call assemblies, and those assemblies were to have “full power and authority, with the advice and consent of yourself and the council, to make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare, and good government of the said island.”<sup>169</sup> Carlisle’s new instructions charged him only with seeking a perpetual revenue act in Jamaica in exchange for

<sup>164</sup> *CSPC*, X, no. 1540.

<sup>165</sup> *CSPC*, X, no. 1550.

<sup>166</sup> *CSPC*, X, no. 1540.

<sup>167</sup> *CSPC*, X, no. 1552.

<sup>168</sup> *CSPC*, X, no. 1559.

<sup>169</sup> Charles to Carlisle, 3 November 1680, CO 138/3/232-3.



royal approbation of laws the Jamaicans desired, though it was privately conceded the revenue act could be for as little as seven years.<sup>170</sup> After vigorously and aggressively defending the prerogative right to change Jamaica's institutions of government, imperial authorities had decided to give up the point. Poynings' Law would never come to Jamaica. By any measure, this was a victory for the Jamaicans, and a humiliation for the lords of trade. The Jamaicans had kept their assembly with its deliberative power, while the lords of trade had shown they lacked either the means or the resolve—and possibly both—to impose their will upon Jamaica.

### *The Meaning of Defeat*

In their ultimately fruitless quest to reform the constitution of Jamaica, the lords of trade had encountered myriad difficulties. Some, like the extreme political paralysis engendered by the Exclusion Crisis, were contingent. Most, however, were constraints that stemmed from the structure of the English transatlantic empire. Of those structural constraints, several were daunting but surmountable obstacles. Others, however, were insuperable barriers to the imposition of Poynings' Law.

The theoretically manageable challenges to Poynings' Law in Jamaica were an interrelated trio: the slow pace of transatlantic communications, the need to act through a governor, and the low priority of colonial affairs in metropolitan political thinking. In the case of the Poynings' Law crisis, none was successfully overcome. The Exclusion Crisis left colonial policymakers unable to compensate for the minimum three-month delay between a letter's departure from Jamaica and a response from London's arrival by formulating proactive and flexible policy. It also deprived the metropolitan authorities of the desire or the means to assert

<sup>170</sup> Instructions for Carlisle, 3 November 1680, CO 138/3/234; Private instructions for Carlisle, 3 November 1680, CO 138/3/236-7.

the prerogative as strongly as the lords of trade would have liked. Meanwhile, Carlisle displayed the agency cost inherent to the relationship between crown and governor by repeatedly preferring his own interests to those of the crown, and by openly exhibiting his doubts about the wisdom of the Poynings' Law policy. The metropolitan authorities, for their part, did not allow him any room for compromise or accommodation, instead insisting that he continue ramming into the brick wall of Jamaican opposition to the crown's measures. However, in the absence of the Exclusion Crisis, with more permissive lords of trade and a more enthusiastic and committed governor, it is possible to imagine a slightly different course of history. Perhaps the lords of trade and the governor could have worked in tandem across the Atlantic to retain the initiative in the struggle, while countering and nullifying the Jamaican resistance to Poynings' Law. Though this sort of effective policymaking was rarely, if ever, implemented in the English Atlantic empire, it was not out of the realm of the possible.

However, even if the lords of trade and Carlisle had overcome these obstacles, there was one that would invariably stymie them. English government, both in the metropole and in the Atlantic colonies, depended upon the consent of at least a significant and powerful minority of the local elite. The imposition of Poynings' Law precluded the possibility of winning that consent in Jamaica. Stripping the Jamaican elite of their deliberative assembly was an open assault on their rights as Englishmen, and therefore on their very identity. Besides Henry Morgan and a few of his cronies, the rest of the Jamaican elite had nothing to gain, and everything to lose, by supporting Poynings' Law.<sup>171</sup> Planter and privateer alike united in defense of their rights as Englishmen, and there was no crack into which Carlisle or the lords of trade could drive an

<sup>171</sup> For Morgan's support of Carlisle, see Webb, *The Governors-General*, 278, 288-9.

effective wedge. Promises of office and threats of prosecution alike paled in comparison before a surrender of the political powers and privileges the Jamaican elite regarded as their birthright.

Without strong minority backing at the least, there was no alternative for the lords of trade. Even the military coercion of Virginia during Bacon's Rebellion had relied upon the presence of constituencies willing to support the crown's measures, which did not exist in Jamaica. Coercion was also extremely expensive for the royal treasury, which ran counter to the consistent "principle of English financial policy [...] that local taxation should bear the full cost of colonial administration."<sup>172</sup> Moreover, coercing a colony not actually in armed rebellion was redolent of that most English bugbear, "arbitrary power." It would have been offensive not only to the sensibilities of the Englishmen in Parliament, who would have to vote the funds, but probably also to many of the Englishmen who were making colonial policy. The lesser solution of having Parliament legislate a revenue for Jamaica would have been self-defeating for prerogative government in the colonies, and ultimately could not have been enforced without coercion, as would the mooted proposal for raising revenue by decree. When the lords of trade dropped Poynings' Law in November 1680, they were therefore not so much making a choice as acknowledging reality.

By ordering the imposition of Poynings' Law on Jamaica in 1677, the lords of trade had attempted a major revision of the transatlantic constitutional status quo. But in the end, and to their great embarrassment, the lords of trade found that they could not achieve even their original aims, let alone substantiate the threats they made as the rhetorical flames raged higher. The Poynings' Law crisis therefore established an outer bound for the conflict between the rights of Englishmen and the prerogative of the crown for the next fifty years. If the metropolitan

<sup>172</sup> Rabushka, *Taxation in Colonial America*, 101.

authorities sought to deprive the Jamaicans of rights fundamental to their self-conception—in this case, effective representative self-government—they would provoke the Jamaicans to unite in defense of those rights. Once the Jamaicans were united in persistent noncompliance, the crown would have no way to convince or compel them to do otherwise. The crown would then find itself in a lose-lose situation, wherein the concession of defeat would mean a loss of prestige and authority throughout its dominions, but so too would every moment the Jamaicans sustained their defiance.

Unsurprisingly, therefore, imperial authorities never again attempted anything as bold as the imposition of Poyning's Law in Jamaica. However, they had learned the bare minimum lesson from the crisis. They had not comprehended the structural difficulties inherent in their governing project, nor had they perceived the long-term fundamental incompatibility of their ideological and material interests with those of the Jamaicans. In consequence, though the metropolitan authorities had learned to avoid the worst outcomes, still they had failed to realize that the prerogative of the crown was unenforceable in the colonies without cooperation and compromise. The conflict would not cease.

## Chapter II

### The Legacy of the Glorious Revolution in Jamaica

Despite the Jamaican elite's successful resistance to Poynings' Law, historians generally agree that the colonists were not able to "revert to their original political autonomy."<sup>1</sup> The crown's legal rights to supervise the colony and review its legislation could not be ignored once the crown had sought to enforce them. However, both elites in Jamaica and the crown "understood the quid pro quo of empire" when they forged a compromise in the early 1680s.<sup>2</sup> The crown received a long-term revenue bill and acknowledgment of its supervisory rights, while White Jamaicans as a whole received long-term confirmation of their previously temporary basic law, and the planter elite secured a cheaper, more regular, and more voluminous supply of enslaved Africans. The amity between crown and colony was disturbed by the autocratic behavior of the duke of Albemarle, governor of Jamaica in 1688, and then shortly thereafter by the Glorious Revolution. But Richard Dunn in particular has argued that in the next decade, the Jamaican planter elite settled into a successful "close union with the mother country" after sidelining the small planters and the plunder faction.<sup>3</sup> In exchange for renewing their respect for the crown's rights and the governor's powers, the Jamaican planter elite received military support, "protection against foreign sugar competition," and confirmation of their political and social superiority in the island.<sup>4</sup> Abigail Swingen, though more skeptical of the level of military

<sup>1</sup> Dunn, "Imperial Pressures," 71.

<sup>2</sup> Swingen, *Competing Visions of Empire*, 126.

<sup>3</sup> Dunn, "Imperial Pressures," 74.

<sup>4</sup> Dunn, "The Glorious Revolution and America," 465.

support provided, agrees that by the 1690s “a concept of mutual dependence and benefit” prevailed in the relations between Jamaica and the crown.<sup>5</sup>

Swingen and Dunn are both quite right to argue that the Jamaican planter elite and Whitehall had worked out an arrangement by 1700 that was much more mutually satisfactory than that of 1677. This historical consensus is, however, thin. Dunn first formulated his conclusions in 1970, restating them in 1972 and then again in 1998.<sup>6</sup> Swingen’s 2015 re-examination, with much fuller consideration given to the role of the African slave trade, is practically the only in-depth published consideration of Jamaican politics in this period since Dunn. Two perspectives, no matter how good the scholarship, are simply not enough. In this instance, they fail to capture an important event to which Agnes Whitson first called attention over ninety years ago—the passage of a perpetual revenue bill in 1688.<sup>7</sup> Albemarle had rammed this bill through an assembly chosen in “the wildest election that Jamaica had known.”<sup>8</sup> Yet, though the bill was won through the “arbitrary power” that Englishmen had expected William III and the Glorious Revolution to consign to the past, the metropolitan authorities determined instead to use it as leverage for an even better revenue bill. The Jamaican elite’s anger and disappointment at this policy, which was the crown’s official stance between 1692 and 1704, fueled strife in the governance of the island for that entire period.

Placing the 1688 revenue bill back at the center of political controversy in Jamaica in this period, I argue, meaningfully reframes our understanding. Crown-assembly relations were better

<sup>5</sup> Swingen, *Competing Visions of Empire*, 166.

<sup>6</sup> In, respectively, “Imperial Pressures,” *Sugar and Slaves*, and “The Glorious Revolution and America.”

<sup>7</sup> Whitson, *Constitutional Development*, 132.

<sup>8</sup> *Ibid.*, 130.

than they had been in 1677-1680. But there was no “imperial constitution of 1681,” nor anything beyond an unstable surface accommodation.<sup>9</sup> Though the crown and the Jamaican elite shared a considerable interest in profits from sugar, the two parties’ material and ideological desires remained otherwise fundamentally opposed. The crown’s conduct in the manner of the 1688 revenue bill made this painfully clear to the Jamaican elite. The crown was evidently determined to exclude them from the understanding of the Glorious Revolution settlement that prevailed in England. Instead, imperial authorities would happily threaten the Jamaican elite’s rights as Englishmen when the lure of fiscal independence for the colonial executive presented itself.

One other element of the transatlantic constitutional conflict also remained unchanged. Even at the peak of the crown’s leverage in 1704, with the Jamaican elite mired in demographic crisis, reliant on royal soldiers for security, and faced with the expiration of their basic laws, the assembly refused to grant that fiscal independence to the crown’s government. They knew still that the power of the purse was the best guardian of their rights and champion of their interests, and would not relinquish it. With no viable alternative to governing the colony save through the cooperation of local elites, the crown had no plausible threat in its arsenal that would sway the Jamaican assembly from that determination. Despite the metropolitan authorities’ efforts to reap the fruits of Jacobite autocracy in Jamaica, they remained incapable as ever of resolving the constitutional stalemate of England’s Atlantic empire.

#### *Jamaica After Poynings’ Law*

The Jamaican elite had defeated the metropolitan authorities’ attempt to alter their constitution wholesale with the imposition of Poynings’ Law. Long, Beeston, and the rest of the Jamaican elite lobbying at court in 1680 then sought reforms of the island’s government that

<sup>9</sup> Webb, *The Governors-General*, 325.

would secure the rights of Englishmen and defend their material interests. Most notably, they wanted a confirmation of the terms of their declaratory act, and a marked reduction of the governor's prerogative powers in civil, judicial, and military matters.<sup>10</sup> However, they could not compel the crown to agree to any of these requests. Webb has argued that "English political change allowed the crown to reject the islanders' impudent assault on its [...] prerogative," since Charles II had successfully weathered the pressure of the Exclusion Crisis by the spring of 1681.<sup>11</sup> It was certainly true that Charles no longer felt it necessary "to avoid the appearance of absolutism" after dissolving the Oxford Parliament, and perhaps the Jamaican elite could have wrung their concessions from the crown if Charles had still felt that pressure.<sup>12</sup> However, in all political circumstances the crown held the useful power of framing commissions and instructions, and the fundamental power of assenting to laws. Simply by doing nothing, the crown could preserve the formal constitutional status quo. Just as the Jamaican elite had resisted the crown's attempt to make unacceptable reforms to their government, so too did the crown resist the Jamaican elite's attempt to do the same.

By 1681, both sides had recognized that they could not impose their will upon the other. Moreover, both the colonists and the metropolitan authorities perceived a path to mutual profit. As Richard Dunn notes, "the big Jamaica sugar planters were anxious to cooperate with Charles II," dependent as they were on "a home market guaranteed by Whitehall and a harmonious

<sup>10</sup> Webb, *The Governors-General*, 307. The Jamaican lobbyists also sought a perpetual guarantee of the assembly.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*, 300. Webb has contended that "the Jamaica controversy had become a widely watched barometer of Anglo-American politics," and that the Jamaican elite were in close cooperation with the Whig leadership in Parliament. This is possible, but Webb's evidence for the latter statement especially is only from the ministry and official documents, which were probably prone to draw more connections between metropolitan and colonial antagonists than perhaps existed.



partnership with slavers and merchants in London.”<sup>13</sup> For their part, the metropolitan authorities, as Abigail Swingen remarks, believed that “giving the planters what they wanted” would mean “that Jamaica would once again peacefully send revenue to the Crown.”<sup>14</sup> The customs revenue derived from Jamaican exports to England was only in the low thousands of pounds, but the crown saw immense growth potential in the colony, particularly since Jamaica, unlike Barbados or the Leeward Islands, “seemed always to have new lands to open up.”<sup>15</sup> Long-term stable government in the island therefore promised long-term profit.

Consequently, Thomas Lynch arrived in Jamaica in summer 1682 to take up the governorship for a third and final time, with a compromise settlement in hand. Lynch himself was part of the deal, as a Jamaican sugar planter who could command “some support from within the island.”<sup>16</sup> The lords of trade had also caved to planter demands on the slave trade, directing the Royal African Company to increase the supply of enslaved Africans to the island while lowering the prices demanded.<sup>17</sup> But the centerpiece of the deal was legislative. The crown undertook to confirm Jamaica’s now-expired laws for as many years as the assembly were willing to grant the colonial government a revenue. When Lynch secured a twenty-one-year revenue in 1683, and the crown then duly confirmed Jamaica’s laws for the same term, it might have seemed an enduring settlement of Jamaica’s troubles.

<sup>13</sup> Dunn, “Imperial Pressures,” 61.

<sup>14</sup> Swingen, *Competing Visions of Empire*, 120. Swingen and I disagree on what the planters most wanted—she believes it was a cheaper and fuller supply of enslaved Africans, and I believe it was the confirmation of their basic frame of government. But we fully agree on the metropolitan authorities’ aim in making concessions.

<sup>15</sup> McCusker and Menard, *The Economy of British America*, 166; Richard B. Sheridan, *Sugar and Slavery: An Economic History of the British West Indies, 1623-1775* (Baltimore, MD: Johns Hopkins University Press, 1974), 217; Dunn, *Sugar and Slaves*, 206.

<sup>16</sup> Dunn, *Sugar and Slaves*, 159.

<sup>17</sup> Swingen, *Competing Visions of Empire*, 119.

This was not the case. The compromise had completely ignored the interests of the plunder faction, whom imperial authorities regarded as disruptive and erratic. Lynch had excluded these undesirables from government, seeking and winning “political control of the island for the sugar interest,” at least temporarily.<sup>18</sup> But though their heyday was gone, the plunder faction, led by Henry Morgan, Robert Byndloss, and Roger Elletson, still counted very wealthy men among their ranks, and remained potentially powerful. In addition, the slave trade compromise had disintegrated by the mid-1680s, while Parliament voted a heavy new sugar duty in 1685, both of which provoked significant discontent among the planters.<sup>19</sup> And lastly, despite Dunn’s assertion that the 1683 revenue bill “guaranteed fiscal independence to the royal governor,” the island’s treasury was already empty in 1684, when Hender Molesworth succeeded to the government upon Lynch’s death.<sup>20</sup> Even the major and costly slave revolt of 1685, which shook the Jamaican planter elite to their core, could not persuade them to give the governor the fiscal independence that the long-term revenue did not. Instead, the inadequate sums the assembly offered Molesworth in 1685-6 were aimed at regulating the Atlantic economy to their benefit, raising taxes on the king’s darling Royal African Company and English trade. Molesworth, who was also the company’s factor, rejected these bills out of hand. But he could not change the structural reality of his government, and gave up seeking further revenue from the assembly a year before the duke of Albemarle relieved him in 1687.

<sup>18</sup> Dunn, “Imperial Pressures,” 61.

<sup>19</sup> Swingen, *Competing Visions of Empire*, 127-8; Dunn, “Imperial Pressures,” 61-2.

<sup>20</sup> Dunn, “Imperial Pressures,” 60; Hender Molesworth to William Blathwayt, 15 November 1684, CO 138/5/7.

### *Albemarle's Government*

Christopher Monck, the second duke of Albemarle, was the son of George Monck, the architect of the Restoration, and was thirty-five when he landed in Jamaica on 19 December 1687. Albemarle was a sometime favorite of James II, but there is some uncertainty among historians about whether he owed his gubernatorial position to James's favor or to James's desire to send away "an irresponsible troublemaker."<sup>21</sup> Historians generally agree, though, that "the governorship was but the vehicle with which he proposed to revive his fallen fortunes."<sup>22</sup> Albemarle had already secured considerable sums from a patent to salvage Spanish shipwrecks in the Caribbean, and the governorship of Jamaica provided a base from which to launch and coordinate further operations. Albemarle had also decided to ally with the plunder faction, partly because they could aid his salvage endeavors, partly because he was related to their former abettor Modyford, and partly because he could offer the preferment and political power denied them by Lynch and Molesworth in exchange for funds for the government.<sup>23</sup> When Albemarle arrived in Jamaica, he forged another alliance with the small planters, especially those "Irish freemen [...] on the internal frontier" whose Catholicism further marginalized them.<sup>24</sup>

Backed by this coalition hostile to the planter elite, Albemarle came with some determination to govern Jamaica in a more autocratic fashion. Expanding the colonial executive's power would not only benefit him personally, but would also further James II's

<sup>21</sup> Swingen, *Competing Visions of Empire*, 135. Albemarle's only biographer takes the opposite view, but does concede the possibility that Albemarle was serving "a kind of banishment." See Estelle Frances Ward, *Christopher Monck, Duke of Albemarle* (London: John Murray, 1915), 234-5.

<sup>22</sup> Ward, *Albemarle*, 243.

<sup>23</sup> *Ibid.*, 280-3; Dunn, "Imperial Pressures," 66; Swingen, *Competing Visions of Empire*, 137; Whitson, *Constitutional Development*, 130.

<sup>24</sup> Hilary Beckles, "A 'riotous and unruly lot': Irish Indentured Servants and Freemen in the English West Indies, 1644-1713," *The William and Mary Quarterly*, Vol. 47, No. 4 (October 1990), 520; Dunn, *Sugar and Slaves*, 160-1.

“imperial designs [of] promoting prerogative authority.”<sup>25</sup> When Albemarle met a new assembly in February 1688, he therefore haughtily informed them that “nothing on my part shall be wanting to answer those great ends the king my master sent me hither for, and therefore expect your ready and hearty concurrence with me.”<sup>26</sup> The “great end” he particularly sought was an improvement on the 1683 act that would increase the revenue grant and make it perpetual. Should the assembly fail in in this service, he warned them, “the ill consequences that may arise from the contrary must be imputed your fault, and shall be at your door.”<sup>27</sup> Albemarle had resolved to seek fiscal independence for the colonial executive in Jamaica, and was prepared to threaten the Jamaican planter elite to get it.

Both Albemarle’s allies and the planter elite in the assembly understood this proposal transactionally, agreeing on 21 March 1688 that they could not expect their laws to be continued beyond 1704 without passing some revenue bill. Albemarle’s allies suggested it was wise to exchange a perpetual revenue for perpetual confirmation, to secure their legal foundation forever, and ensure that the revenue would always be expended in Jamaica. However, the planter elite were loath to forfeit the leverage that the colonial executive’s fiscal dependence granted them. They argued that if they passed a perpetual revenue bill, “they had not left anything to our posterity to give,” and also worried that they “could have no assurance” that the crown would

<sup>25</sup> Swingen, *Competing Visions of Empire*, 136. Albemarle had been commissioned in the spring of 1686, but had delayed a year while attempting to wheedle further powers and authorities from the king. Albemarle was largely unsuccessful in this effort, winning only permission to leave Jamaica whenever he desired, and to command the militia wherever he went in the colonies. Most notably, he had sought authority to apply the revenue without consulting the council, which was flatly denied him. Commission for the duke of Albemarle, 31 May 1686, CO 138/5/114-6; Proposals of Albemarle to the king, 12 September 1686, CO 138/5/124; Proposals of Albemarle to the king, 19 January 1687, CO 138/5/128; Order in council, 4 February 1687, CO 138/5/131-2; Albemarle to lords of trade, 19 December 1687, CO 138/6/36.

<sup>26</sup> Albemarle’s speech to the assembly of Jamaica, 18 February 1688, *JAJ*, I, 102.

<sup>27</sup> *Ibid.*

extend their laws in perpetuity as well.<sup>28</sup> The planter elite's views dominated, and the assembly rejected the perpetual revenue bill on 23 March 1688.<sup>29</sup>

Albemarle refused to accept defeat at the hands of "these malcontents of the assembly."<sup>30</sup> He dissolved the assembly in early April. Then, in conjunction with Elletson, Morgan, and others of the plunder faction, he resolved on a course of election-fixing unequalled in Jamaica in this period. He informed the lords of trade of his intention, saying that "as soon as I have settled the officers both military and civil throughout the whole island, I will order the choosing another assembly, which I hope will prove better disposed than the last."<sup>31</sup> Malicious prosecutions, maladministration of the polls, and armed voter intimidation completed the project, which was wildly successful. Twenty-two of the thirty-two members from the February assembly were not elected to the assembly that met in July, an unparalleled rate of turnover in so short a gap between assemblies.<sup>32</sup>

The new assembly did Albemarle's bidding. They passed a perpetual revenue bill on 19 September 1688 that made no mention of the confirmation of Jamaica's basic laws, to which Albemarle promptly assented.<sup>33</sup> However, even such a compliant assembly expected something in return. They passed an act on the coinage increasing the value of a piece of eight from five

<sup>28</sup> *JAJ*, I, 113.

<sup>29</sup> *Ibid.*, 114.

<sup>30</sup> Albemarle to lords of trade, 16 April 1688, CO 138/6/56.

<sup>31</sup> *Ibid.*, 56-7.

<sup>32</sup> Compare the list of the members returned on 18 February 1688, *JAJ*, I, 102, with those returned on 23 July 1688, *JAJ*, I, 122.

<sup>33</sup> *JAJ*, I, 130.

shillings to six, which would have the happy effect of eliminating “one-fifth part of their debt.”<sup>34</sup> Albemarle was explicitly charged to safeguard the interests of the Royal African Company, to whom much of that debt was owed. Nevertheless, he seems to have thought the revenue bill worth the price, and assented to the coinage act at the same time as the revenue bill. This “domineering and reckless executive” had secured a major victory for the crown’s fiscal interests by exploiting dissension within his colony’s elite.<sup>35</sup> However, Albemarle had sacrificed another part of the crown’s interests about which he cared little to seal the deal.

### *A Troubled Legacy*

Scarcely two weeks later, Albemarle was dead. Nor did most of his policies long survive his death. Vociferous complaints of his displacement of officers reached London by autumn 1688, from both the Royal African Company—who disliked his appointee for provost marshal—and the disempowered planter elite.<sup>36</sup> In one of his last official acts, James II dispatched a letter to the president and council of Jamaica at the end of November informing them that “we intend to restore all things relating to the government of that our island to the state and condition wherein it was upon the arrival of the said duke of Albemarle.”<sup>37</sup> After ousting James and taking the throne as William III, the new king reiterated this position in two very similar letters in the winter of 1689.<sup>38</sup> The coinage bill did not last much longer, falling in October 1689 to a

<sup>34</sup> Petition of the Royal African Company to the king, 16 July 1689, CO 138/6/136. The Morgan party contested all the rest of the assertions the company made in this petition, but not this one.

<sup>35</sup> Dunn, *Sugar and Slaves*, 162.

<sup>36</sup> Swingen, *Competing Visions of Empire*, 137-8.

<sup>37</sup> James to the president and council of Jamaica, 30 November 1688, CO 138/6/72.

<sup>38</sup> William to the president and council of Jamaica, 11 January 1689, CO 138/6/74-6; William to the president and council of Jamaica, 22 February 1689, CO 138/6/78-1.

combined assault by the Royal African Company, other Jamaica merchants in London, and the Jamaican planter elite.<sup>39</sup>

The 1688 revenue bill, however, endured. Jamaicans opposed to Albemarle had made known his “illegal proceedings” in constituting the July assembly, and therefore asked that “all such acts as have been there passed since the arrival of the said duke of Albemarle may be abrogated and made void.”<sup>40</sup> They carefully left out any explicit mention of the 1688 revenue bill, and for good reason. Whether it had been won by fair means or foul, the bill was a victory for the crown’s interests in Jamaica, and would provide a firm foundation for continued exercise of the prerogative in the island. Though William might have, as a Jamaican petition put it, achieved “happy success in the restoration of these nations to their just rights and freedom,” he shared James’s concern for the power of royal government in the colonies.<sup>41</sup> Moreover, many of those who had made colonial policy under James continued to do so under William, especially the omnipresent “imperial fixer” William Blathwayt.<sup>42</sup> The opposition to Albemarle could therefore only win a delay. After they and Albemarle’s partisans both presented their cases before the privy council in December 1689, William decided to defer the consideration of the laws until the new governor could “report the whole affair.”<sup>43</sup> He appointed the earl of Inchiquin,

<sup>39</sup> Order in council, 17 October 1689, CO 138/6/138. See petition of the Royal African Company to the king, 16 July 1689, CO 138/6/136; Petition of the merchants and planters of Jamaica now in England, 16 March 1689, CO 137/2/14; Answer of the merchants and planters of Jamaica now in England, August 1689, CO 138/6/137.

<sup>40</sup> Petition of the merchants and planters of Jamaica in England, 16 March 1689, CO 137/2/14.

<sup>41</sup> “The humble petition of the merchants and planters of Jamaica now in London, in behalf of themselves and their friends in the said island,” 9 November 1689, CO 137/2/89.

<sup>42</sup> Stephen Saunders Webb, “William Blathwayt, Imperial Fixer: Muddling Through to Empire, 1689-1717,” *The William and Mary Quarterly*, Vol. 26, No. 3 (July 1969), 375-80; Dunn, “The Glorious Revolution and America,” 460; Daniel K. Richter, *Before the Revolution: America’s Ancient Pasts* (Cambridge, MA: Harvard University Press, 2011), 310.

<sup>43</sup> Memorandum of the lords of trade, December 1689, CO 138/6/161; Instructions for the earl of Inchiquin, 5 December 1689, CO 138/6/126-34; Order in council, 2 January 1690, CO 138/6/161.

a veteran soldier with impeccable anti-Catholic credentials who had also served as governor of Tangier, to the post, and dispatched him in spring 1690 to steer the island through both its own troubles and the ongoing war with France.

Inchiquin arrived in July 1690 to find a thoroughly disordered colony. Morgan, the lieutenant governor, had predeceased Albemarle, so there had been no one on the island with a commission to execute royal authority since September 1688. The tumult of the Glorious Revolution had compounded the apparent vacuum of authority. Francis Watson, the president of the council, and some of his colleagues had contributed their share to the confusion by resisting orders to restore the officers of government and imposing martial law for several months, until receiving uncontestable royal orders.<sup>44</sup> Without new commissions from the crown or a governor, the chief justice and others had refused to hold courts, and so the law had essentially ceased to operate.<sup>45</sup>

Inchiquin concluded that the political strife in Jamaica resulted from “fifteen or sixteen years [...] of turbulent and pernicious advices,” and so took a methodical approach to restoring order.<sup>46</sup> He reported home that Albemarle’s prosecutions were unfounded, and the second 1688 election unfairly contested, in August 1690.<sup>47</sup> But it was not until June 1691 that he finally met an assembly, having concentrated on reinforcing the island’s defenses against French attack. He met them for the same end royal governors generally met colonial assemblies, writing that he

<sup>44</sup> Francis Watson to lords of trade, 15 March 1689, CO 138/6/109; Watson to lords of trade, 6 June 1689, CO 138/6/111-2; Allegations against Roger Elletson, summer 1689, CO 137/2/39-40.

<sup>45</sup> Watson to lords of trade, 27 October 1689, CO 138/6/162; Watson to lords of trade, 13 May 1690, CO 138/6/166; Protest against Watson by Thomas Freeman and others of the council, 29 January 1690, CO 137/2/113-5.

<sup>46</sup> The earl of Inchiquin to lords of trade, 6 July 1690, CO 138/6/166.

<sup>47</sup> Inchiquin’s report on the Clarendon election, 30 August 1690, CO 137/2/137.



found “a treasury exhausted, and a government greatly encumbered with debts.”<sup>48</sup> In the midst of England’s most intense imperial war to date, Inchiquin’s need for money was more acute than that of his Jamaican predecessors.

The large planters, led by Richard Lloyd and Edward Harrison, controlled a majority in the new assembly, having comprehensively defeated Albemarle’s old alliance at the polls. They were well aware of Inchiquin’s fiscal needs, just as they were aware that neither the crown nor Inchiquin had yet proposed a solution to the problem of the perpetual revenue bill. The assembly therefore prepared a bill vacating all the acts of the July 1688 assembly, including the perpetual revenue bill. Seeking to guard against a repetition of Albemarle’s autocracy, they also passed a bill establishing an agent for the colony in London who would not be responsible to the governor. They flatly refused to pass a bill raising £5,000 for the defense of the island until Inchiquin gave his assent to the other two.<sup>49</sup> Inchiquin, however, was convinced that the vacating bill intruded on the prerogative and somehow also canceled the 1683 revenue act, and in addition regarded his exclusion from the solicitation bill as a personal slight.<sup>50</sup> He therefore angrily dissolved the assembly on 30 July, flinging their address to him back in their faces.<sup>51</sup>

He wrote the lords of trade two weeks later that the opposition extended further. The councilors Samuel Bernard, Peter Beckford senior, and Nicholas Lawes, who were three of the richest planters in the island, had encouraged the assembly to frustrate him. This planter coalition

<sup>48</sup> Inchiquin’s speech to the assembly of Jamaica, 9 June 1691, *JAJ*, I, 138.

<sup>49</sup> *JAJ*, I, 140.

<sup>50</sup> The contention concerning vacation of the 1683 act was a bizarre argument. The only authority for vacating the 1683 revenue act was the 1688 perpetual revenue bill. But that bill would itself be canceled by the proposed 1691 bill. Logically, therefore, the 1683 act would revive. It is hard to escape the conclusion that Inchiquin and the crown’s party were determined not to lose the leverage of the 1688 bill, and were willing to employ specious arguments to preserve it.

<sup>51</sup> Inchiquin’s speech to the assembly of Jamaica, 30 July 1691, *JAJ*, I, 140.

was not only determined to treat the governor “as a Judas not fit to be trusted among the other eleven apostles,” but also sought to avoid a land tax and instead place taxes “upon trade and the asiento, which are the life of this place.”<sup>52</sup> Inchiquin was unsure how to deal with the growing political power of the great planters, but he did have a solution for the revenue. Since “there was scarce five in the 32 fairly chosen” in the second 1688 election, “I dare not advise the confirming the laws they made,” no matter how valuable to the crown.<sup>53</sup> Equally, however, he could “by no means [advise] the abrogating of them, since by doing it I fear the king would lose his whole revenue here.”<sup>54</sup> He therefore concluded that “his majesty has no other way to preserve his revenue than to keep that matter under his consideration, till these people do pass the same or as good laws.”<sup>55</sup> In other words, the colonists were to be presented with a threat. They could either pass a new perpetual revenue bill, or the crown would confirm the 1688 bill, won through machinations its own governor had censured.<sup>56</sup>

The Jamaican elite had expected more from the Glorious Revolution. They had seen William III effect “the restoration of [...] just rights and freedom” in the metropole.<sup>57</sup> They knew he had formally accepted Parliament’s freedoms and powers, in particular concerning taxation,

<sup>52</sup> Inchiquin to lords of trade, 12 August 1691, CO 137/2/163.

<sup>53</sup> *Ibid.*, 164.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

<sup>56</sup> Inchiquin noted in his 12 August 1691 letter, on election-fixing, that “the complainers I find to have been as faulty in that point as the others, and began at least as early, but happened to be outdone by them.” Though this was certainly partially true, the “complainers” did not have official means of intimidation and distortion available to them. Moreover, Inchiquin had for some reason not thought fit to communicate that conclusion in his earlier letters or reports, making its inclusion in August 1691 a rather transparent justification for holding the 1688 revenue bill over the assembly’s heads.

<sup>57</sup> “The humble petition of the merchants and planters of Jamaica now in London, in behalf of themselves and their friends in the said island,” 9 November 1689, CO 137/2/89.

and had disavowed the high-handed prerogative government of James II. In consequence, they had dared to hope that “his majesty will graciously please to do the like for us.”<sup>58</sup> However, neither William nor his ministers had any interest in further limiting the prerogative by extending idealized revolution principles to the colonial assemblies. Strong, fiscally independent government was the end the metropolitan authorities sought in the colonies. And colonial policymakers, many of whom were the same men as under James, were more than happy to take advantage of the autocratic successes of the last regime.<sup>59</sup> Though their metropolitan countrymen had secured an irreversible ascendancy over the prerogative, the Jamaican elite would enjoy no such victory. Instead, the conflict of rights and interests between the Jamaican elite and the crown would continue in irresolvable stalemate, made even more unstable, as Jack Greene has noted, by the institutional incongruity between the colonial assembly and the House of Commons it was meant to imitate.<sup>60</sup> White Jamaicans, in short, were not to be treated as Englishmen. The Glorious Revolution settlement had not crossed the Atlantic.

#### *William Beeston's Government*

The crown did make concessions to Jamaican sensibilities in the implementation of the new policy. After Inchiquin died in January 1692, the metropolitan authorities did not dispatch another metropolitan courtier with no experience of the colonies. Instead, William Beeston, former speaker of the assembly during the Poyning's Law crisis and a wealthy planter who had spent most of the last decade lobbying in London, was commissioned as lieutenant governor.<sup>61</sup>

<sup>58</sup> “The humble petition of the merchants and planters of Jamaica now in London, in behalf of themselves and their friends in the said island,” 9 November 1689, CO 137/2/89.

<sup>59</sup> Webb, “William Blathwayt, Imperial Fixer: Muddling Through to Empire,” 374-6; Richter, *Before the Revolution*, 310.

<sup>60</sup> Greene, “Political Mimesis,” 350-1.

<sup>61</sup> Commission for William Beeston, 8 August 1692, CO 138/7/28-30.

Beeston asked the lords of trade to make the exchange of a new perpetual revenue bill for perpetual confirmation of the laws explicit. This would, he argued, “silence all the complaints and disputes of the people about the former elections” and make sure “their body of laws will be thereby entire.”<sup>62</sup> The metropolitan authorities approved this approach before Beeston sailed for Jamaica in early 1693.<sup>63</sup>

However, Beeston never had any success in implementing Whitehall’s new policy in his ten years at the head of Jamaica’s government. At the beginning of nearly every session, he reminded the assembly that the 1688 bill would secure the royal assent “if you do not present one that may be equivalent.”<sup>64</sup> Usually “the assembly, after they had read the bill of revenue, ordered it to be laid upon the table, and never more would meddle with [it].”<sup>65</sup> But occasionally the crown’s party was able to bring it to a vote, in which perpetuity was then duly defeated.<sup>66</sup> After years of this, Beeston threatened the assembly in 1696 that he would write home for the 1688 bill to be laid before the king, since there were “no hopes of prevailing with you for another bill.”<sup>67</sup> He had in fact already written the lords of trade that “there will not be a settled establishment of his majesty’s revenue here” unless the 1688 bill received the royal assent.<sup>68</sup> However, that letter arrived with the newly constituted board of trade, which had neither the time nor the inclination

<sup>62</sup> William Beeston’s proposals to the lords of trade, July 1692, CO 137/2/200-2.

<sup>63</sup> There is no explicit approval of Beeston’s proposals at this time in the surviving documents, but Beeston’s letter to the lords of trade of 27 July 1693, CO 137/3/56, indicates that they were familiar with his proposed settlement and had at least acquiesced in it.

<sup>64</sup> Beeston’s speech to the assembly of Jamaica, 7 October 1693, CO 137/3/73.

<sup>65</sup> Beeston to lords of trade, 24 August 1695, CO 137/1/260.

<sup>66</sup> *JAJ*, I, 160.

<sup>67</sup> Beeston’s speech to the assembly of Jamaica, 5 July 1696, *JAJ*, I, 171.

<sup>68</sup> Beeston to lords of trade, 15 June 1696, CO 137/4/30.

to consider such a fraught question while the expiration of the revenue was still some years away. They never responded to Beeston's letter, and by 1698 he was back to wheedling the assembly once again for "an equivalent to his majesty."<sup>69</sup>

Those years of failure exposed the fundamental absurdity, and therefore weakness, of the threat. An effective threat must establish that it is better to comply with the aggressor's desires than to suffer the consequences of noncompliance. But in this case, the metropolitan authorities wanted the assembly to pass a perpetual revenue act that yielded at least as much money as did the first, in exchange for refraining from royal confirmation of a perpetual revenue act passed in an illegitimate assembly. Suffering the consequences of the 1688 revenue act's approval therefore presented the Jamaicans with no worse a material situation than if they complied with the crown's desires and passed a new act. Moreover, compliance would essentially legitimize the crown's use of arbitrary power in converting an act of a fraudulently elected assembly into a sword of Damocles, and would set the Jamaicans up to be extorted by gubernatorial abuse of power for the crown's ends in the future. The consequences of noncompliance would be unpleasant, as a possible precedent of governance by laws secured through the exercise of arbitrary power would be set. But the odium of having violated the rights of Englishmen by legitimating an act of the July 1688 assembly would, in that case, attach to the crown, and not to later Jamaican assemblies. It is small wonder, then, that the Jamaican elite chose defiance. The assembly leaders told Beeston, in language deliberately reminiscent of the Poyning's Law controversy, that "if they must have fittings, they had rather they should be put on by others than by themselves."<sup>70</sup>

<sup>69</sup> Beeston's speech to the assembly of Jamaica, 27 September 1698, CO 137/4/227.

<sup>70</sup> Beeston to lords of trade, 15 June 1696, CO 137/4/30.

This was the major downside risk of the crown's threat. It could certainly approve the 1688 perpetual revenue act, but in so doing it would irreparably harm Jamaicans' trust, and make any subsequent legislative dealings much more challenging. This would, perhaps, not be such a terrible consequence, if the 1688 act provided enough revenue for the needs of the government. However, though the 1688 act had probably improved upon the woefully inadequate 1683 act, neither could come close to satisfying the skyrocketing fiscal demands of imperial warfare. If the crown approved the 1688 act, its governor would still have to return to the assembly seeking money, and he would face a gauntlet of hostility.

That hostility would animate most of Jamaica's political elite. The reaction to Albemarle's government, and the disasters of the 1690s, had broken the power of the plunder faction and had severely damaged the clout of the small planters. Moreover, Trevor Burnard has dated the beginning of the rise of the large integrated plantation to the 1690s, fueled in part by "the growth of a subaltern class of white plantation managers" thrown off by England's imperial wars.<sup>71</sup> As that process advanced, the ever-growing wealth of the planter elite made everyone else in the island, with the exception of the major transatlantic merchants, steadily less politically relevant. This move towards a political mono-class showed in the assembly. Despite the best efforts of Beeston and his allies in the elections, the majorities in all of Jamaica's several assemblies during Beeston's government were resolutely opposed to the crown's central measure. Betrayal of one party's interests could not be counteracted by siding with the other party, because no other party ever commanded a majority.

<sup>71</sup> Burnard, *Planters, Merchants, and Slaves*, 75. "Integrated" here means that the plantation was "a self-contained unit on which all elements of production were combined in one place." See Burnard, *Planters, Merchants, and Slaves*, 3.

The quest for a new perpetual revenue bill was further complicated by the myriad and mounting other problems of Beeston's government. The first, utterly out of human control, was the calamitous Port Royal earthquake of 7 June 1692. More than a thousand Jamaicans were killed in the earthquake itself, and many more perished afterwards in the consequent epidemic. Half of Jamaica's most prosperous city was destroyed, which provoked a major downturn in the island's economic fortunes. Port Royal's ruin also "proclaimed the final renunciation of the buccaneers," who had now lost their longtime base.<sup>72</sup> The plunder faction would no longer provide the counter to planter power that had won the crown the 1688 revenue bill.

The imperial policy of the metropole also produced difficulties for the island. In 1694, the French invaded the island. Beeston led a successful defense, and as a result secured promotion to full governor through the offices of his long-term patron and leading colonial policymaker William Blathwayt.<sup>73</sup> However, many planters sustained heavy losses, including Beeston himself, and the colony incurred significant debt in financing its defense. The assembly passed a massive debts and relief bill in response, but it fell thousands of pounds short.<sup>74</sup> The crown sought to provide aid as well, sending thousands of pounds in relief money and dispatching a thousand soldiers to the island, at the cost of a further £50,000.<sup>75</sup> The crown's soldiers, though they relieved many White Jamaicans from militia duty and provided extra security against both invasion and insurrection, also burdened the colony's treasury. Since their pay was not equal to the tremendous expense of provisions in a colony that imported most of its food, Beeston had to

<sup>72</sup> Dunn, *Sugar and Slaves*, 187.

<sup>73</sup> Webb, "William Blathwayt, Imperial Fixer: Muddling Through to Empire," 382-3, 397.

<sup>74</sup> Beeston to lords of trade, 21 July 1695, CO 137/4/209; *JAJ*, I, 160.

<sup>75</sup> Dunn, "Imperial Pressures," 74.

struggle with the assembly to secure “an additional subsistence” for the crown’s soldiers. Beeston was generally successful until the disbandment of the remaining regiment in 1698, but he repeatedly had to expend political capital to get the additional subsistence through the assembly.

Lastly, White Jamaicans’ commitment to plantation slavery brought demographic catastrophe upon them. Yellow fever arrived in the island in 1694, carried by mosquitos on slave ships from West Africa. It ripped through the large nonimmune population in Jamaica, with a particularly devastating effect in the densely populated southeast. The planters’ continual demand for enslaved labor diversified the mosquito population and increased the nonimmune enslaved population, while White immigration and the movement of soldiers and sailors during the next twenty years of war ensured there would always be more White victims as well. White mortality soared as a result, inhibiting any White demographic recovery from the disaster of the Port Royal earthquake. Indeed, the White population likely sank below 7,000 in the 1690s, from a high of 10,000 at the beginning of the decade.<sup>76</sup> The island’s enslaved population, however, continued to grow past 40,000, as importations through the slave trade exceeded deaths.

This ever-widening gap between the free White and enslaved Black population on the island instilled a permanent and fundamental fear of Black insurrection in the Jamaican elite. White Jamaicans were enormously outnumbered by enslaved people, to whom they did extraordinary physical and psychological violence. Enslaved Africans therefore had every reason to return violence upon those who subjected them to bondage. White Jamaicans consequently doubled down on their brutality, while desperately seeking aid from the metropole in the form of

<sup>76</sup> Trevor G. Burnard, “‘The Country Continues Sickly’: White Mortality in Jamaica, 1655-1780,” *Social History of Medicine*, Vol. 12, No. 1 (April 1999), 55-7; Burnard, “European Migration to Jamaica,” 771; Dunn, *Sugar and Slaves*, 164; Hanna, *Pirate Nests*, 141.



soldiers or more White male immigrants to secure against the menace of Black insurrection they had themselves created. The growth of the enslaved population, increased White savagery, and the geographic expansion of sugar planting also led to more enslaved Africans running away into the mountainous interior to form new Maroon communities. Probably aware of the White Jamaicans' military insecurity, both old and new Maroon groups began to raid more aggressively in these decades. Beeston and the assembly sought to respond to "the frequent assaults made by the runaway negroes in their plantations, even to murder."<sup>77</sup> The "parties" they formed several times to patrol and fight against the Maroons did little to lessen the threat, but did lay another considerable burden on the island's treasury.<sup>78</sup>

Not even the fear of Blacks both free and enslaved, however, could motivate the Jamaican assembly to pass a perpetual revenue bill increasing the fiscal independence of the colonial executive. Instead, the effect of all these downward pressures on the colony's population and economy was to preclude any serious consideration of any long-term measures, let alone a perpetual revenue bill. It seems extremely unlikely, given the Jamaican elite's ideological opposition, that such a bill could have been passed during Beeston's government in any case. But Beeston's need to preserve his political capital to secure the immediate needs of the colonial government made passage impossible, and the governor knew it. Despite his complaining letters back to the metropole, and his hortatory speeches at the beginning of every session of assembly, Beeston and his allies were generally swift to accept defeat on the perpetual revenue bill, and to move on to more pressing business.

<sup>77</sup> *JAJ*, I, 160.

<sup>78</sup> *Ibid.*, 161, 167, 190, 199, 202.

Even in less weighty matters, however, Beeston's government demonstrated both the contradictory nature of the crown's interests in colonial government and the agency problem of the governor. In 1698, Beeston passed a bill for securing existing estates that effectively prohibited the crown from collecting the quit-rents that imperial authorities always insisted were due to the crown.<sup>79</sup> In 1699, after railing against absentee patent officers and the fees they allowed their deputies to charge for years, he passed a bill requiring patentees to be resident on the island.<sup>80</sup> Both bills were passed in concert with necessary funding measures for the crown's government, but both were "derogatory to the prerogative," as the board complained in 1700.<sup>81</sup> Beeston also regularly permitted the assembly to direct funds, in their annual aids to the revenue, to commissioners they named themselves, rather than to the crown's receiver general, conceding a vital element of the power of the purse.<sup>82</sup> Furthermore, throughout his tenure as governor, Beeston consistently connived at the evasion of the navigation acts. He did so, as he obliquely informed the lords of trade, because "the dearness of all things, and wants the people of the country are under, obliges them to assist and countenance all importers."<sup>83</sup> This practice flouted the crown's imperial policy and parliamentary legislation, but it also aided the island's economy, eased Beeston's relations with the assembly, and no doubt helped to line the pockets of Beeston and his friends. Beeston's government therefore served to confirm what the Poyning's Law crisis had already shown: the contradictory nature of metropolitan material and ideological interests,

<sup>79</sup> *JAJ*, I, 189.

<sup>80</sup> *Ibid.*, 206.

<sup>81</sup> Representation of the board of trade to the lords justices, 30 April 1700, CO 138/9/44.

<sup>82</sup> Frederick G. Spurdle, *Early West Indian Government: Showing the Progress of Government in Barbados, Jamaica, and the Leeward Islands, 1660-1783* (Christchurch, NZ: Whitcombe and Tombs, 1963), 123.

<sup>83</sup> Beeston to Blathwayt, 19 November 1696, CO 137/4/138.

and the self-interest of the governor, weakened the crown's hand in dealing with the Jamaican elite, whose material and ideological interests tended to be mutually reinforcing.

By the end of Beeston's government in 1701, however, the crown had leverage in dealing with the Jamaicans once again. The 1683 revenue act was due to expire in three years, but so too were Jamaica's fundamental laws. Though the Jamaican elite might easily defy the threat of the 1688 bill's confirmation alone, the prospect of having no fundamental laws along with the confirmation of the 1688 act was a sobering prospect. Having observed Beeston's years of failure in securing a perpetual revenue bill, however, the board recommended a different approach. The assembly were to have until the end of 1702 to pass a new twenty-one-year revenue bill, which, as in 1683, would win them an equal extension to their fundamental laws. If they refused, then the 1688 act would receive royal confirmation.<sup>84</sup> A letter from the king to Beeston setting out the deal was approved in May 1701.

By then, Beeston could no longer count on even the transactional amity of the earlier years of his government. With a new war looming, the revenue was in no condition to finance the island's defense, having run £8,000 in arrears, and the new English regiment sent to Jamaica needed quarters.<sup>85</sup> Beeston had to call a new assembly, and it was hostile both to him and the crown's measures. Convinced that there had been "great industry used in the election of such which [...] are against perpetuity," he did not even bother to raise the question in his speech

<sup>84</sup> Representation of the board of trade to the king, 23 January 1701, CO 138/10/125.

<sup>85</sup> *JAJ*, I, 217.

opening the assembly on 24 June.<sup>86</sup> Instead, he asked only for a quartering bill and a short-term aid for the revenue.<sup>87</sup>

The assembly began, however, by inquiring into the expenditure of £4,000 sent to the island by the crown for relief of those who had suffered from the earthquake, since they believed hardly any of it had actually been distributed.<sup>88</sup> Beeston haughtily rebuffed this demand, claiming that he and the council were “accountable to nobody else” but the crown for the money.<sup>89</sup> The assembly took this in poor part, and events thereafter spiraled downwards. By the time Beeston dissolved them on 28 July, the assembly had not only refused to pass either an aid for the revenue or a sufficient quartering bill, but had also resolved to send an address to the House of Commons in defense of their privileges.<sup>90</sup>

Beeston informed the board that these “arbitrary proceedings against his majesty’s authority” had been engineered by one Hugh Totterdell, a recently arrived Irish lawyer, “to get himself a vogue amongst the common people,” along with “2 or 3 more republican principled men.”<sup>91</sup> Totterdell’s greatest sin, Beeston argued, had been provoking the assembly “to believe that what a House of Commons could do in England, they could do here.”<sup>92</sup> Totterdell probably had been a provocateur, but Beeston’s argument was of a piece with Carlisle’s mischaracterization twenty years before. The Jamaican elite did not need anyone prompting them

<sup>86</sup> Beeston to board of trade, 7 July 1701, CO 137/5/213.

<sup>87</sup> Beeston’s speech to the assembly of Jamaica, 24 June 1701, *JAJ*, I, 209.

<sup>88</sup> *JAJ*, I, 211.

<sup>89</sup> *Ibid.*, 212.

<sup>90</sup> *Ibid.*, 220-3. This address never arrived with the Commons, and I found no record of its composition.

<sup>91</sup> Beeston to board of trade, 30 July 1701, CO 137/5/218.

<sup>92</sup> Beeston to board of trade, 19 August 1701, CO 137/5/225.

to believe that they had the rights and privileges of Englishmen, and ought, by analogy, to enjoy English institutions.<sup>93</sup> They believed it of their own accord. And the crown's failure to extend them the rights metropolitan Englishmen had already won had only strengthened the Jamaican elite's resolve to bring their institutions into accord with those across the Atlantic.

### *Another Revenue Crisis*

With the new war against France looming, Whitehall replaced Beeston with William Selwyn, commander of the regiment dispatched to Jamaica. Like Inchiquin a decade before him, Selwyn took over in early 1702 with the island in disarray. Beeston had declined to call another assembly even after receiving the king's letter, preferring instead to declare "martial law, and to order quarters by the military authority."<sup>94</sup> In addition to securing an embittered elite's assent to the revenue-for-laws deal the metropolitan authorities had offered, Selwyn would therefore also have "to restore the people to the right of civil justice, who have had no law but martial for seven months past."<sup>95</sup> The new assembly he called passed a six-month quartering bill and the additional duty, but Selwyn died in early April, not even two months after his arrival.<sup>96</sup>

Selwyn's successor, as lieutenant governor, was Peter Beckford senior, the island's richest man and indeed one of the wealthiest individuals in all of England's empire. As a long-time resident of the island, he was inclined "to support each particular in its just right," as he told

<sup>93</sup> The idea that the assembly was essentially the House of Commons for Jamaica had been current as far back as 1671, when Lynch wrote that the Jamaican legislature was a "humble model of our high court of Parliament." Thomas Lynch's answers to the lords of trade, 21 December 1671, CO 138/1/97.

<sup>94</sup> Beeston to board of trade, 30 July 1701, CO 137/5/218.

<sup>95</sup> William Selwyn to board of trade, 6 February 1702, CO 137/5/245A.

<sup>96</sup> *JAJ*, I, 229, 232; Selwyn to board of trade, 10 April 1702, CO 137/5/246. Selwyn began this letter himself, but had to break off in the middle due to sickness, and his secretary finished the letter after his death.

the assembly.<sup>97</sup> He had no interest in pressing any unpopular measures on the assembly, and so said not a word to them of the perpetual revenue. Nor did he and the assembly have much time in which to work. The death of William III on 8 March meant that they only had six months from that date before all royal colonial writs and commissions determined, and the assembly would perforce be dissolved.<sup>98</sup> The assembly passed short-term continuations of the quartering act and the additional duty, as well as a bill for financing parties sent against the Maroons, who “have been so bold to [...] attack our settlements to windward.”<sup>99</sup>

Most importantly, the assembly also voted a larger single aid to the treasury than any Jamaican assembly would grant between 1675 and 1730. To discharge the old debts of the colony and provide for its future defense, the assembly passed a bill intending to raise £17,808 through a property tax.<sup>100</sup> This largesse came with a price. The bill, as the council complained, “appointed commissioners for receiving and paying her majesty’s money and allowances for the same, without their giving security,” and barred the governor and council from the role the crown’s commission enjoined on them.<sup>101</sup> Fearful of a French invasion, conscious of the fiscal demands of war, and backed against the six-month deadline by the assembly’s deliberate delay, the council reluctantly passed the bill “contrary to our own sense or reason.”<sup>102</sup> Beckford senior gave his assent mere hours before the deadline, in direct contravention of his instructions.

<sup>97</sup> Peter Beckford senior’s speech to the assembly of Jamaica, 15 April 1702, *JAJ*, I, 236.

<sup>98</sup> They were further straitened by the insistence of the attorney general, and some of the other lawyers, that those six months were lunar, not calendar, months. Beckford senior to board of trade, 25 August 1702, CO 137/5/298.

<sup>99</sup> Beckford senior to board of trade, 25 August 1702, CO 137/5/298.

<sup>100</sup> *JAJ*, I, 256.

<sup>101</sup> *Ibid.*, 258; Beckford senior to board of trade, 25 August 1702, CO 137/5/298.

<sup>102</sup> *JAJ*, I, 258. They added lamely only that it was their “unanimous resolution that this may never [...] be brought into precedent.”

The terms of the bill were partly brought on by opportunism, given the unique legal and geopolitical situation in which the Jamaican elite found themselves in summer 1702. But this startling attack on the prerogative in its most crucial point was probably also motivated by the events of the last year. Both Beeston and Beckford senior had refused to account for the money that the crown had sent for White Jamaicans' relief; the assembly would therefore provide for debts and relief on its own terms, assured that any embezzlement could not be hidden under the cloak of the prerogative. The imposition of martial law had probably stung the assembly into providing for the defense of the island to prevent against a re-imposition, but by putting the money in the hands of their commissioners, they had ensured that they would be involved in defense to a heretofore unseen degree. Holding the fiscal reins of government remained the best safeguard for the Jamaicans' ideological interests, and the best tool for furthering their material aims.

Equally, the crown could never accept the bill. For the kinds of sums that Parliament raised in England—over three million pounds in 1702—the crown had surrendered much of its prerogative power.<sup>103</sup> Eighteen thousand pounds, however, made a much less tempting carrot, particularly since the prerogative theoretically remained much more extensive in the colonies than in the metropole. Moreover, imperial authorities knew that what one colony won, all the rest might treat as precedent. And in England, there was naturally no concern that allowing Parliament further powers might cause the people “to set up for themselves” without reference to the crown.<sup>104</sup> For a colony five thousand miles away, however, the fear that cutting the crown's

<sup>103</sup> Manuscripts of the House of Lords, Vol. VI: 1704-1706 (London: HMSO, 1912; digitized by Google Books), 71.

<sup>104</sup> Beeston to board of trade, 30 July 1701, Co 137/5//218.

officers out of the colony's finances might lead to excising dependence on the crown itself was rather more plausible. The bill consequently never went into effect.

In the meantime, thanks to the disruption caused by Selwyn's and then William's death, the board extended the time allowed for the assembly to pass a new revenue act until October 1703.<sup>105</sup> Thomas Handasyd, lieutenant colonel of one of the two regiments in Jamaica, was granted a commission as lieutenant governor. The instructions given to Selwyn were renewed: a twenty-one year revenue act in exchange for the confirmation of the laws for the same time, or else confirmation of the 1688 revenue act.<sup>106</sup> When Handasyd received this instruction on 26 May 1703, he immediately communicated it to the assembly.<sup>107</sup> The council attempted to insist that the instruction only actually allowed a perpetual revenue bill, but the assembly dismissed this out of hand, and resolved on 28 May to pass a twenty-one year bill.<sup>108</sup> The looming lapse of their fundamental laws worried the majority in the assembly enough to renew the deal first struck in 1683.

However, they did not do so swiftly. The majority pushed through a quartering bill that significantly reduced the subsistence granted, and explicitly barred any of the regiments' officers from holding any government post in Jamaica. In response to the council's efforts to amend the bill, the assembly argued that the queen's charge to the Commons on 21 October 1702 to "inspect the accounts of all the public receipts and payments" not only extended to the assembly by analogy, but excluded the council of Jamaica as it seemed to exclude the Lords.<sup>109</sup> Therefore,

<sup>105</sup> Board of trade to the earl of Nottingham, 4 December 1702, CO 138/10/394.

<sup>106</sup> Private instruction for Thomas Handasyd, 25 February 1703, CO 137/5/332.

<sup>107</sup> *JAJ*, I, 279.

<sup>108</sup> *Ibid.*, 280.

<sup>109</sup> *Ibid.*, 290.



they contended, they could not accept any amendments to money bills. This explicit effort to align the assembly with metropolitan institutions was led by none other than Hugh Totterdell, Beeston's *bête noire*, to whom Handasyd swiftly developed an even greater antipathy.<sup>110</sup>

The assembly finally took up the question of the revenue again in September 1703, but only after letting the additional duty expire, and expelling eight members who objected to these hardball tactics.<sup>111</sup> Though the deadline for passing the bill was just over a month away, the majority had determined to try another anti-prerogative gambit. On 23 September, they resolved that the old laws should be continued by a clause tacked to the revenue bill, rather than trusting to the crown's assurances that the laws would be continued if they passed the bill. The assembly secured the leverage to get the bill passed in that manner, contrary to the crown's instructions, by withholding the final readings of the additional duty and quartering bills until the council agreed to the revenue bill.<sup>112</sup> Handasyd passed all three bills together in the afternoon of 2 November 1703, and then dissolved the assembly.<sup>113</sup> He transmitted the revenue act home shortly thereafter,

<sup>110</sup> *Ibid.*, 290-3. Handasyd accused Totterdell of having made slighting remarks about the instruction read to the assembly on 26 May 1702. Totterdell alleged that Handasyd said that "he, the said Totterdell, was a common disturber of the people, and that he (the governor) would be nosed by no impudent fellow, and that he would come up with the said Totterdell." Handasyd also complained of Totterdell's pleadings in the grand court "contrary to his duty and her majesty's interest," and alleged that Totterdell had concealed a deputation sent from England for the provost-marshal's office.

<sup>111</sup> This heightened the enmity between Totterdell and Handasyd. In an address justifying the assembly's prohibiting the expelled members from being returned again, Totterdell cited two precedents from the Long Parliament. Handasyd complained that "I am sorry I must lay before her majesty an address wherein two precedents are taken from a time so fatal to her grandfather, and so detestable to the whole world." *JAJ*, I, 313.

<sup>112</sup> Nor was the quartering bill free from objections, for it was to run for only six months, and Totterdell and William Needham (another opposition figure) were to be the commissioners receiving the money.

<sup>113</sup> *JAJ*, I, 323.

noting to the board “the great hardships and fatigue I have gone through obtaining these to be made.”<sup>114</sup>

His letter, with the enclosed revenue act, did not arrive in England until 24 January 1704.<sup>115</sup> Convinced the deadline had passed fruitlessly, the board had recommended on 13 January the confirmation of the 1688 act, but to extend another year’s time for the assembly to pass a 21-year act that would supersede it.<sup>116</sup> These gyrations to avoid confirming the 1688 act suggest that the metropolitan authorities feared the consequences in Jamaica of approving an act so steeped in opprobrium. They would, of course, never explicitly say so, because the prerogative in the colonies depended on the projection of strength and the ostensible rejection of compromise. They therefore must have been mightily relieved to see Handasyd’s 27 November 1703 letter, which absolved them of the responsibility of trying to make good on their empty threats. They told the queen on 3 February 1704 that “Colonel Handasyd has done your majesty very good service, and deserves your majesty’s favor.”<sup>117</sup>

Upon closer examination, they were less impressed. The board wrote Handasyd two weeks later that the tack continuing the old laws “ought not to have been done [...] inasmuch as her majesty had promised to confirm the said acts as soon as the assembly should have passed the act of revenue.”<sup>118</sup> They warned him “for the future, to be more careful how you pass any

<sup>114</sup> Handasyd to board of trade, 27 November 1703, CO 137/6/136. In the usual mode for Jamaican governors, he reduced the interaction between the Jamaican elite’s sincere interest in defending their rights, and desire for material gain, to “all the art and tricks that evil-disposed men could think of for [...] obtaining their private ends.”

<sup>115</sup> *CSPC*, XXI, no. 1327.

<sup>116</sup> Representation of the board of trade to the queen, 13 January 1704, CO 138/11/104.

<sup>117</sup> Representation of the board of trade to the queen, 3 February 1704, CO 138/11/136-7.

<sup>118</sup> Board of trade to Handasyd, 16 February 1704, CO 138/11/144-5.

such clause to the diminution of her majesty's prerogative."<sup>119</sup> Despite this censure, however, the board evidently felt that this sacrifice of the prerogative was a price they were willing to pay. After waiting for some months—possibly in hope that Handasyd would get a different act passed—they represented in the 1703 revenue act's favor in August 1704, and it was duly confirmed.<sup>120</sup> A twenty-one years' truce in that particular controversy in Jamaica was once again agreed.

But it was no more than a truce. The metropolitan authorities had risked the ire of the Jamaican elite by threatening them with the confirmation of the 1688 revenue bill, offensive as it was to White Jamaicans' dearly held rights as Englishmen. But the threat had proven empty and ineffectual. In combination with the leverage granted by the expiration of Jamaica's fundamental laws, it had produced only a reprise of the 1683 compromise. That revenue settlement had proven to be insufficient for the colonial executive within a year. In 1704, with a second major war with France well underway, the long-term provision the revenue bill provided was laughably inadequate, and all parties likely knew it. Nevertheless, it was all the crown could manage.

The Jamaican elite also found themselves frustrated. In the assembly, they had successfully played defense against the metropolitan authorities for fifteen years, denying fiscal independence to imperial government in the colony. Thanks to the demands of the crown's wars, the assembly had also been able to ensure that their own commissioners collected the money they voted in their annual aids to the revenue and the additional subsistence. However, the assembly had been compelled to grant a new long-term revenue bill by the expiration of their basic laws; had been frustrated in their major gambit to exclude the governor and council from

<sup>119</sup> Ibid., 145.

<sup>120</sup> Representation of the board of trade to the queen, 17 August 1704, CO 138/11/300-1.

any fiscal role in 1702; and had lacked the wherewithal to launch other attacks on the prerogative in the service of their rights or interests. Most troublingly for the Jamaican elite, the crown had denied them the rights and parliamentary powers won by their metropolitan kin as a result of the Glorious Revolution, determined to govern in the colonies as though it were still the 1680s. For people whose self-identification rested on their legal Englishness, this deliberate institutional differentiation was galling, and it reinforced the Jamaican elite's resistance to prerogative government.

Once again, the fundamental conflict of rights and interests between crown and assembly had escaped settlement, as both sides had shown they lacked the means and the will to force it to a conclusion. However, the balance had shifted. The Jamaican assembly could not only wield the rhetorical weapons of the Glorious Revolution against prerogative government, but had also captured more of the power of the purse. No matter how piously imperial authorities had insisted that those who reaped the benefits of security should dutifully help bear the burden, the Jamaican elite had recognized that the spiraling costs of imperial defense gave them leverage. The assembly had seized the opportunity to make the appointment of its own commissioners for extraordinary levies customary. Full control of the revenue had escaped the colonial executive in Jamaica, and it would never be recaptured. However, the Jamaican elite faced an uphill battle if they were to parlay that small inroad into further gains for their rights and interests. For the crown had never consented explicitly to the assembly's appointment of commissioners. And through its power to review laws, it retained the ability to strike down the assembly's tenuous alteration of the status quo at any time. The coming stresses of a second decade of imperial warfare, and the ever-widening divergence between metropolitan and colonial institutions, would provide both sides with plenty of crises to test which was the stronger.

## Chapter III

### The Legacy of the Glorious Revolution in New York

The troubles of Jamaica's Glorious Revolution experience paled in comparison to those of New York. In Jamaica, William III's overthrow of James II brought uncertainty, dissension, and a halt to civil government. In New York, the same event provoked open revolt that overthrew James's government in the colony. The next two years of Jacob Leisler's "stormy rule" gave the revolt the name of Leisler's Rebellion, and created, in Richard Dunn's words, "two fiercely partisan factions: the Leislerians and the Anti-Leislerians."<sup>1</sup> When Leisler and his son-in-law Jacob Milbourne were executed for high treason by the royal governor William III dispatched, a lasting enmity between Leislerians and anti-Leislerians was confirmed. Unlike in Jamaica, where the plunder faction-small planter alliance on which Albemarle had relied rapidly declined in political and economic strength, both the Leislerians and anti-Leislerians remained strong in New York for the next fifteen years. In Jamaica, the legacy of the Glorious Revolution was defined by what did not happen—the abjuration of the illegitimate 1688 revenue bill and the extension of the Glorious Revolution settlement. In New York, on the other hand, Leisler's Rebellion and its partisan afterlife meant that the legacy of the Glorious Revolution was defined by the traumatic events that *had* happened.

So historians have argued, at any rate. Patricia Bonomi entitled her study of New York's colonial politics *A Factious People*, and has written elsewhere of "the relentlessly bitter factional aftermath of Leisler's Rebellion."<sup>2</sup> Her view is a typical one among historians of colonial New

<sup>1</sup> Dunn, "The Glorious Revolution and America," 459.

<sup>2</sup> Bonomi, *A Factious People*; Bonomi, *The Lord Cornbury Scandal*, 90.

York, and those who write about imperial politics more broadly have tended to share it.<sup>3</sup> Scholars also generally agree that the existing strife was exacerbated by the “rage of party” in England. The Leislerians in New York derived “much of their political platform” from the Whigs in England, Amy Watson has written, and the anti-Leislerians “shared ideological affinities” and personal connections with the Tories.<sup>4</sup> Not all historians draw quite so close an equation, but there is general agreement with Watson’s contention that in New York’s “seesaw[ing] back and forth between the former Leislerians and Anti-Leislerians,” much “depend[ed] on the currents of Whig and Tory power across the Atlantic.”<sup>5</sup> Tory governors sided with anti-Leislerians, Whig governors with Leislerians, and thus politics “served to heighten old animosities rather than diminish them.”<sup>6</sup> The end result of New York’s bitter partisan strife was to make the colony, as Michael Kammen writes, “unattractive to immigrants” for a decade, and therefore “underpopulated and underdeveloped.”<sup>7</sup> New York had suffered greatly by the Glorious Revolution indeed.

<sup>3</sup> We have already seen Dunn’s remarks above. For further examples, Bernard Bailyn writes in *The Origins of American Politics* that “For twenty-five years after the Glorious Revolution New York was the scene of violently rocketing factionalism,” while John Rainbolt remarks on “a generation of conflict and hatred between the rebel faction and the anti-Leislerians,” Eugene Sheridan mentions “the remaining antagonisms between Leislerians and anti-Leislerians” in 1710, and Joyce Goodfriend has referred to this period as one of “cultural breach [and] political alienation.” See Bailyn, *Origins of American Politics*, 1. 1526; Rainbolt, “A New Look at Stuart ‘Tyranny’”, 400; E. Sheridan, *Lewis Morris*, 98; Joyce Goodfriend, *Who Should Rule at Home?: Confronting the Elite in British New York City* (Ithaca, NY: Cornell University Press, 2017), 30.

<sup>4</sup> Watson, “The New York Patriot Movement,” 37.

<sup>5</sup> Ibid. See also Bonomi, *Lord Cornbury Scandal*, 170; James S. Leamon, “Governor Fletcher’s Recall,” *The William and Mary Quarterly*, Vol. 20, No. 4 (October 1963), 527, 540-1; Olson, *Anglo-American Politics*, 89-92; Owen Stanwood, *The Empire Reformed: English America in the Age of the Glorious Revolution* (Philadelphia: University of Pennsylvania Press, 2011), 183, 189; Clark, *Language of Liberty*, 247; Lustig, *Robert Hunter*, 74.

<sup>6</sup> Kammen, *Colonial New York*, 140.

<sup>7</sup> Ibid., 126-7. Dunn makes quite a similar point in “The Glorious Revolution and America,” 463.

This analysis is not faulty, but it is incomplete. Kammen himself suggests a different angle, remarking that on the basis of the official documents, “political factionalism was only the third most pressing public issue of the day, discussed less often than physical security and fiscal responsibility.”<sup>8</sup> This is misguided in one sense, for as Joyce Goodfriend makes clear, the “massive cultural offensive” that the anti-Leislerian leadership launched against the Dutch in New York after 1691 was an overriding concern, and neither principally nor openly revealed itself in the transactions of governor, council, and assembly.<sup>9</sup> However, in another sense Kammen points towards a very important consideration indeed, which historians have tended to pass over—the interplay between New York’s partisan strife and the interests of the crown. Moreover, in their focus on New York’s factionalism, historians have failed to apply Jack Greene’s contention that “the specter of unlimited prerogative [...] continued to haunt colonial legislators” even after the Glorious Revolution settlement laid the issue to rest in England.<sup>10</sup>

By considering the crown’s interests and the institutional legacy of the Glorious Revolution, I tell a subtly but importantly different story. The “bitterly partisan political environment” that prevailed after 1691 in New York might have been bad for the colony, but it was good for the crown. The two decades after the Glorious Revolution were also two decades of imperial warfare the likes of which neither England nor its colonies had ever seen, and the crown needed funds from the colonies to sustain imperial defense. In Jamaica, where there were no profound differences in the elite to exploit, governors paid the price for those funds with concessions of the prerogative, or else received no funds at all. In New York, by contrast,

<sup>8</sup> Kammen, *Colonial New York*, 142.

<sup>9</sup> Goodfriend, *Who Should Rule at Home?*, 27-44. Quotation is from p. 28.

<sup>10</sup> Greene, “Political Mimesis,” 351.

governors often avoided making any significant concessions in exchange for funds by playing upon the antagonism between Leislerians and anti-Leislerians. But New York's factionalism could neither consistently nor permanently sideline the colonial elite's desire to secure the rights of Englishmen. By the middle of the first decade of the eighteenth century, the New York elite had followed the example of their contemporaries in Jamaica and elsewhere, and had engaged the crown and its governor in an open battle for the all-important power of the purse, empowered by the leverage that the crown's imperial wars gave them. For them, as for the Jamaican elite, the failure of the Glorious Revolution settlement to cross the Atlantic had confirmed their fundamental conflict with the crown.

#### *New York Before 1691*

Like Jamaica, New York was a conquest of English arms, taken from the Dutch in 1664. The Dutch population of what had been New Netherland, however, did not follow the example of the smaller Spanish population of Jamaica and depart the colony. Instead, they stayed, and in 1691 were probably still the majority of the colony's White population of about 14,000.<sup>11</sup> New York therefore had a population "less English and more diverse than that of any other British possession," which was only exacerbated by the influx of French Huguenot refugees after Louis XIV's 1685 revocation of the Edict of Nantes.<sup>12</sup> New York thus had an elite divided by ethnicity, which Jamaica in this period never did.

New York's diversity, however, was not merely ethnic in character. Along with national divisions came religious differences, with Dutch and French Reformed adherents outnumbering Anglicans in New York in 1691. There were also religious fissures within the national

<sup>11</sup> Bonomi, *A Factious People*, 22; McCusker and Menard, *The Economy of British America*, 203.

<sup>12</sup> Kammen, *Colonial New York*, 75.



populations, most prominently among the English. Dissenters from New England had settled nearly all of eastern Long Island (Suffolk county), and were majorities in Queens and Westchester counties, while other dissenters had come directly from England, making Anglicans possibly a minority even in the English population.<sup>13</sup> New York also had, with Pennsylvania, one of the two “best-balanced economies in colonial America.”<sup>14</sup> As a result, the colony was the only one in British North America in which “both a merchant and a landed elite of roughly equal strength emerge[d].”<sup>15</sup> Moreover, there were further subdivisions within the two broad categories of merchant and landowner. Some merchants were principally concerned with the transatlantic carrying trade, some with the fur trade, and others with the provisions trade to the Caribbean.<sup>16</sup> Most landowners produced grain and meat for European as well as Caribbean markets, but some concentrated instead on timber and mines, and flaxseed and potash would both provide further variation later in the eighteenth century.<sup>17</sup> New Yorkers also had sectional concerns that were not mostly derivative of these other differences. The starkest and most influential of these were the different priorities that upstate and downstate colonists accorded to defense against the French in

<sup>13</sup> Bonomi, *A Factious People*, 24-5.

<sup>14</sup> McCusker and Menard, *The Economy of British America*, 198.

<sup>15</sup> Bonomi, *A Factious People*, 57.

<sup>16</sup> New York’s dependence on this trade did not equal that of New England. But that involvement, in addition to New York’s growing enslaved African population, meant that the colony was as imbricated in “slave society” as Mark Peterson has argued was Boston. Peterson, *The City-State of Boston*, 19.

<sup>17</sup> McCusker and Menard, *The Economy of British America*, 191, 201-6; Milton M. Klein, “Shaping the American Tradition: The Microcosm of Colonial New York,” *New York History*, Vol. 59, No. 2 (April 1978), 196. McCusker and Menard’s conclusions are framed for Pennsylvania, but they note that their description largely applies to New York as well.

Canada and friendly relations with the Haudenosaunee Confederacy, and the rivalry between the two urban centers of New York City and Albany.<sup>18</sup>

New York's political elite were thus susceptible to a dizzying array of divisions, far surpassing anything seen in Jamaica. The multiple axes of differentiation not only permitted a wide range of factional possibilities, but ensured that political groupings did not remain consistent from issue to issue. A Dutch Reformed fur trader might well side with an English dissenting grain merchant on the question of import duties, before breaking with him on the question of the colony's law system, and then possibly uniting with him once more on the question of appointing non-Anglican ministers to livings. And, of course, each New Yorker had an idiosyncratic weighting of these elements of identity, which further complicated the question of political alignment.

These divisions were exacerbated by one of New York's other distinguishing features—its long lack of an assembly. There was no central legislature under the Dutch, who had first made permanent settlement in the colony in 1614. After the English conquest in 1664, New York became a proprietary colony under the duke of York, Charles II's brother and heir, who was no great friend of representative institutions. Under fiscal and political pressure in the early 1680s, the duke granted New York an assembly in 1683. However, upon his accession to the throne as James II in 1685, he then revoked the grant and ignored the assembly's carefully drafted Charter of Liberties and Privileges. For its first seven decades of existence, therefore, New York had almost no experience of representative government, “one of the most effective forces for social

<sup>18</sup> Tully, *Forming American Politics*, 18. Historians also often cite the New England economic orientation of Suffolk county, e.g. Klein, “Shaping the American Tradition,” 196 and Tully, *Forming American Politics*, 19. It was certainly irritating for Suffolk county traders to have to route through New York City for customs only to bring their goods back out towards Boston, but to me this sectional difference seems to be a second-order phenomenon dependent on the origins of the English population of Suffolk county.

and cultural cohesion,” and its elite lacked the rights and powers enjoyed by their counterparts in almost all of the rest of England’s Atlantic colonies.<sup>19</sup>

James II’s autocratic government came crashing down in England in 1688 at the hands of his son-in-law, William. In New York, which had been subsumed into James’s Dominion of New England, the fear of the combination of “popery and arbitrary government” combined with the news of William III’s victory, a decade of economic malaise, and New York’s existing pluralism to produce the overthrow of James’s government in spring 1689.<sup>20</sup> After New York’s militia took the fort from the lieutenant governor Francis Nicholson, Jacob Leisler took over executive authority in the colony, and the insurrection thus came to be known as Leisler’s Rebellion. Leisler was not the poor, bitter Dutch chauvinist of his enemies’ later fables, but instead “a wealthy, anglicizing [...] ultraorthodox Calvinist” who ably and sincerely deployed “vociferous anti-Catholic rhetoric.”<sup>21</sup> In the service of his beliefs, he relentlessly antagonized and persecuted fellow elites throughout the colony who had acquiesced in James’s religio-political project, to the point of open hostilities with the Dutch elites in Albany, and that was to prove his downfall.

#### *Anti-Leislerians versus Leislerians*

Though Leisler’s adherents (called Leislerians) were mostly Dutch, William III seems never to have contemplated trusting his rebellious countrymen with the governing authority in New York. Instead, he dispatched two English army officers, Richard Ingoldsby and Henry

<sup>19</sup> Bonomi, *A Factious People*, 28.

<sup>20</sup> Stanwood, *The Empire Reformed*, 119.

<sup>21</sup> David William Voorhees, “The ‘fervent Zeale’ of Jacob Leisler,” *The William and Mary Quarterly*, Vol. 51, No. 3 (Jul. 1994), 449; Stanwood, *The Empire Reformed*, 130. Leisler was also not actually Dutch. He was instead a German born in Frankfurt, who signed on as an officer with the Dutch West India Company at the age of twenty through his Reformed connections, and then emigrated to New Amsterdam.

Slougher, as lieutenant governor and governor respectively in 1690. Ingoldsby arrived first, and Leisler refused to acknowledge his authority, which resulted in fighting and deaths on both sides. Slougher then arrived in March 1691, and Leisler finally surrendered the fort at New York into his care after some initial defiance, putting authority in New York back into the hands of a royal governor.

The metropolitan authorities had charged Slougher with two distinct tasks. He was to prepare the colony for its defense against the French, and he was to inquire into the torturous course of the last two years in the colony, with particular emphasis laid on the Leislerians' accusations against "some of the inhabitants disaffected to their majesties' government."<sup>22</sup> Given the circumstances of his arrival, however, Slougher found that the second question needed to be considered first. The governor decided quickly, arresting Leisler and his allies on charges of high treason almost immediately. He then tried them in a court stacked with the Leislerians' enemies (called anti-Leislerians), who accused the Leislerians, with some justification, of "all manner of felonies, imprisonments, and murders" in seizing power away from them.<sup>23</sup> The court unsurprisingly convicted the Leislerian leadership, and sentenced Leisler and his son-in-law Jacob Milbourne to death.

Slougher's sympathies certainly inclined to the anti-Leislerian side. He told the lords of trade in May that the anti-Leislerians were "the principal and most loyal men of this place," and informed his patron William Blathwayt that "certainly never greater villains lived" than Leisler

<sup>22</sup> Instructions for Henry Slougher, 31 January 1690, CO 5/1113/117-23; Lords of trade to Slougher, 17 October 1690, CO 5/1113/143.

<sup>23</sup> Proclamation of Jacob Leisler, 7 March 1691, CO 5/1037/3; "Declaration of New York against Jacob Leisler," March 1691, CO 5/1037/51.

and the ringleaders of the rebellion.<sup>24</sup> However, though the anti-Leislerians clamored for the executions, Slougher was rightfully fearful of the long-term consequences to political stability in the colony if he approved them. He therefore sought royal direction before he took so fatal a step.<sup>25</sup> Nevertheless, the inalterable pace of transatlantic communications meant Slougher would have to wait months before hearing from Whitehall.

In the end, Slougher decided against waiting, perhaps also fearing the consequences to political stability if he deprived the anti-Leislerians of their gratification for too long. Instead, he appears to have struck a mutually profitable deal with the anti-Leislerian majority in New York's newly minted assembly. Slougher had Leisler and Milbourne executed immediately, assented to a punitive bill against the rest of the Leislerians and their estates, and approved a bill for salaries for the assemblymen. He also agreed to an act declaratory of New Yorkers' rights, with the central concession that there would be no prerogative taxation as in previous decades, but only funds raised by legislation passed by governor, council, and assembly.<sup>26</sup> In exchange, the assembly passed a bill raising £2,000 for the defense of the frontiers, a bill settling a revenue for the next five years, and a bill granting a present to Slougher.<sup>27</sup> The executions were not agreeable to the usual course of justice in the colonies, since Leisler and Milbourne were allowed no appeal to the metropole. Moreover, as Slougher had foreseen, the executions served to widen the rifts in the colony, especially since "many Dutch believed that English officials were

<sup>24</sup> Slougher to lords of trade, 7 May 1691, CO 5/1037/42; Slougher to Blathwayt, 7 May 1691, CO 5/1037/44.

<sup>25</sup> Slougher to Blathwayt, 7 May 1691, CO 5/1037/44. He also almost certainly did not want to shoulder the responsibility for the decision alone.

<sup>26</sup> Report of the solicitor general to the board of trade, 3 April 1697, CO 5/1115/35-6.

<sup>27</sup> No one, of course, made the deal explicit. But the assembly had delayed passage of the revenue and frontiers bills for at least a week before 11 May 1691. Then, after conferring with the council on the matter of the execution, at Slougher's request, they quickly passed both bills in the next two days, and the presents for Slougher and Ingoldsby on 14 and 15 May. *JNY* 13-15.

responsible for Leisler's death."<sup>28</sup> However, Sloughter had served the crown's interests in defending its colony and financing its government, and had feathered his own nest.

He had done so at the cost of one signal concession. The English Bill of Rights had, in 1689, outlawed taxation by prerogative authority alone. Sloughter allowed the extension of that provision to New York, which thereby brought New Yorkers' rights more closely in line with those of their metropolitan cousins. However, it is unlikely that colonial policymakers envisioned taxation by gubernatorial fiat as a pillar of the imperial government in New York. Moreover, since the declaratory act itself raised no money, the crown could repeal the act at its later leisure with no impact on the fiscal strength of its government in New York. Sloughter had therefore made a very favorable deal for the crown's interests. And, though Whitehall professed an interest in unanimity and calm in the colonies, only the partisan strife engendered by Leisler's Rebellion had enabled New York's governor to score such a success.

Sloughter died shortly after making this arrangement with the assembly, thus escaping any censure for the execution of Leisler and Milbourne. Ingoldsby succeeded to the executive authority, securing votes for several thousand pounds more for the defense of the frontiers over the next year. Enthusiasm for this service, however, had already begun to wane, with the assembly complaining in response to requests for funds that "our neighbors, contrary to their duty, deny to assist us against the common enemy in this time of eminent danger."<sup>29</sup> Ingoldsby and the council recognized the political and practical difficulty of further burdening their own province, and instead wrote home several times requesting that Connecticut and New Jersey be annexed to New York, and that the other neighboring colonies be ordered to assist them with

<sup>28</sup> Goodfriend, *Who Should Rule at Home?*, 30.

<sup>29</sup> *JNY* 15.

men and money.<sup>30</sup> In the meantime, the money voted by the assembly was collected slowly and poorly, and many of the men detailed for service on the frontiers simply never arrived.<sup>31</sup>

Ingoldsby and the council “had been obliged to engage their personal credit [...] to defray the charge” of the frontiers, and the revenue stood £3,000 in debt when the new governor, Benjamin Fletcher, arrived on 28 August 1692.<sup>32</sup>

Fletcher was an experienced soldier who had served on William III’s behalf in Ireland, and was also a personal client of William Blathwayt, who had retained most of his power in colonial affairs despite the Glorious Revolution.<sup>33</sup> Like Sloughter before him, Fletcher sided with the anti-Leislerians. In exchange for assenting to further punitive measures against the Leislerians, making enormous land grants to prominent anti-Leislerians, and turning a blind eye to illicit trade and piracy, Fletcher secured a gift to himself of a penny per pound tax on property, repeated revenue grants to the crown, and men and money for the defense of the frontiers.<sup>34</sup> Unlike Sloughter, however, Fletcher had made concessions to the anti-Leislerians that materially harmed the crown’s interests. Though permitting illicit trade and piracy did enrich New York City, Fletcher also deprived the crown of revenue from seizures, and contributed to the heightened danger of piracy that all ships, foreign or English, faced in this period. And, as his successor would later complain, “the rents reserved in all his grants are trifles,” which would

<sup>30</sup> Richard Ingoldsby and the council of New York to lords of trade, 29 July 1691, CO 5/1037/87; Address of the lieutenant governor and council of New York to the king and queen, 6 August 1691, CO 5/1037/95-6; Ingoldsby and the council to Nottingham, 8 January 1692, CO 5/1037/152; Ingoldsby to the duke of Bolton, 28 April 1692, CO 5/10337/206.

<sup>31</sup> Heads of Ingoldsby’s speech to the assembly of New York, 17 August 1692, *JNY* 20. The assembly did not contest these assertions.

<sup>32</sup> Council of New York to Blathwayt, 30 May 1692, CO 5/1037/213; Heads of Ingoldsby’s speech to the assembly of New York, 17 August 1692, *JNY* 20; Benjamin Fletcher to Blathwayt, 10 September 1692, CO 5/1037/254.

<sup>33</sup> Stephen Saunders Webb, “William Blathwayt, Imperial Fixer: Muddling Through to Empire,” 395.

<sup>34</sup> See *JNY* 26 for the tax.

bedevil any attempt to construct an independent revenue in New York on the foundation of quit-rents.<sup>35</sup> Like Albemarle in Jamaica, Fletcher had sacrificed those of the crown's interests he judged less important or practical in pursuit of immediate revenue and personal enrichment.

Also unlike Sloughter, who had scarcely had the chance, Fletcher participated in the anti-Leislerians' "cultural offensive" against the Dutch population.<sup>36</sup> As Joyce Goodfriend has pointed out, the anti-Leislerians' quiescence during the reign of James II made them "vulnerable to charges of being too sympathetic to Catholics," an unpleasant position in which to be given the ascendancy of "the larger Protestant imperial cause."<sup>37</sup> In consequence, they sought "to divert attention away from religion to [...] ethnicity," seizing on the fact of "widespread participation of Dutch residents in Leisler's Rebellion" to change the characterization of Leisler's Rebellion.<sup>38</sup> Rather than a religio-political struggle, which had motivated committed Dutch, French, and English Protestants to bring down the colonial government, in the anti-Leislerian telling the rebellion was driven by Dutch ethnic resentment. In order to ensure that anti-Leislerian Dutch elites could also remain "on the correct side of the political fence," the anti-Leislerians also invoked lower-class economic resentments as a motivator for Leisler's Rebellion, while praising "most of the richest of the Dutch," who had in this imagining aligned themselves with the English.<sup>39</sup> This artful reframing provided a justification to break the power of the Dutch in New

<sup>35</sup> The earl of Bellomont to board of trade, 21 October 1698, CO 5/1041/209. There is no particular reason to suspect that this accusation is inaccurate, given that all five of the governors who followed Fletcher down to 1732—including the Tory Cornbury—also complained that the rates set on these grants were too low, and that the quit-rents were consistently disappointing in the revenue they produced.

<sup>36</sup> Goodfriend, *Who Should Rule at Home?*, 28.

<sup>37</sup> *Ibid.*, 27; Stanwood, *The Empire Reformed*, 145.

<sup>38</sup> Goodfriend, *Who Should Rule at Home?*, 27,30.

<sup>39</sup> *Ibid.*, 40; Cornbury to board of trade, 27 September 1702, CO 5/1047/376.



York City especially, and to advance English elites' aims. Key among these was asserting Anglican dominance, and Fletcher, a good Tory, contributed his share. The governor helped see a new Anglican church built, helped through the passage of an act establishing the Anglican Church in New York City, and endowed the Anglican church with profitable land. Tory interests in supporting the established church and Anglican English New Yorkers' interest in establishing dominance over the Dutch had aligned nicely.<sup>40</sup>

Fletcher's concessions and political alliances could not win him the ultimate prize for the crown's interests. Like William Beeston in Jamaica, "notwithstanding my many endeavors to have it settled upon their majesties for life," Fletcher was never able to secure a long-term revenue act.<sup>41</sup> Majorities in the assembly insisted repeatedly that "we have regard to the heavy burthen and great poverty of the people of this province, who are ready to sink under it," and said they could not extend so long a revenue without the other provinces sharing the load for the defense of the frontiers, which they well knew would never happen.<sup>42</sup> Moreover, the New York elite undoubtedly shared with their Jamaican contemporaries a clear sense of their rights as Englishmen, and the knowledge that retaining the power of the purse was both the best safeguard for those rights and the surest foundation for furthering their interests. As Owen Stanwood writes, the "colonists had no compelling reason to accept reforms that seemed to be against their interests."<sup>43</sup> Partisan resentments could move the anti-Leislerians to make limited grants, but never so far as to render the crown's government independent of the assembly.

<sup>40</sup> Goodfriend, *Who Should Rule at Home?*, 30-2; Leamon, "Governor Fletcher's Recall," 531.

<sup>41</sup> Fletcher to Blathwayt, 15 August 1693, CO 5/1038/148. He put the lifetime revenue question to the assembly in 1692 and 1693, and then seems to have bowed to practicality in never again raising the subject.

<sup>42</sup> *JNY* 27.

<sup>43</sup> Stanwood, *The Empire Reformed*, 186.

Indeed, as the years went on, even raising money for the forces at Albany and elsewhere on the frontiers became steadily more difficult. In 1693, a grateful anti-Leislerian majority were willing to vote £6,000 and 300 men for their defense.<sup>44</sup> In 1694, after fresh elections, the numbers fell to £2,660 and 170 men, and in the spring of 1695 a narrow Leislerian majority, backed by seaboard elites tired of spending money upstate, raised nothing whatsoever for the frontiers.<sup>45</sup> Even the strongly anti-Leislerian assembly Fletcher convened in the summer of 1695, after working strenuously to fix the elections, would only raise £1,700.<sup>46</sup> The appropriations in Fletcher's government would never again reach even half of those granted in 1693. Moreover, these numbers were only nominal. Taxes were consistently in arrears by thousands of pounds, as in Jamaica, and the full numbers of men allotted were never present.<sup>47</sup>

Nor did the increase of New York's garrison from two to four independent companies in 1694, at Fletcher's request, lessen the burden to the degree the New Yorkers must have expected.<sup>48</sup> The soldiers were poorly disciplined, paid, and supplied, and could find much more remunerative work as civilian laborers.<sup>49</sup> They consequently deserted frequently, leaving the companies invariably well below their listed strength. Fletcher sought "to milk as much money" out of this suboptimal situation as he could by filling up the muster rolls with his dependents.<sup>50</sup> However, his endeavors to press the assembly to pay recruiting bounties and supplementary pay

<sup>44</sup> Fletcher to board of trade, 9 October 1693, CO 5/1038/185.

<sup>45</sup> *JNY* 40, 51-2.

<sup>46</sup> *Ibid.* 57-64.

<sup>47</sup> *Ibid.* 24, 37, 52; Fletcher's speech to the assembly of New York, 16 October 1696, *JNY* 71.

<sup>48</sup> Fletcher to board of trade, 9 October 1693, CO 5/1038/186; William to Fletcher, 1 April 1694, CO 5/1041/291; *JNY* 42-4.

<sup>49</sup> Stanwood, *The Empire Reformed*, 185-6.

<sup>50</sup> *Ibid.*, 186.

for the companies were a source of continual friction. Nor, since the companies were understrength, was the province freed from the necessity of sending detachments from the county militias, to which the assembly consistently objected.<sup>51</sup> By the time the war with France ended in 1697, the Leislerian/anti-Leislerian divide had seemingly lost its power to motivate the assembly to supply the government with funds.

Actions in London, however, would ignite the flame once more. Whig attacks on the Tories in Parliament in the spring of 1695 had already combined with Leislerian lobbying to produce a parliamentary act reversing the attainder of Leisler, Milbourne, and his other chief lieutenants. At a distance of three thousand miles, Leisler was an unthreatening martyr of the revolution the Whigs held dear, and his accusations of popery and arbitrary power were favorite Whig stones to cast at the Tories. The new ministry then put forward Richard Coote, earl of Bellomont, for the combined governorships of New York and Massachusetts. Bellomont had been an early supporter of William in the Glorious Revolution, was one of the chief lobbyists for the reversal act, and was “a friend of all the Junto lords.”<sup>52</sup> In these changed political circumstances, Bellomont was a perfect candidate for the governorship. Though the low priority of colonial affairs created considerable delays, he at last received his commission to replace Fletcher in March 1697.

At the same time, the newly constituted board of trade, dominated by Whigs, finally reviewed the laws passed over the last six years in New York. Twenty-five had expired, nine

<sup>51</sup> See *JNY* 65-71, 72-5, and 78-84 for the three last sessions of the New York assembly under Fletcher, in which these complaints steadily gained strength.

<sup>52</sup> Olson, *Anglo-American Politics*, 86; Stuart Handley, “COOTE, Richard, 1<sup>st</sup> Earl of Bellomont [I] (c. 1655-1701,” *History of Parliament Online, 1690-1715*, retrieved 19 November 2020. Bellomont’s earldom was in the Irish peerage, so he was therefore able to hold a seat in the English House of Commons between 1689 and 1695.

were “laid by,” and twenty-two were confirmed.<sup>53</sup> These confirmations meant that New York had permanent fundamental laws, which Jamaica did not. New York had thus experienced a bit of luck. Though its elite had never been permitted to make lasting laws in an assembly until 1691, once they did have that ability, the Glorious Revolution had already happened. The crown would, as in the case of Jamaica, take advantage of the fruits of former policy to hold a colony’s legal framework to ransom. However, in the new political atmosphere, the metropolitan authorities do not seem to have contemplated recreating the Jamaican situation in New York through their own actions. From 1697 on, the New York assembly was therefore in a stronger position than the Jamaican assembly, because the crown did not have leverage over the continuation of the colony’s basic laws.

One central aspect of metropolitan policy towards the colonies nevertheless remained constant. One New York law—the 1691 declaratory act—was singled out for repeal. The board noted that the act granted “too great and unreasonable privileges” to the assembly and to New Yorkers at large, and “contain[ed] also several large and doubtful expressions.”<sup>54</sup> The declaratory act was therefore repealed.<sup>55</sup> Colonists, though they deemed themselves Englishmen, were not to be allowed statutory confirmation of the rights metropolitan Englishmen had won in the Glorious Revolution settlement. As in Jamaica, so in New York the project of colonial prerogative government demanded that transatlantic institutional dissonance continue.

<sup>53</sup> *CSPC*, XV, no. 1010. For a law to be “laid by” meant that its consideration was deferred until the effect of the law could be more clearly understood, or until an aggrieved party launched a challenge. Colonists, unsurprisingly, tended to resent the imperial authorities’ employment of this method, since the laws could be struck down at any time. However, in practice, colonial laws were rarely re-considered once laid by.

<sup>54</sup> Representation of the board of trade to the lords justices, 11 May 1697, CO 5/1115/65. They suggested a charter along the lines of that granted to Virginia by Charles II, which would have been wholly unsatisfactory to the New Yorkers. The lords justices duly noted this recommendation, and then all parties proceeded never to consider it again.

<sup>55</sup> *CSPC*, XV, no. 1012.

*Leislerians versus Anti-Leislerians*

Bellomont arrived in New York in spring 1698, well after the bad news of the declaratory act's repeal had crossed the Atlantic. Fletcher returned home in disgrace, facing an inquiry into his support of piracy, extravagant grants of land, acceptance of bribes, and general and persistent corruption.<sup>56</sup> Bellomont also disapprovingly noted “the great pains Col. Fletcher took to divide the people here, and to foment the feud between Leisler’s party and the opposite party.”<sup>57</sup> But Bellomont was equally prepared to exploit the divisions in the province for his own and his superiors’ gain—he would simply do it from the opposite side. He held political sympathies almost diametrically opposed to that of his predecessor, believing that the Leislerians were “a more sober and virtuous people, and better affected to his majesty’s government than the other party.”<sup>58</sup> Fortunately for Bellomont, there was not much more to be won from the anti-Leislerians in any case, since they had already secured multiple measures punishing their enemies, land grants to their most prominent members, and connivance at illegal trade. The Leislerians, however, were now deeply aggrieved. Bellomont could offer them his assent to reversals of the anti-Leislerians’ legislation, land grants of their own, and perhaps financial recompense for damages the Leislerians had suffered, in exchange for their agreement to his measures in the assembly.

Bellomont would need that assistance. He was relieved of the burden of financing an imperial war, since peace with the French had been concluded in 1697. However, the enmity

<sup>56</sup> The board ultimately found that Fletcher had certainly encouraged pirates and neglected his duty to suppress them, but could not be as positive on any of the other points. See Representation of the board of trade to the king, 9 March 1699, CO 5/1116/132-41. Fletcher faced no formal punishment, but never again held office.

<sup>57</sup> Bellomont to board of trade, 25 May 1698, CO 5/1040/178.

<sup>58</sup> Bellomont to board of trade, 21 September 1698, CO 5/1041/48.

between France and England had not dissipated, and Bellomont's instructions charged him with fortifying the frontiers and making sure the Haudenosaunee "apply themselves to the English trade and nation rather than to any other of Europe."<sup>59</sup> Moreover, Bellomont needed to make money from his governorship. He was to be governor of Massachusetts and New York simultaneously, a combination that conjured up the ghost of the Dominion of New England, in order to increase the salaries he could draw to £1,600. Nevertheless, he would require more than that yearly sum to satisfy his expectations and enlarge his wealth, having been in necessitous circumstances for over a decade.<sup>60</sup> Furthermore, the revenue that paid his New York salary was only a year away from expiration.<sup>61</sup> Bellomont would likely take any assistance the Leislerians were willing to proffer.

Bellomont's first assembly, however, did not have enough Leislerians to secure the measures he wanted, and so he dissolved them in June 1698 after they had sat for less than a month.<sup>62</sup> In the new elections, the anti-Leislerians, led by William Nicoll, made a startling volte-face. Having given strong support to Fletcher and the prerogative over the last six years, and voted for multiple revenue extensions via duties on trade, Nicoll and his adherents now warned the electorate "how dangerous impositions on trade are," and argued that the revenue, "when once in the crown for some time [...] will never get out again."<sup>63</sup> They hoped that the electorate would not, by electing a Leislerian majority that would grant the revenue, prove themselves "of

<sup>59</sup> Instructions for Bellomont, 31 August 1697, CO 5/1115/119-20.

<sup>60</sup> Stanwood, *Empire Reformed*, 187; Handley, "COOTE, Richard," History of Parliament Online.

<sup>61</sup> Bellomont's speech to the assembly of New York, 19 May 1698, *JNY* 85.

<sup>62</sup> *JNY* 86-91.

<sup>63</sup> Election pamphlet by William Nicoll, Samuel Bayard, and David Jamison, winter 1698, CO 5/1041/124.

so abject a mind as willingly to quit [...] liberty.”<sup>64</sup> The sudden anti-Leislerian adoption of this position, when they feared the Leislerians were to be in power, indicates that the Leislerian/anti-Leislerian antagonism remained more fundamental than disputes concerning the support of the crown’s government. However, it also shows that leading New York politicians believed the electorate was receptive to appeals against strengthening the crown’s authority, suggesting there was a latent constituency for the sort of anti-prerogative politics that characterized Jamaica’s struggles between crown and assembly. If New York’s partisan strife ever weakened, anti-prerogative, pro-rights of Englishmen politics could come to the fore.

The anti-Leislerians’ new anti-government rhetoric, however, was no match for election-fixing backed by the power of the colonial executive. The Whig-dominated board had backed Bellomont’s intention to excise “the corruption in the main body of the people of New York,” and so he acted with a free hand.<sup>65</sup> He effected considerable turnover in the offices of the government, especially the sheriffs, who then “very fairly carried” the elections to the Leislerians’ benefit.<sup>66</sup> They returned sixteen Leislerians in the twenty-one member assembly, headed by Abraham Gouverneur, Leisler’s most prominent living lieutenant.<sup>67</sup> The Leislerians were aware of their leverage. They consequently passed a bill indemnifying Leislerians not already pardoned, and repealed the previous punitive acts against Leislerians, before introducing an extension of the revenue to 1706.<sup>68</sup> Bellomont passed these bills, as well as another bill

<sup>64</sup> Election pamphlet by William Nicoll, Samuel Bayard, and David Jamison, winter 1698, CO 5/1041/125. Bellomont described Nicoll’s electioneering as contending that “paying customs [...] was a certain badge of slavery,” which would perhaps have resonated with the Jamaicans.

<sup>65</sup> Representation of the board of trade to the lords justices, 19 October 1698, CO 5/1116/15.

<sup>66</sup> Bellomont to board of trade, 27 April 1699, CO 5/1041/116.

<sup>67</sup> *JNY* 92.

<sup>68</sup> *Ibid.* 98-103.

safeguarding the Leislerians from lawsuits, a bill against pirates, privateers, and those who traded with them, and a bill “vacating the extravagant grants of land” in May before proroguing the assembly.<sup>69</sup>

It had been a profitable exchange for both sides. The Leislerians secured their legal protections, and some revenge on their opponents through vacating land grants to anti-Leislerians and squeezing the anti-Leislerian-dominated illegal trade. Bellomont, meanwhile, secured his salary and a gift of £1,500, larger forfeitures from pirates, privateers, and illegal traders from his position as vice-admiral, and the ability to make new land grants in exchange for favors or presents. Conveniently for Bellomont, securing the revenue, suppressing piracy and illegal trade, and vacating land grants with no quit-rents also served the crown’s interests. Once again, the Leislerian/anti-Leislerian enmity had proven fruitful for the crown and its governor.

Bellomont’s other efforts at self-enrichment, and politics in England, complicated matters. William Kidd’s turn to piracy, after Bellomont and members of the Whig junto had sponsored him on an anti-piratical mission to the Indian Ocean, damaged Bellomont’s credibility and political capital along with that of his patrons.<sup>70</sup> The Kidd affair was one of the last straws that broke the back of the junto ministry, which William replaced with a Tory-dominated grouping in 1700. A more Tory board then received voluminous complaints about the 1699 acts of the New York assembly. Merchants with business in New York complained of the stifling of legal trade, and anti-Leislerians and their Tory sympathizers complained of everything.<sup>71</sup> The

<sup>69</sup> 12 May postscript of Bellomont to board of trade, 27 April 1699, CO 5/1041/118; *JNY* 103-5. One of the grants that was vacated was a key plot of land that Fletcher had given to the Anglican church in New York.

<sup>70</sup> Bellomont had captured Kidd and sent him home to try to minimize the damage, but much of it was already done.

<sup>71</sup> “Petition of several merchants of the city of London trading to New York in America to the House of Commons,” 14 February 1700, CO 5/1116/107; “Heads of the complaints against the earl of Bellomont in his government of New York,” by John Key, 11 March 1700, CO 5/1044/149-53; Memorial of John Montagu “on behalf of several



board, with metropolitan political reasons not to gratify Bellomont, temporized. They sent a request to Bellomont for more information on the extravagant grants, while withholding determination on most of the other laws.<sup>72</sup> They did, however, reject the pirate law, while confirming the revenue extension and Bellomont's present.<sup>73</sup>

Bellomont characterized these actions as a betrayal of his negotiations. He angrily told the board that if he had not assented to the several acts for the Leislerians' benefit, "the revenue had never been obtained."<sup>74</sup> If the board were now to reject them, it "would be a great mortification and discouragement to those people that gave the revenue (against the humor and endeavors of an adverse party) to show their loyalty and affection to the king."<sup>75</sup> By accepting the revenue extension, which was unequivocally favorable to the crown's interests, but passing nothing useful to the assembly, the metropolitan authorities had planted the seeds of resentment and distrust among the Leislerian majority in the assembly. Whitehall had ensured that any governor's subsequent negotiations with the assembly would be more difficult and painful.

Those negotiations were already necessary. Some of the Leislerian leadership might have been Dutch, but they were all happy to embrace the idea of the rights of Englishmen, and they had every reason to pursue the power of the purse. Despite Bellomont's assent to their measures, therefore, the Leislerians had proved no more willing than the anti-Leislerians to make an

hundreds of the owners of land and principal inhabitants of his majesty's province of New York," 13 August 1700, CO 5/1044/189-95.

<sup>72</sup> Representation of the board of trade to the lords justices, 19 August 1700, CO 5/1117/193; "Observations upon the acts of the general assemblies of New York from the 5th of October 1696 to the 16th of May 1699," 19 September 1700, CO 5/1117/200; Board of trade to Bellomont, 19 September 1700, CO 5/1117/198; Representation of the board of trade to the LJ, 4 October 1700, CO 5/1117/211.

<sup>73</sup> Orders in council, 5 September 1700, CO 5/1044/199-205.

<sup>74</sup> Bellomont to board of trade, 2 January 1701, CO 5/1044/221.

<sup>75</sup> *Ibid.*

addition to the inadequate revenue or pay off the colony's debts. This "conjunction of affairs" had forced Bellomont to agree to a bill for building fortifications on the frontiers that appointed "commissioners to direct in the matter" in the autumn of 1700.<sup>76</sup> Though he knew this was "derogatory to the king's prerogative," he had no other choice if he wanted the fort built.<sup>77</sup> The assembly had wrung this concession out of Bellomont only on the basis of the comparatively light demands of peacetime. By 1701, however, war with France loomed once more, and New York's governor would have to negotiate for new supplies with an assembly that had already voted some £27,000 in extraordinary taxes to finance the last war, and now had damaged trust in the colonial and metropolitan executive.<sup>78</sup>

### *The Fundamental Struggle Revealed*

That task would not fall to Bellomont, for he died on 5 March 1701. His successor was Edward Hyde, viscount Cornbury, a prominent Tory. Cornbury was also the cousin to the heir to the throne, Princess Anne, and was therefore the most august person yet to hold the governorship of New York. Like all the royal governors of New York before him, he also had served in the army. With the certainty of war with France on the horizon as Cornbury departed for New York in the winter of 1702, the metropolitan authorities must have imagined that experience would stand him in good stead.

Cornbury's greater challenge, however, would be the internal politics of his new governorship. Upon Bellomont's death, lieutenant governor John Nanfan had been absent in Barbados. The resulting controversy between the Leislerians and anti-Leislerians in the council

<sup>76</sup> Bellomont to board of trade, 17 October 1700, CO 5/1045/5.

<sup>77</sup> Ibid. He did recommend the bill's repeal at home, but that would have been a largely symbolic gesture, since it would already have had its effect.

<sup>78</sup> See *JNY* 90 for the assembly's 1698 accounting of how much they had raised during the Nine Years' War.

as to who held governing authority had rebounded across the Atlantic to trouble the board and the privy council. Prompted by this most recent instance of a decade of partisan strife, the metropolitan authorities armed Cornbury with a new instruction. The board noted that “the inhabitants of his majesty’s said province have of late years been unhappily divided,” and concluded that “by their enmity to each other, his majesty’s service and their own general welfare have been very much obstructed.” Cornbury was therefore to “avoid the engaging yourself in the parties which have been formed amongst them,” and instead “to use such impartiality and moderation to all as may best conduce to his majesty’s service and the good of the colony.”<sup>79</sup>

The board’s analysis, on the face of it, was faulty. The divisions among Leislerians and anti-Leislerians had allowed the last three governors to play the two sides off against each other to secure revenue grants and funding for the crown’s wars. If anything, “his majesty’s service” had benefited from “their enmity to each other”—though the same could not be said for “their own general welfare.” However, the board’s prescription makes more sense in light of contemporary thinking about parties. “The rage of party” in late Stuart England/Britain was so intense precisely because contemporaries did not imagine that such political opposition was legitimate. As Patricia Bonomi notes in her excellent study of Cornbury, “the other side could not be seen as equals in a legitimate contest of party politics; it was a disloyal presence that threatened the very existence of the nation.”<sup>80</sup> The instruction “to use [...] impartiality and moderation” was not an instruction to accommodate those who were necessarily enemies of the general welfare.

<sup>79</sup> Instructions for viscount Cornbury, 26 November 1701, CO 5/1118/221.

<sup>80</sup> Bonomi, *The Lord Cornbury Scandal*, 101.

Instead, with the Tories holding the ascendancy in England by 1702, Cornbury's instructions can be read rather differently. In the Tory understanding, aided by anti-Leislerian revisionism, Sloughter and Fletcher had both sided with the richer, Anglican, English faction in the colony in the defense of royal authority against a poorer, dissenting, Dutch faction. Though Sloughter and Fletcher had perhaps done so too aggressively, they had aimed at embodying correct principles of order, from a Tory point of view. Then the Whig Bellomont had arrived, and taken advantage of Leislerian animus towards the "right sort" of people to throw the government into palpable disorder, thereby harming both crown and colony.<sup>81</sup> Cornbury, a solid Tory, was to restore the rightful Tory order of things in New York, while still exercising such moderation and reserve as to prevent civil war. The Tories wanted the sort of consensus produced by dominating the opponents of the rightful order.<sup>82</sup>

This is partly conjecture, of course, for no one involved would have said this explicitly. However, it seems the more reasonable to suggest because the Leislerians sought the analogous end with their actions. In the winter of 1702, the Leislerians had already convicted Nicholas Bayard, "the man many New Yorkers still blamed for Leisler's demise," of high treason for calling the legality of the assembly into question, along with his associate John Hutchins.<sup>83</sup> Like the anti-Leislerians had done to Leisler and Milbourne, so the Leislerians "attempt[ed] judicial

<sup>81</sup> See "The humble petition and address of your majesty's Protestant subjects in your plantation of New York in America," 30 December 1701, CO 5/1047/383-5, and Petition of the city of New York to the House of Commons, 30 December 1701, CO 5/1047/389-93 for the anti-Leislerians' statements of these points.

<sup>82</sup> The Whigs felt much the same way, but in 1702 they were not in a position to effect their views on colonial policy.

<sup>83</sup> Bonomi, *The Lord Cornbury Scandal*, 59; Cornbury to board of trade, 18 May 1702, CO 5/1047/329; Order in council, 9 July 1702, CO 5/1047/339. Ironically, Bayard and Hutchins were tried under the 1691 act that had originally targeted the Leislerians for retribution.

murder” of their enemies.<sup>84</sup> With a flimsier case than Slougher had against Leisler and Milbourne, Nanfan had reprieved Bayard and Hutchins on 30 March 1702. But the conviction still hung over their heads, both angering and frightening the anti-Leislerians. Then, knowing that Cornbury was on his way, Nanfan and the Leislerian majority in the assembly hurriedly passed several bills in the spring of 1702, including one while Cornbury’s ship sat becalmed at the narrows a few miles south of the city. Perhaps most offensive to Tory sensibilities was an “an act for paying the debts of this government made in the time of the late happy revolution,” which Cornbury called a charge “to pay the rapines of a rebel.”<sup>85</sup> The whole program was, in his opinion, “contrived [...] for the ruin of this province,” and he therefore recommended the repeal of the assembly’s acts.<sup>86</sup>

Cornbury did not, however, wait for imperial authorities to act on that recommendation. Instead, he met a new assembly controlled by anti-Leislerians on 20 October 1702, and swiftly came to an arrangement with them.<sup>87</sup> The anti-Leislerians voted Cornbury a present of £2,000, raised £1,800 through a property tax for the defense of the frontiers, and passed a three-year extension of the revenue, which would now expire in 1709. Cornbury, for his part, passed a bill repealing all the major acts of Bellomont and Nanfan’s assemblies.<sup>88</sup> He also corroborated the anti-Leislerians’ accusations against the Leislerians to the metropolitan authorities, replaced

<sup>84</sup> Bailyn, *Origins of American Politics*, I. 1526.

<sup>85</sup> *JNY* 141; Cornbury to board of trade, 29 September 1702, CO 5/1047/552.

<sup>86</sup> Cornbury to board of trade, 29 September 1702, CO 5/1047/552.

<sup>87</sup> *JNY* 144.

<sup>88</sup> *Ibid.* 146-54; Cornbury to board of trade, December 1702, CO 5/1119/199. This was technically against his instructions, since the acts of the previous assembly still awaited royal consideration. However, the board represented in favor of Cornbury’s objections against the acts on 31 December 1702, and no censure was ever directed against Cornbury for passing the repealing act. Representation of the board of trade to the queen, 31 December 1702, CO 5/1119/137-8.

Bellomont's Leislerian officers of the government with anti-Leislerians, connived at imprisoning Nanfan for debt, and lent his support to a bill to vacate Bayard and Hutchins's convictions.<sup>89</sup>

Cornbury also furthered the anti-Leislerians' retelling of the history of Leisler's Rebellion. Unlike Fletcher, Cornbury eagerly adopted the anti-Leislerians' retelling of the history of Leisler's Rebellion in his letters home. He had already written the board on 27 September that "the chiefest, honestest, and richest of the inhabitants of this province had suffered by the wicked contrivances" of the Leislerians.<sup>90</sup> The Leislerians, he contended, were "Dutchmen [...] the meanest of the people, men extremely ignorant of all things," and they "had projected the extirpation of the English here."<sup>91</sup> He would continue in this vein for the next several years of his governorship, aiding the English anti-Leislerian cultural offensive against the Dutch. Indeed, Cornbury repeated the characterization of the Leislerians as "the black party," which Joyce Goodfriend has argued was a deliberate piece of "proto-racial political terminology" designed to denigrate the Leislerians even further in a society "already primed to think in racial terms."<sup>92</sup> The anti-Leislerians could not have asked for a more enthusiastic rhetorical support of their project.

<sup>89</sup> *JNY* 152-5; Cornbury to board of trade, 27 September 1702, CO 5/1047/376. Nanfan was ultimately confined in one way or another until 6 November 1704, as Cornbury made increasingly lame excuses about why he had suffered a lieutenant governor to be imprisoned for so long in the colonies, rather than releasing him to report home and answer suits in London. E.g., Cornbury to board of trade, 9 September 1703, CO 5/1120/38; Board of trade to Cornbury, 16 March 1704, CO 5/1120/47.

<sup>90</sup> Cornbury to board of trade, 27 September 1702, CO 5/1047/376. The anti-Leislerians said that "the chiefest and most considerable merchants and inhabitants of this colony [...] were forced to fly and remove into the neighboring colonies" as a result of the Leislerians' animus. Address of the assembly of New York to the queen, 26 November 1702, *JNY* 156.

<sup>91</sup> The assembly similarly described the jury that had convicted Bayard and Hutchins as composed "of the meanest and most ignorant of the people." Address of the assembly of New York to the queen, 26 November 1702, *JNY* 156.

<sup>92</sup> Goodfriend, *Who Should Rule at Home?*, 40. For Cornbury's uses of the term, see Cornbury to board of trade, 29 May 1703, CO 5/1120/2; Cornbury to board of trade, 30 June 1703, CO 5/1120/38.

Cornbury's accommodation with the anti-Leislerians had come easily to him. As a Tory, he sympathized with the anti-Leislerians, and restoring them to political dominance in the colony benefited him as well as them. Moreover, though Cornbury had not perhaps used the utmost "impartiality and moderation" as he was enjoined to do, he argued he had "espoused neither party any further than the queen's service and justice has obliged me to do."<sup>93</sup> The anti-Leislerians had not charged a price too dear for the crown. None of the support Cornbury had won for the crown's interests and his own had come at the cost of concessions damaging either to the prerogative or to English material interests. And simply by behaving with a modicum of calm, Cornbury "managed to lower the temperature in politically feverish New York" from the heights of 1701-2.<sup>94</sup>

The anti-Leislerians in the assembly were naturally pleased with Cornbury's passage of the repealing act and his reversal of Bellomont's appointments, which won the anti-Leislerians a return to the pre-Bellomont status quo. Once that was done, however, the problem of Fletcher's later government revealed itself once more. The anti-Leislerians required little more from the governor to secure their position against their partisan opponents. In consequence, when the crown's government needed money, the governor would have to offer a different kind of concession, or else risk getting nothing at all—an unpalatable prospect in the midst of war.

The session of late spring 1703 revealed which concession the assembly desired. After voting Cornbury only half of the £3,000 he requested to build batteries at the narrows, the assembly politely asked Cornbury to write home on their behalf for leave to appoint their own treasurer to handle funds "raised for the public use, as a means to obstruct [...] misapplication

<sup>93</sup> Cornbury to board of trade, 12 December 1702, CO 5/1119/201.

<sup>94</sup> Bonomi, *The Lord Cornbury Scandal*, 59.

for the future.”<sup>95</sup> The governor they accused of misapplying funds was Bellomont, but it would be Cornbury and his administration that paid the price.<sup>96</sup> The New York elite’s interest in controlling the power of the purse, heretofore obscured by the partisan legacy of the Glorious Revolution, was beginning to reveal itself.

Cornbury unsurprisingly did not comply with the assembly’s request, contrary as it was to his instructions and to his own interest in exercising power. In 1704, therefore, the assembly turned truculent. The majority challenged Cornbury openly on the sufficiency of the revenue, the disposition of the men on the frontier, and the appropriation of money.<sup>97</sup> Cornbury reprimanded them for “assuming to themselves to exercise a power vested by the crown in the governor alone.”<sup>98</sup> In response, the assembly claimed they were only exerting “that natural and civil liberty [...] which they conceive every free Englishman is entitled to,” and argued that they “ought not to be divested [of their property] but by their free consents, in such manner and to such ends and purposes as they shall think fit.”<sup>99</sup> Two days later, when the council sought to amend their bill for the defense of the frontiers, the assembly followed the example of their Jamaican contemporaries in resolving “that it is inconvenient for this house to admit of any amendment made by the council to a money bill.”<sup>100</sup> It had taken thirteen years, but the New York elite in the assembly had now joined the Jamaican elite in opposing their governor in search of the power of

<sup>95</sup> Address of the assembly of New York to Cornbury, 16 June 1703, *JNY* 170.

<sup>96</sup> Cornbury has often been the victim of accusations of corruption, which historians have repeated. However, as Patricia Bonomi has convincingly argued, there is “surprisingly little” evidence for any of these accusations, and in particular there is “no evidence that the assembly’s request was intended as a criticism of the sitting governor in this case.” Bonomi, *The Lord Cornbury Scandal*, 4, 171.

<sup>97</sup> Address of the assembly of New York to Cornbury, 19 April 1704, *JNY* 176; *JNY* 177-86.

<sup>98</sup> Cornbury’s speech to the assembly of New York, 1 June 1704, *JNY* 186.

<sup>99</sup> Address of the assembly of New York to Cornbury, 8 June 1704, *JNY* 188.

<sup>100</sup> *JNY* 189.



the purse, in defense of their rights as Englishmen and their material interests. They too now sought to bring the Glorious Revolution settlement across the Atlantic.

The trend across the colonies—though he did not connect these two specifically—was apparent to Cornbury. He wrote the board that the New York assembly was adopting “the same methods that the assemblies of some other provinces have fallen into, who think themselves equal to the House of Commons of England.”<sup>101</sup> Cornbury had corrected the New York assembly, having “told them often” that “the holding general assemblies here is purely by the grace and favor of the crown.”<sup>102</sup> In his hierarchical metropolitan conception of the world, that point ought to have settled the controversy. But, he observed, “notwithstanding that they will pass no bill for the service of the queen, nor even for their own defense, unless they can have such clauses in as manifestly encroach upon the prerogative of the crown, or in some measure destroy the power of the governor.”<sup>103</sup> Like the Jamaicans, the New Yorkers were willing to engage in brinkmanship over their own security, wagering that the crown’s desire to see its possessions properly defended would impel the governor to agree to otherwise objectionable bills.

Nor was their reluctance as absurd as Cornbury made it sound. Unlike the Jamaican elite, who had fended off a French invasion in 1694 and always faced a serious security threat from the Africans they enslaved, the New York elite faced no grave endogenous or exogenous threats. Neither the French nor their indigenous allies had made any serious attempt against New York after 1690 in the Nine Years’ War, and they would launch no attacks in the entirety of the War of

<sup>101</sup> Cornbury to board of trade, 6 November 1704, CO 5/1120/125.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid., 126.

the Spanish Succession. Moreover, as a very different New York assembly would note nearly thirty years later, the majority of the representatives came from counties distant from the frontiers, with little incentive to fund the defense of Albany or Schenectady.<sup>104</sup> Meanwhile, though there was an enslaved African population in New York, Whites outnumbered Blacks seven-to-one, in almost an exact reversal of Jamaica's demographics.<sup>105</sup> In those circumstances, the four independent companies of royal soldiers seemed sufficient. Any further colonial expenditures on security would require the crown to concede powers to the assembly.

Cornbury, like most of his fellow governors, had no practical solution to this problem of the transatlantic constitution. He told the board that in New York there had been government without assemblies before, and "her majesty may exert the same power if she pleases."<sup>106</sup> He noted hastily that "the laying aside of assemblies [...] is far from my thoughts," but believed the board should know "what I take to be the queen's right, especially when assemblies begin to be refractory."<sup>107</sup> The board made no comment on this implicit plan to threaten the abrogation of representative government, but proposed no solution of their own. Instead, they pronounced that Cornbury was right and the assembly wrong on the narrow question of the commission being the assembly's authority for existence, and left the matter at that.<sup>108</sup>

In 1705, Cornbury tried to hector a new assembly into compliance, and faced even more strenuous opposition. The assembly resolved unanimously to appoint a treasurer "for the

<sup>104</sup> Representation of the council and assembly of New York to the board of trade, 29 October 1730, *JNY* 622.

<sup>105</sup> "Account of the inhabitants of New York," 7 November 1698, CO 5/1041/278.

<sup>106</sup> Cornbury to board of trade, 6 November 1704, CO 5/1120/127.

<sup>107</sup> *Ibid.*

<sup>108</sup> Board of trade to Cornbury, 26 March 1705, CO 5/1120/140.

receiving and paying the public monies” they raised in June.<sup>109</sup> Neither they nor Cornbury receded from their respective positions in two different sessions, and so Cornbury prorogued them for a year in October without a penny raised for the frontiers or the debts of the government.<sup>110</sup> It also became clear that Cornbury was not, as he had thought the previous year, frustrated by Leislerians seeking a “Dutch assembly.”<sup>111</sup> Instead, though he was a Tory, and historians’ usual analysis of transatlantic politics indicates that the anti-Leislerian “English party” ought to have sympathized with him, many of them had in fact deserted him. The now opposition majority were led by Philip French, Thomas Codrington, and Thomas Garton, all of whom were English and at least two of whom had involved themselves prominently in anti-Leislerian politics in recent years.<sup>112</sup> The Leislerian/anti-Leislerian conflict was no longer, for these men and their adherents, the most salient issue in New York politics. Control of the power of the purse, to defend their rights as Englishmen and to advance their material interests, had now surpassed factional hatred as the key political contest.

Cornbury seamlessly switched rhetorical tracks from inveighing against Leislerians specifically to castigating opposition generally. He claimed the assembly had been “misled and

<sup>109</sup> *JNY* 197.

<sup>110</sup> *Ibid.*, 208.

<sup>111</sup> Cornbury to board of trade, 30 June 1704, CO 5/1120/101.

<sup>112</sup> Garton had led the committee examining the Bayard/Hutchins affair in the assembly of 1702 (*JNY* 155). French is a more interesting case. He was married to the daughter of Frederick Philipse, a prominent anti-Leislerian. But he had deposed against Fletcher’s election-fixing in New York in 1695, and Bellomont had proposed him for the council in 1698. Yet French had also served as the speaker of Bellomont’s first (anti-Leislerian) assembly in 1698, and Nottingham and Cornbury had both suggested him for the council of New York in 1702, after French had aligned himself with the anti-Leislerians in the case of Bayard and Hutchins. The board’s notes on the suggestion for French as councilor indicate a possible cause of the breach between Bellomont and French: “an illegal trader [...] raised the rabble to prevent the E of B’s making a seizure of E. India goods.” See Notes on Nottingham to board of trade, 29 July 1702, CO 5/1047/356. See also Deposition of Philip French, 28 August 1695, CO 5/1039/79; Bellomont’s suggestions for the council of New York, 28 May 1698, CO 5/1040/136; French and Wenham to Lodwick, 28 January 1702, CO 5/1046/291; Cornbury to Nottingham, 1 October 1702, CO 5/1084/25; *JNY* 86.

abused by two or three turbulent men, who never were nor ever will be faithful to the Queen nor true to their country.”<sup>113</sup> Cornbury’s rhetoric mirrored Beeston’s accusations against Totterdell and “2 or 3 more republican principled men” in the Jamaican assembly not three years before.<sup>114</sup> As in Jamaica, this construction served the governor’s narrow ends and resonated with his and his superiors’ worldview, while completely hiding the depth of principle that undergirded local resistance to the measures pressed by the colonial executive. And Cornbury’s use of this rhetoric indicated clearly that the fundamental conflict in Jamaica between crown and assembly had emerged in New York.

Despite Cornbury’s bluster, the board seem to have recognized the outlines of the problem. The crown needed to hold the strategic northern frontier against the French, and in that endeavor “New York’s cooperation was essential.”<sup>115</sup> With the assembly no longer willing to extend that assistance in exchange for the governor’s intervention in the colony’s internecine strife, some other compromise would have to be found. In February 1706, the board therefore informed Cornbury “that when the assembly raise extraordinary supplies for particular uses (which is not part of her majesty’s standing and constant revenue), they may be permitted to name their own treasurer.”<sup>116</sup> Since the colonial governments were absolutely dependent on such “extraordinary supplies,” particularly in wartime, this was a substantial concession of the power of the purse to the assembly. The impact was perhaps lessened by the board’s knowledge that they had tacitly permitted the same concession in several other colonies, including Jamaica, by

<sup>113</sup> Cornbury to board of trade, 8 July 1705, *CSPC*, XXII, no. 1230.

<sup>114</sup> Beeston to board of trade, 30 July 1701, CO 137/5/218.

<sup>115</sup> Bonomi, *The Lord Cornbury Scandal*, 172.

<sup>116</sup> Board of trade to Cornbury, 4 February 1706, CO 5/1120/194.

this time. But making the terms of the arrangement explicit was a new and risky step, and it illustrated the pressure imperial warfare was exerting on the project of prerogative government in the colonies.

The board were presumably aware of some of the implications of their compromise, and therefore took pains in their letter to quash the assembly's other aspirations. "No assembly in the plantations," they told Cornbury, "ought to pretend to all the privilege of the House of Commons in England, which will be no more allowed them" than if the colonial councils tried to imitate the Lords.<sup>117</sup> Parliament in England, from the executive's point of view, was already troublesome enough. Colonial assemblies could not be allowed to become their own little Parliaments, no matter how much their members believed that the powers and privileges of Parliament were necessary to the defense of their rights as Englishmen. The problem was that the colonists would never be satisfied with the transatlantic institutional dissonance that had prevailed since the Glorious Revolution. New Yorkers had begun pressing for a remedy to this insult to their Englishness later than the Jamaicans, thanks to their partisan struggles. But they would no more heed the board's pronouncements that they had no just claim to the rights of Englishmen than would their Caribbean contemporaries.

The treasurer concession had its desired short-term effect once Cornbury received the board's letter in September 1706. The assembly were willing to raise £3,000 for fortifying New York City, and at least £1,700 more for the defense of the frontiers, naming their own treasurer in both bills.<sup>118</sup> However, they still balked at extending the revenue, which would remain outside their control. Cornbury therefore adjourned them in October, and then dissolved them in spring

<sup>117</sup> Board of trade to Cornbury, 4 February 1706, CO 5/1120/193.

<sup>118</sup> *JNY* 217.

1707 from New Jersey, where he was dealing with an even more recalcitrant assembly.<sup>119</sup> He had no more luck with his next assembly in the autumn of 1708, which ignored his call to reestablish the revenue that was to expire the next year.<sup>120</sup> Instead, a party led by the prominent New York City merchants Stephen de Lancey and Philip van Cortlandt joined Thomas Garton and the speaker, William Nicoll, in inveighing against the fees collected by the officers of the government. Garton composed a resolution declaring that “the imposing and levying of any monies upon her majesty’s subjects of this colony [...] without consent in general assembly, is a grievance and a violation of the people’s property.”<sup>121</sup> This castigation of taxation backed only by the prerogative was a direct reference to the English Bill of Rights of 1689. It was therefore a clear signal that the treasurer concession had not lessened New Yorkers’ discontent with the failure of their rights and institutions to match those that Englishmen in England enjoyed. Faced with this principled opposition from his former allies, Cornbury could secure only two small aids for frontier defense and the revenue before adjourning the assembly to March 1709.<sup>122</sup>

### *The Revenue Expires*

Cornbury had not been inclined to press this assembly, for he had already known that his replacement was in the works. In Britain, Godolphin and Marlborough had decisively sided with the Whig junto by 1708. Cornbury, as a well-known Tory, was a casualty of that political realignment. He was succeeded by John, lord Lovelace, an experienced soldier who was carrying a heavy debt burden. With the revenue due to expire in May 1709, Lovelace faced the pressing

<sup>119</sup> *JNY* 217; Bonomi, *The Lord Cornbury Scandal*, 79-82.

<sup>120</sup> Cornbury’s speech to the assembly of New York, 20 August 1708, *JNY* 219.

<sup>121</sup> *Ibid.*, 223-4.

<sup>122</sup> *Ibid.*, 234, 238.

need to win another renewal for the crown's sake and for his own. He made the request to the assembly in April 1709, but died a month later without much of a chance to secure its passage.<sup>123</sup> Even if Lovelace had not died, however, the assembly's initial response had not been promising. Lovelace had presented them with an estimate of the salaries "established to be paid out of the revenue of New York" that amounted to £3,542, as well as a further £770 required for the support of the forces.<sup>124</sup> In response, the assembly had resolved to raise only £2,500 for a single year, and had taken upon itself to decide which officers should be paid, and how much, in a clear violation of the prerogative.<sup>125</sup>

Lovelace's successor was Richard Ingoldsby, who had first arrived in New York to confront Leisler twenty years before, and was only able to take up executive power because the order for the revocation of his commission as lieutenant governor had been lost in 1706.<sup>126</sup> Knowing well that "when another governor came over he should be removed," and that he was anathema to the Leislerians still in the assembly, Ingoldsby had no incentive to urge the passage of the revenue on terms agreeable to the crown.<sup>127</sup> Moreover, the imperial authorities had

<sup>123</sup> John lord Lovelace's speech to the assembly of New York, 7 April 1709, *JNY* 240; *JNY* 246.

<sup>124</sup> *JNY* 243.

<sup>125</sup> *Ibid.*, 246. They resolved only to pay the governor, the council clerk and messenger, the official printer, and "the Indian interpreter"; all the other officers were to be left to their own devices.

<sup>126</sup> Order in council, 11 April 1706, CO 5/1049/83 is the original order. Upon receiving correspondence from Ingoldsby as lieutenant governor, the board of trade noted the omission, and a new order of council was issued to revoke his commission, but that was in September 1709. Before the order could make its way to New York, Ingoldsby had already passed some twenty-seven acts of assembly. See Order in council, 5 September 1709, CO 5/1049/416; Ingoldsby to board of trade, 5 July 1709, CO 5/1049/347; Ingoldsby to board of trade, 15 March 1710, CO 5/1049/516.

<sup>127</sup> Quotation is from Lady Lovelace to board of trade, 3 September 1709, CO 5/1049/378; see also Memorial of William Atwood to board of trade, 29 October 1709, CO 5/1049/433, in which Atwood, the former Leislerian chief justice of New York, remarked that Ingoldsby "too much revives the memory of the disorders which he and most of his present supporters occasioned when he formerly assumed the government, without the least shadow of pretense to it" in 1691.

directed Ingoldsby to make preparations for an invasion of Canada. That project would require further extraordinary aids from the assembly, thereby increasing their leverage.

In exchange for acquiescing in the assembly's appropriation of the one-year revenue grant, and assenting to a bill regulating fees that impinged on the prerogative, Ingoldsby secured £800 for himself and £2,500 for the government. He also secured £14,000 for the invasion of Canada, but it was to be paid in paper money, to which the metropolitan authorities were consistently opposed for its regulation of the Atlantic economy in favor of colonial debtors.<sup>128</sup> Ingoldsby protested to the board that he would have preferred not to agree to multiple transgressions on the prerogative, but given the assembly's leverage, he had been "forced to accept of what the assembly would give [...] rather than let all the officers starve" and the expedition go unfunded.<sup>129</sup> The assembly had made their leverage tell against the governor.

Despite the profound differences between the two colonies, by 1709 New York politics had converged with Jamaica's in important respects. In both colonies, the central political issue was now not partisan strife between major opposing factions among the elite. Instead, the conflict of the colonial elite's material and ideological interests with those of the governor and the metropolitan authorities had become fundamental in both New York and Jamaica. Jamaican politics had arrived at that point by the middle of the 1690s. In New York, two decades of the demands of war, while Leisler's Rebellion receded ever further into the past, had at last brought politics to the same end. The Jamaican assembly had made use of the leverage granted it by imperial warfare to take a part of the power of the purse it would never relinquish. The assembly

<sup>128</sup> Ingoldsby to board of trade, 15 March 1710, CO 5/1049/516; *JNY* 248-56.

<sup>129</sup> Ingoldsby to board of trade, 5 July 1709, CO 5/1049/347-8.



in New York had done the same, with the additional security of an explicit concession from imperial authorities that future assemblies would exploit to the fullest of their ability.

Other circumstances in New York still remained importantly different than in Jamaica. The Leislerian/anti-Leislerian factional division was weaker but still extant, and New York's other economic, religious, and sectional distinctions persisted. A skillful governor might be able to exploit them to win concessions. However, the ferocious bitterness engendered by Leisler's Rebellion, which had won the crown funds at little cost to the prerogative, was gone for good. Moreover, the crown did not have in New York, as it did in Jamaica, the potent leverage of temporary confirmation of the colony's basic laws. As a result, with the New York revenue expired as of May 1709, imperial authorities had no easy route towards securing a new long-term grant. The governor would have to fend off the New York elite's push to secure the Glorious Revolution settlement while somehow still finding means to fund the crown's impecunious government during wartime. Ingoldsby's successor would face a daunting task.

## Chapter IV

### A Scotsman Abroad: Robert Hunter in New York, 1710-1719

Robert Hunter, governor of New York from 1710 to 1719, enjoys a sterling reputation among historians. Patricia Bonomi calls him “an exceptional governor [who] easily dominates a field where mediocrity of virtue and ability was too often the norm”; Eugene Sheridan says that “few were more able or distinguished than Robert Hunter”; and Mary Lou Lustig writes that his “New York administration [is] perhaps the most highly regarded in American colonial history.”<sup>1</sup> This high esteem derives from three sources. First, Hunter’s personal qualities were remarkable; he was “a man of integrity, wit, and tact,” “an accomplished belletrist,” and “intelligent and dashing.”<sup>2</sup> Second, those qualities endowed Hunter with “an extraordinary political skill,” which he used to bring “peace to New York after decades of vicious factionalism,” and thereby “transformed an archaic, even anarchic, colony into a stable Augustan province.”<sup>3</sup> Third, and most importantly, Hunter settled the colony’s accumulated debts of the last two decades and established a revenue after its expiration in 1709. For Stephen Saunders Webb, this achievement amounts to the imposition of “a politically stable, whig, Hanoverian military-fiscal state on the province of New York.”<sup>4</sup> Other historians do not go so far, but there is a consensus view that Hunter “was leaving behind a more stable and prosperous colony than he had found” thanks in large part to his own actions.<sup>5</sup>

<sup>1</sup> Bonomi, *A Factious People*, 78; E. Sheridan, *Lewis Morris*, 91; Lustig, *Robert Hunter*, ix.

<sup>2</sup> Bonomi, *A Factious People*, 78; Bailyn, *Origins of American Politics*, l. 1542; Lustig, *Robert Hunter*, xiv.

<sup>3</sup> Bonomi, *A Factious People*, 78; Bailyn, *Origins of American Politics*, l. 1560; Webb, *Marlborough’s America*, 261.

<sup>4</sup> Webb, *Marlborough’s America*, 326.

<sup>5</sup> Bonomi, *A Factious People*, 87.

However, scholars have generally taken care to qualify these assertions. Despite her praise of Hunter's virtue, Lustig is also very well aware that Hunter aggressively exploited his "executive authorities" to enrich himself and to silence his opponents.<sup>6</sup> Bonomi mentions in *A Factious People* that while Hunter minimized factional strife during his tenure, he did preside over and "sometimes nurtured the emergence of a new political alignment" of merchants versus landowners.<sup>7</sup> In *The Lord Cornbury Scandal*, she raises the most critical caveat of all. Hunter's three major compromises with the assembly, Bonomi argues, "opened the way for a decisive shift of fiscal control—the famous power of the purse—from England to the province."<sup>8</sup> Other historians, from Jack Greene to Ian Steele, have agreed.<sup>9</sup> Hunter's successes were won by "compromising to placate competing interests," and the prerogative in the colonies thereby suffered in the all-important fiscal point.<sup>10</sup> With one of its most competent servants at the helm, was this really the best the crown could do?

The answer, I argue, is yes. The same structural constraints that had denied the crown a favorable resolution of the Poynings' Law crisis, had prevented the establishment of a permanent revenue in Jamaica a generation later, and had brought about the expiration of the New York revenue in 1709 were still in operation. The governor and the crown still had divergent interests;

<sup>6</sup> Lustig, *Robert Hunter*, 100-2.

<sup>7</sup> Bonomi, *A Factious People*, 79. Bailyn goes further, arguing that the suppression of strife "could not be sustained." Bailyn, *Origins of American Politics*, I. 1560.

<sup>8</sup> Bonomi, *The Lord Cornbury Scandal*, 173. The compromises were the 1714 debts bill, the 1715 revenue bill, and the 1717 debts bill.

<sup>9</sup> Greene, *The Quest for Power*, 5; Steele, "The Anointed," 114-6. For works already mentioned, see Bonomi, *A Factious People*, 84; E. Sheridan, *Lewis Morris*, 112, 117; Lustig, *Robert Hunter*, xii. Even Webb is willing to concede that Hunter won "very much a compromise settlement," though he then immediately minimizes it by incorrectly contending that the 1714 debts bill "publicly [...] restored the prerogative power over finance to the provincial constitution." Webb, *Marlborough's America*, 312.

<sup>10</sup> Steele, "The Anointed," 116.

the metropolitan authorities still almost always had more important concerns than colonial affairs; and the crown still remained unwilling to finance an administrative state in the colonies. And neither the means nor the will for coercion were available to imperial authorities. The only available method of governance was cooperation with local elites. Moreover, those elites wanted to exercise their rights as Englishmen, to advance their material interests, and to lay a strong foundation for both by securing ever more of the power of the purse. All those desires were in various degrees of conflict with the crown's prerogative and the material interests of metropolitan Britons. As ever, if the crown or its governor wanted funded and functional colonial government, they would have to make concessions.

Lustig has argued that “concessions to provincial oligarchs [were] not the principal reason Hunter enjoyed successful administrations in New York and New Jersey,” claiming instead that his ability “to utilize effectively the extensive powers” of his commission made him a success.<sup>11</sup> I contend, rather, that Hunter's personal qualities allowed him to identify suitable concessions, and then to defend them successfully and cogently to the metropolitan authorities, in a way that few governors did. The effects of a governor's exceptionalism, however, stop there. Even a talent such as Hunter could neither reshape the fundamental contours of the transatlantic empire nor escape the strictures of English political culture. The choice for every governor, then, was simple (though difficult). Should functional colonial government be secured at the price of the crown's other interests? Or should the governor defend the prerogative to the fullest, trusting that duty and obedience would produce a colonial support of government? Hunter's compatriot, Hamilton, opted for the latter as governor of Jamaica. Hunter, “a realist who had a chameleon

<sup>11</sup> Lustig, *Robert Hunter*, xii.

quality,” chose the former.<sup>12</sup> He did indeed secure stable and funded government for a time in New York, after the colony had hit its fiscal low point. But he did so at the price of giving up, forever, the crown’s undisputed control of the regular revenue in the colony. Even Britain’s best colonial governor could do no better than this.

### *Hunter Before New York*

Robert Hunter landed on 14 June 1710 as the new governor of New York and New Jersey, at the age of forty-four.<sup>13</sup> Like most first-time colonial governors, Hunter was no administrator. Instead, he was a veteran army officer. He had fought in the Nine Years’ War and the War of the Spanish Succession, rising to the rank of colonel. As an aide to the duke of Marlborough, the captain-general of the crown’s armies in Europe and the most important political figure in Britain, Hunter had fought in the great victories at Blenheim and Ramillies. However, he fell out with Marlborough not long after, when he accepted the surrender of Antwerp rather than leaving it for Cadogan, Marlborough’s favorite.<sup>14</sup> With the doors of military advancement barred to him after the loss of his most influential patron, Hunter sought other opportunities of advancement, and found them in the colonies.

Though without experience of civil administration, Hunter did have an extensive network of friends and patrons beyond Marlborough upon whom he might call. A scion of impoverished Scottish gentry, he had diligently nurtured his relationships with leading lights of the Scottish nobility, including the earls of Stair and Orkney and the duke of Argyll.<sup>15</sup> A Whig by upbringing,

<sup>12</sup> Lustig, *Robert Hunter*, xiv.

<sup>13</sup> Robert Hunter to William Popple junior, 16 June 1710, CO 5/1049/504. This chapter does not consider Hunter’s career in New Jersey, but for the interested, Lustig’s work provides a thorough examination.

<sup>14</sup> Lustig, *Robert Hunter*, 37.

<sup>15</sup> *Ibid.*, 84-5.

he had also developed ties with the Whig junto, especially the earl of Sunderland and lord Somers.<sup>16</sup> And through his amateur literary and scientific efforts, he had enjoyed the society of Jonathan Swift, Joseph Addison, Richard Steele, and John Arbuthnot, and was probably a member of the Kit-Cat Club.<sup>17</sup> Finally, Hunter had a burgeoning friendship with one of the most essential cogs in the machinery of the governance of empire: William Popple junior, secretary of the board of trade.<sup>18</sup> These connections would all stand Hunter in good stead when lobbying the metropolitan authorities for support.

Hunter possessed one more signal advantage for a colonial governor—significant income unburdened by debt. In 1707, he married Elizabeth Orby, the widow of one of his former military colleagues, and sole heiress to her father's and her uncle's estates. Her dowry lands alone, which Hunter controlled *jure uxoris*, were worth £3,000 a year.<sup>19</sup> Hunter therefore had the income of an aristocrat, without the social pressure or inherited expectations of lavish spending that came with an actual title. His financially independent status meant he did not come to the colonies desperately seeking to retrieve a depleted fortune, as so many governors did. However, Hunter certainly wanted to become wealthier, and the income a canny governor could draw more-or-less legitimately from the pay and subsistence of the four independent companies in

<sup>16</sup> See copy of Hunter to the earl of Stair, 8 November 1714, CO 5/1051/97.

<sup>17</sup> Lustig, *Robert Hunter*, 54-5.

<sup>18</sup> Hunter would write Popple an average of more than three letters a year during his governorship, a rate no other governor of the colonies here studied sustained. Steele writes that as of Popple junior's taking the secretaryship in 1707, "the secretary was now the colleague and technical advisor of the Board rather than its clerical steward," thanks to major turnover in the board's membership. Ian K. Steele, *Politics of Colonial Policy: The Board of Trade in Colonial Administration, 1696-1720* (Oxford: Oxford University Press, 1968).

<sup>19</sup> Lustig, *Robert Hunter*, 41.

New York amounted to thousands of pounds.<sup>20</sup> Hunter therefore went to the colonies determined “to make money” as well as to provide effective imperial government.<sup>21</sup>

*Hunter’s Colonial Education, 1710-1713*

It would take every bit of Hunter’s skill to accomplish both of those ends, for the metropolitan authorities had put him on a collision course with the assembly. He was to regulate the fees taken by lawyers and officers of the state by ordinance in council, since the crown had rejected the assembly’s attempt to do so by legislation.<sup>22</sup> He was to secure even more funds for the defense and fortification of the colony than the assembly had already raised.<sup>23</sup> And most importantly, he was to renew the revenue in the province, which had expired in 1709, without giving into the assembly’s infringement on the prerogative.<sup>24</sup> The board imagined he would somehow do all this while “avoid[ing] the engaging [...] in any parties,” and “reconciling all differences amongst them,” though the past two decades of New York history indicated the opposite.<sup>25</sup>

Before confronting the assembly with this ambitious agenda, however, Hunter had another major duty to discharge. He had come over with 3,000 “Palatine” refugees, who had fled the devastation of war in the Rhineland.<sup>26</sup> Hunter had embraced and promoted a project of

<sup>20</sup> Webb, *Marlborough’s America*, 309.

<sup>21</sup> Lustig, *Robert Hunter*, 64.

<sup>22</sup> Additional instruction for Hunter, 23 December 1709, CO 5/1122/82-3.

<sup>23</sup> Instruction for Hunter, 23 December 1709, CO 5/1122/65-8.

<sup>24</sup> From the letters Hunter exchanged with Popple junior and the board, it is clear he had discussed this extensively in London, but he had no formal instruction for it.

<sup>25</sup> Instructions for Hunter, 23 December 1709, CO 5/1122/10-11.

<sup>26</sup> Sunderland to board of trade, 7 January 1710, CO 5/1122/141. “Palatine” is inaccurate but brief, and I follow contemporaries in using it.

putting them to work making naval stores in New York, which was intended to lessen Britain's dependence on Scandinavia and Russia for those supplies.<sup>27</sup> Hunter spent two months settling the Palatines and directing their preparations, while securing an alliance with Robert Livingston by contracting with him to supply the Palatines.<sup>28</sup> He accumulated a considerable debt in this project, but did so with little fear, since the treasury had promised to honor his bills for prompt repayment. Then, on 1 September 1710, he met his first New York assembly.

The election results were not promising for Hunter, with only five changes in the twenty-two-member assembly that had refused to renew the revenue in 1708 under Cornbury. The group that had spearheaded the opposition remained strong, with van Cortlandt, de Lancey, Nicoll, and Garton all retaining their seats, and the Ulster county landowner Henry Beeckman lending them his support.<sup>29</sup> This party demonstrated they had the majority by electing Nicoll as speaker once more. There were only two bright spots for Hunter in the elections—Livingston took an Albany seat, while the New Jersey councilor and considerable landowner Lewis Morris made his first foray into New York politics by winning the seat for the borough of Westchester.

Faithful to his instructions, Hunter opened the assembly by telling them it was “only your duty, your interest, and common justice [...] to provide a suitable support for her majesty's government.”<sup>30</sup> The majority in the assembly preferred to start upon business closer to their

<sup>27</sup> Hunter to board of trade, 30 November 1709, CO 5/1049/451; Additional instruction for Hunter, 20 January 1710, CO 5/1122/157-8.

<sup>28</sup> James du Pre to James Vernon, 4 October 1710, CO 5/1050/5.

<sup>29</sup> See *JNY* 218 for the 1708 election returns, and *JNY* 271 for the 1710 election returns. Bonomi, *A Factious People*, 82. Garton was now the only one left alive of Cornbury's “three turbulent men, who never were [...] faithful to the Queen nor true to their country.” See Cornbury to board of trade, 8 July 1705, *CSPC*, XXII, no. 1230.

<sup>30</sup> Hunter's speech to the assembly of New York, 1 September 1710, *JNY* 271.



hearts, bringing in a new bill of fees as well as a bill for settling land titles.<sup>31</sup> Not until 25 October did they resolve to pay Hunter 2,500 ounces of plate for his salary, which would be raised by a hearth tax paid to and distributed by their own treasurer.<sup>32</sup> Besides this infringement on the prerogative, Hunter also understood the sum to be “little more than half the salary appointed by her majesty.”<sup>33</sup> It was, however, just about the old figure that governors had been paid before the crown had eliminated gifts in 1703 and doubled the governor’s salary in 1708, thereby reducing the scope for mutually beneficial exchanges between assembly and governor. It was little surprise, therefore, that the majority had decided on a confrontation to reduce their own expenses and the governor’s fiscal independence.

With their resolution on Hunter’s salary, the assembly paired “an act for the more ease of her majesty’s subjects.”<sup>34</sup> Hunter and the council had refused to consider the assembly’s earlier bill of fees, and instead had composed an ordinance settling the fees.<sup>35</sup> The assembly’s new act therefore declared “that no sum or sums of money be, shall, or ought to be imposed, levied, or exacted from any person or persons in this colony [...] unless by consent of the people convened in general assembly.”<sup>36</sup> This startling assertion of their power over the purse verged on violating the acts of navigation. But the deliberate evocation of the 1689 Bill of Rights demonstrated that

<sup>31</sup> *JNY* 272-3.

<sup>32</sup> *Ibid.* 280, 282.

<sup>33</sup> Hunter to board of trade, 14 November 1710, CO 5/1050/20. Calculating conversions from the ounces of plate mentioned in New York acts to pounds sterling is more than a little fraught. A decent approximation can be had by dividing by four, but that elides considerable complexities and variances. I have preferred, therefore, to use general terms and round numbers rather than delving too deeply into the conversions, and to employ the understanding of contemporaries of the rates of conversion whenever possible.

<sup>34</sup> “An act for the more ease of her majesty’s subjects in this colony,” 25 October 1710, CO 5/1050/58.

<sup>35</sup> Hunter to board of trade, 14 November 1710, CO 5/1050/19.

<sup>36</sup> “An act for the more ease of her majesty’s subjects in this colony,” 25 October 1710, CO 5/1050/58.

the assembly were determined to defend their rights as Englishmen from arbitrary assessment of fees. They were, of course, also motivated to keep as much of their property as they could, and to deny the crown's officers fiscal independence from the assembly. Together with the resolutions on his salary, the assembly had served notice to Hunter that if he wanted any money from the assembly for the support of government, he would have to cede primary control over the colony's revenue to them.<sup>37</sup>

Less than half a year into his government, Hunter was not yet prepared to contravene his instructions, nor was he sufficiently experienced to appreciate the practical limitations on his sovereign's rights. Instead, like Cornbury before him he scolded the assembly, who "lay under so great obligations" to the queen, for "question[ing] her power of appointing such salaries for her governors as she should think fit, out of the subsidies granted her for the support of her government."<sup>38</sup> This haughty assertion of the prerogative backfired. The assembly further reduced their support of government, expelled Hunter's ally Morris on 9 November for criticizing their refusal to comply with the queen's instructions, and consistently refused to "admit of any amendments made by [the council] to a money bill."<sup>39</sup> Nor was the council unanimous in support of Hunter. Abraham de Peyster, the assembly's nominated treasurer, voted against every resolution condemning the assembly's behavior, and "appeared [...] as an advocate for the unaccountable proceedings of the assembly," while Adolph Philipse also vigorously

<sup>37</sup> Webb is less forgiving about the motives of the opposition to Hunter. He claims that "Cornbury Tories," those who were "simply seditious," and "city merchants who fenced the loot" of pirates and privateers had combined in an opposition in which "criminality was supported by ideology." Though the desire to protect illegal trade was always strong in New York, Webb seems here to have preferred the prejudices of his sources to historical objectivity. See Webb, *Marlborough's America*, 299.

<sup>38</sup> Hunter reported to the board that he did this privately; in public he was more circumspect. Hunter to board of trade, 14 November 1710, CO 5/1050/19.

<sup>39</sup> *JNY* 283, 286; Lewis Morris's speech to the assembly of New York, 8 November 1710, CO 5/1050/27-8.

opposed the revenue bill.<sup>40</sup> Frustrated and undermined, Hunter prorogued the assembly on 25 November until the following March, having achieved nothing for the support of the government.

The realignment of New York's political factions had clearly progressed further in this combative and unproductive session of assembly. One can, without too much squinting, perceive the outlines of an anti-Leislerian opposition to Hunter, given the presence of such anti-Leislerians as Nicoll, Garton, and de Lancey in the majority's leadership. However, Hunter's most prominent supporters, Morris and Livingston, were certainly not Leislerians, and few of the rest had outstanding Leislerian credentials. Moreover, if the Whig Hunter had been frustrated by the anti-Leislerian opposition, so too had the Tory Cornbury. The pattern of 1691-1703 no longer held. Instead, merchants from Albany, New York City, and Long Island were joined in opposition to renewing the old revenue based on import duties, while landholders from the Hudson River valley supported it. The New York elite's many identities precluded the division from being quite that simple, with smaller merchants in New York City supporting the revenue, landowners from Ulster county opposing it, and the elite in Queens and Kings counties breaking in both directions on ethnic and religious grounds.<sup>41</sup> But the principal internal conflict was no longer motivated by the bitter aftermath of Leisler's Rebellion; instead, there was now an economic contest with a distinct geographical flavor. It remained to be seen whether Hunter could turn this new factional division to the crown's advantage as his predecessors had done with the old.

<sup>40</sup> Hunter to board of trade, 28 November 1710, CO 5/1050/69; Lustig, *Robert Hunter*, 100. Hunter found Philipse in particular so aggravating that he would make Philipse one of the thinly disguised caricatures in his satirical and scatological play *Androboros*.

<sup>41</sup> Kammen, *Colonial New York*, 203.

This political conflict emphatically did not fit Webb's model of a "tory party" against a would-be "whig oligarchy."<sup>42</sup> It is certainly true that metropolitan Tories and the anti-Leislerians had generally banded together, as had the Leislerians with metropolitan Whigs. And it is also clear that some of the opposition to Hunter drew strength from Anglicanism and anti-Scottish feeling, as did the Tories in Britain, while he received support from dissenters as did the Whigs in Britain.<sup>43</sup> Moreover, given the transatlantic community of English political culture, "some of the more cosmopolitan colonial oligarchs were Whigs or Tories."<sup>44</sup> But New York's central political issues were not the same as those of the metropole. There was no easy equivalent in Britain of New York's particular "pluralistic matrix of politics," which included sectional divisions over the burden of defense, English/Dutch/French ethnic tensions, and a near-equipose of merchant and landowner power.<sup>45</sup>

The most crucial difference, however, was the balance of power between executive and legislature, as Jack Greene and Bernard Bailyn pointed out half a century ago.<sup>46</sup> Parliament had begun the contest of elected versus prerogative government in earnest in England in 1641, and the Glorious Revolution settlement had ensured Parliament's primacy in both formal and informal fashion. That settlement of powers had not made its way to New York, however, where the assembly was still fighting governor and crown both for the powers Parliament had already won. "Whig" and "Tory," as they applied to contemporary Britain, will not do. "Court" and

<sup>42</sup> Webb, *Marlborough's America*, 312.

<sup>43</sup> *Ibid.*, 299; Lustig, *Robert Hunter*, 106-9.

<sup>44</sup> Lustig, *Robert Hunter*, 99.

<sup>45</sup> Kammen, *Colonial New York*, 205.

<sup>46</sup> Greene, "Political Mimesis," 350-1; Bailyn, *Origins of American Politics*, l. 932.

“country” comes closer, as Lustig suggests.<sup>47</sup> But the closest political parallel to the opposition to Hunter comes from other English colonial assemblies, such as that of Jamaica, battling for the rights that Englishmen enjoyed “at home.” There was no analogy for this in Britain, and therefore metropolitan political parties could not coherently transfer across the Atlantic.

Hunter did not, of course, convey such an appraisal of the political situation in New York to the board. But he did write them on 14 November to “tell you the pretended [reasons], and then, as far as I am able to guess, the real ones” for the assembly’s refusal to renew the old revenue.<sup>48</sup> The “pretended” reasons were that the expedition to Canada and “the misapplication of former revenues” had drained the colony’s resources.<sup>49</sup> Hunter dismissed the first argument with some inexpert economic analysis, noting that the money for the 1709 expedition was a land tax, while the revenue normally “arose by an impost of goods imported and exported, and by an excise.”<sup>50</sup> Only a land tax, according to his landowner ally Morris, would be “esteemed a burthen”; duties on trade, contrary to the arguments of the merchants, had passed “without being felt by the country.”<sup>51</sup> Hunter had more sympathy with the second argument, despite terming it “pretended,” since he could pin the colony’s indebtedness on Cornbury.<sup>52</sup> But the only solution

<sup>47</sup> Lustig, *Robert Hunter*, 99.

<sup>48</sup> Hunter to board of trade, 14 November 1710, CO 5/1050/20.

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*

<sup>51</sup> Morris’s speech to the assembly of New York, 8 November 1710, CO 5/1050/28.

<sup>52</sup> Historians have frequently accepted that the blame was rightly laid at Cornbury’s door. To select two disparate examples, Greene mentions that “The New York House of Assembly began to demand greater authority in reaction to the mismanagement of Edward Hyde, Viscount Cornbury,” and Webb claims that Cornbury “had so looted the province that the assembly had resolved never to pass another revenue bill.” See Greene, *The Quest for Power*, 5 and Webb, *Marlborough’s America*, 297. Bonomi has effectively disputed this claim in *The Lord Cornbury Scandal*. I have agreed with Bonomi in the previous chapter, in which I have shown that Cornbury was rather less corrupt and profligate than either Bellomont or Fletcher, and that the opposition to the revenue in New York did not spring primarily from resentment of his measures.

he offered to the assembly was that the receiver general would provide more transparency in his accounting, and never pay out more than he collected. Since this compromise did not meaningfully advance the assembly's control over the power of the purse, they disregarded it.<sup>53</sup>

The "real reasons" were also twofold, which Hunter had learned "from private discourse with the most considerable amongst them."<sup>54</sup> The first was the longtime complaint that the neighboring colonies were not paying their share, which was borne out by the failure of Pennsylvania, New Jersey, Rhode Island, and Connecticut to provide even half of their quotas for the 1709 expedition.<sup>55</sup> Hunter's predecessors had backed this argument to the board for their own reasons. Unlike them, however, Hunter needed a revenue, and could not afford to suggest that New York's burden ought to be lightened. Therefore, he avoided confronting the assembly's arguments, instead suggesting that the colony had been a gainer by the supposed £20,000 per annum the crown spent on its defense.<sup>56</sup>

The second was that contrary to British practice, the assemblymen received six shillings per session day from their counties. As a result, Hunter claimed that the assembly was overrun with impecunious members desperate for reelection, who employed "the popular arguments of having saved the country's money" and would therefore always be "refractory in what relates to the expenses of government."<sup>57</sup> Hunter therefore asked for the crown's repeal of the 1701 act that established the salaries, so that he could have "men of substance, sense, and moderation for

<sup>53</sup> Hunter to board of trade, 14 November 1710, CO 5/1050/21.

<sup>54</sup> Ibid. This was code for Morris and Hunter's other allies.

<sup>55</sup> Ibid.

<sup>56</sup> Hunter to board of trade, 14 November 1710, CO 5/1050/21. Morris had made a similar point in his speech to the assembly. See Morris's speech to the assembly of New York, 8 November 1710, CO 5/1050/27-8.

<sup>57</sup> Hunter to board of trade, 14 November 1710, CO 5/1050/21.

representatives, who come with true intent to serve their country, not themselves.”<sup>58</sup> This was the classist English argument for aristocratic amateur government at its finest, calculated for maximum appeal to the metropolitan authorities’ prejudices. However, it was also, like Hunter’s other arguments, a stark misrepresentation of the facts. In reality, most of the assemblymen were among New York’s richest men, to whom six shillings per day made little difference. Their “refractoriness” was not forced upon them, but a choice freely made.

Hunter suggested one last reason that he did not categorize as “real” or “pretended,” but from his tone fits with the latter. He noted that the belief “that her majesty hath no power to appoint salaries” had gained currency, with “this weighty argument to back it, that by the same rule that [the queen] appoints 1200, she may appoint 12,000.”<sup>59</sup> This point did not deserve so brief a dismissal, because it was absolutely correct. Reason, prudence, and justice might all dissuade the crown from unilaterally raising the expenses New Yorkers were expected to bear to whatever heights were desired. Then again, however, they might not. And New Yorkers in 1710 were wary of counting too heavily on the crown’s good sense or virtue, having had the rug pulled out from under them in the matter of the 1709 expedition. Moreover, while the crown was determined not to allow them Parliament’s limited right to decide the aggregate size of the civil list, the assembly were equally determined not to permit the colonial executive to become fiscally independent.

Hunter’s analysis did himself, the board, and reality itself a tremendous disservice. His “real reasons” were real reasons, but so too were his “pretended ones.” Most glaringly, like Carlisle in Jamaica, he had given the metropolitan authorities no account of the battle of rights.

<sup>58</sup> Hunter to board of trade, 14 November 1710, CO 5/1050/22.

<sup>59</sup> Ibid.

The assembly certainly did have their own material interests at heart in refusing to vote for any revenue they did not control. However, the assembly also had genuine ideological interests at stake. The power of the purse would enable them to defend Englishmen's rights to property against corruption, and to incentivize the governor against other exercises of arbitrary power by controlling his salary. Any assertion of the crown's rights in this regard would correspondingly deny those of the assembly and their constituents. Hunter had omitted this argument entirely from his letter to the board of trade, possibly because he knew the board would not welcome hearing it, but probably also because he was simply unable to credit it. English governors or colonial administrators, when colonists inconveniently demanded the self-governing rights of Englishmen, had little difficulty in regarding those they governed as not properly English. Hunter, though a Scot, was just as capable of doing the same.<sup>60</sup>

Hunter suggested, for a remedy, that the metropolitan authorities wield the blunt instrument of Parliament to smash apart the obstacle. He proposed parliamentary legislation for duties on all imports and exports, as well as an excise on retailed liquors in all colonies north of Maryland.<sup>61</sup> Within a year of his arrival Hunter seems to have understood, and implicitly acknowledged, the structural inability of colonial governors to compel obedience from a resolute legislature. He could not defend the prerogative while securing a revenue to support the

<sup>60</sup> Of course, many of the European-descended people who lived in New York were not in fact English, but Dutch. But most of them had been made at least partially politically English by the various orders and settlements concerning naturalization after 1664, including all the Dutchmen in the assembly, even if they were not culturally English. By the eighteenth century, most of the Dutch elite in New York had embraced English political culture, convenient as it was for arguing for their own autonomy. See Stanwood, *The Empire Reformed*, 113, 205; Klein, "Shaping the American Tradition," 195; Kammen, *Colonial New York*, 167.

<sup>61</sup> Hunter to board of trade, 14 November 1710, CO 5/1050/22. This seems to have been intended both to take away New Yorkers' objections about the neighboring colonies paying less, and to ensure that there would be a revenue in a set of colonies that had all been recalcitrant about revenue during the war, for one reason or another. Hunter also proposed legislating a quit-rent on all lands in the colony, but the board never gave this any serious consideration, and Hunter did not suggest it again.



government. Nor, however, was he willing to make concessions of the prerogative in exchange for money. And with an anti-revenue party in the majority in the assembly, he could not play one party off against another to get his funds, as Fletcher and Bellomont had done. The only way to solve the problem in favor of the crown, in Hunter's mind, was to preview the crisis of the 1760s and 1770s by replacing the undesirable outcomes of local self-government with direct and theoretically unchallengeable imperial action.

Hunter's letter arrived in London on 2 January 1711, to a vastly changed political scene. The queen had dismissed Godolphin on 7 August 1710, with Hunter's Whig junto patrons following shortly thereafter, and Harley now headed a Tory ministry. However, the board of trade remained largely unchanged. They responded rapidly, repeating Hunter's flawed and incomplete conclusions to the queen and the privy council in a representation of mid-February.<sup>62</sup> The board advised that the assembly be scolded for actions "justly displeasing to your majesty," and that Hunter press them again on renewing the revenue.<sup>63</sup> Should the assembly persist in their recalcitrance, Hunter was to tell the assembly that "their refusal or neglect will give a just occasion to the passing an act by the parliament of Great Britain for granting to your majesty the [...] revenue" customary since 1692.<sup>64</sup> The privy council accepted these recommendations, and the draft of such an act was ready to be laid before Parliament by 15 March.<sup>65</sup>

Surprisingly, the Tory administration had agreed with Hunter. They probably preferred to threaten parliamentary legislation without carrying through, which was why they had enjoined

<sup>62</sup> Representation of the board of trade to the queen, 16 February 1711, CO 5/1122/278-84. Most troublingly, the board reproduced Hunter's pretended reasons/real reasons distinction.

<sup>63</sup> *Ibid.*, 285-6.

<sup>64</sup> *Ibid.*, 286.

<sup>65</sup> Representation of the board of trade to the queen, 15 March 1711, CO 5/1122/299-300.

Hunter to warn the assembly of the plans afoot in London first. However, after previously ignoring requests from governors for parliamentary legislation to solve their difficulties with the New York assembly, the metropolitan authorities had now directed a bill to be introduced in Parliament. While previous attempts had centered on peripheral matters, Hunter sought to defend the crown's right to collect and dispose of its revenue to support its government, which was the heart of the prerogative in the colonies.<sup>66</sup> Parliamentary legislation to resolve a colonial issue would, of course, legitimize and strengthen its authority in colonial affairs, weakening the power of prerogative government for the future. In so crucial a point, however, the benefit might outweigh the cost.

However, the prerogative and prestige of the crown had come under even more dire threat during the Poynings' Law crisis in Jamaica. Yet there was no hint of parliamentary legislation then to enforce the crown's measures. The challenging situation Charles II and his ministers faced with parliamentary opposition in the form of the Exclusion Crisis provides a partial explanation. Legislation on Jamaica would have been more likely to oppose the crown than support it. Moreover, since the Poynings' Law crisis in Jamaica, the Glorious Revolution and twenty years of war had made the crown less independent of Parliament both practically and ideologically, and commensurately weakened the prerogative. Parliament's intervention in colonial affairs was thus both more necessary and more palatable.<sup>67</sup> The proposed New York act would nevertheless still be a new step, both in its specificity to a single colony and in its subject matter, and if passed it might well portend a seismic shift in colonial governance.

<sup>66</sup> E.g., Bellomont to board of trade, 24 August 1699, CO 5/1042/282, in which he asked for an act of Parliament to break the land grants made by Fletcher, or Cornbury to board of trade, 1 July 1708, CO 5/1049/315, in which he asked for an act of Parliament settling the militia.

<sup>67</sup> Several acts were passed during this period concerning colonial governance, most importantly that for preventing frauds and regulating abuses in the plantation trade in 1695, and that for encouraging the trade to America in 1708.

One thing had not changed. Colonial governors who needed their salaries and expenses could not afford to wait for letters to cross the Atlantic and resolutions to be taken in London. Hunter's independent means would normally have relieved him of this necessity, but the new commission of the treasury had yet to honor the bills he had drawn on them for the Palatine project, involving Hunter in a debt of over £10,000.<sup>68</sup> However, the old assembly refused to act, holding that, as in Cornbury's time, Hunter had dissolved them by illegally proroguing them from New Jersey.<sup>69</sup> New elections did Hunter no favors, returning all of his former opponents.<sup>70</sup>

That assembly's first priority, however, was to raise men and over £10,000 for a new expedition to Canada, which they did while once again complaining of the unequal burden. The expedition then met disaster on 18-19 August, when several ships ran aground in the fog in the St. Lawrence and some nine hundred aboard died. With the abandonment of the expedition shortly thereafter, the New York assembly had financed two invasions of Canada in three years to no purpose. They were consequently in no mood to empower Hunter. Their bill for the support of government raised £3,874 for the next year only, directed that sum into the hands of their treasurer, and was accompanied by a bill of fees and another stripping Hunter of the power to appoint sheriffs.<sup>71</sup> The council sought to strip the objectionable provisions from the support bill, and once again the assembly denied the council's right to amend money bills.

This time, the council escalated the conflict. They claimed that they had as much right in the legislature as the assembly did, since both bodies were constituted "by the mere grace of the

<sup>68</sup> Hunter to board of trade, 7 May 1711, CO 5/1051/127.

<sup>69</sup> *JNY* 288.

<sup>70</sup> *Ibid.* 289.

<sup>71</sup> *Ibid.*, 301-2.

crown, signified in the governor's commission."<sup>72</sup> The assembly's response was immediate and explosive. On 17 November, they declared that "the inherent right the assembly have to dispose of the money of the freemen of this colony does not proceed [...] from the crown, but from the free choice and election of the people, who ought not to be divested of their property (nor justly can) without their consent."<sup>73</sup> Rather than quietly accept the council's historically accurate point on the origin of the assembly, the assembly trumpeted their perceived moral truth. In language deliberately reminiscent of their understanding of Magna Carta, the assembly asserted that their power of the purse derived solely from the people. The rights of Englishmen demanded that it be so.

The assembly probably did not intend to take an unequivocal constitutional position with regards to the extent of the prerogative. However, it was clear that a majority in the assembly meant to wield the entire power of the purse in New York, and would attack any element of the prerogative that stood in the way. Since the prerogative in the colonies fundamentally depended on control of a steady revenue, the assembly's assertion could therefore be viewed as a broad assault on the crown's authority.

The assembly only strengthened this perception with resolutions, like those in Cornbury's time, that Hunter and the council's establishment of fees and a chancery court were "contrary to law [...] and of dangerous consequence to the liberty and property of the subjects."<sup>74</sup> Hunter prorogued the assembly immediately afterwards, and wrote the board that "her majesty's letters

<sup>72</sup> *JNY* 306.

<sup>73</sup> *Ibid.* 307.

<sup>74</sup> *Ibid.* 308.

patents and the power granted by them [are] set at nought.”<sup>75</sup> He feared that the assembly intended to force the crown, through lack of revenue, “to a concession that they may new garble their government after the Connecticut model,” in which the assembly held all the reins of power.<sup>76</sup> This sincere assertion also served a performative purpose. By “appear[ing] to the tory ministry to be starving himself, in support of the crown, in a contest with an aggressive, even independence-minded, assembly,” Webb argues, Hunter insured himself against recall. He showed the crown he was doing his duty in fighting for the prerogative, and made New York seem “an unattractive post,” despite the income from the four independent companies.<sup>77</sup> All parties in New York now waited to see who had persuaded Whitehall best.

The board had repeatedly pressed for the introduction of the New York revenue bill into Parliament in 1711 and 1712, warning that inaction would provide a “very ill example to her majesty’s other governments in America, who are already but too much inclined to assume pretended rights tending to an independency on the crown.”<sup>78</sup> But Tory retribution against the Whigs, the ministry’s own internal dissension, and struggles over the treaty to end Britain’s involvement in the war with France consumed all of Parliament’s attention. As in 1680, the tertiary priority of colonial concerns precluded metropolitan intervention.

All the board could offer Hunter in return for his assiduous correspondence and lobbying was epistolary support. They wrote him on 13 November 1711 to reject the assembly’s position on money bills, independently pointing out that “by virtue of [the queen’s] commission they only

<sup>75</sup> Hunter to board of trade, 1 January 1712, CO 5/1050/280.

<sup>76</sup> *Ibid.*, 281; Greene, *The Quest for Power*, 4.

<sup>77</sup> Webb, *Marlborough’s America*, 310.

<sup>78</sup> Board of trade to viscount Bolingbroke, 23 April 1712, CO 5/1122/491.

sit as an assembly.”<sup>79</sup> On 12 June 1712, after the ministry once more ignored their recommendations, the board took a risky step further. Agreeing with Hunter that the assembly had violated the constitution of New York and the prerogative in “assuming a right no ways inherent in them,” they authorized him to make a threat.<sup>80</sup> If no revenue were settled in New York, he could tell the assembly that “such measures will be taken here as may be effectual to assert her majesty’s undoubted prerogative in that province, and to provide for the necessary support of that government.”<sup>81</sup> Of course, the measures the board had suggested had not even glimpsed the inside of Parliament, making this threat even weaker than that the board had backed in Jamaica a decade before. If the New York assembly called the board’s bluff, the imperial authorities would have no means of compulsion to hand, and the prerogative, so dependent on the appearance of strength, would have its weakness revealed.

Long before the board’s 12 June letter could arrive in New York, however, Hunter had met the assembly once more. He had waited several months for news or instructions from Britain, but had received nothing more than the board’s discouraging 13 November 1711 letter. Hunter had received no salary for nearly two years, and the debt for the Palatines’ subsistence had ballooned to £20,000.<sup>82</sup> With no prospect of aid from Britain, Hunter’s financial situation drove him back to the assembly in the spring of 1712.

<sup>79</sup> Board of trade to Hunter, 13 November 1711, CO 5/1122/449. The board also complimented Hunter for “endeavoring what in you lies to heal the divisions and reconcile the animosities between the parties there.”

<sup>80</sup> Board of trade to Hunter, 12 June 1712, CO 5/1123/22.

<sup>81</sup> *Ibid.*, 23.

<sup>82</sup> Hunter gave up subsisting the Palatines at this time, unwilling to let the debt swell any further. Webb argues that Hunter’s other income streams made him “entirely independent of the salary [...] the assembly had refused to appropriate on any terms that Hunter’s royal instructions would permit him to accept,” and that therefore the “contest was entirely symbolic.” Though Hunter was certainly in a better position to resist assembly pressure than other governors, Webb’s interpretation seems excessively materialist, and underestimates the effect of a debt of £20,000 carrying a likely 8% interest. See Webb, *Marlborough’s America*, 309.

This time, however, he had some reward for his labor, when the assembly passed a bill to pay him 8,025 ounces of plate for “barely the salary due” to Hunter for the past two years.<sup>83</sup> Some assemblymen might have been intimidated by the board’s 13 November 1711 letter; some might have been persuaded by the arguments of Hunter and his allies; and some might have felt that now was the moment to get the governor in their debt. Certainly their largesse did not extend to respect for the prerogative. The act made no mention of the receiver general, instead directing the treasurer to pay Hunter “out of any public money now in his hands or that shall be by him received.”<sup>84</sup> Hunter could construe this in conformity with his instructions since the money was technically an extraordinary supply, and not a revenue. He was worried enough about the technicality, however, to plead to the board that he “was under a necessity to accept the act,” given his financial straits.<sup>85</sup>

Hunter expanded on this point to the board after the 26 June 1712 close of the session. If he “could be prevailed on to put my private interest in competition with her majesty’s,” he wrote, “I should have but little difficulty in getting my own salary, the assembly [...] professing the greatest willingness to make me easy.”<sup>86</sup> This neatly encapsulated one of the most intractable problems in colonial governance. The governor’s interests were not identical with those of the crown, particularly if his income sank below the level of his expectations. In those circumstances, an ideological commitment to defend the prerogative waned in the face of pecuniary losses. Hunter had already given way to a slight encroachment on the prerogative for

<sup>83</sup> *JNY* 312-5; Hunter to board of trade, 28 June 1712, CO 5/1050/392. He complained that the act made no allowance for his expenses in supporting the garrisons and the rest of the government during that time.

<sup>84</sup> “An act for paying eight thousand and twenty-five ounces of plate to his excellency,” 6 June 1712, CO 5/1147/58.

<sup>85</sup> Hunter to board of trade, 28 June 1712, CO 5/1050/392.

<sup>86</sup> *Ibid.*, 393-4.

the sake of his own interest. In mentioning the assembly's "willingness to make him easy" in conjunction with his approval of the act paying him 8,025 ounces of plate, Hunter signaled to the board that he could and might do it again unless the metropolitan authorities took action. He also took pains to indicate the size of the concession he would have to make: "unless I would give up her majesty's prerogative of appointing her own officers, and rewarding their services, divert the channel through which the receipt of her money has ever run, and [...] reserve nothing but the name of government, it is in vain to expect from these men any manner of support."<sup>87</sup> By couching the issue in these terms, however, Hunter preserved a useful ambiguity. His letter could be read either as warning of the damage that would be done to the crown if his circumstances forced him to agree to bills impinging on the prerogative, or as trumpeting his virtue in standing firm against such blandishments if he could avoid doing so. He thereby managed forcefully to indicate that the metropolitan authorities had to solve the problem of his interests diverging from those of the crown without clearly admitting that such a divergence existed.

Hunter could make no further progress with the revenue until the board's 12 June letter arrived, with its threat of a parliamentary settlement of the New York revenue, on 22 October.<sup>88</sup> For the next nine days debate raged in the assembly on its contents.<sup>89</sup> Hunter remarked that "the indecent heats and undutiful expressions in their house upon the reading your lordships' letter are not fit to be repeated."<sup>90</sup> Of course, the board had threatened the assembly with an abrogation of the most critical part of their authority—the power of the purse—just as the assembly were

<sup>87</sup> Hunter to board of trade, 28 June 1712, CO 5/1050/394.

<sup>88</sup> They did, however, pass a bill for commissioners to examine the debts of the colony.

<sup>89</sup> *JNY* 325-8. The journals are not very evocative, but the sendings for papers, frequent resolutions into committee, and late sittings together give a solid impression of heated debate.

<sup>90</sup> Hunter to board of trade, 31 October 1712, CO 5/1050/433. The historian naturally wishes he had shown less restraint.



striving to secure that power tightly to themselves. Moreover, the board had haughtily denied the assembly's claims made in defense of the rights of Englishmen. An intense and angry debate ought to have been expected.

In the end, the assembly did resolve to pay Hunter, the chief justice, and several other officers certain sums of money. However, Hunter was deeply suspicious. He wrote Popple junior that the assembly had done so only "to put off or defeat the intention of their lordships" while not retreating from their core position on the power of the purse.<sup>91</sup> Instead, Hunter claimed they had slashed all salaries, did not intend to fund their resolution, and were "bantering" the government with bills inimical to the prerogative.<sup>92</sup>

Small wonder, therefore, that the assembly approved an address to the queen on 4 November 1712 in which they complained of "being prejudiced by misrepresentation."<sup>93</sup> They remonstrated as usual about the unequal burden of imperial defense, but added a new point to justify their giving money to the treasurer. They claimed they had "borne misapplication of the public monies, and the enormities of those clothed with a delegated power, as they have the inclemency of the air, and other inevitable accidents and afflictions."<sup>94</sup> New York assemblies had of course done nothing of the sort, having doggedly resisted and vociferously complained of their governors for years. However, in asserting that corruption in the crown's officers was as certain as bad weather, the majority in these assembly employed metropolitan-style "country" rhetoric in legitimizing their proceedings on money bills. They argued that any colonial crown

<sup>91</sup> Hunter to Popple junior, 1 November 1712, CO 5/1050/444.

<sup>92</sup> *Ibid.*; Hunter to board of trade, 31 October 1712, CO 5/1050/433-4.

<sup>93</sup> Address of the assembly of New York to the queen, 4 November 1712, *JNY* 329. They cannot have known the precise contents of Hunter's letter to the board, but they were likely well aware of the outlines of his criticism.

<sup>94</sup> *Ibid.*

official unaccountable to the people whose money he collected would invariably indulge in fraud. Only the people's treasurer, chosen and supervised by the people's assembly, could "prevent such misapplications [...] necessarily attending."<sup>95</sup> Lastly, in order to make sure their point of view predominated in London, the assembly requested royal instructions to Hunter to pass a bill empowering the assembly to appoint its own agent in England.<sup>96</sup>

Not long after, Hunter dissolved the assembly and called for fresh elections. He had little hope of change, but told the board it was his duty to dissolve an assembly that had "fixed the name of slavery upon the supporting the government in the manner her majesty has been pleased to direct, and that of liberty on their own rash resolutions and practices."<sup>97</sup> Perhaps most unforgivably, the assembly had "taught the thoughtless people to speak after them."<sup>98</sup> Like any good English politician, Hunter would happily have "taught the thoughtless people to speak after" him, although he would have instead referred to the good sense of the "generality of the people."<sup>99</sup> Hunter's problem was that the prerogative paled in popularity next to local control of the power of the purse. He had to settle, therefore, for second best—accusing his opposition of consorting with the demon popularity, knowing such imprecations would at least find a ready ear in London.

Hunter could expect no substantive aid from that city, however. The board had once again sought to get the New York revenue bill introduced into Parliament. Thanks to the good

<sup>95</sup> Address of the assembly of New York to the queen, 4 November 1712, *JNY* 329.

<sup>96</sup> Hunter believed this address illustrated "to what mean shifts they are forced to have recourse," and so enclosed it in his 16 December 1712 letter to the board. However, the enclosure never arrived with the board.

<sup>97</sup> Hunter to board of trade, 14 March 1713, CO 5/1050/452.

<sup>98</sup> *Ibid.*

<sup>99</sup> E.g., Cornbury to board of trade, 27 September 1702, CO 5/1047/376, in which he justified his proceedings against the Leislerian council by referring to "great complaints from the generality of the people" against them.

offices of the earl of Dartmouth, the former head of the board and now secretary of state for the south, the bill got as far as a privy council recommendation before it stopped. The settlement of the peace of Utrecht and Tory political intrigue once again crowded out anything else.

Hunter therefore redoubled his efforts for the 1713 election. In an unsigned election pamphlet, he compared the assembly's appointment of a treasurer to the Long Parliament's attack "on all laws human and divine, the constitution, and at last the precious life of their sovereign of ever-blessed memory."<sup>100</sup> The scurrility of the comparison must have inflamed the electorate. But it did inadvertently illustrate the nature of the conflict. Though Parliament's power of the purse had become an integral component of the rights of Englishmen at home, Englishmen abroad were still bitterly contending with the crown over control of the revenue. The calendar read 1713, but in constitutional time it was still 1641 in the colonies.

More substantively, Hunter also issued a writ for previously unrepresented Dutchess County to return an assemblyman. The monarch was endowed with the right to add more members to the assembly by a 1692 act, and Hunter took advantage of his position as the queen's commissioned governor to exercise that right in her name. His action, in the service of his own and the crown's interests, was technically legal but had the whiff of arbitrary power, and it was a pattern to which Hunter would hew for the rest of his governorship. Less skillful or wary governors, such as Hamilton in Jamaica, either failed to perceive or chose to disregard the distinction, and they paid for it in the bitterness and success of the opposition to them and their measures. Hunter, by contrast, would achieve moderate success of his own through the dubiously legal exercise of executive power.

<sup>100</sup> "A state of the case of New York," spring 1713, CO 5/1050/482. See E. Sheridan, *Lewis Morris*, 109 for the attribution of authorship.

In 1713, however, that success was still years in the future. Hunter complained to Popple junior after the elections that “all the avowed opposers of her majesty’s interest [were] chosen again, and avowedly for that end.”<sup>101</sup> In his frustration, he warned Popple junior that he was likely to dissolve the assembly soon after they met to deprive them of the pay they expected.<sup>102</sup> After that, he would make “a general alteration in the commissioners of peace and militia, that ill men may no longer use her majesty’s authority against her,” and likely also to fix the new elections as Albemarle had done in Jamaica in 1688.<sup>103</sup> Hunter was only slightly more conciliatory to the assembly. If they did not act “to avert the consequences which threaten you,” he told them, then like Pontius Pilate he would “wash my hands of them, and leave them at the door of those who with both their hands have drawn them down.”<sup>104</sup>

These threats had some effect, as the assembly passed a bill allocating £2,800 to support the government for the ensuing year. The bill was hardly satisfactory. It was seven hundred pounds short of the regular salaries of the government’s officers, made no allowance for maintaining the garrisons, and directed the bulk of the funds to the treasurer. There was no reasonable way to term this bill an extraordinary supply, and thus justify the treasurer’s inclusion. However, the need for funds forced Hunter and the council to compromise the prerogative for the sake of functional government. They passed the bill on 1 July 1713.<sup>105</sup>

<sup>101</sup> Hunter to Popple junior, 11 May 1713, CO 5/1050/475.

<sup>102</sup> *Ibid.*

<sup>103</sup> *Ibid.*

<sup>104</sup> Hunter’s speech to the assembly of New York, 27 May 1713, *JNY*, 332. Albemarle had spoken in very similar terms to the assembly of Jamaica twenty-five years before.

<sup>105</sup> *JNY* 339-40.

Hunter drew the line, however, at passing the assembly's other major legislation of the session. After working their way through a twenty-year backlog of claims, the assembly's debts commissioners had made their report in June 1713.<sup>106</sup> The assembly had thereupon passed an act "appropriating the excise to the payment of the public debts for twenty years," but without enumerating the debts or specifying the manner of payment.<sup>107</sup> Hunter feared, if he passed the twenty-year excise, that the assembly would outflank him, and he would have passed "an act for lodging considerable sums in the hands of a country treasurer for purposes which I am a stranger to, and which may be applied to worse uses than anybody dreams of at present."<sup>108</sup> Hunter also knew, however, that debts owed to him might well be included. He therefore delayed the formal consideration of an act potentially so harmful to the prerogative, rather than refusing his assent point-blank.

*Hunter the Pragmatist, 1713-1716*

Before meeting the assembly again, Hunter received the entirely expected news of the board's failure to get the revenue bill into Parliament. His attentive correspondence with the board and their secretary had been rewarded with lobbying on his behalf. But the board could not prevail against its structural disadvantages in formulating policy, and Hunter's friends were out of power. He was very much alone, tasked with defending the crown's interests while receiving no aid from home. He had tried to persuade or frighten the assembly into voting a revenue that respected the prerogative. That had failed. He had sought to secure parliamentary legislation to enforce a revenue on New York. That too had failed. Coercion, with his four underpaid,

<sup>106</sup> *JNY* 331, 335.

<sup>107</sup> Hunter to board of trade, 18 July 1713, CO 5/1050/522.

<sup>108</sup> *Ibid.*

underfed, and understrength independent companies, was not a possibility, and was therefore not even considered.<sup>109</sup> After three years of frustration, Hunter seems to have decided that effective government for New York demanded compromise.

In that vein, Hunter evidently decided to support the assembly's projected settlement of the public debts. He informed the assembly in October 1713 that he had passed the excise bill, it now "being perfected" by the council.<sup>110</sup> However, the only changes the council could have made without the assembly's agreement were grammatical, so this seems to have been a fig leaf to cover Hunter's concession of a point he had only three months before regarded as inimical to the prerogative. Hunter then urged the assembly to pass a public debts bill financed by the excise bill in October 1713 and then again in March 1714.<sup>111</sup> As with the support bill passed in 1712, Hunter could justify these proceedings by regarding the excise bill as an "extraordinary supply" to pay the public debts, and not a revenue. However, levying and appropriating the excise for twenty years would stretch that definition to its limit. In addition, the public debts bill would provide for the salaries the revenue ought to have covered in the previous years of Hunter's government, thus suggesting its interpretation as a retrospective revenue bill. Moreover, the sums were all to be directed into the hands of the receiver general. Hunter had warned the board in 1712 that, without support from home, he would be forced to "divert the channel through which

<sup>109</sup> Webb and Lustig insist that New York was a "garrison government" under Hunter. However, neither Hunter's control of the four independent companies nor his command of the militia seems to have had any serious impact on New York politics beyond the income the former provided Hunter. The most they can offer is Hunter's bloodless suppression of a Palatine armed rising in 1712 and the enfranchisement of his company in New York city. This does not seem to be enough to warrant the use of the term "garrison government." See Lustig, *Robert Hunter*, xii, 89-90 and Webb, *Marlborough's America*, 261.

<sup>110</sup> Hunter's speech to the assembly of New York, 15 October 1713, *JNY*, 343.

<sup>111</sup> *Ibid*; Hunter's speech to the assembly of New York, 24 March 1714, *JNY*, 345.

the receipt of [the crown's] money has ever run" to fund the government and his own interests.<sup>112</sup> Now his warning had become reality.

The settlement of the debts was extremely contentious in the assembly. From 31 March to 25 May 1714, the assembly conducted hardly any other business, resolving into a committee of the whole house on the debts day after day.<sup>113</sup> The debate was so contentious that an order was made on 6 April to ensure that "while any member of the committee is speaking to any article of the accounts or warrants under consideration of the committee, that said member be not interrupted."<sup>114</sup> The journals, sadly, are laconic, and supply little further insight into what was the subject of debate. Historians have tended to identify economic divisions on the bill. As Bonomi remarks, "the main resistance [...] came from the Assembly's commerce-oriented members," because, Lustig argues, they objected to their "goods being taxed to pay off the debts of their political and economic enemies."<sup>115</sup> There was also a division between those members rich enough to be the government's creditors, and those who were not, which did not align neatly with the merchant-landowner divide.<sup>116</sup> One remarkable speech, however, illustrates the marriage of ideological and material interests in opposition to the bill.

Samuel Mulford, the longtime Suffolk member, had vigorously opposed the settlement of the revenue under both Cornbury and Hunter. He was also Hunter's foe in the courts, locked in a

<sup>112</sup> Hunter to board of trade, 28 June 1712, CO 5/1050/394.

<sup>113</sup> *JNY* 346-353.

<sup>114</sup> *Ibid.* 346.

<sup>115</sup> Bonomi, *A Factious People*, 85; Lustig, *Robert Hunter*, 119.

<sup>116</sup> Pieter Schuyler, for instance, was a leader of the merchant faction but also one of the colony's most considerable creditors. See Kammen, *Colonial New York*, 187.

dispute with the governor since 1711 over whaling rights.<sup>117</sup> It was therefore no surprise that he began his speech on 2 April 1714 by complaining of “the ill measures that have been taken [...] which may bring the subjects within [New York] to be tenants at will.”<sup>118</sup> The first of these “ill measures” was the equation of a revenue with duties on trade, since New York’s revenue had been raised by such duties since 1692. Mulford, a merchant, rejected the landowners’ assertion that duties on trade would “insensibly produce” a revenue.<sup>119</sup> Instead, he believed that the country was only now rebounding from being “twice so much damnified” by duties on trade, and that reviving the old revenue would only lead to ruin.<sup>120</sup>

The second “ill measure” was the former embezzlement of the revenue. Mulford alleged that that the government’s debts, though caused by the crown’s officers’ embezzlement, were “now endeavored to be turned upon the country as if they were their debts.”<sup>121</sup> Mulford contended that New York could not be liable for those debts, since from the point it had granted “sufficient [...] into their majesties’ officers’ hands for the support of government,” the revenue became the responsibility of the crown’s government and not the colony.<sup>122</sup> If the assembly accepted the colony’s liability in the debts bill, however, Mulford warned that then the governor would have the fiscal independence the assembly had never yet allowed him. The governor could happily enrich himself and his cronies through ill-gotten gains, knowing that the debts could

<sup>117</sup> Lustig allows Mulford only these motives, saying that he was in opposition because he was “angry at Hunter’s determination to collect admiralty fees, whale fees, and quit rents.” This is true as far as it goes, but it is incomplete. See Lustig, *Robert Hunter*, 119.

<sup>118</sup> Samuel Mulford’s speech to the assembly of New York, 2 April 1714, CO 5/1051/184. We have this speech because Mulford printed it in 1715, which works out nicely for the historian but not, as we shall see, for Mulford.

<sup>119</sup> “To the inhabitants and freeholders of Westchester County,” spring 1713, CO 5/1050/477.

<sup>120</sup> Mulford’s speech to the assembly of New York, 2 April 1714, CO 5/1051/185.

<sup>121</sup> *Ibid.*

<sup>122</sup> *Ibid.*



retrospectively be wiped out by a complaisant assembly willing to vote future taxes. Mulford melodramatically asserted that New Yorkers would then become dependent on “the governor’s good nature to let them have such part of their estates to live on as he pleaseth,” with the assembly unable and unwilling to defend their rights.<sup>123</sup>

Mulford therefore argued that the queen’s instructions to Hunter did not allow the governor “to make as many debts [...] as he pleaseth, and to have the whole disposing of all the public monies, with the advice and consent of the council.”<sup>124</sup> Mulford was largely wrong. Though Hunter did not have explicit permission to contract whatever debts he wanted, he certainly was supposed to keep the government running even if the assembly would not vote a revenue. Moreover, all governors’ instructions were intended to keep “the whole disposing of the public monies” in the hands of the colonial executive, in order to safeguard the prerogative. That was the crux of the controversy over the assembly’s treasurer in New York, as Mulford would have known well.

Mulford consequently found himself, like the Jamaicans in the 1670s, needing to oppose the prerogative while not openly flouting it. He did so neatly, declaring that he would “not believe that her majesty ever intended those words should be construed to alter English government, nor to deprive the subject of property and liberty.”<sup>125</sup> Instead, he cited as his authority the 1706 instruction to Cornbury, which he believed to be “the most just way [...] and nothing against the intent of her majesty’s instructions, as is pretended.”<sup>126</sup> The short-term

<sup>123</sup> Mulford’s speech to the assembly of New York, 2 April 1714, CO 5/1051/185.

<sup>124</sup> *Ibid.*, 186.

<sup>125</sup> *Ibid.*

<sup>126</sup> *Ibid.*

necessity of a concession to secure war supplies was returning to plague the prerogative in the long-term, as Mulford used it to support his contention that the assembly's control of the power of the purse was part of the rights of Englishmen

Mulford closed by exhorting the assembly to stand firm. He implored them not to heed the threats of legislation in Parliament, "which drew several to consent to what they did not well understand" in the passage of the last year's support of government.<sup>127</sup> Instead, he said that "if we must be enslaved, it were better to have it forced upon us than for us to bring it upon ourselves."<sup>128</sup> The Jamaicans had resisted Poynings' Law in almost the same terms.

However, the threat to the New York assembly's power from debt and revenue bills did not measure up to that leveled by Poynings' Law against the whole of Jamaica's legislature, and could not excite the same unanimity. Nor did Jamaica in the 1670s have the socioeconomic divisions that hampered New York in the 1710s. Resistance in New York was naturally therefore rather differently composed. Instead of a united council and assembly, as in Jamaica, it was a majority in the assembly and de Peyster in the council. Nor was the resistance as inflexible, as the 1713 support of government bill indicated. However, the weaker resistance in New York in the 1710s than in Jamaica in the 1670s should obscure neither the former's resilience nor its power. The assembly had denied Hunter a revenue for multiple years, had directed what support it did give into the hands of the treasurer, and had done the same with the twenty-year excise. A bare majority in the assembly, if it could be preserved, was enough to resist the crown's measures.

<sup>127</sup> Mulford's speech to the assembly of New York, 2 April 1714, CO 5/1051/187. Mulford could no more countenance the possibility of principled disagreement in politics than could Hunter.

<sup>128</sup> Ibid.

Unfortunately for Mulford, that bare majority did not exist, because the “government creditor” constituency cut across all of New York’s other elite divisions. Morris was well aware of this, and had utilized his role as chair of the committee of the whole house on the debts to ensure that the prizes were distributed widely. Upstate men, like Livingston and Schuyler, were paid, as were downstate men like Caleb Heathcote and Thomas Willet. Anti-Leislerians, like William Nicoll, collected large sums, but so too did prominent Leislerians, such as Jacob Leisler junior himself, who received over £2,000. Merchants like Philip van Cortlandt, Stephen de Lancey, and Samuel Bayard collected their due, but so too did landowners like William Smith, Henry Beeckman, and Henry Swift. And as these names indicate, Dutchmen, Englishmen, and even Frenchmen across the colony shared in the bounty. Against this tremendous gratification of material interests, there was little Mulford and his adherents could do but delay. The assembly passed the debts bill on 21 July 1714.<sup>129</sup> The final amount to be repaid was set at £26,950, with Hunter, the largest single beneficiary, set to receive some £4,297.<sup>130</sup> The colony would repay these debts in bills of credit, or paper money, which were intended to be “sunk” over the long twenty-year term of the excise. The council momentarily jeopardized the bill’s progress to completion by offering several amendments. However, none fundamentally altered the bill’s structure. The assembly were therefore happy to admit the amendments through the artifice of

<sup>129</sup> *JNY* 364.

<sup>130</sup> Lustig suggests that Hunter “could only have been owed one year’s salary, or £1,200 in 1714,” and concludes that the act “was probably a generous gift meant to appease the governor-general for past slights”; see Lustig, *Robert Hunter*, 119. I am not entirely convinced by Lustig’s arithmetic. Given the lack of compensation for Hunter’s expenses in maintaining the garrisons and the rest of the officers of the government, he might not have been owed £4,297, but he was probably owed considerably more than £1,200. That said, her broader analytical point is doubtlessly correct.

voting that their money bill was not, in fact, a money bill. That hurdle cleared, Hunter at last gave his assent on 4 September.<sup>131</sup>

Notwithstanding the council's minor assertion of their own power, the assembly had won a major victory in their quest for the power of the purse. All the funds in the excise bill and the debts bill would be handled by the assembly's appointed treasurer. The queen's commissioned officer for such purposes, the receiver general, would never see a penny coming or going. Neither Hunter nor the council had dared to challenge the bill in that respect, because their own material interests and desire for funded government outweighed their attachment to the crown's rights. The crown's trust in officials whose interests necessarily diverged from its own, and the frequent incompatibility of its rights with its interest in functional colonial government, had once again resulted in a diminution of the prerogative in the most critical point. Moreover, the assembly's issuance of paper money interfered with the metropolitan authorities' regulation of the Atlantic economy for the benefit of metropolitan interests. All this might, perhaps, have been avoided if Hunter had been effectively backed from London. But the structures of Britain's transatlantic empire had precluded it.

Hunter regarded the passage of the debts bill as a victory, and therefore rewarded Morris with the position of chief justice.<sup>132</sup> However, Hunter knew he would have to defend the debt and excise bills to London if he and his allies were to be paid. He therefore preemptively protested to the board that "had I known, or could I have apprehended, that there was anything in that act either contrary to my instructions or her majesty's interests, though I am reduced to very great

<sup>131</sup> *JNY* 365-6.

<sup>132</sup> Hunter to board of trade, 28 March 1715, CO 5/1050/647.

necessities, I had not passed it.”<sup>133</sup> He argued that the appropriation of the excise was “reasonable, seeing her majesty has not thought fit to apply that fund by act of Parliament to any other use,” and that putting it in the hands of the treasurer was “no new thing,” since it was done in other colonies.<sup>134</sup> He contended, furthermore, that the bill was fundamentally a retrospective support of government, which could be won no other way.<sup>135</sup> And he reminded the board that “if these bills miscarry I shall be in a more deplorable condition than the worst of my enemies could wish me,” since the colony owed him, by his estimation, £5,000, while he still labored under the £20,000 Palatine debt.<sup>136</sup>

None of these arguments convincingly answered the potential charge of infringement upon the prerogative. Instead, Hunter had essentially argued that the infringement was justified. He had implied that he could expect no substantial support from home, and so had done the best he could do on his own. He had asserted that he had won the crown’s main object—the support of government—without dwelling on the question of whether that victory would be self-defeating for the prerogative. Instead of lobbying the board of trade against the assembly for his and the crown’s interests, he was lobbying the board of trade for himself and the assembly against at least some part of the crown’s interests.

Fortunately for Hunter, the metropolitan authorities had historically been more receptive to compromising the prerogative than the rigidity of official communications suggested. Though they naturally preferred to defend every particular of the crown’s rights, they had sometimes

<sup>133</sup> Hunter to board of trade, 6 September 1714, CO 5/1050/614.

<sup>134</sup> *Ibid.*

<sup>135</sup> *Ibid.*

<sup>136</sup> *Ibid.*, 614-5.

prioritized functional colonial government over the preservation of the prerogative—as in the 1706 instruction to Cornbury. Of course, this prioritization could never become explicit, since the prerogative depended on the appearance, rather than the reality, of strength. Hunter had to hope the board would comprehend and sympathize with what he could only imply. If they did not, he could expect repeal, censure, and possibly recall, which was Bevil Granville’s fate after passing a paper money bill in Barbados in 1706.<sup>137</sup> If the board did approve, like Handasyd after passing the 1704 tack to the Jamaican revenue, Hunter would probably receive a reluctant approbation of the act along with a written slap on the wrist.<sup>138</sup> Even if the compromise were made, appearances would still have to be maintained.

Events in Britain intervened once again, this time to delay consideration of the debts bill. Anne had died on 1 August 1714, and with the succession of her second cousin George, a Whig ministry would take power. When Hunter learned of this in October, his relief was palpable. In reference to the incoming ministry, he wrote Popple junior that since “no man has been better acquainted with my sufferings than you, so nobody can better judge of my present joy.”<sup>139</sup> He imagined, as he wrote Stair, that finally “justice runs in its right channel,” and that his “most worthy patrons, my lords Somers and Sunderland” would see him reimbursed for the Palatine debt.<sup>140</sup> In that Hunter would be disappointed, for he would die without ever receiving a penny from the treasury in recompense. Instead, fortune worked in his favor through a different mechanism.

<sup>137</sup> Board of trade to Bevil Granville, 26 September 1706, CO 29/10/95. A new governor was commissioned five days later.

<sup>138</sup> Board of trade to Handasyd, 16 February 1704, CO 138/11/141-5.

<sup>139</sup> Hunter to Popple junior, 18 October 1714, CO 5/1050/629.

<sup>140</sup> Copy of Hunter to Stair, 8 November 1714, CO 5/1051/98.

The new ministry dismissed all the previous members of the board of trade. The entirety of their new Whig board therefore lacked familiarity with the usual approach to colonial governance, and needed swiftly to become acquainted with a massive volume of business. They would have to rely heavily on their secretary, William Popple junior, to whom Hunter had begun to sign his letters “your most affectionate friend.”<sup>141</sup> Though the internal deliberations of the board are not preserved, it seems likely that Popple junior would have used his suddenly increased sway to present his friend’s measures in the best possible light.<sup>142</sup>

The complaints of Cornbury (now earl of Clarendon) against the 1714 debts bill probably aided Popple junior in presenting the case for approval. Clarendon accused Hunter and the majority of the assembly of corrupt self-dealing in the bill, and of deliberately excluding his just claims from the bill. Popple junior would have informed the board of the many allegations of Clarendon’s corruption, while the board themselves knew that Hunter was a Whig and Clarendon a Tory.<sup>143</sup> They dismissed Clarendon’s complaints after only pro forma consideration. Then, on 6 May 1715, the board represented briefly to the king that the excise bill and the debts bill ought to be approved, without noting a single objection to their contents.<sup>144</sup> The royal confirmation

<sup>141</sup> Hunter to Popple junior, 18 October 1714, CO 5/1050/629.

<sup>142</sup> Steele argues in *Politics of Colonial Policy* that though “some continuity was provided by William Popple junior and the clerical staff [...] the nature and extent of the changes in the Board’s outlook make it clear that the members, and not the staff, were in command.” This is likely true, especially since Steele is taking a broad view of the years 1714-1720. But it does not seem probable that “men of limited administrative experience,” as Steele writes, would or could have independently investigated the context and history of the 1714 debts bill between their December 1714 appointment and their representation on it in May 1715. Popple junior must have played a major role in the presentation of the situation in New York, and he did not have to be “in command” to condition how the board understood Hunter’s actions. See Steele, *Politics of Colonial Policy*, 149.

<sup>143</sup> As Patricia Bonomi notes, in the politically charged atmosphere of this time, such allegations did not have to be true to be either useful or believed. Bonomi, *The Lord Cornbury Scandal*, 99-127.

<sup>144</sup> Representation of the board of trade to the king, 6 May 1715, CO 5/1123/270-1.

followed the next month.<sup>145</sup> Hunter and the assembly had won their compromise, unexpectedly escaping censure entirely, as the metropolitan authorities acquiesced in their inroads on the prerogative and British material interests.

Bonomi has identified, in *The Lord Cornbury Scandal*, an even more profound ideological reason for this permissiveness. Earlier ministries would have opposed this “decisive shift of fiscal control [...] from England to the province,” but now “the impulse to reform colonial administration [...] was spent.”<sup>146</sup> She contends that “the transition to the age of Walpole and ‘salutary neglect’ was under way,” and therefore “the opportunity to set the empire on a solid constitutional foundation [...] was lost.”<sup>147</sup> It is probably true that the 1714 debts bill would have met with stiffer opposition under a different ministry. However, it is also the case that the first “shift of fiscal control” had occurred in 1706 with the instruction to Cornbury on extraordinary supplies, which had been issued by a distinctly imperially-minded Godolphin-Marlborough ministry.

More broadly, it is unclear what realistic reforms could have preserved metropolitan fiscal control while providing a “solid constitutional foundation” for the empire. Funding the colonial governments from Britain was too expensive and too difficult, particularly since colonial affairs were never a priority for all but a few British political elites, and would also require parliamentary interference in the project of prerogative government in the colonies.

<sup>145</sup> Order in council, 17 June 1715, CO 5/1050/656.

<sup>146</sup> Bonomi, *The Lord Cornbury Scandal*, 173.

<sup>147</sup> *Ibid.*, 173. This analysis is of a piece with much of the criticism of the Whig ascendancy in general and Walpole in particular, and Bonomi is not alone among the historians mentioned in this chapter. Lustig claims that “Walpole made state decisions on the basis of commercial considerations, rather than what was best for the empire,” and Webb complains of “Walpolean sabotage” of those with imperial vision. See Lustig, *Robert Hunter*, xiii and Webb, *Marlborough’s America*, 374.



Taxing the colonies internally through parliamentary legislation also depended on that interference, and would raise the practical and ideological challenge of forcing colonial compliance with measures sure to meet bitter resistance, to say nothing of “garrison government.” There was no acceptable alternative to securing the cooperation of colonial elites, particularly after twenty years of war had made it clear that the metropolitan government needed their votes of funds to sustain Britain’s imperial competition with France. Without the leverage it enjoyed in Jamaica, in New York as elsewhere, the crown had to trade the power of the purse for functional colonial government. The “opportunity” Bonomi mentions had never materialized, and indeed could not exist without a more fundamental shift in the structures of the transatlantic empire than anything her “old imperialists” had envisioned.<sup>148</sup>

Meanwhile, Hunter’s work was only half done. He had received money for the past, but he needed money for the future. To that end, Hunter asked a new assembly in spring 1715 for a fresh revenue, but beyond expelling Mulford for printing his speech of the previous year without leave, they did nothing to gratify the governor’s request.<sup>149</sup> Then Hunter discovered that “the naturalization bill was the block laid in the way of the revenue.”<sup>150</sup> Given the confusing tangle of proclamations, treaties, and legislation surrounding New York’s passage first from the Dutch to the English, and then from proprietary to royal colony status, many of those who lived in New York could not be certain that they held all the rights of natural-born subjects of the crown.<sup>151</sup> Most crucially, the navigation acts prevented foreigners from acting legitimately as traders

<sup>148</sup> Bonomi, *The Lord Cornbury Scandal*, 173.

<sup>149</sup> *JNY* 372. The resolution added that his speech made “many false and scandalous reflections upon the governor of this province.”

<sup>150</sup> Hunter to board of trade, 25 July 1715, CO 5/1051/4.

<sup>151</sup> In particular, there was concern about titles to lands, whether inherited or sold; see Lustig, *Robert Hunter*, 124.

within the British Empire—enforcement of those provisions could be enormously damaging to the many Dutch merchants in the colony.<sup>152</sup> Three times previously in Hunter’s government, the assembly had brought in such bills.<sup>153</sup> Every time, they had failed to pass, either from lack of time or because Hunter and the council deemed the provisions of the bills too broad.

Hunter recognized that he had leverage. However, he still could not compel the assembly to reduce their sweeping naturalization of all foreign Protestants, or, failing that, to pass the bill with a suspending clause.<sup>154</sup> In consequence, he “at last asked them what they would do for the government if I should pass it in their way, since they did not like mine.”<sup>155</sup> In response to this explicit invitation to negotiation, the assembly resolved to “raise an ample support for the government of this province, and continue it for five years,” by means of various import duties.<sup>156</sup> Morris was once again the chief architect of the bill’s passage, so it was no surprise that it settled a pro-landholder revenue.<sup>157</sup>

Even to win that much, however, Hunter had needed to make three further concessions. The first was relatively minor. The assembly enumerated the salaries in their journal by resolution on 21 June 1715, and did likewise in the bill they passed, thereby violating the

<sup>152</sup> E. Sheridan, *Lewis Morris*, 115.

<sup>153</sup> *JNY* 319, 322, 337.

<sup>154</sup> The former was the main complaint against the act made by the attorney general of Great Britain two and a half years later. See Edward Northey to board of trade, 2 January 1718, CO 5/1123/505. The board themselves made the latter complaint on 15 March 1716. See board of trade to Hunter, 15 March 1716, CO 5/1123/430. However, Lustig is probably right to note that from the point of view of both Hunter and the crown, the naturalization act “was not a major concession.” Lustig, *Robert Hunter*, 125.

<sup>155</sup> Hunter to board of trade, 25 July 1715, CO 5/1051/4.

<sup>156</sup> *JNY* 374.

<sup>157</sup> Hunter to board of trade, 25 July 1715, CO 5/1051/5.

crown's prerogative right to set the salaries of its servants.<sup>158</sup> However, the amounts they enumerated were exactly equal to those the crown had assigned, thus making the resolution more a technical reservation of right than an actual infringement. Still, a precedent had been set, and later governors would rue it.<sup>159</sup> The second concession was rather more significant but also expected—the treasurer was to receive and disburse the money.<sup>160</sup> And the third was once again to allow the issue of paper money, rather than immediate payment in cash. Once Hunter had consented to these stipulations, both the five-year revenue bill and the naturalization bill proceeded nicely, and Hunter “assented to both at the same time” on 5 July 1715.<sup>161</sup>

Hunter could perhaps have waited for the board of trade to weigh in. On 22 June 1715, the day after the assembly had passed their bills, the board had written inquiring whether the assembly were likely to “settle an established revenue for the support of government.”<sup>162</sup> If they were not, the board indicated that they were ready to support “the settling of such a revenue by act of Parliament here.”<sup>163</sup> Hunter of course did not know about the board of trade's letter when he passed the bill. Even if he had, he might not have waited. Although he had renewed his request for a parliamentary act in March, he knew not to expect anything from that quarter.<sup>164</sup> He had written to Popple junior on 8 November 1714 that “you know well that the revenue bill was

<sup>158</sup> *JNY* 374; “An act for a supply to be granted to his majesty for supporting his government in the province of New York, and for striking bills of credit for the same,” 5 July 1715, CO 5/1147/107-9.

<sup>159</sup> As Kammen puts it, “groundwork had been laid for the final breakthroughs of the 1730s.” Kammen, *Colonial New York*, 187.

<sup>160</sup> “An act for a supply,” 5 July 1715, CO 5/1147/109.

<sup>161</sup> Hunter to board of trade, 25 July 1715, CO 5/1051/4.

<sup>162</sup> Board of trade to Hunter, 22 June 1715, CO 5/1123/304.

<sup>163</sup> *Ibid.*

<sup>164</sup> Hunter to board of trade, 28 March 1715, CO 5/1050/646.

never intended to be passed, though prepared by the lords.”<sup>165</sup> Though the ministry were now Whigs, the structural constraints of the transatlantic empire prevailed regardless of party. Even if Hunter would not have used the word “structural,” he was certainly aware of the metropolitan authorities’ consistent unwillingness and inability to defend the prerogative against the assembly’s incursions.<sup>166</sup> He had therefore chosen not to wait, but instead taken what he could get.

And what he could get was reasonably beneficial to the crown, under the circumstances. There had never been a chance of securing a revenue that would pass through the receiver general’s hands. Without the leverage of law expiration that Jamaican governors enjoyed, Hunter had defied recalcitrant assemblies, built alliances, and massaged elections until his allies held a slim majority in the assembly. Hunter’s allies had then delivered a revenue bill that did indeed infringe on the prerogative, but would also pay Hunter’s salary and fund the government for the next five years. Functional government, at the price of the crown’s rights, had been secured for the second time in as many years. And as Lustig notes, “it is doubtful [...] whether any lesser trade would have worked.”<sup>167</sup>

Hunter well knew the bill might be regarded poorly, despite his “good connections to the centers of power in London,” and he hastened to excuse himself to the board.<sup>168</sup> He made no mention of the assembly’s enumeration of the salaries in their journals, nor of the issue of paper

<sup>165</sup> Hunter to Popple junior, 8 November 1714, CO 5/1050/631.

<sup>166</sup> Lustig notes this same limitation, but presents it as conditional on “problems brought by the succession.” This is true—but there was always some problem more important than colonial governance in this period. Lustig, *Robert Hunter*, 125.

<sup>167</sup> Ibid.

<sup>168</sup> Bonomi, *A Factious People*, 86.

money, but did directly address the fact “that the money is lodged in the treasurer’s hands.”<sup>169</sup> As in 1714, he had no exculpatory response, for he had been unable to defend the crown’s rights in any meaningful way. The best he could offer was the simple fact that “no art could lodge [the money] otherwise.”<sup>170</sup> The leverage of the naturalization bill had opened the door for the revenue bill, and party competition had produced a revenue more favorable to Hunter’s allies than the main group of his opponents. But that was as far as political maneuvering went. No opening had offered for Hunter to play one faction against the other to secure the crown’s rights and interests, in contrast to the experience of governors before him. Whatever else their differences, all parties agreed that the assembly, not the crown, ought to exercise the power of the purse. Against that united front no governor could hope to prevail. Hunter’s plaintive statement to the board that “if I have done amiss I am sorry for’t, but what was there left for me to do?” was a perfect summation.<sup>171</sup>

However, the board objected to the 1715 revenue bill not because it infringed on the prerogative, but because it violated metropolitan regulation of the Atlantic economy. The 1715 revenue bill set the value of an ounce of plate at eight shillings, which contradicted the act of Parliament that limited an ounce of plate in the colonies to no more than six shillings tenpence. The board warned Hunter in September 1715 “that if the New York act be approved of here, the proprietaries and all other governments will immediately do the same thing, and the intent of the act of Parliament be thereby wholly evaded.”<sup>172</sup> The board refused to lay the act before the king

<sup>169</sup> Hunter to board of trade, 25 July 1715, CO 5/1051/5.

<sup>170</sup> Hunter to board of trade, 25 July 1715, CO 5/1051/5.

<sup>171</sup> *Ibid.*, 4.

<sup>172</sup> Board of trade to Hunter, 7 September 1715, CO 5/1123/339.

until Hunter could make some explanation, rather than set a precedent for every colony to interfere in the regulation of the Atlantic economy.<sup>173</sup>

Hunter noted in response in April 1716 that the board had already approved such a valuation of plate in the 1714 debts bill, that New York's neighbors did not observe the coinage act in any case, and that repeal would bring [...] certain ruin to the trade as well as to the possessors of such bills" of credit as had already been issued.<sup>174</sup> He also again pleaded the impossibility of settling things otherwise, saying "tis not in the power of men or angels to beat the people of this continent out of a silly notion of their being gainers by the augmentation of the value of plate."<sup>175</sup> Despite the board's letter and his swift riposte, however, Hunter was probably little worried. There was almost no precedent for the repeal of revenue acts passed in the colonies. Moreover, Hunter had once again escaped castigation for violating the prerogative. Instead, the board tacitly accepted political reality, while still refusing openly to recognize it.

#### *Hunter and the King's Party, 1716-1719*

Two months later, Hunter met the assembly he had sought for his entire gubernatorial tenure. His opponents lost in New York City, Queens, and Kings, and two new members joined thanks to more executive action, giving his allies a substantial majority.<sup>176</sup> In a sign of the new spirit of cooperation, for the first time the assembly resolved to thank Hunter for his speech

<sup>173</sup> Board of trade to Hunter, 7 September 1715, CO 5/1123/339.

<sup>174</sup> Hunter to board of trade, 30 April 1716, CO 5/1051/167.

<sup>175</sup> Ibid.

<sup>176</sup> JNY 381. The new members were from Orange and the recently erected Livingston Manor. As Hunter later told the board of trade, it was "much the best I have seen here." Hunter to board of trade, 2 October 1716, CO 5/1051/177.

opening the assembly.<sup>177</sup> Then Hunter's wife Elizabeth died on 9 August, and Hunter himself fell ill shortly thereafter. With five young children, his wife's estate, and the Palatine debt all to consider, Hunter wrote home asking for leave to return to Britain.<sup>178</sup> He was determined, however, to settle his own and the government's affairs in New York before leaving.

The opportunity finally came in the fall session of 1717. Hunter had proposed a new debts bill to the assembly in 1716, to satisfy any claimants who had been frustrated by "omission, neglect, or otherwise."<sup>179</sup> The assembly had charged the New York City members David Provoost and Jacobus Kipp, two of Hunter's allies, with considering those claims.<sup>180</sup> By the autumn of 1717, the assembly had completed the full evaluation, and passed a new debts bill on 27 November. The bill would pay 37,600 ounces of plate in debts through bills of credit, to be sunk by a five-year extension of the excise and an increase in rum and wine import duties.<sup>181</sup> In a sign of new amity, the governor, council, and assembly had cordially agreed to pay fully one-third of the sums in the act to themselves.<sup>182</sup> And, to ensure that London would present no obstacles, the bill had no suspending clause, unlike its predecessor of 1714. Once Hunter passed the bill, de Peyster could immediately begin to issue the bills of credit.

The 1717 debts bill was thus the most extensive trespass on the crown's interests that Hunter had yet sanctioned, worsened by the fact that he had actively connived at it. He had

<sup>177</sup> *JNY* 381.

<sup>178</sup> Lustig, *Robert Hunter*, 141-2.

<sup>179</sup> *JNY* 382.

<sup>180</sup> *Ibid.* 388, 391.

<sup>181</sup> *Ibid.* 407-10.

<sup>182</sup> Representation of the board of trade to the lords justices, 4 June 1719, CO 5/1124/102; Lustig, *Robert Hunter*, 143.

presented the board with a *fait accompli* that could be undone neither quickly nor easily. In so doing, he had defied his explicit instructions, and worked to harm the British mercantile interest with the further issue of paper money. Since the colony's last debt settlement was only three years old, he had also exposed his allies and himself to charges of corruption. Hunter would need to find excellent arguments to justify his conduct.

To "convince their lordships of the reasonableness and justice" of the bill, he reiterated points made in 1714 about the necessity of honoring the government's debts to preserve its credit for the future, which certainly would have resonated with imperial authorities.<sup>183</sup> He also contended, dangerously, that the increase of paper money had resulted in a corresponding boost to trade, since it "enable[d] the many to trade to some small loss to the few who had monopolized."<sup>184</sup> But his trump card was the identity of the creditors paid in the new bill. Many of them, he wrote, were "those (or their heirs) who took up arms in favor of the happy revolution, and continued [...] a considerable time at their own cost."<sup>185</sup> Unable to secure the Leislerian veterans' payment in a more delicately balanced 1714 assembly, when the number of the old anti-Leislerians had been greater, he had finally managed to compass it in 1717. The Whig ministry had defeated rebellious Jacobites only two years before. The temptation to identify the reimbursed Leislerians as defenders of the Glorious Revolution, and thereby equate them to the Whigs of the present day—or at least to view them as sympathetic allies—must have been strong. As a Whig himself, Hunter might well have been moved by the same analogy, and

<sup>183</sup> Hunter to Popple junior, 3 December 1717, CO 5/1051/244; Hunter to board of trade, 20 January 1718, CO 5/1051/275.

<sup>184</sup> Hunter to board of trade, 20 January 1718, CO 5/1051/276.

<sup>185</sup> *Ibid.*, 275. The names of petitioners who had their claims favorably received by the assembly, including Abraham Gouverneur, bear this out, at least with regard to the Leislerian loyalties of the creditors. See *JNY* 405-10.



he certainly knew its rhetorical power. He would have to hope it was enough to excuse his, and the assembly's, transgressions.

Even before the bill had passed, Hunter and the assembly had run into trouble in London. Mulford had arrived there to press his grievances against Hunter in 1716, but the board had stonewalled him. In frustration, early the next year Mulford distributed papers before the doors of the House of Commons charging that Hunter's additions to the assembly were illegal, and had made "the minor part of the people in the government [...] the major part of the assembly."<sup>186</sup> Mulford therefore concluded that Hunter and his party "deprived [New Yorkers] of the privileges of Englishmen," and were "arbitrary, illegal, grievous, oppressive, unjust, and destructive."<sup>187</sup> Though the assembly voted the paper "false, malicious, and scandalous" as soon as they heard of it, and composed an address denying its contents, it was not enough to silence Mulford's complaints.<sup>188</sup> After delaying as long as they could, the board saw Mulford's case against Hunter pass out of their hands and to the lords of the committee for hearing appeals from the plantations, with whom Hunter had no existing rapport.<sup>189</sup>

More worryingly for Hunter, the board also wrote him on 25 February 1718 instructing him to get a new revenue bill passed that did not affect "the shipping and navigation of this kingdom" by laying tonnage duties on British ships and import duties on their cargo. Otherwise, they warned, they would have to take the drastic step of recommending the rejection of the 1715

<sup>186</sup> "A memorial of several aggrievances and oppressions of his majesty's subjects in the colony of New York in America," *The Documentary History of the State of New-York* (Albany: Weed, Parsons, and Co., 1850), Volume III, 364.

<sup>187</sup> *Ibid.*, 370-1.

<sup>188</sup> *JNY*, 401.

<sup>189</sup> Mulford to board of trade, 4 February 1718, CO 5/1051/258; Board of trade to Addison, 13 February 1718, CO 5/1123/515.

revenue bill.<sup>190</sup> Then, upon receiving Hunter's 20 January 1718 letter, they replied to tell him that "some merchants here, and others residing at New York" had written to them against confirming the 1717 debts bill, which the board had not yet even received.<sup>191</sup>

Hunter and his party in New York thus had a mountain to climb to sustain their legislative agenda. They did, however, enjoy two signal advantages. The first was that Mulford's complaints, lurid though they were, were unlikely to produce substantial results. The metropolitan authorities generally forgave gubernatorial excesses in the exercise of executive power, especially when it could plausibly be argued they had furthered some portion of the crown's interests. Moreover, the board had forwarded a mass of favorable supporting documents to the lords of the committee that showed clearly, they thought, "what opinion the inhabitants of that province have of Brigadier Hunter's conduct in his government."<sup>192</sup> Though the inquiry dominated Hunter's letters for the rest of his government, that reflected the anxiety and helplessness of being three thousand miles distant from the business rather than the likelihood of an adverse result.

The second, and greater, advantage was that majorities in both houses of the colonial legislature were united with the executive in their aims. Hunter and the New York legislature could therefore present that political unanimity so prized by British elites of the time. They could deploy it to make effective rhetorical resistance to the demands of the metropolitan authorities.

<sup>190</sup> Board of trade to Hunter, 25 February 1718, CO 5/1123/519. They did indicate that Hunter's argument about ruining trade had made some impression, for they told him that they would otherwise have sent the bill for immediate repeal.

<sup>191</sup> Board of trade to Hunter, 23 April 1718, CO 5/1124/21. Given the objection, they disapprovingly noted to Hunter that they wished "you had been more particular in your observations upon" the bill, as they would now have to wait for their letter to arrive in New York, and Hunter to write back, before they could take any substantive action.

<sup>192</sup> Board of trade to the lords of the committee, 23 April 1718, CO 5/1124/22.

And they could also use it to justify any actions they took that encroached upon the prerogative, by arguing that there was no constituency that would support any alternative. That this situation pertained a scant five years after Hunter's standoff with the assembly demonstrated his political skill; it also betokened his willingness to compromise on the prerogative for more pragmatic ends. He was effectively now siding with the New York assembly against the crown.

Indeed, in order to preserve that appearance of unanimity in a divided province and support their legislative agenda, Hunter and his allies in the assembly had already employed "arbitrary methods."<sup>193</sup> Hunter had suppressed an address from Suffolk county in support of Mulford and against his measures in November 1717, later forcing nineteen signatories to "unfeignedly acknowledge our error in so doing."<sup>194</sup> That same month, the leaders of the merchant party in New York City had made an address from the grand jury on behalf "of all his majesty's trading subjects of this city" against the debts bill.<sup>195</sup> This time, the assembly summoned the signatories, forced a partial apology from them on the threat of languishing in custody, and then made a counter-representation to Hunter.<sup>196</sup> One of Hunter's opponents complained that this pattern of intimidation held true across the colony, and "deter[red] any inhabitant of New York from appearing in any public address against the proceedings of the government."<sup>197</sup> He was probably right. Hunter and his party held majorities in both houses of

<sup>193</sup> Lustig, *Robert Hunter*, 154.

<sup>194</sup> Address to the king from several inhabitants of Suffolk county, November 1717, CO 5/1051/370-1; Petition of the subscribers to the address from Suffolk county, 7 July 1718, CO 5/1051/368; Hunter to Philips, 7 July 1718, CO 5/1051/366-7.

<sup>195</sup> Representation of the grand jury of New York City to Hunter, 29 November 1717, CO 5/1051/336. The leading signatories were Stephen de Lancey, Henry Lane, Philip van Cortlandt, and William Smith.

<sup>196</sup> *JNY* 411.

<sup>197</sup> Anonymous paper against the 1717 debts bill, 28 April 1719, CO 5/1051/448.

the legislature, and Hunter had used his powers as governor to replace unfriendly judges and justices of the peace while cowing the rest. His opponents in New York therefore could not produce the sworn depositions and signed addresses that the metropolitan authorities would require for proof of the malfeasance of a governor who shared their political affiliations. There was no way for them to contest Hunter's assertion that the complaints were just "the clamors of a few self-interested men," opposed by "the joint opinion of his majesty's council here, the representatives of the people, and the whole body of such as are known to be well-affected to his person and government."<sup>198</sup>

The assembly were also ready to use more orthodox legislative means on their, and Hunter's, behalf. When they heard of the board's objections to the 1715 revenue bill, they directed Morris, Hunter's staunchest ally, to draft explanatory legislation in answer.<sup>199</sup> The bill he drafted removed the tonnage duty that had been laid on British ships docking in New York, eliminated the duty that had been laid on slaves imported directly from Africa in those ships, and equalized the duty on wine imported from Britain with wine imported "from the place of its growth."<sup>200</sup> The assembly paired this act with a representation in justification of the assembly's bills, which Morris also composed.

The crux of Morris's argument, unsurprisingly, was that duties on trade were "the only way" a revenue could be raised "to any tolerable effect."<sup>201</sup> At the beginning of Hunter's government, land taxes "for two fruitless (if not whimsical) expeditions to Canada," debts caused

<sup>198</sup> Hunter to board of trade, 3 November 1718, CO 5/1051/419. Like nearly all Whigs of his time, Hunter was also happy to suggest that his opponents must therefore necessarily have been of Jacobite sympathies, if not actually Jacobites.

<sup>199</sup> *JNY* 420.

<sup>200</sup> *Ibid.* 421, 426; Representation of the assembly of New York to Hunter, 9 October 1718, *JNY* 422, 424.

<sup>201</sup> *Ibid.*

by former governors' corruption, and mercantile self-interest had left the colony poor and the government without a revenue.<sup>202</sup> Only Hunter's "prudence and justice," Morris contended, had made New Yorkers willing to essay a new revenue through a tax on trade, though he said nothing of the less savory methods the governor had employed.<sup>203</sup> As a result, the government had once again been well-funded. Moreover, the relief from land taxes and the credit provided by the 1714 debts bill and the 1715 revenue bill both had resulted in a "great increase of the trade and opulency of this province."<sup>204</sup>

Were the 1715 revenue bill now to be repealed, two dire consequences would ensue. First, it would be impossible to raise a sufficient support for the crown's government. The revenue would already be deficient thanks to the explanatory act's repeal of some of its constituent duties, but a full repeal would throw the colony on the necessity of raising funds via an insufficient and damaging land tax.<sup>205</sup> Second, thanks to the recall of the bills of credit, New York's trade and credit would collapse, which would "prove of much more dangerous consequence to the trade and interest of Britain than a trivial and inconsiderable duty of tonnage."<sup>206</sup> Morris therefore pleaded with the board to allow the assembly to continue raising money as it previously had done, because it simply could not support government "without an

<sup>202</sup> Representation of the assembly of New York to Hunter, 9 October 1718, *JNY* 423.

<sup>203</sup> *Ibid.*, 424.

<sup>204</sup> *Ibid.* 423.

<sup>205</sup> *Ibid.* 424-5.

<sup>206</sup> *Ibid.*, 424.

impost on the importations or exportations of this province.”<sup>207</sup> Hunter happily cosigned the representation to Popple junior, writing that “I shall add nothing (neither is much needful).”<sup>208</sup>

Left unsaid in the entire representation was that it was profoundly in the material interest of Morris and the landowner party he led in the assembly to levy a tax on trade, rather than on land. As they understood it, the merchants would bear the principal burden of a tax on trade, while the landowners would conversely bear the principal burden of a tax on land, and the landowners naturally would prefer to shift the burden.<sup>209</sup> The difficulty was that from imperial authorities’ point of view, land taxes in the colonies were greatly preferable to taxes on trade. The former involved the material and ideological interests of Britain not at all, while the latter imposed extra costs on British trade and interfered with the crown’s and Parliament’s rights to regulate the Atlantic economy. Morris, aware of the conflict, had emphasized the support of colonial government, colonial trade, and New York’s past readiness to fund the crown’s American military expeditions in the address. All three themselves served material and ideological interests of Britain as well, and by explicitly or implicitly suggesting repeal of the assembly’s bills would threaten them, Morris could create a plausible case for the board to refrain from repeal.

The final obstacle to Hunter and his allies’ legislative agenda was the merchants’ objections to the 1717 debts bill, which had unfolded along predictable lines. The merchants contended that “paper money prevents the currency of silver and gold,” which disabled

<sup>207</sup> Ibid. 425.

<sup>208</sup> Hunter to Popple junior, 13 October 1718, CO 5/1051/407.

<sup>209</sup> The landowners obviously did not escape the burden of taxes on trade as they imagined, since they consumed the goods imported into New York, and the merchants could always pass the costs along to them. However, it is equally true that major landowners bore vastly more of the burden of a land tax than prominent merchants did.

merchants from remitting those much-desired metals to Britain, and that if the taxes on trade on which the bill relied were allowed to persist, commerce would crumple.<sup>210</sup> The merchants also complained of illicit self-dealing in the payments to governor, council, and assembly. In language reminiscent of Mulford's speech, they warned that the act would "give a handle ever after for designing men to introduce presents to themselves, and under a color of paying such imaginary debts, real ones will be created."<sup>211</sup> Together, the merchants argued, Hunter and the assembly's measures ran counter to the material interests of British merchants and imperial economic policy, and secured not New York's welfare, but its elite's enrichment.

Before these objections even reached New York in October 1718, however, Hunter's years of cultivating the board had borne fruit once more. At the board's request, the crown had appointed Richard West as a separate counsel for the board to refer colonial legal matters not of "great importance" in April 1718.<sup>212</sup> The precedents the 1717 debts bill might set were of obvious significance, so a referral to the law officers might have been expected. However, Popple junior wrote a letter referring the 1717 debts bill to this friendly lawyer, rather than the attorney or solicitor general, on 26 June 1718.<sup>213</sup>

West duly reported in favor of the New York legislature on 20 August 1718. He pointed out that the merchants had no grounds to complain of which or how many debts were allowed,

<sup>210</sup> Representation of several merchants trading to New York to the board of trade, 2 May 1718, CO 5/1051/333.

<sup>211</sup> *Ibid.*, 334. This argument seemed so potent to them that they made it twice, stating later on the same page that "it will encourage designing men for the future to enter into such measures again, and set up new claims in order to get somewhat for themselves."

<sup>212</sup> *CSPC*, XXX, no. 409; *JBT*, III, 23 April 1718.

<sup>213</sup> Popple junior to Richard West, 26 June 1718, CO 5/1124/14-5. Hunter's opponents would later object that "a matter of so great consequence to the plantations [was] referred to the consideration of a private counsel, and not to the attorney or solicitor general," who would have "more clearly and justly reported" on the bill. Anonymous paper against the 1717 debts bill, 28 April 1719, CO 5/1051/448.

but examined their allegations anyway, and found that “the ends for which the said money was given, were perfectly just and honorable.”<sup>214</sup> The only complaint he had was the lack of a suspending clause. Nevertheless, in a victory for the assembly’s *fait accompli* strategy, he noted that “since the bills of credit are actually out and made current in all payments, they cannot now be called in again without [...] the utmost confusion.”<sup>215</sup> The merchants could expect to make little headway against such an unfavorable report.

Though he and the council together produced a representation against the merchants’ accusations, Hunter remained determined to return to Britain. He met the assembly again in the spring of 1719, hoping to secure a new five-year revenue. But that went beyond what even his allies in the assembly were willing to do for him. Knowing Hunter was soon to leave, they had no desire to surrender their leverage over his successor. They renewed the revenue for only a single year—paid to the treasurer, of course—and rejected Hunter’s suggestion that the treasury had run into debt over the previous year.<sup>216</sup> Hunter accepted the limits of the possible, passing the extension on 24 June 1719, and then made his final speech to the assembly of New York.

Still concerned as ever to perform unanimity, Hunter congratulated himself and the assembly for tamping down disputes and factionalism. The departing governor also promised that “whilst I live, I shall be watchful and industrious to promote the interest and welfare of this country, of which I think I am under the strongest obligations for the future to account myself a countryman.”<sup>217</sup> The assembly gratefully accepted Hunter’s sentiments in an address the next

<sup>214</sup> West to board of trade, 20 August 1718, CO 5/1051/386.

<sup>215</sup> *Ibid.*, 387.

<sup>216</sup> *JNY* 432, 435.

<sup>217</sup> Hunter’s speech to the assembly of New York, 24 June 1719, *JNY* 437.



day, urging him to “make haste to return” if he could.<sup>218</sup> If he could not, however, they asked him to “permit us to address you as our friend,” and to “give us your assistance when we are oppressed with an administration the reverse of yours.”<sup>219</sup> In 1710, this amity would have seemed ludicrous. But nine years later, Robert Hunter left New York ostensibly the most well-liked governor of any in these pages.

Hunter’s reputation with his friends and allies in New York would only have climbed higher after news of the board of trade’s representation on the 1717 debts bill reached them. On 4 June 1719, the board had delivered a report to the privy council that completely vindicated Hunter and the legislature of New York. The board asserted that “the legislature have acted both justly and prudently in endeavoring to extricate the province out of the difficulties their public debts had involved them in,” and had chosen the best available method for so doing.<sup>220</sup> Marking a certain victory for the *fait accompli* strategy, the board noted that disallowing the bill now would cause havoc.<sup>221</sup> They therefore gave their opinion that “if his majesty should be graciously pleased to confirm this act, it would tend to the great advantage and benefit of his majesty’s said colony.”<sup>222</sup> However, they attached a caveat. Explicit instructions were to be given not to pass any similar bills for the future, “in order to prevent the further increase of paper credit, and the anticipation of any fund upon which money may be raised to supply the emergencies of the government.”<sup>223</sup> The lords justices finally approved the 1717 debts bill on 19 May 1720, while

<sup>218</sup> The assembly of New York’s address to Hunter, 25 June 1719, *JNY* 438.

<sup>219</sup> *Ibid.*

<sup>220</sup> Representation of the board of trade to the lords justices, 4 June 1719, *CO* 5/1124/104.

<sup>221</sup> *Ibid.*, 105.

<sup>222</sup> *Ibid.*, 106.

<sup>223</sup> *Ibid.*

the 1715 revenue bill faded from the consideration of the metropolitan authorities once it neared expiration.<sup>224</sup> With the success of the one, and the non-failure of the other, New York's legislature had secured a remarkable concession. The metropolitan authorities had permitted them to flout the spirit, if not the letter, of the governor's instructions, in order to regulate the Atlantic economy with primary attention paid to the benefit of their colony, not that of Britain.

### *Hunter's Legacy*

Indeed, Hunter's nine years in New York show what a competent governor could accomplish for the crown's interests. Against bitter and determined opposition, he had managed to secure a revenue where before there was none. He had ensured the repayment of anything that could be considered a debt of the colony, thereby strengthening its credit for the future. He had eliminated open factional discord in New York's legislature. And he had managed to do it all while neither going bankrupt nor becoming a byword for corruption, perhaps his most remarkable achievement in an era of amateur and venal government. Luck played its part, with the change in the ministry, but much of the credit can go to Hunter himself. He was patient, ruthless without crossing the line into outright illegality, assiduous in cultivating useful friends and allies, and eloquent in his many letters. Few colonial governors were his equal in any of these traits, let alone in all.

Nevertheless, Hunter's accomplishments also laid bare the structural limitations on successful colonial government. Hunter arrived in 1710 determined to observe his instructions and provide for successful government in New York. After three years of largely fruitless endeavors, he seems to have realized that he could do one or the other, but not both. Like the Jamaican planters a generation before, New Yorkers were united in their determination that the

<sup>224</sup> Order in council, 19 May 1720, CO 5/1052/18.

crown's government would never be fiscally independent. Hunter's skillful maneuvering to secure a sympathetic majority in the assembly consequently did not mean that he could impose the metropolitan authorities' preferred measures, let alone "the fiscal-military state in New York."<sup>225</sup> It meant only that he had the power to make a deal.

And deal he did. From 1714 onwards, Hunter repeatedly traded the crown's claim to control colonial revenue, and the metropolitan authorities' right to regulate the Atlantic economy, for the minimum revenue the government needed to function. In so doing, he exposed the central contradiction at the heart of colonial government. Nothing valuable could be won for the crown's interests, which a governor was supposed to defend in totality, without sacrificing some part of those interests. If Hunter had successfully "bought the legislature," as Webb contends, it was equally true that they had bought him.<sup>226</sup>

This difficulty persisted because there was no alternative to governing by and through colonial elites. The royal bureaucracy in the colonies was so small as to be almost invisible. During Hunter's governorship, all the royal civil officials in New York could be counted on two hands.<sup>227</sup> They could not by themselves administer a colony of tens of thousands of people. Nor could the four poorly paid and worse fed companies of royal troops in the colony enforce their decrees if there were any resistance. Scaling up the administrative state in the colonies to the size of the task would present an expense the metropolitan authorities would refuse to pay from the

<sup>225</sup> Webb, *Marlborough's America*, 320.

<sup>226</sup> *Ibid.*, 313.

<sup>227</sup> Webb claims that Hunter had established "a new class of military clients, economic entrepreneurs, and (mostly Scots) officials [...] to man the agencies of the fiscal-military state in New York." Webb, *Marlborough's America*, 320. Even a liberal count of the categories Webb mentions, however, will not produce more than a few score individuals. In a colony of 40,000 people, this seems insufficient to justify the term "agencies of the fiscal-military state."

central treasury. They were not, after all, even willing to ensure Hunter's financial independence from the assembly by paying his £1,200 salary from London. Co-opting colonial elites for the administrative and financial burden was the only other choice.

But the choice was also dictated at a level below these conscious concerns. Amateur government by local elites was a bedrock assumption of early eighteenth century English political culture, on both sides of the Atlantic. Even Parliament was essentially a tool to streamline the process of securing the cooperation of England's local elites in national government. Any other system would be unsustainably contrary to centuries of English history, as both the Restoration and the Glorious Revolution showed in their own ways. Imperial authorities might bemoan the recalcitrance of the New York assembly, and scold them for their undutifulness, but they could not conceive of doing without them.

Cooperation, then, it was perforce to be. The metropolitan authorities tacitly acknowledged as much by approving each of Hunter's major compromises, a success rate no other governor could match. The result was, during the second half of Hunter's government, the sort of accommodation that maximized the success of British imperial government in this period. Neither the assembly nor the crown had all they wanted, but the government was funded while the colonial elite controlled the revenue. Neither side had escalated the conflict to the heights of the Poyning's Law crisis, so neither side had embarrassingly to admit its inability to impose its will on the other. The central conflict of interests simmered on unresolved, but a low heat might be bearable for a time. And though Hunter had not eliminated factions, he had at least left his successor with a friendly majority in the assembly, which offered his successor the opportunity to continue the tenuous peace. Hunter had not executed his instructions to the fullest, but no governor could have. Given his constraints, it is hard to imagine how he could have done better.

## Chapter V

### **Another Scotsman Abroad: Archibald Hamilton in Jamaica, 1711-1716**

One year after Robert Hunter landed in New York, Jamaica received its own Scotsman, lord Archibald Hamilton, as governor. Hamilton, however, does not enjoy a reputation like that of Hunter, for he receives little treatment in the historiography. In part this is Hamilton's bad fortune, for the colony he governed has received less historiographical attention than those on the North American mainland. He also arrived in Jamaica in the least studied period of that colony's first one hundred and fifty years, between the elimination of the buccaneers as a political force in the 1690s and the Maroon wars of the 1730s. Hamilton has also been minimized because, as Agnes Whitson notes, the central constitutional question of the permanent revenue was not at issue during his government.<sup>1</sup> Lastly, Hamilton does not seem to have been an effective governor like Hunter. The principal legacies of his government, for historians, are his "violent disputes with the Assembly" and his removal after being accused of supporting piracy.<sup>2</sup>

However, Hamilton was governor of Jamaica during a crucial period. His governorship saw the end of two decades of war between the Atlantic empires, and the beginnings of the Whig ascendancy in Britain. In Jamaica particularly, the first twenty years of the eighteenth century were transformative, as Trevor Burnard argues. They saw the establishment of the dominance of the planter elite, "richer and more powerful than any other" in Britain's Atlantic colonies.<sup>3</sup> Lee

<sup>1</sup> Whitson, *Constitutional Development*, 142.

<sup>2</sup> Spurdle, *Early West Indian Government*, 205. See also Frank Cundall, *The Governors of Jamaica in the First Half of the Eighteenth Century* (London: The West India Committee, 1937), 51-70, and David Wilkinson, "HAMILTON, Lord Archibald (1673-1754), of Motherwell, Lanark., and Riccarton and Pardovan, Linlithgow," *History of Parliament Online*, 1690-1715, retrieved 12 June 2020. Hamilton is mentioned a number of times in Webb's *Marlborough's America*, but slips out of those pages upon his arrival in Jamaica. This is perfectly reasonable, for though Hamilton was probably as "repressive [...] and authoritarian" as any of "Marlborough's American legates," he was not, strictly speaking, one of them. Webb, *Marlborough's America*, xvii.

<sup>3</sup> Burnard, *Planters, Merchants, and Slaves*, 92.

B. Wilson contends, therefore, that this period did in fact see “constitutional conflict.”<sup>4</sup> She claims that the “coalescing large planter class” first contested gubernatorial control over escheat, and then a number of other executive powers in a familiar escalating fashion, in order to “facilitate large plantation formation.”<sup>5</sup> Though the conflict “culminated in particularly rancorous relations” between governor and assembly that were unmatched between 1677 and 1730 in Jamaica, Wilson argues that the metropolitan authorities ultimately defeated this particular “attempt to reposition [the assembly] within an imperial institutional hierarchy.”<sup>6</sup>

I agree wholeheartedly with Wilson that constitutional questions were at stake in Hamilton’s government. I disagree, however, with the distinction she makes between “abstract notions of justice or liberty [and] practical and tangible concerns about property.”<sup>7</sup> The Jamaican elite had mutually reinforcing, intrinsically intertwined rights and interests. Separating property rights themselves from the English constitution that was largely constructed in defense of those rights would have been nonsensical to them. Their “rights talk” certainly was “deployed strategically [...] to accomplish their economic objectives.”<sup>8</sup> But even though the constitutional issues of Hamilton’s government did not rise to the level of those in the Poynings’ Law crisis, or in the renewal of the twenty-one-year revenue, the Jamaican elite still genuinely felt their rights

<sup>4</sup> Wilson, “A ‘Manifest Violation,’” 545. Escheat was the common law doctrine whereby the real property of a person who died without heirs reverted to the crown. In Jamaica, regrants of such property were controlled by the governor, as long as the property in question did not exceed £10 in value as determined by a jury, in which case he was supposed to receive the crown’s permission first. Enslaved Africans had been converted into real property by the slave code of 1696, which was done, as in Barbados in 1668, “to prevent executors from dismantling plantations in probate settlements,” thereby ensuring that the land and the labor needed to work it stayed together. Dunn, *Sugar and Slaves*, 241.

<sup>5</sup> Wilson, “A ‘Manifest Violation,’” 547-8, 570.

<sup>6</sup> *Ibid.*, 563.

<sup>7</sup> *Ibid.*, 548.

<sup>8</sup> *Ibid.*, 570.

were under threat during his administration, and defended them sincerely. Moreover, far from going down to constitutional defeat during Hamilton's government, the Jamaican elite actually secured some concessions of the prerogative from London.

Indeed, Hamilton faced a conundrum in Jamaica remarkably similar to that his countryman Hunter faced in New York. The structural constraints of Britain's transatlantic empire compelled him to seek the cooperation of the Jamaican elite if he wanted to realize the crown's interest in funded and functional government. The price of that elite's cooperation was high. Most of them wanted the assembly, not the colonial executive, to exercise the power of the purse, believing that the best way to secure their rights as Englishmen and advance their material interests. Assembly control of the power of the purse, however, weakened prerogative government, while gratifying the Jamaican elite's material interests often meant sacrificing the prerogative or material interests in the metropole. Further complicating the task of the royal governor in Jamaica was the greater unity of the Jamaican elite compared to that of New York. While economic, geographic, religious, and ethnic concerns had divided New York's elite, only the first of these had ever been a major differentiating factor among Jamaica's elite. And with the rise of the "large integrated plantation" and its commensurate planter elite described by Trevor Burnard, even the fissure between large and small planters was losing relevance.<sup>9</sup> Hamilton thus faced an even greater structural challenge than did Hunter.

But while Hunter chose compromise for the sake of functional government, Hamilton declined to do so. Instead, he sought persistently to comply not only with the letter but also the spirit of his instructions, aggressively and vigorously defending the prerogative against all colonial intrusions. The Jamaican assembly was therefore unable to expand its control of the

<sup>9</sup> Burnard, *Planters, Merchants, and Slaves*, 77, 88-9.

purse under Hamilton as the New York assembly had under Hunter, which was a victory for the prerogative. It came at the cost, however, of functional government for the colony. The Jamaican treasury careened ever deeper into debt in the latter half of Hamilton's government, while the garrison companies on the island received only sporadic subsistence money until Hamilton took the responsibility upon himself. Meanwhile, the aftermath of the conflict between Hamilton and the assembly poisoned the atmosphere in Jamaica for the next fifteen years, hobbling future governors' attempts to pass the crown's desired measures. Hamilton's government thereby sharply illustrates the fundamental problem of colonial government in this period. The crown wanted governors to defend the prerogative and to fund their colonial treasuries, but need for local elite cooperation made the two choices mutually exclusive. And if a governor made the former choice, he might well imperil that cooperation for his successors.

#### *Hamilton Before Jamaica*

Like Hunter, lord Archibald Hamilton was a Whig, appointed as one of the last colonial acts of the Godolphin-Marlborough ministry in July 1710. Hamilton too had turned to colonial administration after seeing his prospects of advancement in uniformed service dissipate. He had joined the navy in 1687, at the tender age of fourteen. Unusually for a future colonial governor, Hamilton had been to the other side of the Atlantic, serving with distinction in the expedition to Guadeloupe in 1690-1. Although he was commanding ships of the line by 1704, in 1708, a junior captain and protégé of the junto was promoted to rear admiral over his head.<sup>10</sup> Hamilton complained bitterly, and consequently found himself without another command, though he did assist his brother, the earl of Orkney, in command of the British infantry at Malplaquet.<sup>11</sup> He

<sup>10</sup> Previously, he was acquitted by court-martial in 1705 after his ship ran out of ammunition and had to be towed out of line at the battle of Málaga in 1704.

<sup>11</sup> Webb, *Marlborough's America*, 198.



spent two years in Parliament, reingratiating himself with the Whig leadership and doggedly searching for some remunerative office. He was eventually rewarded with the Jamaica post, regarded as “the best the queen has, excepting that of Ireland,” since it was worth £2,500 in salary alone.<sup>12</sup>

Like Hunter, Hamilton was a novice in civil administration,. Unlike Hunter, however, he was a scion of the highest ranks of the Scottish nobility. He was the seventh and youngest child of the duke and duchess of Hamilton, the premier peers of Scotland. By the time he sailed for Jamaica in 1711, his eldest brother was duke of Hamilton, and his three other brothers were earls. One of them, Orkney, was close with Marlborough, and it was through him that Hamilton won his post.<sup>13</sup> Hamilton therefore did not, like Hunter, have the need to cultivate other patrons diligently, and does not seem to have had the scientific or literary interests to forge other friendly connections.<sup>14</sup>

Despite his social status, Hamilton did not have the significant independent income that Hunter enjoyed. He relied on his captain’s half-pay, a pension of £300 a year granted by William in 1699 that was continually in arrears, and the smatterings of property and allowances that could be spared a youngest son. For Hunter, the governorship of New York was beyond anything he could have anticipated as an impoverished young man, and served to confirm his socioeconomic rise. For Hamilton, however, the governorship of Jamaica was critical to avoid sinking below the level of his, and his society’s, expectations. And even though its salary was twice that of the New York governorship, Hamilton would not enjoy nearly as large an income from the troops

<sup>12</sup> Quoted in Wilkinson, “HAMILTON, Lord Archibald,” History of Parliament Online.

<sup>13</sup> Webb, *Marlborough’s America*, 217.

<sup>14</sup> Nor did he ever write a single letter to William Popple junior, the board’s secretary.

stationed in Jamaica as Hunter did in New York. For unlike Hunter, Hamilton was not the colonel of the regiment in Jamaica—that remained to Handasyd and then his son—and so he would not draw the considerable perquisites and allowances that pertained to the office.<sup>15</sup> Therefore, patience of the kind Hunter had shown in New York was not a luxury Hamilton could afford, should the need arise.

### *Jamaica Before Hamilton*

That might have been a severe handicap for Hamilton, if the recent history of Jamaican assemblies was any guide. Though Handasyd had secured a new twenty-one-year revenue in 1704 in exchange for the confirmation of Jamaica's laws for the same period, the conflict between crown and assembly had hardly slackened. The government's expenditure consistently outran the revenue, particularly given the demands of war. Moreover, the regiment garrisoned on the island required an additional subsistence beyond what the crown paid, since Jamaica's cost of living was extraordinarily high thanks to its near-total dependence on food imports. The assembly had too keen a sense of their leverage to make any long-term provision for either the revenue or the additional subsistence, and Handasyd therefore had to ask them for new funds every year.

The assembly extracted regular concessions for their authorization of funds. The annual taxes they raised were paid to commissioners of their choosing, like New York's "extraordinary supplies" after 1706. Though in Jamaica the governor did not have formal authority to make this concession, Handasyd always passed the bills. Twice he also found himself compelled to agree to clauses tacked to the additional subsistence barring "all foreigners [from] serving either in civil employments or in the militia" in perpetuity, which he told the board in 1705 he would

<sup>15</sup> Cundall, *Governors*, 26.

“never have complied [with] did not the life of my regiment depend on it.”<sup>16</sup> In 1708, when the assembly were concerned that Handasyd had used his “power in administrating [...] property law” to enrich his favorites, they extracted one more set of concessions.<sup>17</sup> Handasyd reluctantly assented to a quieting possessions bill that gave blanket confirmation to the many dubious or ill-recorded land grants on which the Jamaican elite relied for their land tenure, and also minimized the quit-rent payments due to the crown. The next year, he also agreed to a bill that sharply restrained the fees the officers of the government could charge for their services, which was aimed at his particular favorite Richard Rigby, the island’s provost marshal and deputy secretary.<sup>18</sup>

Though the metropolitan authorities seem to have tacitly accepted the appointment of commissioners, they balked at Handasyd’s other concessions of the crown’s prerogative in the colonies. Three times, therefore, the privy council deliberately waited until the annual tax bills neared expiration before rejecting them.<sup>19</sup> They thereby preserved the taxes voted for the island’s treasury while negating the long-term concessions Handasyd had made to secure those funds. Though this was an effective use of the crown’s formal power, the repeated cancellation of the deals struck between governor and assembly further eroded the trust already much damaged by the long drama of the 1688 revenue bill. It was thus little surprise that Handasyd’s 1710 and 1711 assemblies were even more contentious than their predecessors. Though Handasyd was

<sup>16</sup> Handasyd to board of trade, 20 November 1705, CO 137/7/77; *JAJ*, I, 386.

<sup>17</sup> Wilson, “A ‘Manifest Violation,’” 556.

<sup>18</sup> *Ibid.*; Handasyd’s speech to the assembly of Jamaica, 29 January 1709, *JAJ*, I, 459.

<sup>19</sup> Board of trade to Handasyd, 26 April 1706, CO 138/11/460; Order in council, CO 137/7/147; Representation of the board of trade to the queen, 9 June 1707, CO 138/12/104-5; Order in council, 18 December 1707, CO 137/7/248; Order in council, 18 November 1709, CO 137/8/276.

able to resist a new quieting possessions bill, he did pass a new bill of fees and a bill aimed at Rigby that prevented multiple office-holding.<sup>20</sup>

Handasyd believed he had been opposed, throughout his government, by a permanently intransigent party of opposition. He was frustrated, he wrote, by a “Venetian faction [that] cannot endure kingly government.”<sup>21</sup> Their efforts had risen to a height in the 1711 assembly, Handasyd thought, in which “all these disputes and misunderstandings [were] owing to Mr. Totterdell, who has been the same disturber in Sir William Beeston’s time, and seems resolved still to continue on in his wickedness.”<sup>22</sup> Totterdell was joined in leadership by the brothers Peter Beckford junior and Thomas Beckford, who had followed their now-deceased father in the ways of opposition—and had both separately been acquitted of murder.<sup>23</sup> They made a formidable trio. Totterdell was a skillful lawyer well versed in the precedents of the House of Commons, and had become a wealthy planter holding over a hundred slaves.<sup>24</sup> The Beckfords, especially Peter, were so enormously wealthy and influential that they could personally sway elections in a quarter of Jamaica’s parishes. Peter Beckford junior had also previously secured a post as comptroller from

<sup>20</sup> *JAJ*, II, 19, 25, 31-2, 36, 41. The 1710 assembly also saw the death of Peter Beckford senior. A controversy apparently erupted between the two parties when the crown’s party sought to turn Peter Beckford junior out as speaker, whom they resented both for his politics and his conduct as comptroller of the customs. Tempers rose to such an extent that the rumor ran in the streets that the crown’s party were going to kill Beckford junior. Beckford senior, the president of the council, ran to the assembly house to defend his son, but “the poor old gentleman fell, by which he died in 2 or 3 minutes.” Handasyd adjourned the assembly after this and dissolved them, upon advice from the council that “since they resolved to go on no other business [...] it would be of evil consequence to keep them any longer together.” Handasyd to board of trade, 9 April 1710, CO 137/9/13.

<sup>21</sup> Handasyd to board of trade, 31 March 1708, CO 137/8/25.

<sup>22</sup> Handasyd to board of trade, 2 June 1711, CO 137/9/113.

<sup>23</sup> Handasyd to board of trade, 27 December 1706, CO 137/7/167. Handasyd was sure they were both guilty, and the evidence does incline to his side.

<sup>24</sup> “Hugh Totterdell Esquire [9268],” Trevor G. Burnard, Database of Jamaican inventories, 1674-1784. Access through the Legacies of British Slave-ownership database, University College London. When Totterdell died in 1715, he held 124 slaves and had an estate worth £6,590 Jamaica money, which put him comfortably among the island’s economic elite.

the commissioners of the customs in London, and as Nicholas Lawes would later write, “though that post be of no great profit, yet it serves him [...] as a cloak to do mischief.”<sup>25</sup> These opposition leaders were almost certainly not anti-monarchists, nor did they aim at independence from Britain. However, Beckford junior quite rightly serves as the model for Trevor Burnard’s “ambitious, assertive, and aggressive” elite planter, “who gave no quarter to political opponents,” and both his brother and Totterdell were formed in the same mold.<sup>26</sup> None of the three had shown an inclination to conciliate or be conciliated by the governor in their pursuit of the interests or defense of the rights of the Jamaican elite.

Handasyd and his allies in the council resolved that they had to overwhelm this opposition party for the new assembly in 1711. Handasyd’s loyal councilors, led by Rigby, John Stewart, and William Broderick, promised “to use their best endeavors that such persons should be chosen [...] as should show their duty and loyalty to her Majesty.”<sup>27</sup> In other words, they would press their thumbs on the electoral scales as heavily as they could.<sup>28</sup> Their efforts were successful. Handasyd wrote the board that the elections had produced the “least inclined to faction of any assembly that has been hitherto since my being here.”<sup>29</sup> Then, on 16 July 1711, the day Handasyd wrote that letter, Hamilton arrived to take up the government.

<sup>25</sup> Lawes to board of trade, 4 July 1721, CO 137/14/35.

<sup>26</sup> Burnard, *Planters, Merchants, and Slaves*, 96.

<sup>27</sup> Handasyd to board of trade, 16 July 1711, CO 137/9/117.

<sup>28</sup> It is unclear exactly what they did. The opposition made no specific charges that were aired in the journals at this time, since they did not have the majority in the subsequent assembly to insist on the hearing of their petitions. It is also quite possible that the opposition were trying the same things that the crown’s party did, and simply did not execute their plan to the same degree of competence. But from the elections bill the opposition passed in 1715, it appears that the opposition believed the crown’s party had caused multiple elections to be held on the same day, given short notice of elections, made use of fraudulent freeholds, intimidated the voters “by arrest or otherwise,” and deliberately held short polls. *JAJ*, II, 158. It also seems likely that Handasyd had, like governors throughout the British Atlantic, replaced civil and military officers in strategic locations to influence the elections.

<sup>29</sup> Handasyd to board of trade, 16 July 1711, CO 137/9/117.

Underneath the tumult of political conflict, Jamaica was experiencing socioeconomic transformation. Trevor Burnard has convincingly argued that the imperial wars of 1689-1713, and the intensification of the Atlantic slave trade during that same period, generated a “pool of landless men with few alternatives outside plantation employment” who were also “hardened to the rigors of plantation life.”<sup>30</sup> As a result, by around 1700 there were enough White men available to enforce the vicious discipline of the plantation gang system on enslaved Africans. This availability of overseer labor mitigated the risk of insurrection caused by concentrating the enslaved population, and thus enabled “the transition to the large integrated plantation” throughout the island in the next two decades.<sup>31</sup>

The rise of the large integrated plantation did nothing to halt Jamaica’s ongoing demographic catastrophe, as the White population remained static at around 7,000 despite a continual influx of immigrants.<sup>32</sup> Nor did it immediately increase the prosperity of the island in aggregate, for Jamaica’s sugar output was roughly the same in 1713 as it had been in 1685, in part due to the dislocation caused by two transatlantic wars.<sup>33</sup> But by Hamilton’s arrival in 1711, those with the luck and skill to build up and own large integrated plantations had begun to separate themselves from the rest. Already in 1708, as Burnard has pointed out, the assemblymen and councilors were two to three times richer “than men in the previous generation,” and with every passing year Jamaica’s wealthy grew wealthier.<sup>34</sup> The small planters did not disappear in

<sup>30</sup> Burnard, *Planters, Merchants, and Slaves*, 75, 78.

<sup>31</sup> *Ibid.*, 63, 65-6. “Integrated” here means that the plantations

<sup>32</sup> Burnard, “European Migration to Jamaica,” 771; Burnard, ““The Country Continues Sickly,”” 54; Dunn, *Sugar and Slaves*, 164.

<sup>33</sup> Dunn, *Sugar and Slaves*, 164, 177.

<sup>34</sup> Burnard, *Planters, Merchants, and Slaves*, 93-4.

the 1700s and the 1710s like the buccaneers had in the 1690s, and indeed remained the majority of slaveholders.<sup>35</sup> Nor did they lose all political power, for most of them still held the franchise and could participate in elections. But by Hamilton's time, the small planters were no longer part of Jamaica's elite. Unlike in New York, or in previous decades in Jamaica itself, there was now no structural division among the propertied classes that a governor could exploit for political gain.<sup>36</sup> Jamaica's elite class was the large planters, leavened only somewhat by "large merchants and government placemen."<sup>37</sup> If they acted in concert, a governor had little choice but to bow to their demands if he wanted functional government.

The large planters' new ability successfully to brutalize larger concentrations of enslaved Africans heightened their demand for that enslaved labor. The enslaved population was no more self-sustaining than the free population, but an accelerating rate of importation of enslaved Africans caused a massive growth in that population. By 1713, though the White population had shrunk by some three thousand since 1689, the enslaved population had grown by some twenty-five thousand, to a total of fifty-five thousand. Jamaica therefore had by far the highest ratio of enslaved Africans to Whites anywhere in the British empire, at about eight to one, and the imbalance was only growing.<sup>38</sup> In consequence, though the new availability of White overseers

<sup>35</sup> Burnard, *Planters, Merchants, and Slaves*, 94.

<sup>36</sup> Handasyd complained multiple times of a division between native-born Englishmen, who supported the crown, and "Creolians," who opposed it, in the assembly. E.g., Handasyd to board of trade, 27 December 1706, CO 137/7/167. Historians have sometimes uncritically repeated these statements to explain Jamaica's political conflicts (e.g., Whitson, *Constitutional Development*, 142; Webb, *Marlborough's America*, 106), but I could find no other evidence for them beyond Handasyd's letters. It is possible to imagine that there was such a conflict, even though opposition leaders such as Totterdell were immigrants, the Jamaican elite was sustained by a continual tide of immigration, and that elite oriented itself culturally towards Britain. However, it seems likelier that Handasyd had overdrawn the actual conflict: Jamaican elite resentment of English patent officeholders with no other wealth coming to the island and enriching themselves through fees, as Richard Rigby did.

<sup>37</sup> Burnard, *Planters, Merchants, and Slaves*, 92.

<sup>38</sup> Dunn, *Sugar and Slaves*, 165.

had solved the problem of security from enslaved Africans at the level of the individual plantation, planter greed had worsened the menace an insurrection of enslaved Africans posed to the colony more generally. Moreover, the larger size of the enslaved population, the physical expansion of Jamaican plantations, and the even greater violence with which enslaved Africans were treated, continued to increase the numbers of fugitive Africans. In the first decade of the eighteenth century, the old Maroon communities in the interior began to accept these fugitives, increasing their strength and their ability to threaten the White Jamaican population.<sup>39</sup> Though Handasyd and the assembly had combined several times to send out militia parties against the Maroons, as ever they met with no permanent success.<sup>40</sup>

Despite their wealth and their self-assurance, therefore, the Jamaican elite lived in a perpetual state of fear. They were unable to defeat the hostile Black population that lived outside their authority in the mountainous interior, and were unsure whether they could suppress an insurrection of the enslaved Black population. It was this fear that motivated them to give extra funds (however reluctantly) to the garrison of royal troops, to seek further White immigration, and to heighten the brutality with which they treated the men and women they held in bondage. However, as Hamilton would find, the Jamaican elite's fear of the island's Black population did not prevent them from engaging in brinkmanship over funding their own defense, in order to safeguard their rights and advance their interests.

#### *A Friendly Assembly, 1711-1712*

Bequeathed a friendly assembly by Handasyd, Hamilton did not immediately have to confront Jamaican intransigence. The new governor, for his part, had also made some effort to

<sup>39</sup> Rugemer, *Slave Law*, 125-9.

<sup>40</sup> The assembly passed laws concerning the parties in 1702, 1704, and 1705, and failed to agree on one with Handasyd in 1707. *JAJ*, I, 256, 358, 376, 426.



ensure a favorable reception, lobbying in Britain against the double duties charged on the profitable Caribbean trade in prize goods and for extra sloops for the island's defense.<sup>41</sup> He made sure to note both points in his speech opening the assembly, in return "expect[ing] never to hear of any attempt against the prerogative."<sup>42</sup> Instead, Hamilton wanted them to demonstrate "a due deference to that authority" he held from the queen by passing new additional subsistence and duty bills.<sup>43</sup> This haughty approach did him no present harm. Though the opposition must have been enraged by the election of 1711, which they ultimately came to believe was as illegitimate as that of 1688, they were powerless to forge their anger into policy.<sup>44</sup> The crown's party, led by William Broderick as speaker and attorney general, held a commanding majority in the assembly. Over two sessions, they passed one-year continuations of the additional subsistence and duty bills, and also reimbursed the treasury £5,000 for its present debts and the next year's anticipated shortfall.<sup>45</sup> This last was particularly important to the relatively impecunious Hamilton, who had told the board in August that unless the assembly directed more money to the treasury, there would not be "any money to pay me."<sup>46</sup>

Hamilton paid no unusual price for these bills. The crown's party shared the opposition's central concern with retaining the power of the purse, and so appropriated the funds and named

<sup>41</sup> Memorial of Archibald lord Hamilton to the earl of Dartmouth, 25 August 1710, CO 138/13/283; Hamilton's speech to the assembly of Jamaica, 23 July 1711, *JAJ*, II, 42.

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

<sup>44</sup> *JAJ*, II, 160; Memorial to the board of trade "in vindication of the island of Jamaica and the assembly thereof," 21 February 1716, CO 137/11/76.

<sup>45</sup> *JAJ*, II, 48, 61-2, 64-5. They also passed a bill disabling assemblymen or councilors from being commissioners for public funds, which displaced the opposition stalwart Francis March, frequent commissioner for the additional duty, from his post.

<sup>46</sup> Hamilton to board of trade, 29 August 1711, CO 137/9/128.

their own commissioners for the additional duty and subsistence. However, this had been typical for twenty years, and Hamilton saw no need at this time to resist this customary infringement on the prerogative.<sup>47</sup> Hamilton also passed a new quieting possessions bill, which the assembly had framed with the intent of removing the more offensive infringements the last had made on the prerogative. He was careful to remind the assembly, however, that his passage of “a law which this island has so long had at heart [...] must make the deepest impression on your minds of her majesty’s goodness.”<sup>48</sup> Many Jamaicans, remembering past rejections of laws, must have tempered their optimism. However, the metropolitan authorities had already gratified Jamaican lobbying in one instance, with Parliament’s passage of a new act on American trade that removed the double duties on prize goods.<sup>49</sup> Trust might have begun to bloom once more.

Indeed, this was the high-water mark of Hamilton’s administration, and perhaps of Jamaican imperial government for fifteen years in either direction. Relations between the governor and the assembly were cordial and productive, the soldiers and the revenue were well supplied for another year, and imperial authorities were responding to Jamaican concerns. Notably, however, the principal challenge of Jamaican government for the past three decades remained as insurmountable as ever. The chronic disproportion of income to expenditure placed Hamilton “under a necessity of expecting continual assistances from the assembly.”<sup>50</sup> Even this assembly, one of the friendliest to the crown that met in Jamaica between 1677 and 1730, would

<sup>47</sup> Spurdle, *Early West Indian Government*, 123. Indeed, the assembly had eased the bill’s passage by also passing a bill disabling assemblymen or councilors from being commissioners for public funds. Since the opposition leaders were primarily assemblymen, the bill seems to have been the crown’s party’s strike at their present and future power—in this particular bill, Francis March, the longtime opposition stalwart, was displaced from his post as additional duty commissioner.

<sup>48</sup> Hamilton’s speech to the assembly of Jamaica, 31 July 1711, *JAJ*, II, 48.

<sup>49</sup> Board of trade to Hamilton, 26 October 1711, CO 138/13/363.

<sup>50</sup> Hamilton to board of trade, 19 January 1712, CO 137/10/15.

give Hamilton no more than annual bills for the subsistence and the revenue, routed through commissioners of their own choosing. Fiscal independence for royal government in the colony, no matter how strongly the metropolitan authorities desired it, was off the table. Even the crown's party evidently felt that their material and ideological interest in exercising the power of the purse outweighed their "duty." Meanwhile, for the royal government, some small sacrifice of the prerogative to ensure its soldiers and officers did not "starve" was a worthwhile trade. Consequently, the Jamaican elite continued to hold the upper hand in the battle of constitutional attrition.

Moreover, this temporary amity was not stable. Though the assembly had demanded little of Hamilton in exchange for their support, the winds could shift swiftly, particularly if the confirmations he had encouraged them to expect were not forthcoming. Nor had Hamilton shown Hunter's assiduity in promoting a friendly assembly's measures to the board. He had written of the quieting possessions bill but once, telling the board on 29 August 1711 that it had passed "exactly agreeable to her Majesty's pleasure signified to [Handasyd]," and had not said a word of the bills of fees that were still depending.<sup>51</sup> If the metropolitan authorities did not approve the quieting possessions bill, some in the crown's party would certainly have second thoughts about whether it was worthwhile to trust the governor. Moreover, Hamilton was not exploiting a structural divide in Jamaica's elite, as Hunter had in New York. Instead, he had sided with one faction in an internecine struggle for political power and preferment. That ground was not steady, and it was made more treacherous still by the exclusion of the Beckfords, Jamaica's wealthiest and most powerful family.

<sup>51</sup> Hamilton to board of trade, 29 August 1711, CO 137/9/128.

Though the crown's party still held its majority when the assembly reconvened in October 1712, the opposition showed signs of renewed life. Hamilton and his partisans were able to fend off most of their attacks, expelling Totterdell in the process, and then secured the renewal of the additional duty and subsistence. One concern, however, animated elites in both parties. Beckford junior and the councilor John Blair had received letters from the opposition reliable Whitgift Aylmer, now in London, suggesting that the quieting possessions, fees, and multiple offices bills were not approved or even considered in that city, and that the progress of the bills had been deliberately sabotaged.<sup>52</sup> The assembly as a whole inquired of Hamilton what had happened to the bills. Hamilton could offer only the assurance of a November 1711 letter from the board that the bills were under consideration, and pled "the great affair of peace [that] may in some measure retard all others" as an excuse for the board's delay since then."<sup>53</sup> He carefully neglected to mention, however, that he had lobbied against the multiple offices bill to the board, characterizing it both as "an encroachment on the prerogative" and an affront to his ally Rigby.<sup>54</sup> Then, having secured what he needed from the "loyal and dutiful subjects" of his party, and foreseeing only trouble if the session continued, Hamilton prorogued the assembly until the next year.<sup>55</sup>

The governor knew he needed something more concrete than the board's year-old promise to mollify the assembly. However, Hamilton evidently did not believe that a majority of the Jamaican elite hoped for the passage of bills that secured their rights and interests while

<sup>52</sup> *JAJ*, II, 80.

<sup>53</sup> *Ibid.*, 81; Hamilton's speech to the assembly of Jamaica, 14 November 1712, *JAJ*, II, 96.

<sup>54</sup> Hamilton to board of trade, 8 March 1712, CO 137/10/27.

<sup>55</sup> Hamilton's speech to the assembly of Jamaica, 14 November 1712, *JAJ*, II, 96.

infringing upon the prerogative. Instead, like Handasyd before him, he blamed the dissension on a few “incendiaries” determined “to disturb the quiet” of the colony.<sup>56</sup> He therefore asked the board to hasten their consideration of the “bill of fees, and quieting possessions, which are always made use of for a handle to raise discontent.”<sup>57</sup> Hamilton does not seem to have cared whether the bills passed. He simply wanted the metropolitan authorities to finalize their response, which he believed would remove the irritant.

Hamilton thereby threw one of the structural problems in Atlantic imperial government into sharp relief. As Patricia Bonomi has noted, there was “as yet no accepted vocabulary with which to explain or justify” the party competition for political power that had emerged in England by the 1690s.<sup>58</sup> There was no concept of a “loyal opposition”—both Whigs and Tories tended to view each other as fundamental threats to the state, the church, and the people. In the colonies, where assemblies were struggling with the colonial executive for powers Parliament already possessed, parties often challenged the governor and the prerogative directly. This apparent defiance of the crown itself made governors even more likely than metropolitan politicians to denigrate and misunderstand their opponents in the legislature. Moreover, no governor wanted to concede he could not control his colony, which a truer description of organic resistance to the crown’s measures would certainly imply. Even the most circumspect governors resorted to explanations that cast their colonial antagonists as “conspiratorial and sinister in intent,” and Hamilton was hardly judicious.<sup>59</sup> Like most of his gubernatorial fellows, Hamilton

<sup>56</sup> Hamilton to board of trade, 22 November 1712, CO 137/10/87.

<sup>57</sup> *Ibid.*

<sup>58</sup> Bonomi, *The Lord Cornbury Scandal*, 6.

<sup>59</sup> *Ibid.*

had given the board of trade, which depended first and foremost on his information, a fundamentally inaccurate account of opposition to imperial government. Settlements of conflicts between colony and metropole could not be built on such faulty foundations.

Nor had Hamilton's earnest lobbying the previous month contributed to easing tensions in Jamaica. In perfect agreement with the Jamaican elite, he warned the board that Jamaica had too few White men to defend itself either against a future invasion or against "the insolence of the negroes," which he alleged had risen to the level of killing overseers in broad daylight.<sup>60</sup> Until Jamaica had enough White men settled to form a reasonable militia, Hamilton recommended "the necessity of continuing some regular forces here."<sup>61</sup> There he parted ways with a majority of the Jamaican elite. They would probably have preferred that the regiment be disbanded in the island, as in 1698, which would strengthen the militia, increase the overseer labor pool, and remove the burden of quartering. But Hamilton was prepared to diverge even further from that consensus. He counseled the board that even if enough White men arrived to strengthen the militia, some soldiers ought to remain, for "so many inconveniencies are apt to arise from the heat of the climate that we were not fit to be trusted altogether with ourselves."<sup>62</sup> Indeed, without three independent companies, he implied, civil strife might well disrupt "the quiet this island has hitherto enjoyed."<sup>63</sup> Whether Hamilton believed this force had merely restrained White Jamaicans from coming to blows with one another, or prevented them from rising against the governor, was unclear. But he certainly meant to convey that the threat of

<sup>60</sup> Hamilton to board of trade, 10 October 1712, CO 138/13/478.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

coercion was necessary to govern White Jamaicans, thereby risking the ire of the Jamaican elite if they ever learned he had suggested something so antithetical to their belief in their rights as Englishmen.

Hamilton had not taken this chance solely out of a statesmanlike concern for order in his colony. He drew little income from the soldiers while they remained regimented and under another officer's command, and would draw none at all from them if they left. But if independent companies remained on the island, then Hamilton would be their commander, entitled to draw the same sort of income for them as Hunter did for the independent companies in New York. Hamilton would therefore, if the metropolitan authorities heeded his lobbying, have a major stream of income that would persist irrespective of the assembly's votes or the Jamaican treasury's indebtedness. He would also receive his funds from the imperial treasury, which ran counter to the metropolitan authorities' desire to minimize metropolitan expenditure in the colonies. Therefore, he wanted to show that Jamaica faced multiple threats in peacetime against which only regular soldiers could provide security, which led him to argue that the planters could not be trusted. Given the crown's commitment to the defense of its colonies and subjects, and Jamaica's economic value to the empire, Hamilton's concern about slave insurrection likely would have been sufficient to motivate the retention of a garrison in Jamaica. Hamilton, however, had fallen prey to the vice of suggesting further reasons when his first would do, and he would eventually pay the price.

After Hamilton's agent in Britain, John Thurston, pressed the board on Hamilton's behalf in spring 1713, they at last bestirred themselves to consider the last two years' worth of Jamaican business. The board first received the scathing report of Edward Northey, the attorney general, on the 1711 quieting possessions bill. Northey objected to the bill's poor drafting, lack of respect

for settled property law, and its “put[ting] the queen and her subjects on a level as to the [...] claiming their rights” by giving all parties whatsoever seven years to make their claims.<sup>64</sup> After collecting other resolutions on Jamaican matters, the board wrote Hamilton on 20 July 1713, offering as an excuse for their extended silence only “the long sitting of Parliament.”<sup>65</sup> Hamilton now had his concrete response, and it was largely favorable. The board informed Hamilton that the quieting possessions bill would be repealed unless the assembly passed a new one amenable to the prerogative. The multiple offices bill, against which Hamilton had lobbied, would soon be rejected. And, as Hamilton had requested, the regiment in Jamaica was to be continued for at least another six months despite the peace, with three independent companies likely to be continued indefinitely thereafter.<sup>66</sup>

There was likely to be outrage in Jamaica when the metropolitan authorities’ policies were made known. As many in the assembly saw it, their 1708 quieting possessions bill had been rejected for infringing on the prerogative, and so they had followed the directions from London in 1711 in drafting a new and acceptable bill. Now, under a new ministry, the goalposts had moved, and the 1711 bill was also adjudged unworthy of confirmation. Moreover, the Jamaican elite would not capture the benefits of the end of the last war, when the disbandment of the regiment in the island relieved them of paying the additional subsistence and simultaneously increased both militia numbers and overseer availability. Instead, the soldiers would be staying on as soldiers in peacetime, not only out of London’s desire to secure the island against the threat of the Maroons and enslaved Africans, but also out of Hamilton’s personal interest and his

<sup>64</sup> Edward Northey to board of trade, 14 July 1713, CO 137/10/13.

<sup>65</sup> Board of trade to Hamilton, 20 July 1713, CO 138/14/15. They had written Hunter four times since November 1711.

<sup>66</sup> *Ibid.*



expressed conviction that governing Jamaica required the threat of coercion. Hamilton and the metropolitan authorities had combined to lay a solid foundation for increasingly unified Jamaican opposition to imperial government.

*The Opposition Gains Strength, 1713-1714*

Unsurprisingly, Hamilton waited until 1 October 1713 to call the assembly together, when the additional subsistence and duty had a month left to run. Even after this delay, he had not yet received the board's letter, but he had learned that the regiment was to be reduced to three hundred men. Hamilton therefore only made the usual requests for the additional duty and subsistence, and for a supply for the indebted treasury.<sup>67</sup> Yet Hamilton's friendly majority had now evaporated without an election.<sup>68</sup> Instead, Peter Beckford junior led the defeat of an attempted extension of the additional subsistence, then walked out with his party to leave the crown's party short of a quorum.<sup>69</sup> Hamilton now had no money for the soldiers, but his partisans had no way to pass a bill in this assembly either. Hamilton decided to dissolve the assembly and hold new elections quickly. The additional subsistence would run out in the meantime, but if the crown's party returned in the majority, Hamilton could expect them to cover the arrears.

Hamilton believed that "popular arguments and clamor [...] made against a standing army in time of peace," like those of the late 1690s in England, had sunk the subsistence.<sup>70</sup> He loftily informed the board that these were but "unreasonable pretenses," and that "in truth the

<sup>67</sup> Hamilton's speech to the assembly of Jamaica, 1 October 1713, *JAJ*, II, 97.

<sup>68</sup> Several votes were so close that Broderick's vote as speaker decided them. Hamilton to board of trade, 27 October 1713, CO 137/10/220.

<sup>69</sup> *JAJ*, II, 101; William Broderick to John Hanger, 17 October 1713, *JAJ*, II, 127.

<sup>70</sup> Hamilton to board of trade, 27 October 1713, CO 137/10/219.

real ground of difference was personal piques and animosities.”<sup>71</sup> There can be no doubt that personal strife contributed, especially given resentments over the 1711 election. But it seems more likely that the Jamaican elite’s disappointed material interests in disbandment of the regiment played the starring role, and these were hardly “unreasonable pretenses.” In addition, though the opposition did not know the contents of Hamilton’s letter to the board, by now they knew their governor’s haughty temperament. They might primarily have been employing “popular arguments” as a justification for sustaining their material interests, but they also might have suspected that he would not be averse to using military force to coerce White Jamaicans.

Hamilton had employed a dichotomy of principle and selfishness in Jamaica in 1713 similar to Hunter’s “real” and “pretended” reasons for opposition in New York in 1711. Though there was perhaps less principle in operation in Hamilton’s conflict than in Hunter’s, Hamilton’s distortion put the prospects for his government in a worse position. Hunter had at least understood that New York’s past expenditure for the wars was part of the background to resistance in the first part of his governorship. Hamilton, by contrast, said nothing of Jamaica’s wartime expenses, even though there was a record of regular complaints against the additional subsistence since 1701. Moreover, Hunter had found a grievance—past corruption—with which he could sympathize, and on which he could perhaps construct a compromise. Hamilton instead found himself in a position where sympathy was nigh impossible. Jamaican grievances about multiple officeholding, invasion of property rights, and high fees were directed, in large part, toward the men who had won Hamilton his compliant majority in his first assembly, and on whom he would depend in future elections. He could not afford to turn on them.

<sup>71</sup> Hamilton to board of trade, 27 October 1713, CO 137/10/220.

In addition, Hamilton knew how reasonable the assembly's "unreasonable pretenses" really were. He had asked for the soldiers to stay in order to empower potential coercion of the Jamaican elite and to line his own pockets, which were exactly the complaints made in Parliament against the standing army fifteen years before. He had also tried to deceive the assembly, holding out hope to them that the soldiers might be disbanded by saying that "her majesty's pleasure [was] daily expected" on the soldiers.<sup>72</sup> But he of course had lobbied against that policy, and could be fairly confident that a garrison would remain on the island. Hunter, whatever else he had done, had never given the New York assembly such cause for suspicion, being generally forthright in the terms of his antagonism with the opposition. He had therefore preserved credibility to make a compromise in a tightly balanced assembly in 1714. Hamilton, however, had chosen duplicity, in a colony that had already experienced too many bad-faith negotiations with the crown and its governor, and on one of the most explosive issues in transatlantic political culture. Discovery of his deceit might prove crippling.

The new assembly that met on 26 November 1713 belied Hamilton's assertion that there was "no reason to believe [the opposition's] violent proceedings are agreeable to the general sense of the country."<sup>73</sup> Instead, the opposition demonstrated they were in the majority by choosing Beckford junior for speaker. Hamilton would now, for the first time in his two and a half years as governor, face an assembly decidedly unfriendly to him.

He did not change his approach. First, he doubled down on his earlier dishonesty. Even though he had already received the board's letter telling him that three independent companies were likely to be continued in the island, he assured the assembly that a recall of the regiment, "I

<sup>72</sup> Hamilton to board of trade, 27 October 1713, CO 137/10/220.

<sup>73</sup> *Ibid.*

have good grounds to believe, will be soon.”<sup>74</sup> Then he called for the assembly to “make returns of duty, gratitude, and loyalty” to the crown by passing the usual bills.<sup>75</sup> The opposition, who now had the power to pass bills for their rights and interests, were determined on a rather different course of action. They slashed the funds in a six-month additional subsistence bill, and passed new multiple offices, quieting possessions, and agency bills.<sup>76</sup> They also spent many days prosecuting Broderick and his allies for distributing false minutes of the last assembly, to the point that Broderick resigned his offices and fled the island.<sup>77</sup> Principle, interest, and “personal piques and animosities” were all on clear display.

Hamilton, irritated by the assembly’s “undutiful” behavior, then contrived to score a needless political own goal.<sup>78</sup> He refused to join in an address against a monopoly on the slave trade, which the assembly feared was to be reestablished with the grant of the asiento to the South Sea Company. Handasyd had cheerfully joined the assembly and council in such an address just before Hamilton had arrived.<sup>79</sup> With that in mind, Hamilton told the assembly “the said address would be fruitless [...] having been already represented fully.”<sup>80</sup> A more plausible reason later offered for his refusal was that “as the Lord Oxford was for an exclusive trade to Africa, it would not be prudent in the governor to oppose it.”<sup>81</sup> Totterdell was delighted to seize

<sup>74</sup> Hamilton to board of trade, 27 October 1713, CO 137/10/220.

<sup>75</sup> Hamilton’s speech to the assembly of Jamaica, *JAJ*, II, 102.

<sup>76</sup> *JAJ*, II, 105-7.

<sup>77</sup> Hamilton to board of trade, 26 December 1713, CO 137/10/287; *JAJ*, II, 106-20.

<sup>78</sup> Hamilton to board of trade, 26 December 1713, CO 137/10/290.

<sup>79</sup> Handasyd to board of trade, 16 July 1711, CO 137/9/117.

<sup>80</sup> *JAJ*, II, 117.

<sup>81</sup> “An account of the maladministration of Jamaica during the government of Lord Hamilton,” winter 1716, CO 137/11/127.

upon Hamilton's preference of metropolitan to colonial interests, suggesting that Hamilton had thereby broken his promise to promote "to the utmost [...] the interest and prosperity of this island."<sup>82</sup> Totterdell thereby signaled to the electorate that only the opposition could be trusted to safeguard Jamaica's material interests against an uncaring and unfeeling governor. Hamilton, for his part, had stumbled from an easy means of building up credit with the assembly into a gratuitous confrontation.

The rest of the session passed in the same bitter mode, with conflict escalating until 20 February 1714, when the assembly addressed Hamilton for an adjournment, Hamilton refused it, and the assembly then adjourned themselves.<sup>83</sup> Hamilton, enraged at this defiance of his authority and the prerogative, thereupon promptly dissolved them.<sup>84</sup> Once again the governor blamed this "scene of folly and weakness" on "two or three factious and unquiet spirits [who] mislead the rest."<sup>85</sup> He also informed the board that he had refused his assent to replacements for the quieting possessions bill that were reasonable in themselves. Hamilton "thought they very little deserved such acts of her majesty's favor and grace when they at the same time would do nothing for the support of the government here, their own quiet and safety."<sup>86</sup> He therefore advised the disallowance of the 1711 quieting possessions bill, and said the replacements, "whenever another assembly comes to a true sense of their duty, may be passed here."<sup>87</sup>

<sup>82</sup> *JAJ*, II, 106, 118.

<sup>83</sup> *Ibid.*, 135.

<sup>84</sup> Hamilton to board of trade, 22 March 1714, CO 137/10/300.

<sup>85</sup> *Ibid.*, 300, 302.

<sup>86</sup> *Ibid.*, 302.

<sup>87</sup> *Ibid.*

Both sides held leverage over the other. The Jamaican elite had tried repeatedly to secure their land tenures and minimize their quit-rents with quieting possessions bills for the last six years, and could not make such a bill law without both the governor's assent and lobbying support in London. The government in Jamaica, meanwhile, had for decades depended on the assembly's yearly assistance to an insufficient revenue to discharge its debts and pay the governor's salary, whether the crown's party controlled the assembly or not. Since neither side held both the power of the purse and full legislative authority, there could be no settlement without compromise.

In 1714 in Jamaica, however, the prospects for compromise were dim. The opposition majority in the assembly were angry with the governor and his partisans, and suspected both their rights and interests were under threat from that quarter. They had insisted on maximizing the governor's fiscal dependence on the assembly to defend those rights and interests in the 1713-4 session, and would do so again if they won in the next election. The passage of the quieting possessions bill, though it would be welcome, would likely not be a sufficient concession to move the assembly to fund the government to the degree Hamilton wanted. In addition, the crown's non-performance of past bargains would have made the opposition extremely wary of offering anything before confirmation of their desired bills in London. Hamilton, for his part, did not seem to be thinking in terms of compromise. Perhaps measuring from the benchmark of the complaisant first session of his first assembly, which had only enforced the traditional commissioner concession, Hamilton was instead envisioning condescension from the crown that might be forthcoming once the assembly did their "duty." In these circumstances, either one side would have to cave in, or London would have to intervene to alter the situation. But with the opposition and Hamilton already entrenched in their bitterness

towards one another, and the metropolitan authorities as ever immersed in domestic and European affairs, neither seemed likely.

Hamilton decided to wait before calling a new assembly, “being persuaded that a little time will open the eyes of the deluded.”<sup>88</sup> Then he made the gap between himself and the opposition an unbridgeable chasm. He told the board on 5 May that he and the council had been forced to pay the subsistence for the soldiers out of their own pockets after the expiration of the six-month additional subsistence. He intended to call a new assembly soon, and to ask them to reimburse the council and himself for their expenditure.<sup>89</sup>

There are two possible explanations for Hamilton’s apparent confidence in this expedient. The first was that he genuinely believed his own misrepresentations. If the strength of the opposition really was grounded on sham “popular arguments” used by “two or three factious spirits” to deceive the electorate, then their support might disappear at the polls once rational counterarguments were deployed. The second possibility was that Hamilton believed his allies would fix another assembly for him, as they had done in 1711 just prior to his arrival. Politicians in the British Atlantic generally believed elections turned on (legally dubious) influence and sincere persuasion together, and Hamilton likely joined them in hoping for both factors to be at work. Whatever the precise combination, the practical result would be the same. A well-disposed majority like that of 1711 would be returned, and they would happily reimburse Hamilton and the council for their debts.

The chance of success was low, however, and the risks high. Hamilton was wrong if he believed the opposition to him turned on Totterdell and the Beckfords tricking the electorate.

<sup>88</sup> Hamilton to board of trade, 22 March 1714, CO 137/10/303.

<sup>89</sup> Hamilton to board of trade, 5 May 1714, CO 137/10/334.

Most of the electorate had real interests in the disbandment of the soldiers in the island and the approval of the quieting possessions bill, in both of which Hamilton had contrived personally to disappoint them. Nor would opposition leaders be taken unawares again, as they seemingly had been three years previously. Instead, they would themselves use all the legal, semi-legal, and downright illegal tricks of English electioneering to ensure that they won the majority. Hamilton should have known this well, for the opposition and the crown's party had already had such a contest of election fixing in November 1713, in which Broderick especially had put forth his best efforts to little avail.<sup>90</sup> If the crown's party tried to fix another election as they had in 1711, and lost, then Hamilton would merely have given his opponents yet another "handle to raise discontent." Moreover, the events of 1711-12 should have reminded him that even a "friendly" assembly would likely do no more than pass short-term bills for the subsistence and the revenue. Even the crown's party would never give the colonial executive fiscal independence. This imbalance between the risks he was assuming and the benefits that would accrue to success does not appear to have influenced Hamilton's thinking. Instead, as prospect theory in behavioral economics would suggest, he had become risk-seeking when faced with an outcome below the expectation level set by the friendly 1711 assembly.<sup>91</sup>

Hamilton had chosen quite a different path from that trodden by his fellow Scot. Hunter, without any revenue when he arrived, had sought some accommodation with the New York

<sup>90</sup> Broderick to Hanger, 17 October 1713, *JAJ*, II, 127-8.

<sup>91</sup> The original statement of prospect theory is Daniel Kahneman and Amos Tversky, "Prospect Theory: An Analysis of Decision under Risk," *Econometrica*, Vol. 47, No. 2 (March 1979), 263-92. For a useful and relatively recent review, see Nicholas C. Barberis, "Thirty Years of Prospect Theory in Economics: A Review and Assessment," *Journal of Economic Perspectives*, Vol. 27, No. 1 (Winter 2013), 173-96.



assembly while carefully expanding the crown's party. In fact, four months after Hamilton turned his back on compromise in Jamaica by deciding to subsist the soldiers first and force through reimbursement later, Hunter assented to the 1714 debts bill in New York. The disparity in their actions can partly be ascribed to the different conditions they faced. There was no grand debt bargain available in Jamaica as there was in New York, nor did the Jamaican elite have the New York elite's relatively undamaged trust in the crown. Both governors faced opposition, but Hamilton's opposition was wealthier and more unyielding. Hunter could play upon the structural divisions between New York elites, while Hamilton faced an elite of large planters whose divisions, while sometimes bitter, were neither so permanent nor so easily exploited. And while four years of unfriendly assemblies had forced Hunter to educate himself in the politics of patience, Hamilton had walked into an assembly as welcoming as any a Jamaican governor had enjoyed in twenty-five years.

Once the Jamaican opposition gained the upper hand in 1713, however, it became clear that character and intellect also played a role in distinguishing the two Scots from one another. Hamilton's pride seems neither to have allowed him to ignore oblique criticism, nor to comprehend that compromise with possibly "undutiful" persons was necessary to elicit funds for the support of government. Hunter, by contrast, could let indirect insults lie until the time was right, and was genuinely willing to negotiate with the assembly from the start. Hamilton had worked harder to defend the prerogative, but as Hunter had found, compromising on the prerogative was the surest path to functional government. Hunter's pragmatism, perhaps partly learned as a man of middling social status, had enabled him to secure payment of most of the government's debts, and his own salary, from an evenly divided assembly. Meanwhile, the inflexible, disdainful, and narrow-minded lord Archibald Hamilton found his government's debts

still burgeoning despite the kindly disposition of the 1711-1713 assembly. While Hunter constructed a tenuous framework for functioning government in New York, Hamilton was busy crippling the prospects for the same in Jamaica.

Hamilton finally called another assembly for November 1714. He had perhaps been waiting for support from London, but received little. The board did empower Hamilton to tell the assembly that if they continued in their obstinacy, “measures will be taken here [...] to assert her majesty’s undoubted prerogative in that island.”<sup>92</sup> However, New York’s experience under Hunter could vouch for the hollowness of that threat. Nor had the delay enabled Hamilton’s partisans to persuade the electorate. As Hamilton wrote his brother Orkney on 15 November, his opponents had a small majority.<sup>93</sup> They had also increased the rhetorical stakes by consciously adopting the labels of British opposition. Hamilton scornfully noted that his antagonists “call[ed] themselves the country party,” which signaled a principled opposition to power sustained by corruption, and thereby implicitly accused Hamilton of corrupt behavior.<sup>94</sup> Indeed, all that the governor’s delays had accomplished was to sink him and the council deeper into debt for the soldiers’ additional subsistence.

The assembly met on 1 December 1714, and elected Totterdell for their speaker. As the choice most obnoxious to a royal governor, and the most logical for a majority concerned to

<sup>92</sup> *JAJ*, II, 190. They had also, in response to Hamilton’s query about the assembly’s objections to the council amending money bills, exactly repeated the language they had used to Hunter three years earlier. They dismissed the pretense as “groundless,” and noted that “they only sit as an assembly [...] by virtue of a clause in her majesty’s commission.” Compare board of trade to Hunter, 13 November 1711, CO 5/1122/449. The board’s letter to Hamilton does not survive in their entry books, and exists in the journals of the Jamaican assembly as an extract only because Hamilton produced it against the assembly’s positions in January 1716.

<sup>93</sup> Hamilton to the earl of Orkney, 15 November 1714, CO 137/10/360.

<sup>94</sup> *Ibid.*, 360-1. However, given that the issues in Jamaica were quite different from those in England, thanks to transatlantic institutional dissonance, it would be unwise to reason from this point to establish an equivalence between opposition in Jamaica and in Britain.

defend their rights, his election signaled the opposition's readiness to fight. Hamilton gave them even more motivation with his speech opening the assembly. He made his anticipated demand for reimbursement of the subsistence debt, which he declared he and the council had undertaken "with no other view than the public service."<sup>95</sup> And he condescendingly proclaimed his readiness to ignore the assembly's demands for concessions, remarking that "if passion, prejudice, or private views should create imaginary [grievances], they are to be unregarded."<sup>96</sup> His short speech had realized the oppositions' fears for their rights and interests, and justified their hostility.

However, Hamilton never gave the opposition a chance to turn their hostility into action, proroguing the assembly only three days after calling them together. The assembly's preference for their own address to the new king George I, which against tradition conspicuously made no praise of Hamilton, made it clear to the governor that the assembly intended to push for his recall.<sup>97</sup> Hamilton was also concerned to deny the assembly the ability to coordinate in support of a rumored petition home against him, which he believed would not only call for his and the soldiers' recall, but also request "that assemblies here may have the same privileges and powers as the Parliament of Great Britain."<sup>98</sup> He told Orkney that there was already a voluntary subscription circulating in its support, and that the subject matter and the method both "exceeded all former precedents."<sup>99</sup>

<sup>95</sup> Hamilton's speech to the assembly of Jamaica, 2 December 1714, *JAJ*, II, 136.

<sup>96</sup> *Ibid.*

<sup>97</sup> Address of the assembly of Jamaica to the king, 4 December 1714, *JAJ*, II, 139. Hamilton had already anticipated the assembly would press for his recall in his letter to Orkney of 15 November.

<sup>98</sup> Hamilton to John Thurston, 3 January 1715, CO 137/10/328.

<sup>99</sup> Hamilton to Orkney, 10 December 1714, CO 137/10/358.

Hamilton consequently complained to the board of “the difficulties I labor under in asserting and maintaining the just prerogative of the crown, and supporting of government.”<sup>100</sup> Those difficulties now weighed even more heavily upon him, for the council had given up subsisting the soldiers in November, leaving Hamilton alone to pay the necessary sums.<sup>101</sup> Hamilton told the board that continuing to maintain the prerogative and the government against the assembly’s demands for rights and powers was an “impossibility [...] without such further support as his Majesty, upon the representation of the whole, shall please to direct.”<sup>102</sup> This was doubly true because the automatic six-month extension of his commission upon George’s succession was soon to expire, leaving him with no legal authority to convene an assembly. If his new commission were not already en route, he had until 1 February 1715 to secure relief from the assembly. Otherwise, he would continue accumulating debt for the subsistence until his commission arrived.

Hamilton had backed himself against this deadline through his own actions, repeatedly declining to convene assemblies in a timely manner. Instead, he preferred to call sessions at the last minute before funds for the government expired, likely hoping that the pressure of time would crowd out complaints. Both English monarchs and colonial governors had employed this method, but most of them had at least bowed to the legislature in considering their grievances now and again. Hamilton had shown neither real nor pretended interest in doing so. He thereby violated the fundamental and ancient bargain of Parliaments: supply for redress of grievances.

<sup>100</sup> Hamilton to board of trade, 10 December 1714, CO 137/10/341.

<sup>101</sup> Hamilton to Orkney, 10 December 1714, CO 137/10/358-9.

<sup>102</sup> Hamilton to board of trade, 10 December 1714, CO 137/10/341.

By so doing, he was also abrogating the rights of Englishmen to which the Jamaicans believed themselves entitled by birth.

Hamilton instead hoped for royal commands that would compel the assembly to do what he wanted. This had failed in Jamaica before, and was not likely to work this time. Indeed, Hamilton should have known from his own experience as an MP that peremptory deployment of royal prestige was not a winning maneuver with representative assemblies in the English tradition. However, Hamilton shared the tendency of nearly all colonial administrators to dismiss colonists' Englishness when it became inconvenient. He likely was incapable of imagining that mere provincials would resist a royal decree. And unlike Hunter, who explored the possibility of compromise while enduring the board's 1713-1715 silence, Hamilton had no fallback option. He let the assembly be dissolved by the lapse of his extended commission in February, and left the next move in Jamaica up to the metropolitan authorities.

#### *Breakdown, 1715-1716*

Though Hamilton's continuation as governor was confirmed on 14 December 1714, it took until the spring of 1715 for the wheels of colonial policymaking to turn once more in London.<sup>103</sup> The new Whig board, after reading Hamilton's letters and consulting with eighteen persons "concerned in Jamaica," determined that "the better settlement and strengthening of that island" with White people ought to be the aim of their policy, with which the Jamaican elite heartily agreed.<sup>104</sup> To encourage the assembly to fund this project, the board believed it "absolutely necessary that some favors be granted from the crown for quieting the minds" of

<sup>103</sup> Viscount Townshend to board of trade, 14 December 1714, CO 137/10/317.

<sup>104</sup> Memorial of eighteen persons concerned in Jamaica to the board of trade, 25 March 1715, CO 137/10/355; Northey to board of trade, 20 April 1715, CO 137/10/373.

Jamaicans.<sup>105</sup> In a show of the unity of Jamaican interests, even Hamilton's erstwhile ally Richard Rigby had advised the board that the approval of the 1711 quieting possessions and fees bills would be well-received in Jamaica.<sup>106</sup> The board therefore requested that Northey reconsider his unfavorable 1713 report on the quieting possessions bill. They told him that "the not approving of that Act, and thereby keeping the inhabitants' titles to their lands precarious, has been one of the occasions of the difficulties the government has met with there."<sup>107</sup> The board had begun to construct their own compromise.

Northey refused to oblige the board, instead warning them on 20 April 1715 against setting a "precedent to do unreasonable things for the satisfaction of persons who, contrary to their duty [...] would endeavor to put difficulties upon the government if their unreasonable demands be not met."<sup>108</sup> However, this board clearly found the necessity of functional government in Jamaica more compelling than a strict defense of the prerogative. The board therefore disregarded Northey, and on April 29 recommended the royal assent to both the fees and quieting possessions bills.<sup>109</sup> The king and privy council accepted their recommendation, approving the two bills the very next day.<sup>110</sup>

The king in council also approved a royal letter to Hamilton, which set out the parameters of the deal. "By giving our royal approbation to such good laws as may make them happy," the

<sup>105</sup> Popple junior to Northey, 14 April 1715, CO 138/14/219.

<sup>106</sup> *JBT*, III, 13 April 1715. The 1711 bill of fees was evidently much more forgiving to Rigby's personal interests than was the 1708 bill. Rigby also probably understood better than Hamilton did that some level of compromise was now required to preserve functional government, and thereby his own position.

<sup>107</sup> Popple junior to Northey, 14 April 1715, CO 138/14/219.

<sup>108</sup> Northey to board of trade, 20 April 1715, CO 137/10/373.

<sup>109</sup> Representation of the board of trade to the king, 29 April 1715, CO 138/14/329.

<sup>110</sup> Order in council, 30 April 1715, CO 137/10/375.

letter read, “in return [...] we cannot but expect from [Jamaica] a ready and cheerful compliance in making an honorable provision for our revenue, in discharging all public debts and giving a necessary subsistence to the two independent companies there in our pay.”<sup>111</sup> The letter also informed the Jamaicans that the crown had no “intention to burthen our people with extraordinary charges any longer than is consistent with their own safety,” and undertook to withdraw the now two companies once Jamaica had sufficient White men for its militia.<sup>112</sup> This was an unusually explicit quid pro quo from the metropolitan authorities. However, that directness, though it came near to putting the crown on a level with its subjects, might well have been a virtue. The crown’s duplicity in negotiation over the past decades had severely damaged the Jamaicans’ trust. Now, at last, the metropolitan authorities were dealing plainly.

Wilson has interpreted this passage of imperial affairs as no real concession from the crown. By the time of its passage in 1715, she argues that the quieting possessions bill had been “reworked several times at the Board’s direction” into an acceptable form.<sup>113</sup> The board, she contends, also turned back legal appeals from Jamaica on the escheat question and expanded Hamilton’s authority in that regard in his new instructions.<sup>114</sup> More broadly, she asserts that the board had “decidedly disagreed with the Assembly’s view of its constitutional role.”<sup>115</sup> Instead, the board had acted to restrain the assembly’s disruption of a hierarchical “chain of decision-making institutions [...] accountable to the crown,” in which the assembly sat at the bottom.<sup>116</sup>

<sup>111</sup> George to Hamilton, 13 May 1715, CO 137/11/5.

<sup>112</sup> *Ibid.*

<sup>113</sup> Wilson, “A ‘Manifest Violation’”, 571.

<sup>114</sup> *Ibid.*, 572.

<sup>115</sup> *Ibid.*

<sup>116</sup> *Ibid.*, 573.

Though Wilson makes some factual errors in this argument—the quieting possessions bill was reworked only once, in 1711, and retained elements objectionable to the prerogative when it was passed—she is certainly correct to argue that the board did not view the quieting possessions act as a major concession. However, giving it the royal assent was still a tangible move towards compromise. The bill would limit the crown’s independent quit-rent income in the island, and give royal confirmation to some grants the crown and its governor had likely never made, while the partner bill of fees would limit the income of the crown’s patent officers in the island.

Moreover, Wilson’s analysis takes only the board’s harsher words as the sole measure of their actions. However, while the metropolitan authorities denied the assembly’s powers in one breath, in the next they tacitly recognized the reality of the situation by offering the Jamaican assembly approval of constitutionally questionable acts in exchange for supply.<sup>117</sup> It is this seeming contradiction that produced the inherent instability of transatlantic imperial government. This Whig board, like other colonial policymakers before them, evidently understood that achieving the practical objectives of imperial government in the colonies required periodic concessions to local elites. They had accepted New York’s 1714 debts bill, and now proffered a compromise to Jamaica. However, the persistence of prerogative government depended on never explicitly acknowledging the permission of infringements—which was why imperial authorities had taken such care to frame the compromise as an act of royal grace. Therefore, while much of the reality of power rested with the colonial assemblies, the formality of it still rested with the crown, to a far greater degree than in the metropole, where the Glorious Revolution settlement

<sup>117</sup> Wilson makes no reference to the board’s representation on the acts to the king, nor to the subsequent letter from the king to Hamilton, probably because she is more narrowly concerned with the escheat question.



had set formal as well as informal limits on the crown.<sup>118</sup> In a political culture deeply concerned with legal and constitutional forms, the tension produced by this transatlantic institutional dissonance constantly threatened to escalate into open constitutional conflict.

By late August, Hamilton had received all the communications from London required for him to meet a new assembly.<sup>119</sup> His commission and instructions had arrived, as had the king's letter with its attendant compromise. The councilors Charles Chaplin and John Blair, whom Hamilton believed had worked against him in the previous election, were removed from their posts as per his request, while Broderick was back as attorney general.<sup>120</sup> In the interim, Hamilton had subsisted the soldiers on his own credit for a further nine months since the abortive December 1714 session, making it ten months on his own, and fifteen since the expiration of the additional subsistence in May 1714. He desperately needed a friendly assembly.

The assembly that began sitting on 31 October 1715 was decidedly the opposite. Totterdell had died in the interim between assemblies, but the Beckfords still led a majority. They were joined by Chaplin and Blair, both extremely wealthy men who now had personal grievances against Hamilton in addition to whatever had motivated their previous opposition.<sup>121</sup> Ominously, the assembly's first act was to elect Blair for their speaker.<sup>122</sup> Hamilton pressed on nonetheless. He communicated the king's letter to the assembly, and urged them "to lay hold of

<sup>118</sup> As Greene and Bailyn have noted; see Greene, "Political Mimesis," 350-1; Bailyn, *Origins of American Politics*, I, 932.

<sup>119</sup> Hamilton to board of trade, 30 August 1715, CO 137/11/40-1.

<sup>120</sup> Representation of the board of trade to the king on Hamilton's instructions, 25 April 1715, CO 138/14/221. Chaplin was also removed from his lucrative post as deputy receiver general.

<sup>121</sup> Chaplin held 704 slaves at his death in 1736, with an estate worth £31,000 in Jamaica money. Blair held 419 slaves at his death in 1728, with an estate worth £22,000 Jamaica money. Those figures placed the two men in the elite of the elite. "John Blair Esquire [778]" and "Charles Chaplin Esquire [1702]", Burnard, Database of Jamaican inventories.

<sup>122</sup> *JAJ*, II, 140.

this opportunity [...] by making the most dutiful returns we are capable of” in supplying the government and reimbursing him for the subsistence debt.<sup>123</sup>

The assembly refused to do this, instead pointedly undertaking to supply the revenue “to discharge all its just debts” while excluding the subsistence debt.<sup>124</sup> Hamilton in his turn blamed “former assemblies” for failing to provide for the soldiers, and noted that since he could neither disband the soldiers nor allow them to starve, “the method fallen upon was the most unexceptionable.”<sup>125</sup> The assembly rejected these assertions in resolutions written by Chaplin on 9 November. The resolutions also castigated Hamilton for “employing his interest at home” to keep the two companies in being, which Chaplin contended was “only advantageous to particular persons,” instead of supporting the better and more economical expedient of disbanding the soldiers in the island.<sup>126</sup> The assembly therefore resolved that the £2,706 debt Hamilton and the council had contracted was no “public debt within the construction of his majesty’s letter,” since it was “money disbursed without a law, or the public faith given for the reimbursing the same.”<sup>127</sup> Paying the debt would mean “highly infringing upon the liberties of the subjects of this island, and betraying the trust reposed in them.”<sup>128</sup>

Hamilton now reaped what he had sown. His deliberate delay of assemblies, and his insistence on the public repaying his freely incurred debts, were together a legitimate threat to the rights of Englishmen. The assembly were determined to fight him explicitly on that ground.

<sup>123</sup> Hamilton’s speech to the assembly of Jamaica, 31 October 1715, CO 137/11/61-2.

<sup>124</sup> *JAJ*, II, 144.

<sup>125</sup> *Ibid.*

<sup>126</sup> *Ibid.*, 146.

<sup>127</sup> *Ibid.*

<sup>128</sup> *Ibid.*, 146-7.

They also had some inkling of Hamilton's deceptive lobbying about the soldiers, which showed that Hamilton could not be trusted, and probably also served to reinforce suspicions that he was inclined to infringe upon their rights. Moreover, the assembly had a distinct material interest in avoiding raising taxes on themselves to pay for the soldiers' subsistence, in increasing the overseer labor pool, and in pushing as much of the burden of imperial defense onto the crown and the colonial executive as possible. As ever, the coincidence of their material and ideological interests gave them strength.

It was not only Hamilton who would pay the price for his incompetence. The metropolitan authorities' proffered compromise was likely dead in the water. To be fair, the opposition majority might well have viewed the metropolitan authorities' concessions of the fees and quieting possessions bill as an insufficient exchange for the sums Whitehall expected. It is also clear that the metropolitan authorities included Hamilton's subsistence debt as one of the "public debts," so the compromise might have foundered upon that rock in any case.<sup>129</sup> However, the assembly's complete and justified lack of trust in Hamilton definitively closed the door on any mutually palatable exchange of supply for redress of grievances. The opposition were extremely unlikely to raise any funds for the colonial government without excluding Hamilton and his loyal council from any control of them whatsoever, which would be an infringement on the prerogative that imperial authorities would never accept. There was no available compromise while Hamilton and his allies remained in power.

Hamilton was out of options. He could not compel the assembly to vote as he wanted. He would not compromise, nor would the assembly have trusted any compromise he proposed. He

<sup>129</sup> Board of trade to James Stanhope, 17 February 1716, CO 138/14/361-2 makes it clear that the subsistence debt was considered one of the legitimate debts of the government.

could not call a new assembly without running himself deeper into debt, and could not expect any different outcome from new elections in any case. The only thing left to do was to give in to inertia and let the assembly run. He would at least win some credit with the metropolitan authorities for trying to get their measures passed, and defending the prerogative at every turn, as Hunter had done in the first few years of his government in New York. This Hamilton determined to do, writing to the board that he was “resolved not to be drove into any unreasonable concessions from the necessity of affairs” since it was his “indispensible duty to show the most strict adherence to our constitution.”<sup>130</sup> Functional government in the colony, however, was now beyond his grasp.

The assembly made this clear to the metropolitan authorities in their resolutions of 15 December, once again penned by Chaplin. They claimed that the councilors Rigby, Broderick, and John Stewart had entered into a corrupt bargain with Hamilton upon his arrival.<sup>131</sup> While the councilors engaged in election-fixing and other nefarious practices, Hamilton had supported himself by “prostituting of his majesty’s commissions to gain votes, and turning out of men of the best estates to make room for ordinary and illiterate persons.”<sup>132</sup> Hamilton had also, the opposition alleged, deliberately misrepresented the state of Jamaica in his letters home to give his corrupt crew cover. For evidence of this latter perfidy, the assembly angrily quoted Hamilton’s assertion that “we were not fit to be left by ourselves” that had buttressed his appeal for the retention of a garrison.<sup>133</sup> In the same vein, they contended that Hamilton’s “new and

<sup>130</sup> Hamilton to board of trade, 28 November 1715, CO 137/11/12.

<sup>131</sup> *JAJ*, II, 160.

<sup>132</sup> *Ibid.*, 162.

<sup>133</sup> *Ibid.*

illegal method” for subsisting the soldiers would “be of fatal consequence to the liberties of the people.”<sup>134</sup> On the whole, the assembly found, while they would like to “establish that good agreement” recommended by the king, they did not “see any likelihood of effecting it whilst his excellency continues in his government” and Rigby, Stewart, and Broderick remained in the council.<sup>135</sup> Seeking to demonstrate their united front against Hamilton, the assembly recorded that the resolutions passed with twenty-three ayes, and only three nays.<sup>136</sup>

Since Hamilton could not possibly remedy the grievances in these resolutions, the confrontation between governor and assembly was now almost entirely played for the benefit of the London audience. The assembly were negotiating directly with the metropolitan authorities, demanding Hamilton’s recall and the replacement of Rigby, Stewart, and Broderick in exchange for functional government in the colony. They had given no assistance to the chronically indebted revenue since November 1713, nor had they subsisted the soldiers since May 1714. Their fiscal leverage was therefore as high as it had ever been. Moreover, the assembly did not need to trade it for the passage of bills they wanted, because the fees and quieting possessions bills had already been approved in London. It was the perfect moment for the opposition both to crush their political enemies in Jamaica, and to ensure the rights of Englishmen would no longer be threatened by a haughty and inflexible administration. Having seen the crown deal with them in bad faith so many times, the Jamaican opposition now took advantage of asynchronous Atlantic politics to turn the tables. The metropolitan authorities had a choice: Hamilton in the government, or money for the government.

<sup>134</sup> *JAJ*, II, 162.

<sup>135</sup> *Ibid.*, 161.

<sup>136</sup> Since the Jamaican assembly had thirty-six members, Hamilton’s party at best could command a third of the votes if all members attended.

Nothing else happened in Jamaica to alter this situation before the end of Hamilton's government. In this December session and another that Hamilton called in financial desperation in January and February 1716, the two sides repeatedly insulted and affronted one another. However, they passed no legislation, as the assembly repeatedly insisted on excluding Hamilton and the council from all their money bills, and refused to accept any amendments from the council, as they had done a decade before. Hamilton finally dissolved the assembly on 11 February 1716, after they accused him of Jacobite sympathies in "a scandalous libel," flinging the assembly's address back in the messengers' faces as Inchiquin had done twenty-five years before.<sup>137</sup> As the assembly's resolutions had made clear, the issue would be settled in Britain, not Jamaica.

The board became aware of the new heights of the controversy in February, when Hamilton's letter of 28 November 1715 arrived. In that letter, Hamilton accused the opposition of hostility to the established constitution, and claiming that there was "no grievance or uneasiness in the country but what is occasioned from our unhappy assemblies."<sup>138</sup> The weight of paper from the opposition and their partisans in London, however, belied his bold assertion. Memorials accused Hamilton of favoring "gentlemen of no estates" over "the estated men," of embezzling public money in the assembly's commissioner's hands, and threatening councilors with suspensions to secure their votes.<sup>139</sup> One particularly pungent memorial compared Hamilton's government to Albemarle's, the demand for repayment of the subsistence debt to

<sup>137</sup> *JAJ*, II, 197.

<sup>138</sup> Hamilton to board of trade, 28 November 1715, CO 137/10/73.

<sup>139</sup> "An account of the maladministration of Jamaica," CO 137/11/125; Peter Heywood to Stanhope, 28 February 1716, CO 137/11/137; Memorial to the board of trade "in vindication of the island of Jamaica and the assembly thereof," 21 February 1716, CO 137/11/74.

Charles I's imposition of ship money, and said the assembly, like Parliament in that time, "after hasty dissolutions, refused [...] to pay money imposed without their consent."<sup>140</sup> Gilbert Heathcote capped it all off by presenting the assembly's own representation to the king, with an exhaustive list of grievances and accusations, in April.<sup>141</sup>

These appeals, however, were primarily directed to James Stanhope, secretary of state for the south and one of the most prominent figures in government, and not to the board. The Jamaican elite and their allies on both sides of the Atlantic recognized the board's "growing ineffectiveness" in formulating policy, particularly after the changes in its makeup at George I's succession, and instead sought to bypass it.<sup>142</sup> It is thus hardly surprising that the board still inclined to Hamilton's view of the assembly's actions. After receiving Hamilton's 28 November 1715 letter, they wrote to Stanhope expressing their fear that the Jamaican assembly's proceedings represented a broader trend, because "several other colonies in America [...] have of late pretended to assume new privileges and powers."<sup>143</sup> Were this not forestalled, the board warned, it might "tend to the weakening of his Majesty's prerogative in those parts."<sup>144</sup> The board had envisioned a small exchange of the prerogative for the additional subsistence in the compromise they had offered in 1715, which would preserve the illusion of strength by presenting the concession as a gracious condescension. But the assembly's defiance of Hamilton

<sup>140</sup> Memorial to the board of trade "in vindication of the island of Jamaica and the assembly thereof," 21 February 1716, CO 137/11/77.

<sup>141</sup> Representation of the assembly of Jamaica to the king, 31 December 1715, CO 137/11/113-21.

<sup>142</sup> Steele, *Politics of Colonial Policy*, 172. This should not, however, be overstated. The board had formulated the initial compromise after hearings with "those interested in Jamaica," and there is no evidence that Stanhope or any other powerful ministers intervened.

<sup>143</sup> Board of trade to Stanhope, 17 February 1716, CO 138/14/360.

<sup>144</sup> Ibid.

and of royal instructions threatened to tear aside the curtain and reveal how feeble prerogative government was in a direct confrontation. The board knew something had to be done. However, they had no concrete suggestions as to what.

Meanwhile, Hamilton was not entrusted with cleaning up his own mess. When an accusation of his complicity in piracy made its way to England, the metropolitan authorities seemed to have seized on the pretext to dismiss a governor who could accomplish nothing whatsoever legally. Stanhope wrote to the board on 19 May 1716 informing them that Hamilton's commission was terminated.<sup>145</sup> The council would also be changed, with Chaplin and Blair restored, Thomas Beckford put in, and four of Hamilton's loyalists ejected, including Rigby and Stewart.<sup>146</sup> If an investigation by this new council found that Hamilton was indeed involved in piracy, Hamilton was to "be put under arrest, and his effects seized and sent over with him by the first ship" from Jamaica.<sup>147</sup> When these orders arrived in Jamaica on 25 July 1716, the opposition had won a political victory. Broderick remained as a councilor and attorney general, but Hamilton and the rest of his reviled administration was out while opposition partisans were in, thanks to the assembly's successful employment of its fiscal leverage.

However, though the metropolitan authorities had cut Hamilton loose, they did not likewise dissociate themselves from his measures. The board were particularly concerned that the debts "contracted for their own defense [...] ought to be supported by themselves," and not

<sup>145</sup> Stanhope to board of trade, 19 May 1716, CO 137/11/140. At this time, Stanhope also forwarded them months' worth of documents relating to the controversy for the first time. Steele therefore says that when Stanhope told the board that Hamilton was to be replaced, "The Board was not even aware of any complaints against him." This is an exaggeration, since the board had received the memorial from March, Carver, and Gomersall in February, but it is not far off the mark. Steele, *Politics of Colonial Policy*, 150.

<sup>146</sup> Stanhope to board of trade, 21 May 1716, CO 137/11/141; Bowes to Thomas Onslow, August 1716, CO 137/12/35.

<sup>147</sup> Stanhope to board of trade, 19 May 1716, CO 137/11/140.



by the crown.<sup>148</sup> Before the piracy accusation arrived in London, Stanhope had countersigned a royal letter on 10 April empowering Hamilton and the council to pass a warrant for their repayment “out of the first and readiest of the revenues of that our island.”<sup>149</sup> Even after Hamilton’s dismissal, the metropolitan authorities stood by this demand. They had resolved to champion the crown’s interest in making the colonies bear the burden of imperial defense by making an end-run around the assembly’s rights of levying and appropriating money. In so doing, they had undermined the goodwill and trust they might have garnered by dismissing Hamilton. They had also ensured that the conflict he had touched off between the rights of Englishmen and the prerogative of the crown would not die down, but would instead roar into fuller life.

#### *Hamilton’s Legacy*

Hamilton’s tenure in Jamaica was the perfect storm of bad government in the colonies. Like all governors, he was caught in the middle of the conflict between the rights and interests of the colonial elites on the one hand, and those of the crown and the metropole on the other. He was at the mercy of transatlantic communications, the board of trade’s limited powers, and the metropolitan authorities’ divided attention. Hamilton also labored under the need to secure the cooperation and consent of a critical mass of the local elite, which in Jamaica had no structural divisions to exploit. He also had to contend with a chronically indebted revenue, discontent at the expense of war and quartering soldiers, and a well-led and deep-pocketed opposition. Even the friendly 1711 assembly would only subsist the soldiers, and pay the revenue’s debts, from year

<sup>148</sup> Board of trade to Stanhope, 17 February 1716, CO 138/14/362.

<sup>149</sup> George to Hamilton, 10 April 1716, CO 137/12/163.

to year. Moving the government onto firmer footing would be an onerous task, and one any governor would be unlikely to complete.

But while his fellow Scot Hunter rose to the challenge in New York, Hamilton sank under it in Jamaica. Enjoying an initially more favorable situation than did Hunter, Hamilton contrived to be his own worst enemy. He escalated minor tiffs with the assembly, never conceded an inch for the sake of compromise, and repeatedly deceived the assembly about his lobbying. He sought to preserve a garrison in Jamaica that would serve his own interests, while arguing for it in terms that horrified the Englishmen he governed. He turned a blind eye to the corruption of his allies even when they could not command a majority, and very possibly participated himself. And he incurred the subsistence debts without authorization from the assembly, which were then, as Mulford had complained in New York, “endeavored to be turned upon the country as if they were their debts.”<sup>150</sup> Few governors gave as much cause for cries of “arbitrary power” as Hamilton did while achieving so little for the crown’s interests.

Then the metropolitan authorities stepped in to make matters worse. They had earlier offered compromise, proffering an exchange of the fees and quieting possession bills for “an honorable provision for [the] revenue.”<sup>151</sup> However, when faced with the choice between disavowing Hamilton’s arbitrary measures or supporting the material interest of the crown, they chose the latter, ordering the repayment of the debt. Hamilton’s summer 1716 departure from Jamaica, therefore, did not mean that the island was done with him. Though the hated governor was gone, in Shakespeare’s phrase, the evil he did lived after him.

<sup>150</sup> Samuel Mulford’s speech to the assembly of New York, 2 April 1714, CO 5/1051/185.

<sup>151</sup> George to Hamilton, 13 May 1715, CO 137/11/5.

Lee Wilson has identified the fundamental conflict in Hamilton's governorship as one over property rights and their effect on Jamaican slaveholders' material interests. This chapter has shown, by contrast, that the Jamaican elite feared for the broad spectrum of their rights as Englishmen, and that their material interests were inextricably entangled with those rights.<sup>152</sup> The planters believed wholeheartedly that "though we are in Jamaica, we cannot forget that we are Englishmen," entitled to all the rights thereof as much as they could be realized in a tropical island five thousand miles distant.<sup>153</sup> On the other hand, as Wilson also perceptively notes, imperial authorities "did not accept the Assembly's suggestion that Jamaica's constitution was the English constitution."<sup>154</sup> Neither side was prepared openly to retreat from its principles.

But the crown needed more from the Jamaican assembly than they needed from it. Whitehall had no appetite in the post-Glorious Revolution era for direct coercion of the colonies, no desire to sacrifice royal autonomy in colonial affairs by resorting to parliamentary legislation, and no inclination to finance colonial government from metropolitan coffers. However, Whitehall also needed to extend the umbrella of imperial defense to the empire's most important colonies, and to ensure that the colonies had functional government. The metropolitan authorities were therefore caught in a bind. Some of their interests would have to be sacrificed for the advancement of the rest. The Jamaican elite did not have this problem, since both their material and ideological interests pointed towards increased autonomy within the overarching imperial structure. Yet they labored under the disadvantage that the authority to make formal change in the system rested with the metropole, which remained one of the assumptions of the transatlantic

<sup>152</sup> Habeas corpus and liberty of conscience failed to make significant appearances in this period.

<sup>153</sup> *JAJ*, II, 169.

<sup>154</sup> Wilson, "A 'Manifest Violation'", 573.

political culture. The result was a series of informal and readily disavowed compromises, which could not remove the fundamental constitutional instability of the arrangement that had pertained ever since the Glorious Revolution had failed to complete the crossing of the Atlantic. Governors might ameliorate the situation, as Hunter did, or they might exacerbate it, as Hamilton did. But both were equally incapable of remedying it.

## Chapter VI

### The Final Perpetual Revenue Crisis in Jamaica, 1716-1729

In 1729, the privy council approved a bill passed by the Jamaican assembly establishing a perpetual revenue, in exchange for perpetual confirmation of the colony's basic laws. The struggle had been spirited, lasting six years and encompassing three expirations of the laws and revenue settled by the 1704 act. In the end, however, the crown had notionally realized the goal it had sought since 1677. In what was now the empire's richest colony, whose exports were worth over £65,000 a year to the customs in Britain, there was now also permanent fiscal provision for imperial government.<sup>1</sup> But in practice, the revenue the assembly voted was inadequate even for the regular expenses of the government, and made no provision for additional subsistence for the garrison companies. The Jamaican elite absolutely refused to grant the colonial government the fiscal independence the crown so badly desired, because the planters knew they had no better safeguard for their rights, and no better promoter of their interests, than the assembly's power of the purse. The crown was constrained to accept this inadequate settlement, because there was no politically viable alternative to cooperation with the local elites.

However, the Jamaican elite were also disappointed by the settlement. They would no doubt have preferred to grant the crown less than the £8,000 per annum eventually voted. And they also strove throughout the process to secure statutory confirmation of the rights of Englishmen in Jamaica, but were denied at every turn. The assembly were compelled to agree to these terms because, as Agnes Whitson has written, they were "the price which had to be paid for the confirmation of the island's laws."<sup>2</sup> Thanks to the peculiarities of its founding and the

<sup>1</sup> R. Sheridan, *Sugar and Slavery*, 418; Rugemer, *Slave Law*, 131.

<sup>2</sup> Whitson, *Constitutional Development*, 152.

crown's attentions in the 1670s and 1680s, Jamaica's basic laws expired when the revenue did. Without new royal assent, even if the assembly were to reenact them, the laws would have no legitimacy among a self-consciously English people. The Jamaican elite therefore had no choice but to make concessions.

Historians who consider this struggle have taken a somewhat rosier view than I do here. They have generally followed Whitson in concluding that "the Crown was the less fortunate" in this encounter.<sup>3</sup> Jamaica, with its laws confirmed, was now ready to "extort what it pleased from [the governor]," in the mold described by Jack Greene for the southern royal colonies, without having made crippling sacrifices.<sup>4</sup> Indeed, the Jamaican elite had ostensibly secured one of their fondest ambitions, for as Greene writes, a clause in the perpetual revenue act "formally guaranteed by statute their rights to the protection of all English laws."<sup>5</sup> This is, however, an extremely generous interpretation of the facts, for the act did not resolve the fundamental conflict of rights. The final perpetual revenue act did include a clause appropriating "all such laws, and statutes of England as have been at any time esteemed, introduced, used, accepted, or received, as laws of this island [...] for ever."<sup>6</sup> However, the clause was not a major concession, as Greene contends. In the final bill, the assembly had been forced to retreat from their earlier preferred appropriation of English law, which had included all statutes "concerning the life,

<sup>3</sup> Whitson, *Constitutional Development*, 156.

<sup>4</sup> *Ibid.*, 157; Greene, *The Quest for Power*, 3-4.

<sup>5</sup> Jack P. Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *Journal of Imperial and Commonwealth History*, Vol. 22, No. 1 (1994), 21. Greene's statement is only the most succinct. Similar arguments may be found in Lustig, *Robert Hunter*, 187-8; Newman, *Dark Inheritance*, 58; and the originator, Whitson, *Constitutional Development*, 154.

<sup>6</sup> Qtd. in Whitson, *Constitutional Development*, 152.

liberty, and property of the subject.”<sup>7</sup> In so doing, the Jamaican elite had failed to secure the habeas corpus act, their most cherished aim.<sup>8</sup> Indeed, when the law officers first reviewed what would become the final clause in 1724, they were little worried, noting that the clause would change nothing about the legal regime in Jamaica.<sup>9</sup> The “rights” the Jamaican elite had won in this confrontation were without substance.

Indeed, little had changed in the struggle between the Jamaican assembly and the British crown. The crown still wielded the prerogative to frustrate the Jamaican elite’s aspirations to enjoy the rights and privileges of Englishmen, and could yet employ it to revise any temporary concessions of powers to the assembly. The Jamaican assembly, for their part, still utilized the power of the purse to thwart the crown’s ambitions for fiscal independence, and therefore freedom of action, for royal government in the colony. Nor did either side yet possess the will or the means to force its preferred solution on the other. 1729 therefore represented the closest approach to a negotiated constitutional settlement between a colonial assembly and the crown, and yet it settled nothing fundamental whatsoever. The conflict between crown and assembly, imposed by the structures of transatlantic politics and political culture, would not, and indeed could not, cease.

#### *Prelude to Confrontation, 1716-1723*

As they had done in the early 1690s by sending out William Beeston after Albemarle’s conduct had poisoned Jamaican politics, the metropolitan authorities dispatched a Jamaican as

<sup>7</sup> *JAJ*, II, 461.

<sup>8</sup> Nicholas Lawes to board of trade, 6 December 1719, CO 137/13/186. Whitson, who otherwise agrees with Greene, notes that the metropolitan authorities refused to apply the habeas corpus act to Jamaica even after the passage of the final bill. Whitson, *Constitutional Development*, 154.

<sup>9</sup> Philip Yorke and Clement Wearg to board of trade, 6 July 1724, CO 137/14/329.

governor to calm affairs after Hamilton's disastrous tenure. Nicholas Lawes had lived in Jamaica from 1663 to 1703, becoming one of the wealthiest planters in the island, before removing to London.<sup>10</sup> Moved by "gentlemen and merchants, our friends in England," as he told the assembly, "to quit the retreat I had given myself up to," he sought and received the appointment in 1717, though he was already sixty-five years of age.<sup>11</sup> Like his predecessor, Lawes arrived in Jamaica with a demanding remit. He was principally charged with settling the revenue, making real estate liable for payment of debts, getting the Hamilton debt repaid, and making all monies raised payable to the receiver general, all while promoting unity and tranquility.<sup>12</sup>

Unlike Hamilton, Lawes did not make a difficult situation worse through his own incompetence. To be sure, he was not blameless. He insisted on a council dominated by Hamilton's partisans before he left for Jamaica, thereby ensuring conflict between them and an assembly still dominated by the opposition.<sup>13</sup> But he made few other missteps, and certainly none that rivalled Hamilton's. Indeed, when Lawes stepped down as governor in 1723, the assembly had complained of him directly only once, and then on a minor matter.<sup>14</sup> Like Lynch and Beeston before him, his connections to the planter elite, and knowledge of island society, had enabled Lawes to navigate the treacherous waters of Jamaican politics more skillfully than a garden-variety Hanoverian courtier could have done. And Lawes's absenteeism had detached him

<sup>10</sup> Cundall, *Governors*, 75.

<sup>11</sup> Lawes' speech to the assembly of Jamaica, 1 August 1718, *JAJ*, II, 256; Joseph Addison to board of trade, 21 June 1717, CO 137/12/145; Cundall, *Governors*, 74.

<sup>12</sup> Instructions for Lawes, 11 October 1717, CO 138/15/353-490, esp. 414-421; Board of trade to Addison, 11 October 1717, CO 138/15/345-52; Lawes' speech to the assembly of Jamaica, 1 August 1718, *JAJ*, II, 255.

<sup>13</sup> Memorial of Lawes to board of trade, 29 August 1717, CO 137/12/342. This slightly belies the praise generally given to Lawes for seeking "to conciliate all parties," as Cundall puts it (Cundall, *Governors*, 77).

<sup>14</sup> The incident was a complaint in the summer of 1721 about his refusal to employ his police authority to apprehend a group of absenting members. *JAJ*, II, 380-3, 386-7.



personally from the crisis that immediately preceded his governorship, which also aided him in reducing the island's political temperature.

However, Lawes's instructions ensured conflict with the Jamaican elite. Settling the revenue and empowering the receiver general would both, in their own ways, contribute to fiscal independence and freedom of action for the crown's government. Meanwhile, the planters would bitterly resist any legislation that might imperil their sugar-producing lands for the sake of debts owed across the ocean. Moreover, multiple assemblies resolved repaying the Hamilton debt would "tend to the entire subversion of the nature of assemblies" by making them no more than a rubber stamp for the governor and council's arbitrary choices on expenditures.<sup>15</sup> The insistence of governor and crown on its repayment not only made clear to many of the Jamaican elite that they were engaged in a battle for their rights as Englishmen, but also allowed the opposition to make that argument convincingly to the electorate. Unsurprisingly, therefore, Lawes faced an opposition majority in the assembly for almost all of his five-year tenure. And their repeated successes in frustrating him demonstrated to the electorate that electing opposition assemblymen could defend the Jamaicans' rights as Englishmen.

Lawes was also hampered by two not unrelated trends in Jamaican affairs that accelerated during his governorship. By the end of Lawes's governorship, the process that had begun during Beeston's government had reached its conclusion. As Trevor Burnard argues, "[s]tarting in the early 1720s [...] the great planters of plantation America controlled society and culture."<sup>16</sup> In conjunction with the wealthy transatlantic merchants of Kingston, the Jamaican planter elite now dominated the island. There were no structural fissures among them that a governor could

<sup>15</sup> *JAJ*, II, 369. The quotation is from 1721, but similar resolutions were taken in 1716 (before Lawes's arrival), 1718, and 1720.

<sup>16</sup> Burnard, *Planters, Merchants, and Slaves*, 96.

profitably exploit to win even a sufficient minority's acquiescence in the crown's measures. Moreover, they were "richer and more powerful than any other British American eighteenth-century planter elite."<sup>17</sup> They were neither easily swayed by a governor's honors nor intimidated by his bluster.

The ascendancy of the planter elite, however, brought the problem of their internal security into sharper relief. As the numbers of enslaved Africans shipped to Jamaica climbed in the 1710s and 1720s, Edward Rugemer notes that so too did the numbers of those who escaped to the island's interior to join old or form new Maroon bands. Large new Maroon settlements grew up both in the east and center of the island, and in the windward parishes particularly the expansion of sugar plantations was met with Maroon raiding.<sup>18</sup> Lawes and the assembly agreed on the necessity of sending out "parties" to attempt to suppress the Maroons. But as in all previous instances, the parties met with no strategic success, while the governor and the assembly repeatedly clashed over the scale and method of reimbursement.<sup>19</sup> The Maroon threat was enough to excite the planters to action, but insufficient to motivate unity with the colonial executive.

Even when Lawes and his allies could put together a majority for the crown's interests, their triumphs were ephemeral. Though they succeeded in directing funds to the receiver general once more, the terms of the bills made him no less responsible to the assembly than had been the

<sup>17</sup> Burnard, *Planters, Merchants, and Slaves*, 92.

<sup>18</sup> Rugemer, *Slave Law*, 125-8.

<sup>19</sup> In 1720, for instance, Lawes told the assembly that the insufficient payment of the parties had brought the government into contempt, and the assembly replied that it was not their fault but that of the tax collectors. Lawes peevishly replied that "I find by experience you are all too wise for me to think of talking you into anything I would have you do, though never so apparently your own interest and duty so to do." Lawes' speech to the assembly of Jamaica, 5 October 1702, *JAJ*, II, 338; Address of the assembly of Jamaica to Lawes, 8 October 1720, *JAJ*, II, 340; Lawes's speech to the assembly of Jamaica, 25 October 1720, *JAJ*, II, 342.

commissioners.<sup>20</sup> Meanwhile, three appropriations to the revenue did not stop its debts from increasing from £5,430 in summer 1717 to £16,886 by winter 1723, when Lawes left the government.<sup>21</sup> Lawes himself had gone “without a shilling of the two last years’ salary” by that point, and wrote the board that he would “have starved if I had not had a small fortune of my own to live upon, which I have even in some measure exhausted in support of my character as his Majesty’s governor and in doing him service.”<sup>22</sup>

The assembly had appropriated over £20,000 in arrears on the additional duty and deficiency tax to the revenue, theoretically sufficient to retire all the debts of the government.<sup>23</sup> However, collecting what the assembly had raised was beyond the capacity of the skeleton colonial administration, which employed perhaps ten salaried officials in the whole of the island. Instead, tax collection and the other measures of imperial government remained largely dependent on local government institutions for their execution, and the vestry boards and justices of the peace were evidently determined to withhold cooperation.<sup>24</sup> By appropriating the arrears, however, they could cloak their defiance, and instead cast the blame on the incapacity of the

<sup>20</sup> Spurdle, *Early West Indian Government*, 116-7.

<sup>21</sup> *JAJ*, II, 439. The government did have reason to exaggerate this number to make a better case for raising further funds.

<sup>22</sup> Lawes’s speech to the assembly of Jamaica, 22 October 1722, *JAJ*, II, 423; Lawes to board of trade, 22 April 1722, CO 137/14/150.

<sup>23</sup> *JAJ*, II, 435-6. The assembly had reason to exaggerate this number to justify not raising further funds, and instead simply making appropriations of arrears.

<sup>24</sup> Spurdle suggests that sometimes the assembly did genuinely want these arrears collected, and that the “churchwardens and vestrymen,” the local government of the parishes, still resisted. See Spurdle, *Early West Indian Government*, 121. This is probably true, but in the 1720s it does not appear as though the elite men who formed the Jamaican assembly were exerting downward pressure in the social hierarchy in an attempt to ensure that the arrears were better collected.

crown's officials.<sup>25</sup> The colonial executive could do little to break the back of this resistance without suing an impossibly large number of people. Even then, there would be no practical way to enforce the decrees of the court without the cooperation of the very people being sued, short of armed coercion.<sup>26</sup> As ever, coercion was neither an appealing nor a practical solution, and Lawes does not seem to have considered it.

Realizing his straits, like Hunter in New York, Lawes had written the board in autumn 1720 asking them to get a bill "into the House of Commons (though never passed) to settle a revenue adequate to the charge of the government."<sup>27</sup> This, he believed, "would alarm [the assembly], and incite them more to their duty" in aiding the revenue, and possibly paying the Hamilton debt.<sup>28</sup> He wrote the board at least six more times making this suggestion. As the government grew more frustrating to Lawes, the threat element dropped away. It was replaced by his argument that "there is no bringing these people to a sense of their duty but by settling his Majesty's revenue by Act of Parliament equal to the charge of the government."<sup>29</sup>

His reward was silence. The board wrote him only twice during his entire government, both times before he made his plea for aid via parliamentary legislation.<sup>30</sup> This was partly

<sup>25</sup> The assembly did exactly this in their address to Lawes of 17 February 1721, disclaiming any responsibility for poor collection and noting that "collecting those supplies is entrusted to other persons." *JAJ*, II, 357.

<sup>26</sup> Lawes had made a similar attempt in suing defaulters on quit-rent deed filing in autumn 1721. It ended in humiliating failure, as the council and assembly united against him in passing a bill to stop such prosecutions, promising Lawes they would aid the revenue if he passed the bill. Once he did so, assemblymen promptly absented themselves in such numbers that Lawes was forced into proroguing the assembly without getting his revenue aid. Lawes to board of trade, 27 April 1722, CO 137/14/146-7.

<sup>27</sup> Lawes to board of trade, 13 November 1720, CO 137/13/290.

<sup>28</sup> *Ibid.*

<sup>29</sup> Lawes to board of trade, 30 October 1721, CO 137/14/96.

<sup>30</sup> Board of trade to Lawes, 9 July 1719, CO 138/16/227-32; board of trade to Lawes, 27 December 1720, CO 138/16/277-9.

because Henry Bentinck, the duke of Portland, was appointed as the new governor on 9 September 1721, not long after Lawes's suggestion first arrived with the board.<sup>31</sup> The board thereafter followed its usual practice of not bothering to write to the old governor. The lack of communication with Lawes was also partly a result of what Steele has termed the board's "growing ineffectiveness" and loss of diligence in colonial correspondence after 1714.<sup>32</sup> Nevertheless, the board knew that Lawes's plan would entail the expenditure of valuable parliamentary time and political capital in order to secure a few thousand pounds a year from but one of the crown's colonies. This was a woeful mismatch of means to ends, without even considering the difficulty of enforcing the law once made, or the self-defeating nature of involving Parliament in a controversy linked to the extent of the prerogative. What limited attention the board did have for Jamaican governance was instead given to a more realistic solution to the problem of the expiration of the laws and revenue.

The board commenced their inquiry in 1722, only two years before the expiration. After consulting with their lawyer West and the law officers, they recommended a reprise of the approach taken two decades before.<sup>33</sup> They represented to the king that "the renewal of [the laws] is a grace which the people of Jamaica cannot reasonably expect from your Majesty without a suitable return for the same."<sup>34</sup> That return, they counseled, should be "a settled revenue equal to the present expenses of your government there," preferably perpetually but for

<sup>31</sup> Lord Carteret to board of trade, 9 September 1721, CO 137/14/32.

<sup>32</sup> Steele, *Politics of Colonial Policy*, 172.

<sup>33</sup> *CSPC*, XXXIII, no. 53; B. Wheelock to Robert Raymond and Yorke, 2 March 1722, CO 138/16/407-8; West to board of trade, 2 March 1722, CO 137/14/109; Raymond and Yorke to board of trade, 5 March 1722, CO 137/14/117.

<sup>34</sup> Representation of the board of trade to the king, 28 March 1722, CO 138/16/414.

twenty-one years at least.<sup>35</sup> Portland was authorized to make this deal by his additional instruction of 13 April 1722.<sup>36</sup>

As in the early 1700s, the metropolitan authorities were determined to maximize the leverage granted them by their possession of the right to review colonial laws. Jamaica was unique among the British North American and Caribbean colonies in that a substantial body of its foundational laws were not confirmed in perpetuity, but required periodic reconfirmation by the crown. Not even New York, England's other seventeenth-century Atlantic colonial conquest, labored under that disadvantage. The crown's negotiating position was therefore much stronger in Jamaica than it was anywhere else, provided the time for reconfirmation of the laws was nigh. In the early 1700s, imperial authorities had combined that leverage with the threat of confirming the 1688 revenue bill to win a twenty-one-year grant of the revenue, by far the longest achieved after the turn of the century throughout the colonies. Two decades later, the crown would hold the basic legal framework of Jamaica to ransom once again, but this time without an added threat. It remained to be seen whether the Jamaicans could be induced to pay a higher price than in 1704.<sup>37</sup>

The structural constraints that had foiled the crown at the turn of the century, however, had changed little. The Jamaican elite remained keenly aware that the strength to defend their rights and advance their interests stemmed from the assembly's power of the purse. Any grant that gave the colonial executive fiscal independence would harm them as much as, and probably more than, a lack of confirmed laws. The Jamaican elite also remained capable as ever of playing

<sup>35</sup> Representation of the board of trade to the king, 28 March 1722, CO 138/16/415.

<sup>36</sup> Additional instruction for the duke of Portland, 13 April 1722, CO 138/16/419.

<sup>37</sup> See chapter 2 for a fuller discussion of the previous confrontation on these lines.

upon the distinction between the interests of the governor and those of the crown. The crown had never even hinted at a willingness formally to concede the rights of Englishmen to White Jamaicans in the few previous rounds of direct negotiations, and the assembly had no ready means to persuade Whitehall. Governors, however, were much more ideologically flexible when their salary hung in the balance, and might pass objectionable bills that the crown would then find it hard to reject. Lastly, the metropolitan authorities remained unwilling and unable to legislate a solution through Parliament, or to enforce anything on the colonists without the cooperation of a critical mass of the elite.<sup>38</sup> There were no structural fissures among them that a governor could profitably exploit to win even a sufficient minority's acquiescence in the crown's measures.

*First Attempts at Resolution, 1723-1724*

Portland was not an outstanding candidate to perform the extremely difficult and delicate task before him. His political experience certainly had not recommended him, for he had only served four years in the Commons before ascending to the Lords upon his father's death, and was an equally inactive Whig in both houses. He had inherited extensive properties from his father, Hans Willem Bentinck, the earl of Portland and William III's favorite, and before 1720 his wealth might have rivaled even that of the Beckfords. But he had suffered massive losses in the South Sea bubble, and so was by no means indifferent to the financial lures the assembly could provide. Indeed, he had likely accepted the Jamaica post, the most lucrative of the colonial governorships, to help recover his fortune. Nevertheless, he had been entrusted with the government of Jamaica at the most critical time for the crown's interests.<sup>39</sup>

<sup>38</sup> If anything, this particular barrier had mounted higher since 1704, given the rise to dominance of the planter elite.

<sup>39</sup> Paula Watson and Ivar McGrath, "BENTINCK, Henry, Visct. Woodstock (c.1682-1726), of Titchfield, Hants.," History of Parliament Online, 1690-1715, retrieved 3 September 2020.

Portland did, however, possess one signal advantage in dealing with a people Sarah Yeh has argued were desperate “to convince British observers of their genteel civility.”<sup>40</sup> He was a duke, the highest-ranking aristocrat to govern a colony since Albemarle some thirty-five years before. He had a cachet that Lawes did not, and the Jamaican planters were probably eager to socialize with such a luminary and bask in the reflected glow of his prestige. Even before Portland’s arrival, in fact, the assembly had voted £300 worth of credit to the receiver general in November 1722 to pay for a proper reception for Portland and his wife. The assembly had rarely extended such a courtesy before, and never on such a scale.<sup>41</sup> Indeed, though Portland presided over bitter controversies in his government, the assembly were extraordinarily careful never to impugn him personally.<sup>42</sup>

Portland emphasized his prestige when he met the assembly for the first time in spring 1723, noting that he had made personal “application to [the king] in your behalf” concerning the proposed exchange of the revenue for the confirmation of their laws.<sup>43</sup> Seeking to trade on the Jamaican elite’s appreciation of his status, as well as the early goodwill most governors enjoyed, he concluded that he had therefore “in a manner become guarantee” for the assembly’s passing the bill.<sup>44</sup> It was an argument designed to flatter the Jamaican elite with a duke’s close involvement in their affairs, but also to warn them against disappointing him.

<sup>40</sup> Yeh, “Colonial Identity and Revolutionary Loyalty,” 197.

<sup>41</sup> *JAJ*, II, 439.

<sup>42</sup> In the midst of the battle over the perpetual revenue in January 1726, after the metropolitan authorities had rejected the assembly’s legislation and allowed the laws of the island to expire, the assembly’s address to Portland explicitly cleared Portland of any blame, remarking that he “appear[ed] constantly actuated by the principles of impartial justice.” Address of the assembly to Portland, 15 January 1726, *JAJ*, II, 560.

<sup>43</sup> Portland’s speech to the assembly of Jamaica, 23 January 1723, *JAJ*, II, 451. See also Memorial of Portland to Carteret, in Carteret to board of trade, 10 February 1722, CO 137/14/58.

<sup>44</sup> Portland’s speech to the assembly of Jamaica, 23 January 1723, *JAJ*, II, 451.



The assembly, for their part, were well aware of the proposed arrangement. Led by the Beckfords and the Irish lawyer Andrew Arcedeckne, they had twice worked on perpetual revenue bills during Lawes's government.<sup>45</sup> In both cases, however, the bill was considered in direct response to affronts offered to their rights by officers of the government.<sup>46</sup> The trade they envisioned was not merely revenue for confirmation of their laws. Instead, the majority in the assembly wanted to confirm by law that Jamaicans held all the rights of Englishmen on which they so vigorously insisted. The crown had rejected all their previous efforts, stretching back to the 1680s, but the Jamaicans were not deterred. Just as imperial authorities knew that the expiration of the laws was their best chance to win a revenue from the Jamaicans, so too the Jamaicans knew that the expiration of the revenue was their best chance to wring concessions from the crown, and they were prepared to deal.

Lawes had rebuffed the assembly's efforts, believing them insincere, but Portland did not share his predecessor's hesitance.<sup>47</sup> On 9 February 1723, within three weeks of calling the assembly, Portland passed a perpetual revenue bill that also secured "all the general known laws, statutes, customs, and usages of England concerning the life, liberty, and property of the subject" to the Jamaicans.<sup>48</sup> Along with it, he passed a bill for better collection of the debts due to the

<sup>45</sup> *JAJ*, II, 292, 411-3.

<sup>46</sup> *Ibid.*, 285-92, 412-413; Lawes to board of trade, 31 January 1719, CO 137/13/119. In autumn 1718, it was part of their answer to the council's belligerent stance on the Hamilton repayment, and did not even progress to draft stage before their dissolution. There was also a spectacularly juvenile controversy over whether John Gregory, one of the councilors, had thrown their message off the council table and then kicked it. In summer 1722, their perpetual revenue bill was framed in order to repudiate the argument, made in open court by Edmund Kelly, the Jamaica attorney general, "that the people of this island were not entitled to the immunities and privileges of British subjects." The assembly's response was furiously to contend that those English subjects who had settled Jamaica "did not thereby forfeit or give up any the immunities, rights, liberties or privileges of Englishmen, but brought with them a title to all such immunities, rights, liberties, and privileges, as they had before," and to bring in their perpetual revenue bill. See *JAJ*, II, 412-3.

<sup>47</sup> Lawes to board of trade, 31 January 1719, CO 137/13/119

<sup>48</sup> *JAJ*, II, 461.

government, and a bill that doubled his already considerable £2,500 salary, both of which certainly contributed to easing his passage of the perpetual revenue bill.<sup>49</sup> The Jamaican assembly had proven willing to buy their rights, and Portland had proven equally ready to sell them. But unfortunately for the assembly, the metropolitan authorities still had to approve the transaction. The Jamaicans would have to hope that the crown preferred a problematic bill to no bill at all, and that Portland would lobby effectively on the bill's behalf.

Portland knew he had “not [...] literally conformed” to his instructions, especially in failing to secure a clause in the perpetual revenue bill suspending its operation until the king in council ruled on it.<sup>50</sup> His principal argument to the board was that since the assembly were willing to make the trade, he was unwilling to “hazard [...] their continuing in the same mind, till a draught of such revenue act could be transmitted to England,” especially since the Jamaicans were a “people who have formerly given too many proofs of their inconstancy.”<sup>51</sup> He did add, however, that there was “a full and ample provision made for the revenue,” and urged the board not to discard such a signal gain.<sup>52</sup>

Portland's letter and the enclosed bills did not meet with a kind reception in London after arriving there on 1 May 1723.<sup>53</sup> The law officers disliked the appropriation of English law in the act, particularly noting that the institution of habeas corpus had “often been attempted in Ireland, and the crown has, for weighty reasons, never thought fit to consent to it even in that kingdom,”

<sup>49</sup> *JAJ*, II, 454-61.

<sup>50</sup> Portland to board of trade, 2 March 1723, CO 137/14/190.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*, 188.

<sup>53</sup> *JBT*, V, 1 May 1723.

let alone a colony five thousand miles distant.<sup>54</sup> The commissioners of the treasury, in a later report, concluded that the act would provide no more than £6,000 per annum, while expenses were roughly £8,000 per annum. Likely well aware that it would be a Herculean task to get the assembly ever to revisit the terms of a perpetual revenue, the commissioners concluded that the shortfall would “ruin the credit and distress the government there.”<sup>55</sup> And all parties agreed that confirmation “would, in a great measure, take off the dependence of that island from the crown of Great Britain.”<sup>56</sup> The metropolitan authorities therefore repealed both the perpetual revenue bill and the bill for Portland’s salary.<sup>57</sup> A letter nominally from the king was sent to Portland castigating him for “hav[ing] not paid that due regard to our repeated instructions which we might have expected.” Portland was instructed to send over a draft bill, with a full “establishment of the whole expense [...] of that our island” in time for it to be considered and settled before 1 October 1724.<sup>58</sup>

The crown had chosen a confrontational approach, and one that would be particularly unwelcome to the Jamaicans. The insistence on the draft bill and the comparison to Ireland would both have been unpleasantly reminiscent of the crown’s measures in the Poynings’ Law crisis, when the crown had sought to enforce an Irish model of government on Jamaica that

<sup>54</sup> Raymond and Yorke to board of trade, 21 May 1723, CO 137/14/195.

<sup>55</sup> Qtd. in report of the lords of the committee of the privy council, 26 July 1723, CO 137/14/239.

<sup>56</sup> *Ibid.*, 236.

<sup>57</sup> Order in council, 6 August 1723, CO 137/14/225. The latter was repealed in part as a punitive measure, and in part because Portland’s extra £2,500 salary would only further increase the debt, as the commissioners of the treasury observed.

<sup>58</sup> *CPSC*, XXXIII, no. 696. The committee were also wise enough to realize that this letter might not have the intended effect, and therefore charged the board and the attorney and solicitor general with determining the consequences if Jamaica’s laws expired on 1 October 1724, “and under what circumstances the inhabitants thereof will remain, in relation to their dependence upon the authority of the crown.” Order in council, 6 August 1723, CO 137/14/204.

required all laws to be approved in London before they could be passed in Jamaica. As in 1678, so in 1724 the Irish parallel would have served as proof that the metropolitan authorities regarded White Jamaicans as constitutional inferiors. The Jamaican elite believed they were asking only for a clear acknowledgement of rights they possessed by the incontrovertible fact of their Englishness. But the crown had indicated to them that their rights were in fact regarded as inconvenient at best, and dangerous to the metropole's interests at worst.

Portland learned of some of these objections before the bills' formal rejection, and so changed his public tune when he met the assembly on 1 October 1723. He told them that they had "exceeded, by your demands in that bill, what I informed you his majesty was graciously inclined to grant, without even so much as effectually performing, on your parts, what was with reason and equity expected from you."<sup>59</sup> However, the assembly absolutely refused to "reduce the constitution here to one [...] much worse than that of Ireland" by accepting Whitehall's revision of their bills.<sup>60</sup> They also objected to the suggestions for a new bill the council had sent down, which framed their rights and privileges "as an act of grace and favor" to which they had no prior claim. Instead, as Peter Beckford junior reported from committee, "after about sixty years' trial [...] your committee cannot conceive why such laws should not be as competent for his majesty's free-born subjects in Jamaica, as those in England."<sup>61</sup> The assembly had

<sup>59</sup> Portland's speech to the assembly of Jamaica, 1 October 1723, *JAJ*, II, 463. He also protested to the board that he had always said the law would never pass, and had told the council so, "but they were all of opinion that, considering the discouragements or the calamities the island labored under at that time, it was advisable to support the spirits of the people as much as I could." Curiously, he had included none of these facts in his letters of 2 March 1723. Portland to board of trade, 7 December 1723, CO 137/14/264.

<sup>60</sup> *JAJ*, II, 473.

<sup>61</sup> *Ibid.*, 472.

comprehensively rejected the crown's arguments, refusing to retreat from their defense of Jamaicans' rights as Englishmen, even with the expiration of their laws less than a year away.

Portland received the news of the bills' formal rejection and the king's letter on 12 November 1723. The king's letter, and the report of the committee of the privy council, had highlighted what the assembly knew but had evidently not wanted to admit. This was not, as in the case of Poyning's Law or the various iterations of the additional subsistence, a situation in which the crown wanted something from the Jamaican elite much more than the Jamaican elite wanted something from the crown. With the crown seeking a perpetual revenue, and the Jamaican elite seeking confirmation of their fundamental laws and statutory recognition of their rights as Englishmen, the two sides' desires were much more equally balanced. Moreover, the crown's right to review colonial laws, and the Jamaican elite's recognition of that right, meant that the assembly had no way to secure what they wanted other than by passing a law that would meet with both gubernatorial and royal approval. The metropolitan authorities had decided that the assembly's opening offer was insufficient—the colonists would have either to demand less or to concede more, and preferably both. The assembly had little choice but to move in the crown's desired direction.

They did not, however, concede everything at once. They made some further provision for the revenue, which Portland claimed would make the government "independent of the people," but only for £8,000 per annum, not the £10,000 that the treasury had demanded.<sup>62</sup> They accepted the council's recommendation to recede from much of the explicit appropriation of English law on the "life, liberty, and property of the subject."<sup>63</sup> Instead, the assembly included a

<sup>62</sup> Portland to board of trade, 4 March 1724, CO 137/14/282; Yorke and Wearg to board of trade, 6 July 1724, CO 137/14/328.

<sup>63</sup> *JAJ*, II, 472.

deliberately vague clause making all “such laws of England as have been accepted and used in Jamaica” permanent laws of the island.<sup>64</sup> They also refused to send over a draft bill. In a clear reference to the Poyning’s Law crisis, assembly leaders informed Portland “that it has been attempted before, and that the strength of their objection, or reason, had always prevailed.”<sup>65</sup> Therefore, after the council and assembly passed the bill, Portland transmitted it to London without first giving his assent, which was the closest he could come to sending a draft beforehand.<sup>66</sup>

The board received the new perpetual revenue bill and all the relevant minutes only on 25 June 1724, with just over three months before the laws and revenue expired.<sup>67</sup> Neither the law officers nor the treasury objected to the clause on the laws of England, which would remain in every form of the bill until it was finally passed.<sup>68</sup> Jack Greene has argued that this was an important concession, for “free Jamaicans had been formally guaranteed by statute their rights to the protection of all English laws.”<sup>69</sup>

The law officers instead opined that the clause would not practically enforce any new laws in Jamaica, and could thus be disregarded as a symbolic gesture.<sup>70</sup> However, the treasury objected both to the continued insufficiency of the revenue and the assembly’s arrogation of the

<sup>64</sup> Yorke and Wearg to board of trade, 6 July 1724, CO 137/14/328.

<sup>65</sup> Portland to board of trade, 4 March 1724, CO 137/14/281; Report of the committee of the privy council, 26 July 1723, CO 137/14/239.

<sup>66</sup> Portland to board of trade, 4 March 1724, CO 137/14/281.

<sup>67</sup> *JBT*, V, 25 June 1724.

<sup>68</sup> Its final form, in 1728, was that “all such laws and statutes of England as have been at any time esteemed, introduced, used, accepted, or received as laws of this island shall, and are hereby declared to be and continue laws of this his majesty’s island of Jamaica for ever.” Qtd. in Whitson, *Constitutional Development*, 153.

<sup>69</sup> Greene, “The Jamaica Privilege Controversy,” 21.

<sup>70</sup> Yorke and Wearg to board of trade, 6 July 1724, CO 137/14/329.

power to dispose of any surplus of the “patrimonial revenues of the crown” appropriated to the revenue.<sup>71</sup> The law officers’ principal concern was that if the £8,000 per annum proved insufficient, then “the people of the island, having their laws secured to them in perpetuity, may think themselves in a better condition to withstand even reasonable demands which may hereafter be made by the government to supply any deficiencies on that head than they have hitherto been whilst their laws were temporary and precarious.”<sup>72</sup> They knew how much leverage the crown was giving up, and did not want it to go cheaply.

However, as in the early 1700s, the metropolitan authorities failed to understand the perspective of the people with whom they were negotiating. The Jamaican assembly might give the crown more revenue, but even under threat of “temporary and precarious” laws, they would never give the crown enough. The assembly’s power to check the executive via the power of the purse, as Parliament did in Britain, was too crucial to the defense of their rights and the furtherance of their interests. They would never surrender it freely.

The law officers had cautiously suggested an alternative. In a representation made before the 1724 revenue bill arrived, they had opined that it might still be theoretically possible for Jamaica to be taxed via prerogative alone.<sup>73</sup> However, they warned that this was only true if Jamaica was “a conquered country,” and not “a colony of English subjects,” which they believed was still an open question in law.<sup>74</sup> The metropolitan authorities do not seem to have been interested in attempting to settle the conflict in this manner. They knew that prerogative taxation,

<sup>71</sup> John Scrope to board of trade, 16 July 1724, CO 137/14/355. They also objected to the lack of any provision for the receiver-general to account to the auditor-general of the plantations, who was Robert Walpole’s younger brother Horatio.

<sup>72</sup> Yorke and Wearg to board of trade, 6 July 1724, CO 137/14/329.

<sup>73</sup> Yorke and Wearg to board of trade, 18 May 1724, CO 137/14/341.

<sup>74</sup> *Ibid.*

which was explicitly prohibited in the metropole by the 1689 Bill of Rights, would provoke cries of violation of the rights of Englishmen louder than any yet heard from the colonies. Nor would they have wished to court the controversy Jamaicans in London would certainly succeed in rousing in Parliament. And, of course, the metropolitan authorities were British Whig politicians who had largely come of age after the Glorious Revolution, and were committed in Britain to “revolution principles” that sharply limited the prerogative. Prerogative taxation, even in the colonies, was probably too redolent of the worst excesses of arbitrary power in the seventeenth century for their own sensibilities. The board therefore never even reported this opinion to the privy council.

*Expiration, Delays, and Further Attempts, 1724-1726*

Instead, with only a few months remaining before the expiration of the laws and the revenue, the metropolitan authorities chose delay. To give themselves time to puzzle over the right approach, the privy council ordered the board on 23 July to instruct Portland to get a one-year continuation of the laws and the revenue passed in Jamaica.<sup>75</sup> But before this instruction could arrive in Jamaica, the laws and revenue together expired on 1 October 1724. Indeed, Portland still had not received his new instructions before urgent business forced him to reconvene the assembly on 20 October. The deficiency and additional duty bills were about to expire, and Portland had no desire to be forced into Hamilton’s choice of subsisting the soldiers himself or watching them starve.<sup>76</sup>

<sup>75</sup> *JBT*, V, 23 July 1724. The board wrote Portland a week later with this instruction.

<sup>76</sup> Portland wrote to the board that he “thought it altogether impossible for me to attempt or undertake anything to supply the want” without the assembly and the council both. Portland to board of trade, 30 December 1724, CO 137/15/39.



The assembly's first action was to bring in a bill reviving the laws of the island for a year. The Beckfords, Arcedeckne, and the councilor Thomas Bernard were the authors of the renewal bill, and Portland believed they were motivated by "nothing but disorder and faction."<sup>77</sup> But he took advantage of their desire for the bill, and the Jamaican elite's general "apprehension of the want of their laws," to secure a valuable concession.<sup>78</sup> In exchange for Portland's assent to the reviving bill, the assembly passed an additional revenue bill, which Portland crowed was so incautiously drafted as to be "to time indefinite," and would stand until a new perpetual revenue bill was passed.<sup>79</sup> Portland passed the bills on 13 November 1724, having just received the authorization from London to consent to the one-year renewal.<sup>80</sup> He secured the deficiency bill later in the session, but the assembly refused to pass an additional duty that did not lay an extra tax on slaves landed by the South Sea company, and so he ended the session on 27 November.<sup>81</sup>

White Jamaicans' desire to have their fundamental laws operable had given Portland the leverage he needed to win a victory for the crown. He had secured an unencumbered aid to the treasury that would last until there was a new long-term perpetual revenue bill, and in a short January session his allies pushed through a bill to address the massive arrears of taxes. The Jamaican government would thus be on much firmer fiscal ground, which would make Portland "better able henceforward to engage them into a compliance with whatever instructions I may

<sup>77</sup> Portland to board of trade, 30 December 1724, CO 137/15/40.

<sup>78</sup> *Ibid.*, 41.

<sup>79</sup> *Ibid.*

<sup>80</sup> *JAJ*, II, 508.

<sup>81</sup> *Ibid.*, 513-4; Portland to board of trade, 30 December 1724, CO 137/16/41.

receive.”<sup>82</sup> If the standoff over the laws and the revenue continued, the crown’s government in Jamaica might now be able to outlast the assembly.

But the victory was not as unambiguous as Portland imagined. Though Portland told the board that “I look upon [the arrears bill] to be a great step towards the support of the public credit,” Lawes’ government had made it clear that debt collections bills were unlikely to have much effect.<sup>83</sup> Moreover, Portland’s choice to drive a hard bargain at this preliminary stage, before the greater matter of the long-term revenue was settled, was a risky one. It could very well provide the opposition with legitimate grounds to argue that the crown intended to milk the crisis for all it was worth, at the expense of White Jamaicans’ rights and interests.

Like every governor before him in both Jamaica and New York, Portland had also underestimated the sincerity of his opponents’ motives. Doubtlessly some wealthy Jamaican planters wanted to reduce their tax burden, some also benefited from the inability of their creditors to sue them in the courts while the laws were lapsed, and some saw personal political advantage in posing as champions of the rights of Jamaicans. However, Portland’s suggestion that they were concerned with nothing more than “disorder and faction” rings extremely hollow. As men who sat at the pinnacle of Jamaican society, they shared their British counterparts’ preference for order and hierarchy, and their deeply ingrained commitment to government by laws. Portland knew some of this—he had mentioned the Jamaicans’ “apprehension for their laws” as the reason he was able to pass his additional revenue bill—but evidently not all. He does not seem to have realized that White Jamaicans genuinely prized their rights and liberties as Englishmen, and would never give the crown’s government in Jamaica the fiscal independence

<sup>82</sup> Portland to board of trade, 30 December 1724, CO 137/15/41.

<sup>83</sup> *CPSC*, XXXIV, no. 497.

to threaten them. His blithe assurance to the board that the assembly would now “always be glad to grant the old revenue, for the sake of renewing their old laws,” was dependent on this fundamental misapprehension and underestimation.<sup>84</sup> Portland, like governors and ministers before him, was unwilling to recognize that the Jamaicans thought of themselves as Englishmen, and unable to ascribe to his opponents the principled motives he claimed for himself.

Meanwhile, the board of trade had settled on an approach to securing the perpetual revenue bill back in August 1724. They told the duke of Newcastle, secretary of state for the south, that “this may be the best opportunity his Majesty will have to engage the people of Jamaica to make such a firm and lasting provision as may be sufficient for his Majesty’s service, and for their own security.”<sup>85</sup> They therefore recommended that the “attorney and solicitor general [...] form the draft of a bill for this purpose as near the plan of that sent from Jamaica as may be, free from the several objections” already made.<sup>86</sup> It would be transmitted to Portland, “with orders to recommend the same to the council and assembly of Jamaica, as the terms upon which his Majesty will be graciously pleased to renew their laws.”<sup>87</sup> The last draft bill transmission from London had ended in the conspicuous failure of the Poynings’ Law crisis, and the Jamaicans now had decades of tradition with which to resist such a maneuver. However, the board’s disinclination to regard Jamaicans as true Englishmen, and their sense that the crown was poised at a position of maximum leverage in this peacetime confrontation, together seem to

<sup>84</sup> Portland to board of trade, 10 December 1724, CO 137/16/41.

<sup>85</sup> Board of trade to the duke of Newcastle, 6 August 1724, CO 138/16/499. They were reporting to Newcastle because, since the bill had not received the governor’s assent, they technically could not make report on it to the king in council. Board of trade to Newcastle, 11 August 1724, CO 138/16/501.

<sup>86</sup> Board of trade to Newcastle, 6 August 1724, CO 138/16/499.

<sup>87</sup> *Ibid.*

have convinced them that they could not let slip this opportunity to perfect the revenue situation in Jamaica.

But there the matter rested in the metropole for nearly seven months, as Jamaican affairs retreated to the low priority they normally enjoyed. Not until 3 March 1725 did the king in council order the law officers to prepare a draft as per the board's representation.<sup>88</sup> Nor did the law officers act speedily. As Portland would later tell the Jamaican assembly, in words Hunter would have found very familiar, "the business of parliament has prevented those to whom it was recommended to give it that dispatch we all hoped for."<sup>89</sup> The king's desire to depart for Hanover once the session was finished left the privy council only with enough time to authorize Portland to pass another one-year continuance of the laws and revenue.<sup>90</sup> The board wrote Portland on 30 June 1725 to inform him of the same, ensuring that there would be hardly any time in Jamaica to get a continuance passed before the new 1 October 1725 deadline.

Portland did not receive the board's letter until early September, and thereupon promptly called the assembly together. The revenue was not in as happy a situation as he might have hoped. Predictably, the arrears bill had achieved little, with the arrears of taxes now swollen to over £25,000.<sup>91</sup> Portland asked the assembly for a new bill, "since it would be to no purpose to make laws, and then to have them laid by like waste paper."<sup>92</sup> But as in Lawes's government, making toothless debt collection bills was exactly what served the interests of the Jamaican elite

<sup>88</sup> Order in council, 3 March 1725, CO 137/16/29. The board had rehashed the conclusions of their 6 August 1724 letter to Newcastle in a representation of 19 February 1725, CO 138/17/1-11. Significant delay was caused by George I traveling to and from Hanover.

<sup>89</sup> Portland's speech to the assembly of Jamaica, 14 September 1725, *JAJ*, II, 521.

<sup>90</sup> Order in council, 1 June 1725, CO 137/16/121.

<sup>91</sup> *JAJ*, II, 545.

<sup>92</sup> Portland's speech to the assembly of Jamaica, 14 September 1725, *JAJ*, II, 522.

best. They appeared as though they were complying with the governor's demands, while highlighting the necessity of their genuine cooperation by reserving it. All the crown's alternatives to securing that cooperation were either fiscally or ideologically unpalatable.

The opposition majority in the assembly seemed resolved to put Portland's mettle to the test in a confrontation. They moved slowly on the continuing bill, not sending it up to Portland and the council until the night of 1 October, the deadline day. Without enough time for formal review and assent, the bill was invalidated, and Jamaica's laws expired for the second time in as many years. Portland claimed that the opposition leaders had done this deliberately, since the opposition believed "that they had better be without laws than to have them renewed yearly, which (as they pretended to perceive) was the intention of the ministry at home."<sup>93</sup> He was probably right. After all, the assembly had seen the price of such renewals just the previous year, when Portland had strong-armed them into granting the additional revenue. Extracting short-term concessions was their game, and they were determined not to be beaten at it again.

The additional revenue was the opposition's next target. They sought to tack a repeal to the deficiency bill, and expelled Portland's "friends who opposed this tack."<sup>94</sup> Portland resisted this bitterly, complaining to the assembly that they had "put him under the difficulty of disagreeing to a bill in other respects so useful to the public, or to assent to it in manifest contradiction to his majesty's positive directions."<sup>95</sup> That was, of course, exactly the point. Whichever decision Portland made, the opposition would win some kind of victory. He could reject the deficiency bill, but then the soldiers would have no funds for their additional

<sup>93</sup> Portland to board of trade, 18 December 1725, CO 137/16/151.

<sup>94</sup> *Ibid.*, 152; *JAJ*, II, 550-3.

<sup>95</sup> *JAJ*, II, 550.

subsistence, while the Jamaicans would have fewer taxes due. Or he could pass the deficiency bill, but then lose his additional revenue achievement of the previous year and the flexibility it gave the government. On 22 November 1725, Portland chose to reject the deficiency bill and sacrifice the soldiers' subsistence for a few months, and then prorogued the assembly.<sup>96</sup>

Portland protested bitterly to the board that he could have made some headway if he had any control over patronage in the island.<sup>97</sup> He had been inveighing against the patent officers since his arrival, correctly noting that they "think themselves entirely independent on the governor" since he had no influence over their appointments.<sup>98</sup> Now, he argued to the board that "all [...] the government here has to influence is the people's expectations of being recommended to favors from home," particularly for council positions.<sup>99</sup> But, as Bernard Bailyn has argued, imperial authorities preferred to disburse colonial offices to serve metropolitan political purposes.<sup>100</sup> They had therefore relentlessly disregarded their governor's recommendations, and Portland had little else to offer to those who wished to side with him. He was a British politician unable to pull the key lever of British politics.

Moreover, with all the annual aids to the revenue expired, the assembly's leverage over Portland had increased. They passed a new perpetual revenue bill on 18 January 1726. Then, they tacked payment for an agent of their own in London, the repeal of the additional revenue, and a supplemental salary for Portland to the deficiency bill.<sup>101</sup> Portland refused to pass these

<sup>96</sup> *JAJ*, II, 555.

<sup>97</sup> Naturally, he did not take responsibility for adding fuel to the fire with his additional revenue maneuver in 1724.

<sup>98</sup> Portland to board of trade, 13 July 1724, CO 137/15/2.

<sup>99</sup> Portland to board of trade, 18 December 1725, CO 137/16/152.

<sup>100</sup> Bailyn, *Origins of American Politics*, I, 1003.

<sup>101</sup> *JAJ*, II, 560-1, 564.

bills, and prorogued the assembly to mid-February. Portland forcefully reminded the assembly in the next session of “the respect or duty you owe his majesty as your sovereign,” but to little avail.<sup>102</sup> The assembly passed their perpetual revenue bill again on 17 February 1726, and repeated the tack of Portland’s supplemental salary to the deficiency bill.<sup>103</sup> The council, as interested as the assembly were in renewing the laws, passed the perpetual revenue bill a week later.<sup>104</sup> Portland withheld his assent, unwilling to contravene his instructions directly.

The assembly took the opportunity afforded by his delay to state their case clearly to the Jamaican electorate and to Whitehall. In an address to Portland of 25 February, they again strenuously objected to submitting to draft legislation from Britain, following their “predecessors [who] formerly asserted their right of framing their own bills [...] in a reign less favorable to the liberties of the people than the present is.”<sup>105</sup> From the Poynings’ Law crisis to the present day, they contended, White Jamaicans had followed the example of “their mother country, who can endure no laws but those of her own choosing.”<sup>106</sup> Though the stakes were not as high in 1726 as they had been in 1678, the Jamaican elite remained equally determined to preserve their inheritance of English rights and privileges, “which distinguishes his majesty’s subjects from those of arbitrary princes, or rather differences his freemen from their slaves.”<sup>107</sup> In a colony that was nine-tenths enslaved Africans, there could be no more forceful (or fanciful) declaration of the stakes.

<sup>102</sup> Portland’s speech to the assembly of Jamaica, 15 February 1726, *JAJ*, II, 569.

<sup>103</sup> *JAJ*, II, 569.

<sup>104</sup> *Ibid.*, 571.

<sup>105</sup> Address of the assembly to Portland, 25 February 1726, *JAJ*, II, 572.

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*

When Portland delayed further, the opposition leaders determined explicitly to use his supplemental salary as further leverage. They had already tacked his salary to the deficiency bill. Now the assembly resolved, on 2 March 1726, “that this house will not pass any money-bill, till they know the state of the perpetual bill now before his grace.”<sup>108</sup> Once again, the assembly had laid bare the divergence between the interests of the governor and those of the crown. If Portland wanted the soldiers’ additional subsistence, and the sweetener of his supplemental salary, he would have to buck his instructions and pass the assembly’s perpetual revenue bill.

On 5 March, Portland passed the perpetual revenue bill. He then told the assembly that “since he had complied with the desires of the house, he hoped they would proceed to the speedy dispatch of the other public affairs before them.”<sup>109</sup> The assembly responded by immediately passing the deficiency bill and an extension to Portland’s supplemental salary for the rest of his government, the latter only to take effect if the perpetual revenue bill received the royal assent.<sup>110</sup> Portland assented to these bills, and in his speech ending the session proclaimed that “the whole community of this island, and the interests of all traders hitherto” required the renewal of the laws.<sup>111</sup>

The impression that Portland had traded his assent for his own material gain was and is a hard one to shake. Portland was therefore at pains, in his 11 April letter to the board, to convince them that his opponents were beyond persuasion. Malcontents, debtors who wished to evade the law, and those who had “obtained a sort of tribunitial authority” through “deluding the populace

<sup>108</sup> *JAJ*, II, 575.

<sup>109</sup> *Ibid.*, 576.

<sup>110</sup> *Ibid.*, 576-8; Portland to board of trade, 11 April 1726, CO 137/16/230.

<sup>111</sup> Portland’s speech to the assembly of Jamaica, 9 March 1726, *JAJ*, II, 578.



with the specious notions of rights, liberties, and privileges” had united against him and for the new perpetual revenue bill.<sup>112</sup> Portland scornfully claimed that the whole grouping affected a “character as patriots,” mimicking the opposition to the government in Britain, and like those Patriots invariably sought to distress the public for private ends.<sup>113</sup> However, unlike the government in Britain, Portland faced an opposition majority he could not persuade, undercut, or intimidate. Therefore, Portland told the board he had no way to address the “incurable confusion and distraction” of affairs in Jamaica but by agreeing to “what appeared to be against his Majesty’s instructions.”<sup>114</sup>

Portland also had a real interest in seeing the perpetual revenue bill approved, as did all governors who struck such deals with the assemblies. Were it to be rejected at home, his ability to negotiate credibly with the Jamaicans in the future might seriously be hampered. Moreover, his supplemental salary for the rest of his government was dependent upon its passage. Portland therefore informed the metropolitan authorities that the bill achieved their desired ends. The “revenue given by it,” he wrote, “is by experience found to exceed the estimate of the charges considerably,” and the bill did not grant the Jamaicans “the least color of title to any law of England they had not before.”<sup>115</sup> Portland then assured the board that there was no better settlement available. Indeed, if the bill met “with any disapprobation at home, it will be next to an impossibility to bring them into any other so good and unexceptionable.”<sup>116</sup> Portland further warned that “the people here [...] never will, unless directly compelled, give way to any bill that

<sup>112</sup> Portland to board of trade, 11 April 1726, CO 137/16/226. By this last he particularly meant the Beckfords.

<sup>113</sup> *Ibid.*

<sup>114</sup> *Ibid.*

<sup>115</sup> *CSPC*, XXXV, no. 107.

<sup>116</sup> *Ibid.*

has not its first rise among themselves,” an assertion that the assembly’s 25 February address strongly substantiated.<sup>117</sup> Portland therefore advised that the crown leave well enough alone, so that the peace he had won by giving his assent could continue.<sup>118</sup> The settlement was not ideal, perhaps, but it was much better than the alternative of nothing.

*A Draft Bill? 1726-1727*

The metropolitan authorities disagreed. The law officers and the board had at last finished a draft of a perpetual revenue bill for Jamaica on 4 May 1726. The draft insisted upon a revenue of £10,000 per annum, which covered both the existing £8,000 figure and £2,000 per annum for the additional subsistence. The board were particularly concerned to include the latter, since it had been imperiled “upon disputes that have arisen between governors and the assembly, particularly during the Lord Archibald Hamilton’s administration.”<sup>119</sup> Far from settling for what they could get, the metropolitan authorities were concerned to solve all the problems of dependence upon the assembly in one fell swoop. The draft and attendant instructions were approved by order in council of 5 July, and dispatched to Portland soon after, “as the terms which his majesty expects [...] in return to his gracious condescension in the confirmation of their laws, and in departing from his patrimonial revenue in that island for their welfare and defense.”<sup>120</sup> One month later, the privy council rejected the bills Portland had sent over, and his arguments, as “inconsistent with your majesty’s orders and instructions.”<sup>121</sup>

<sup>117</sup> Portland to board of trade, 1 June 1726, CO 137/16/293. Portland also made this argument in his 11 April letter, but not as starkly.

<sup>118</sup> Portland to board of trade, 11 April 1726, CO 137/16/226.

<sup>119</sup> Board of trade to the lords of the committee of the privy council, 4 May 1726, CO 138/33.

<sup>120</sup> Order in council, 5 July 1726, CO 137/16/257; board of trade to Portland, 6 July 1726, CO 138/17/50.

<sup>121</sup> Representation of the board of trade to the king, 28 July 1726, CO 138/17/52; Order in council, 9 August 1726, CO 137/16/261-4.

Imperial authorities had decided against compromise, coupling a lack of concessions with demands of a particularly provocative nature.<sup>122</sup> Their requirement that the Jamaicans assent to a draft sent over from London conjured the specter of the Poynings' Law crisis, when the crown had sought to insist that the Jamaican assembly could do no more than vote yea or nay on laws it dispatched across the ocean. Though the attempted imposition of Poynings' Law was fifty years in the past, it still lived on in Jamaican memory, and moved the assembly to fight for their rights once more. Permanent subsistence for the soldiers, meanwhile, would strip the assembly of the annual fiscal leverage it exerted over the government. The opposition, in control of the assembly, had shown twice in as many years that they would let the laws expire rather than accede to terms less harsh than these. Imagining that they would not do the same in 1726 indicated that the metropolitan authorities did not understand the people with whom they were dealing, or perhaps that they were dealing with them at all.

Portland died the day before the privy council approved the draft bill, and so it arrived with the president of the council, John Ayscough, in late September or early October.<sup>123</sup> Like Lawes before him, Ayscough was a wealthy Jamaican planter deeply familiar with the island, having begun his political career in the assembly of 1702.<sup>124</sup> However, the island was perhaps too familiar with him. He had never, like Lawes or Beeston, spent a long period away from Jamaica that might have detached him somewhat from its crises. Instead, Ayscough had been one

<sup>122</sup> Though the privy council attempted to frame the king's "departing from his patrimonial revenue" as a concession, it was nothing of the sort. That "patrimonial revenue" consisted of the quit-rents and other ancient fees, and had never legally been employed for any other purpose than Jamaica's "welfare and defense." Indeed, calling this "gracious condescension" probably impressed Jamaicans more with the crown's disingenuousness than its beneficence.

<sup>123</sup> John Ayscough to board of trade, 14 July 1726, CO 137/16/272; Ayscough to board of trade, 2 October 1726, CO 137/16/353.

<sup>124</sup> Cundall, *Governors*, 118.

of Hamilton's partisans in the council, and so the opposition leadership personally resented him. Ayscough too remembered the controversies of Hamilton's government, and so recognized that the provision for the two independent companies would be viewed as "entailing upon us a military force to perpetuity, whereas the people of England only provide for the forces there from year to year."<sup>125</sup> He knew the Jamaican elite would never accept such a differentiation.

Nevertheless, he presented the bill to the assembly when they met on 18 October 1726.<sup>126</sup> The opposition rejected the draft out of hand, and seized on Ayscough's inartful reference to "his majesty's commands" to proclaim that Ayscough sought "the introducing of arbitrary power in this [...] colony."<sup>127</sup> The session spiraled ever further into contentiousness, with both crown's party and opposition eagerly contributing their share of petty juvenility, until Ayscough at last dissolved the assembly on 17 January 1727.<sup>128</sup> The laws and revenue had now been expired for over three months, and resolution of the crisis seemed further away than ever.

Back in London, the ministry chose a familiar face for the next governor on 14 February 1727. Robert Hunter would be heading back out to the colonies, this time to Jamaica.<sup>129</sup> Lustig suggests only prosaic motives for this decision on Hunter's part, noting that Hunter was "tired of his post" as comptroller of the customs, and might have hoped the "warm, moist climate would be soothing for his rheumatism." She offers only that he "used his contacts among the Whigs" as the mechanism by which he gained the post.<sup>130</sup> In the Newcastle era of colonial governance and

<sup>125</sup> Ayscough to board of trade, 2 October 1726, CO 137/16/353.

<sup>126</sup> *JAJ*, II, 579.

<sup>127</sup> *Ibid.*, 588.

<sup>128</sup> *Ibid.*, 599.

<sup>129</sup> Newcastle to board of trade, 14 February 1727, CO 137/16/337.

<sup>130</sup> Lustig, *Robert Hunter*, 174.

patronage, that might have been all it was. But if the metropolitan authorities had a mind to retreat from their hardline stance of the previous year, Hunter was certainly experienced in the art of the colonial compromise.

And indeed, once Ayscough's letters describing the reaction to the draft bill in Jamaica reached them in the spring of 1727, the metropolitan authorities altered course slightly. The privy council disclaimed any intention to set a precedent by draft transmission. Instead, they authorized Hunter to pass any act that was "strictly agreeable to the said draught," since they did "not think it material to insist upon the form of passing it as transmitted from hence."<sup>131</sup> Hunter was also authorized to reduce the provision for the two independent companies to "a term certain of as many years as he can obtain," a concession for which Hunter had probably lobbied the ministry directly.<sup>132</sup>

This retreat opened some space for accommodation. Unlike in 1677-80, the ministry probably was genuinely indifferent to whether Jamaicans agreed to a draft or passed a bill for the same purpose. Receding from the draft demand cost the metropolitan authorities nothing, while potentially smoothing the way to settlement. The modification of the terms of subsistence for the soldiers gave Hunter considerable leeway in working out an acceptable settlement, and he was a man to take every inch he was given in constructing a compromise. However, this withdrawal still left the metropolitan authorities advanced from the position they had taken at the beginning of the crisis in 1722. Whitehall was still holding Jamaica's basic legal framework to ransom, in exchange for the perpetual revenue.

<sup>131</sup> Order in council, 13 May 1727, CO 137/16/367.

<sup>132</sup> *Ibid.*; Hunter's speech to the assembly of Jamaica, 28 March 1728, *JAJ*, II, 621.

In the meantime, the struggle in Jamaica over the draft bill sent over in 1726 intensified. The new assembly met on 1 March 1727, and like the preceding body declined to consider the draft, by a vote of 26-4.<sup>133</sup> Instead, they offered a new revenue bill, drafted principally by Beckford junior and Arcedeckne, which reduced the grant to twenty-one years.<sup>134</sup> In response to the uncompromising stance offered by the draft bill, which Ayscough and the crown's party had reinforced, the opposition had stiffened their own posture. Ayscough therefore dissolved the assembly after only two and a half weeks.<sup>135</sup>

The next assembly of 25 May was even more belligerent, electing Thomas Beckford as their speaker, throwing aside the draft bill without even a vote, and reintroducing their twenty-one year revenue bill.<sup>136</sup> The opposition also accused previous governors of deliberately weakening the militia, "intending thereby not only to render the two independent companies more necessary, but also to introduce a greater standing force, thereby to disquiet the people, and endanger their liberties."<sup>137</sup> It was an argument fresh from the 1690s, raising the specter of arbitrary power with the electorate while castigating the Whig government for allowing such a betrayal of principle. The next day, a message drafted by Arcedeckne informed Ayscough that the assembly did "not conceive that his gracious majesty ever intended to impose the draught [...] although your honor, in a former speech as well as this, would tie them down to it."<sup>138</sup>

<sup>133</sup> *JAJ*, II, 602.

<sup>134</sup> *Ibid.*

<sup>135</sup> *Ibid.*, 611.

<sup>136</sup> *Ibid.*, 612.

<sup>137</sup> *Ibid.*, 618. They also blamed the demand for perpetual subsistence ultimately on the decade-old representations of Hamilton and the council, "which highly reflected on the people of this island, and evidently struck at all their liberties."

<sup>138</sup> *Ibid.*

Ayscough had no way of knowing that the assembly's views on the subject now aligned with the crown's policy. Therefore, faced with another impasse, he prorogued the assembly after scarcely a week.

Ayscough wrote the board that the opposition were making conscious use of their leverage. They said, he alleged, "that if a governor don't yield to their desires, they will grant no supplies, and that if the government can subsist without money they can do so without laws."<sup>139</sup> The fiscal crisis must indeed have become acute. The assembly had passed only one small money bill since March 1726, the subsistence for the soldiers had run out in November 1726, and the debts due to the government were proving as hard to collect as ever.<sup>140</sup> Yet Ayscough pleaded with the board not to "recede from the draught of the bill."<sup>141</sup> If they backed down, he predicted bitterly, "my successor will be very easy for the first year in his government."<sup>142</sup> But thereafter, he said, "once the assembly have got their laws made perpetual, and [...] a sufficient revenue is not therein provided for the support of his Majesty's government equal to the annual charge, a governor must be dependent upon them, and continual broils will ensue."<sup>143</sup>

He had almost certainly grasped the opposition's intentions. The foremost weapon in their arsenal for defense of their material and ideological interests remained the power of the purse. The permanent establishment of their basic legal framework would avail the Jamaican elite little if the governor and council had the fiscal independence to act as they wished. They

<sup>139</sup> Ayscough to board of trade, 24 April 1727, CO 137/17/14.

<sup>140</sup> Moreover, in January 1727 the receiver-general had bowed to the inevitable and begun writing off old bad debts, to the tune of about £3,000. *JAJ*, II, 598.

<sup>141</sup> Ayscough to board of trade, 16 July 1727, CO 137/17/5.

<sup>142</sup> *Ibid.*

<sup>143</sup> *Ibid.*

would therefore endure technical and temporary lawlessness in order to ensure the long-term capability to defend their rights and interests. The crown, for its part, had already accepted that it could not win complete fiscal independence for Jamaican government, and had therefore separated the soldiers' subsistence from the rest of the perpetual revenue bill. This retreat from a full-throated defense of the prerogative opened room for a negotiated settlement, but it remained to be seen whether the opposition would consider it sufficient.

*Resolution, 1727-1729*

In the end, Hunter did not arrive until 29 January 1728.<sup>144</sup> He swiftly called elections, and the new assembly met on 28 March 1728, again electing Thomas Beckford for their speaker.<sup>145</sup> They were, however, rather less truculent than the previous assembly. They were no longer dealing with Ayscough, against whom many of the assembly either bore an old grudge from the Hamilton days or a new one developed in the course of his presidency. Moreover, the island had now been without its laws for over a year, and perhaps some were having second thoughts about the wisdom of persistence.

Most seriously, the threat to planters' property and persons from the Maroons had grown considerably stronger during Portland's government, as plantation expansion in the northeast of the island "hemmed in [the Maroons] on all sides."<sup>146</sup> Though the assembly and Portland had agreed on large sums for repeated expeditions against the Maroons, the parties had enjoyed no more success than previously, and the hostilities now verged on full guerrilla warfare.<sup>147</sup> The

<sup>144</sup> Hunter to board of trade, 10 February 1728, CO 137/17/40. The delay was caused by the death of George I on 11 June 1727.

<sup>145</sup> *JAJ*, II, 620.

<sup>146</sup> Rugemer, *Slave Law*, 130.

<sup>147</sup> *Ibid.* In 1724, for example, the assembly raised £6,000 for parties against the Maroons, fifty percent larger than any previous appropriation. *JAJ*, II, 494.



planters' primary interest was always their continued military dominance over the Black population of the island, free and enslaved. Some in the assembly therefore likely thought it best to settle with the crown, both to devote their attention to the problem of the Maroons and to make a more convincing case for metropolitan aid in that struggle.

To ease the assembly's path further, Hunter took a conciliatory tone, speaking of "expectations" rather than "commands."<sup>148</sup> The experienced governor also assured the assembly he would continue to seek their good in Jamaica as he had in Britain, "not barely as it is my duty, but as I take it to be the most effectual method to recommend myself to [...] royal favor and your good opinion."<sup>149</sup> In response, the assembly passed the perpetual revenue bill, an additional duty bill, the deficiency bill for the soldiers' subsistence, and a bill for a £6,000 lump sum payment to Hunter for his future supplemental salary within the next two weeks.<sup>150</sup> Hunter assented to all these bills as they came to him, and then prorogued the assembly on 18 April 1728, thanking them "for the dispatch [...] given to the many matters of importance recommended to you."<sup>151</sup>

As this sudden munificence indicated, the price tag associated with colonial government had never been the issue for planters that were rich and getting richer, their strategic "dubious claims of poverty" aside.<sup>152</sup> When faced with a perceived threat to their society's very being like the impending Maroon Wars, they were willing to reach into their deep pockets. Even that fear, however, might not have been sufficient to overcome their equally deep-seated fear of executive arbitrary power. But Hunter had not merely smoothed the way to settlement with encouraging

<sup>148</sup> Hunter's speech to the assembly of Jamaica, 28 March 1728, *JAJ*, II, 620.

<sup>149</sup> *Ibid.*, 621.

<sup>150</sup> *JAJ*, II, 629-32.

<sup>151</sup> *Ibid.*, 638.

<sup>152</sup> Yeh, "Colonial Identity and Revolutionary Loyalty," 198.

words. He had continued the practice of permitting the assembly to make the receiver general responsible to them as their own commissioner in the aids to the revenue. He had also granted the Jamaicans the maximum allowable concession on the soldiers' subsistence, as the deficiency bill provided for only a single year's allowance, and the perpetual revenue bill made no mention of the soldiers. Hunter told the board that he "could not possibly prevail with the assembly to pass it for a longer time," though it is doubtful that he made any serious effort at a long-term settlement.<sup>153</sup> Rather, he recognized the need for cooperation with local elites, as he had in New York, and knew better than to overplay his hand.

Ever the astute lobbyist, Hunter sympathetically reported the assembly's reasons in practical terms. He doubted that they would ever stop subsisting the soldiers, "because the soldiers are useful in guarding the fortifications at Port Royal and keeping guard in the town, which the inhabitants would otherwise be obliged to do."<sup>154</sup> He noted also that such annual provision was "most agreeable to the common practice in England," and that the Jamaicans "therefore desire to assimilate themselves as near as may be to their mother country."<sup>155</sup> Hunter had done his best to work out a settlement the Jamaicans would accept, and to argue that it was one imperial authorities could approve without real loss. The question was whether his superiors agreed.

The board received Hunter's 16 May letter enclosing the acts on 23 July 1728, and referred them to the law officers, who finally sent their report to the board on 9 May 1729.<sup>156</sup>

<sup>153</sup> Hunter to board of trade, 16 May 1728, CO 137/17/50.

<sup>154</sup> *Ibid.*

<sup>155</sup> *Ibid.*

<sup>156</sup> Yorke and Charles Talbot to board of trade, 25 March 1729, CO 137/17/139-41; *JBT*, VI, 9 May 1729.

That report contained only two major complaints—the lack of provision for the receiver general to account with the auditor general, and a broader description of the English laws confirmed in Jamaica than the draft bill had provided.<sup>157</sup> The board decided that these objections, while valid, were not important enough to forestall a settlement of the crisis, and that Hunter’s reasons for his actions were satisfactory. They represented to the king on 14 May that since “the people of Jamaica have already been for a considerable time in a state of anarchy for want of laws,” and the assembly had passed a bill that agreed in substance with the draft, the bill ought to be confirmed.<sup>158</sup> The confirmation of the 1728 perpetual revenue bill by order in council followed a week later, and with it, the fifty-year conflict over the perpetual revenue and the confirmation of the laws in Jamaica came to an end.<sup>159</sup>

Nevertheless, the larger conflict between the rights and interests of the Jamaican elite and those of the crown continued. The ground of the battle shifted somewhat, with regulation of the Atlantic economy taking a more prominent position from 1729 onwards, but the old debates did not disappear.<sup>160</sup> The perpetual revenue proved immediately and predictably insufficient, and by the 1750s provided for less than a sixth of the expenditures of the government.<sup>161</sup> The conflict with the Maroons swelled into a war that lasted until 1739, and the crown sent over regiments to help at the Jamaicans’ request, but the assembly still balked multiple times at paying an

<sup>157</sup> The draft said “as by usage and practice have been accepted and received as laws in Jamaica,” but the 1728 bill said “as have been at any time esteemed, introduced, used, accepted, or received as laws in this island.” Yorke and Talbot to board of trade, 25 March 1729, CO 137/17/141.

<sup>158</sup> Representation of the board of trade to the king, 14 May 1729, CO 138/17/134.

<sup>159</sup> Order in council, 22 May 1729, CO 137/18/17.

<sup>160</sup> In the very next session after the passage of the revenue bill, the assembly passed a bill making sugar “a lawful tender for the payment of debts.” Hunter to board of trade, 3 August 1728, CO 137/17/110.

<sup>161</sup> Spurdle, *Early West Indian Government*, 120.

additional subsistence.<sup>162</sup> And once that war was over, the Jamaicans renewed full opposition to the crown's prerogative measures, spiritedly resisting suspending clauses on revenue bills in the 1740s and 1750s. Indeed, they reached heights of defiance not seen since the Poyning's Law crisis in the privilege controversy of the 1760s, and resisted repayment of the treasury for subsisting the soldiers in terms Hamilton and Lawes would have found painfully familiar.<sup>163</sup>

The conflict persisted, in terms now familiar across nearly a century, because it could not be resolved within the framework of the colonial governance of the first British empire. The mutually exclusive interests of crown and assembly prevented any lasting compromise settlement of the basic issues at stake. Nor could the assembly exercise leverage on the crown to redress the balance of *de jure* and *de facto* power, as Parliament had done for centuries, and at an accelerating rate after 1688. The assemblies did have leverage over the governors, and used it to good effect. The crown itself, however, did not require funds from colonial assemblies in the same way that it needed financial support from Parliament, and so could resist the assemblies' demands far more effectively. However, neither could the crown realize in practice its great theoretical powers in the colonies, as it had neither the will nor the means to compel assemblies to raise money for its colonial governments. The metropolitan authorities could trade the royal assent to bills in exchange for colonial concessions, but rarely were the colonists desperate enough for that assent to give up anything the crown really wanted. And even when practically the perfect situation obtained in the 1720s—Jamaica's laws about to expire, and requiring crown assent to continue—the most the crown could wring out of the Jamaicans was £8,000 per annum, insufficient the day it was passed. The conflict between crown and assembly was thus like a

<sup>162</sup> E.g., Hunter to board of trade, 21 April 1731, CO 137/18/59-60; Hunter to Alured Popple, 20 July 1731, CO 137/18/102.

<sup>163</sup> Greene, "The Jamaica Privilege Controversy", *passim*.

rather more amicable Western Front, with both sides mired in stalemate, far better able to stand on the defensive than take the offensive. Resolution would require a fundamental change in the nature of the transatlantic British polity.

## Chapter VII

### The Prerogative Sinks Ever Lower: New York, 1720-1732

New York did not have a contest between the prerogative and the rights of Englishmen between 1720 and 1732 like the contemporaneous perpetual revenue crisis in Jamaica. Although New York, like Jamaica, was a conquered colony, its fundamental laws were never at issue after the permanent establishment of the assembly. Instead, William III had confirmed the fundamental laws passed in the 1691 assembly in the mid-1690s, and the colony had thereafter proceeded upon a reliable legal basis.<sup>1</sup> In consequence, the metropolitan authorities had no leverage to force major concessions, such as a long-term revenue settlement, from the New York assembly. The lack of major controversy can also be attributed to New York's lesser importance in comparison to Jamaica. New York's strategic position in North America, though it had elevated affairs in the colony to matters of imperial concern repeatedly between 1689 and 1713, did not matter enormously in a period of relative European quiescence. Nor did New York have the revenue potential of Jamaica. Though New York's White population of 40,000 was five times as large as that of Jamaica, New York raised less than half as much in taxes as Jamaica did in the 1720s. And, though New York flour and beef helped sustain the Caribbean colonies, and thus contributed indirectly to the customs revenue the crown took from sugar, New York's own exports directly to Britain were of little fiscal significance.<sup>2</sup> Confrontation in New York simply did not promise the same prizes to the victor as in Jamaica.

<sup>1</sup> Alan Tully has argued that New Yorkers were "frightened by the implications" of the conquest, and so "rarely addressed the issue and collectively tried to brazen their way to safe ground." Tully, *Forming American Politics*, 216. However, he cites no sources for this belief before the 1750s, and then only presents two.

<sup>2</sup> The total value of New York's exports to Britain by 1770 was still less than the customs duties paid on, let alone the total value of, Jamaica's sugar crop in 1730. Compare Rugemer, *Slave Law*, 131 with McCusker and Menard, *The Economic History of British America*, 198-9.

Historians have, in response, tended to minimize the significance of the period in itself. Ahead they have seen, as the historical actors themselves could not, the stormy years of William Cosby's governorship, the Zenger libel trial, and a bitter factional contest that produced a new political alignment in the colony.<sup>3</sup> In consequence, the whole period, especially the first half of the 1720s, is treated as a prelude.<sup>4</sup> Even those historians who treat the period on its own terms rarely consider the conflict between the assembly and the crown, and indeed almost never accord the metropolitan authorities any agency in the period at all. More typical is Patricia Bonomi's concentration on "the contest between factions in New York [...] for power."<sup>5</sup> This is understandable, given these historians' concentration on an American colony, but it is also necessarily incomplete. The British colony of New York did not cease to exist in a transatlantic context for twelve years, and neither did the metropolitan authorities' attempts to govern it.

Amy Watson has helpfully argued for both continuity and Whitehall's agency in this period. She remarks that "despite narratives describing the 1710s to 1730s as a political era devoid of ideological stakes, transatlantic partisan ideas continued to have a measurable impact on New York politics."<sup>6</sup> Moreover, she sees in the political controversies of the 1720s "the long-

<sup>3</sup> See Watson, "The New York Patriot Movement," and Tully, *Forming American Politics*, 233-5. Watson and Tully do not agree on the characteristics of the new alignment, but both are clear that it was new.

<sup>4</sup> In the nearly two-hundred-page chronological section of *Forming American Politics*, for instance, Tully allots only a single paragraph on page 62 to New York in the 1720s, and even then he does so only by way of explaining the 1730s. Though Tully returns to the period in the thematic second half of the book, with some excellent analysis, the completeness of that analysis suffers by a failure to consider the events of the 1720s in their own right. Kammen, in his survey history of New York, also follows this pattern, tending to skip back and forth between Hunter's administration and the 1730s while treating the 1720s with a comparatively light hand. See Kammen, *Colonial New York*, 184-5, 189-91, 203-6.

<sup>5</sup> Bonomi, *A Factious People*, 100. For further examples, see E. Sheridan, *Lewis Morris*, 124-46; Milton M. Klein, "Democracy and Politics in Colonial New York," *New York History*, Vol. 40, No. 3 (July 1959), 221-46; Bailyn, *Origins of American Politics*, 1. 1560.

<sup>6</sup> Watson, "The New York Patriot Movement," 38. Watson's article is focused on the period 1731-1739, so she cannot devote enormous space to the 1720s, but she does a remarkable job with what she can spare.

standing Whig agenda to take more direct control over the justice system in New York [...] to bolster ministerial finances and executive authority.”<sup>7</sup> I disagree with Watson’s assessment of the particular issues. However, I wholeheartedly agree that in this period, New York elites struggled with the colonial executive and with the metropolitan authorities in a transatlantic political context, as they had done since the 1680s.

Though the fundamental conflict between the imperial government and the New York elite did not reach the heights of Hunter’s early tenure, neither had it ceased. Throughout the period, each side initiated battles over the power of the purse that inevitably also pitted the rights of Englishmen against the prerogative. Indeed, the ministry won a victory in one of these, enforcing the auditor general’s rights and extracting the payment of his fees in the mid-1720s. Even this minor success, however, was secured only at the cost of the crown’s other interests in the colony, and the imperial government was the loser in the rest of the fiscal contests in this period. The crown retained, as ever, the right to strike down laws that infringed on its rights and interests, and employed it during this period. However, with no independent method of financing the colonial executive, and without the leverage it possessed in Jamaica, the crown had perforce to permit most of the New York assembly’s fiscal infringements on the prerogative. And without the power of the purse, the prerogative was hollow and fragile. Though there were no great controversies, nevertheless, by the end of the period the prerogative was weaker in New York than it had ever been in Jamaica.

<sup>7</sup> Watson, “The New York Patriot Movement,” 43.



*A New Governor, Imperial Ambitions, and the Auditor General, 1720-1724*

Hunter's replacement as governor was the thirty-two-year-old William Burnet, who landed in New York on 16 September 1720.<sup>8</sup> Burnet was an administrative and political neophyte, who held the undemanding post of comptroller of the customs. His father, Gilbert Burnet, was a Scottish cleric and historian who was one of William III's few close confidants, and had become Bishop of Salisbury. William Burnet owed his position to his father's Whig connections, and maintained the network after his father's death in 1715. Like Hunter, Burnet was also scientifically inclined, and the two had become friendly after running in the same circles since at least 1705, when Burnet was inducted into the Royal Society. Hunter certainly wanted his successor not to criticize him to the metropolitan authorities or try to undo his measures, as most of New York's previous governors had sought to do to their predecessors, and indeed as he had done to Cornbury. His choice evidently lit on Burnet, and in 1719 they engineered an exchange of posts, which the ministry approved early the next year.

Burnet would face the same central challenge as had Hunter, for the one-year continuation of the revenue that Hunter had secured was soon to expire when he arrived. And, just as Hunter had, Burnet claimed the revenue was between two and three thousand pounds short of the government's expenditures.<sup>9</sup> Another struggle over the financial independence of the colonial executive loomed.

Burnet also faced two challenges that Hunter had evaded. The first was a controversy over the power of the purse. George Clarke, the deputy auditor general of the plantations for New York, and Abraham de Peyster, the assembly-appointed treasurer, had been at loggerheads

<sup>8</sup> William Burnet to board of trade, 24 September 1720, CO 5/1052/82.

<sup>9</sup> Ibid.

for years over de Peyster's refusal to let Clarke audit his accounts. De Peyster and the majority in the assembly had no interest in a royal official peering into their disposition of money, either from an ideological or a material standpoint. They also quite rightly feared that Clarke sought to collect the "ancient and established fees" due to the auditor general from the money the colony had raised, which had not been paid since Cornbury's time.<sup>10</sup> Governor, council, and assembly all had an interest in frustrating Clarke by retaining that money for official use, particularly since the assembly's treasurer already collected a commission on the revenue.

They could have defied Clarke alone with little trouble. But behind Clarke stood Horatio Walpole, the auditor general of the plantations and the younger brother of Robert Walpole, whose star was on the rise again after his resignation from the ministry in 1717. The younger Walpole had launched a blistering attack on the assembly's proceedings just before Burnet had departed. He argued in a memorial to the treasury that the assembly had "tak[en] into their own hands the sole management of the revenues raised for the support of his majesty's civil government, and entirely exclud[ed] the officers of the crown."<sup>11</sup> Hunter, he believed, had been forced to acquiesce to these "illegal and arbitrary proceedings" after several years of resistance, because there had been "no effectual remedy applied from hence."<sup>12</sup> If "something of effectual weight" were not done, Horatio Walpole worried that inaction might erode the "natural dependence which that colony ought to have on the government here."<sup>13</sup> Of course, Walpole did not say what might be "of effectual weight" to redress this fundamental problem, for there was

<sup>10</sup> Memorial of Horatio Walpole to the treasury, 28 June 1720, CO 5/1052/29.

<sup>11</sup> *Ibid.*, 28.

<sup>12</sup> *Ibid.*, 29.

<sup>13</sup> *Ibid.*, 28, 30.

nothing Whitehall was able or willing to do that would roll back the fiscal gains made by colonial assemblies in the two decades of war with France. The smaller issue of Walpole's fees could, however, theoretically be addressed through a use of Burnet's authority to disburse salary warrants, if Burnet were willing to seek extra funds from the assembly or to sacrifice his own salary. The younger Walpole, with little concern for the mechanics of imperial government in New York, was probably hoping for such a resolution.

Fortunately for his own sake, Burnet received no instructions on the auditor general issue before departing, which permitted him to commit no further than instructing de Peyster to account with Clarke.<sup>14</sup> The second challenge, however, was one Burnet had determined to bring to the fore. The metropolitan authorities had naturally charged every governor of New York with the defense of the frontiers. But Burnet was particularly spurred on by his "intense Whiggery [...] sometimes indistinguishable from Francophobia" and Robert Livingston's advice on policy to embrace a larger goal.<sup>15</sup> Burnet dreamed of a network of forts stretching from Albany to Niagara and beyond, eventually leading to a huge web of indigenous alliances across the interior of North America, and British dominance of the entire Great Lakes fur trade.<sup>16</sup> His enthusiasm for the project, and the breadth of his imperial vision, exceeded that of all of his predecessors. Indeed, Burnet would make securing funds from the assembly for his imperial aims his mission throughout his governorship.

<sup>14</sup> This was what Hunter had done for the last two years of his government, and was probably the source of some of Horatio Walpole's frustration. Memorial of Horatio Walpole to the treasury, 28 June 1720, CO 5/1052/30; Hunter to board of trade, 7 August 1718, CO 5/1051/392.

<sup>15</sup> E. Sheridan, *Lewis Morris*, 126. See also Bonomi, *A Factious People*, 90-1, and Bailyn, *Origins of American Politics*, I. 1560.

<sup>16</sup> Burnet to board of trade, 26 November 1720, CO 5/1052/133-4.

Motivated by both pragmatism and his natural sympathies with the Morris-Livingston party, Burnet retained the same assembly that had been elected under Hunter in 1716, believing they would “be more tractable than ever in order to be continued.”<sup>17</sup> The opposition complained that Burnet had violated precedent by refusing new elections, but in the short-term his decision seemed to be justified. The assembly demanded nothing remarkable, and voted a new five-year revenue without complaint. Then they passed two bills in aid of Burnet’s plans for the frontiers. One was a bill “to prohibit the exportation of Indian goods to Canada, and to prevent a trade with the French of that country,” and the other was a 2% duty on European goods to support expenditures on the frontiers.<sup>18</sup> Burnet declared the former act would be “the means of restoring our influence over the five nations, and drawing new nations of Indians [...] to trade with and depend on us,” since the French would be deprived of the comparatively cheap English goods that they traded to indigenous peoples for furs.<sup>19</sup> Meanwhile, the latter act, though it did lay a burden on British material interests, had precedent. The duty on imported European goods had existed in one form or another from 1692 to 1709, until it was discontinued because, as Burnet had heard, “my Lord Clarendon made so ill a use of the public money.”<sup>20</sup> Burnet thought it a small price to pay for beginning his network of forts, but just to be safe, he had made sure that the assembly inserted a clause suspending it until royal determination could be had.<sup>21</sup> New York’s new governor had made a remarkably auspicious start.

<sup>17</sup> Burnet to board of trade, 24 September 1720, CO 5/1052/82.

<sup>18</sup> Quotation from *JNY* 441; see also *JNY* 446-8.

<sup>19</sup> Burnet to board of trade, 26 November 1720, CO 5/1052/130.

<sup>20</sup> *Ibid.*, 136.

<sup>21</sup> *Ibid.*, 129.

Burnet believed he had been so successful because he had “adher[ed] firmly to Brigadier Hunter’s friends,” rather than “giving way to a party that has gathered strength by his absence.”<sup>22</sup> Hunter’s “indefatigable enemy,” the merchant and councilor Adolph Philipse, had tried his hardest “to sour the minds of the people against a support of government,” and had brought five of the council, most prominently the former president Pieter Schuyler, along with him.<sup>23</sup> Burnet had successfully intimidated some of them into quiescence, but asked for Philipse’s and Schuyler’s removal.<sup>24</sup> Their replacements, as per Burnet’s request, were Cadwallader Colden and James Alexander, Hunter’s Scottish protégés who shared Burnet’s ambitious imperial vision.<sup>25</sup> However, just as Hamilton had earned himself powerful enemies in Jamaica by ousting Chaplin and Blair from the council, so had Burnet with Philipse. Like his Jamaican near-contemporaries, Philipse would add enduring personal spite to material and ideological interests as motives for his opposition.

Moreover, the central infringement on the prerogative in Hunter’s time went unchallenged. Burnet had not dared to propose an alteration of the deal on the revenue the assembly had reached with Hunter. The salaries of the crown’s officers were enumerated in the journals once again (albeit at the same levels dictated by custom or the instructions). The assembly’s treasurer still received and disbursed the money, rather than the crown’s receiver general. By repeating the terms of the arrangement, Burnet and the assembly together strengthened the precedent of the assembly’s control of this vital element of the power of the

<sup>22</sup> Burnet to board of trade, 26 November 1720, CO 5/1052/131.

<sup>23</sup> *Ibid.*, 133.

<sup>24</sup> He tarred them with the brush of Jacobitism as well, noting that “the enemies to king George have been the brigadier’s greatest enemies.” *Ibid.*, 132.

<sup>25</sup> *Ibid.*; George to Burnet, 18 February 1721, CO 5/1052/153. See Tonks, “Empire and Authority in Colonial New York” for Colden’s career as a colonially-based imperialist.

purse. Horatio Walpole's warnings had gone unheeded, as the assembly continued in their determination to conform their rights and institutions to those the metropole had won in the Glorious Revolution.

Over the next two years, the conflicts of interest became even clearer. The treasury wrote directly to both Burnet and Abraham de Peyster junior, who had succeeded his father as the assembly's treasurer, in August 1720 demanding that de Peyster junior account with the deputy auditor and that Horatio Walpole be paid his fees.<sup>26</sup> The assembly, in the spring 1721 session, refused to honor Walpole's claim of a 5% allowance from all the revenues raised, and backed de Peyster junior in declining to account until the 5% claim was dropped. William Blathwayt had previously secured that allowance from New York when he was the auditor general, but the assembly rejected the precedent, placing the 5% "among the many extravagancies of those times [...] easily complied with here by receivers of the revenue entirely at the governor's disposal."<sup>27</sup> No doubt aware that Walpole had made a larger attack on the distribution of fiscal powers in the colony, the assembly also broadened the scope of their counterclaims. They noted that only "her late majesty's indulgence in admitting us a treasurer of our own made it practicable to retrieve the public credit," since the "treasury [had been] imprudently emptied by those entrusted with the management of it."<sup>28</sup> The only alternative would have been "an excess of royal munificence" in paying the colony's debts back from the crown's treasury.

This was the assembly's argument for the power of the purse couched, somewhat disingenuously, in terms that could be amenable to the crown's interests. Neither governors nor

<sup>26</sup> *JNY* 451.

<sup>27</sup> Representation of the assembly of New York to Burnet, 30 June 1721, *JNY* 460.

<sup>28</sup> *Ibid.*

the crown's officers, they warned, could be trusted, given the powers the former enjoyed and the pressures under which the latter struggled. The assembly, however, could be trusted to ensure that the taxes they raised on themselves were not misspent by the executive. The clear implication was that this assurance would redound both to the colony's benefit, since it would not be plunged into debt, and the crown's, since the money would actually be spent on the ends for which it was granted.

However, the argument was not one that Whitehall would accept. Though the assembly had made no mention of the fact in their address, it was clear that they were willing to pay fees on the revenue, for they had done so to the treasurer for years. They simply were unwilling to pay those fees to the auditor general, who was weighty in metropolitan affairs but, unlike the treasurer, mattered little to New Yorkers in a political sense. Moreover, the assembly had composed almost a perfect colonial exemplar of the 'country' tradition in metropolitan politics. They had assumed executive corruption as a matter of course, and asserted that only an unprejudiced assembly would have the wisdom and virtue to check it. In the metropole, however, the 'court' persuasion was very much in the ascendancy in 1721, and there was no ideological sympathy in the ministry for such contentions.<sup>29</sup>

Metropolitan policymakers for the colonies were now caught in an uncomfortable position. They would naturally have preferred, as Walpole insisted, to have the revenue in New York routed through the receiver general and reviewed by the auditor general, and had indeed repeatedly backed Hunter on the former point. Equally, they would rather that the fruits of

<sup>29</sup> Tully's assertion that "court" and "country" labels "did not fit comfortably with the factional features of New York politics" does, however, apply here. As he notes, the Morris-Livingston faction that passed this address was "as much of a court faction as New York would ever know." They clearly had the intellectual flexibility to present a "court" front in New York while arguing a "country" line against direct crown interference, which defies easy categorization with metropolitan political labels. See Tully, *Forming American Politics*, 227, 231.

colonial officeholding redounded to the benefit of metropolitan elites with whom they shared a common identity and ties of patronage, rather than to local elites in the colonies. However, metropolitan policymakers also wanted funded, functional government in the colonies, and there was no way to achieve that end without cooperation from local elites. If local elites were frustrated in their own quest to secure their rights and interests, then they would withdraw that cooperation, as they had done starkly in New York and Jamaica in just the past decade. Imperial authorities, therefore, had tacitly accepted some infringements on the prerogative as the price of functional colonial government. But now Walpole's demands forced a choice between gratifying a major metropolitan political figure, or keeping the New York elites happy. There was no pleasing both.

A dispute in New York between governor and assembly suggested a third way. Burnet refused to pass the assembly's 1721 bill for easier partition of lands held in joint tenancy or in common, which described most of the large land grants in New York.<sup>30</sup> He did so largely on the advice of Cadwallader Colden. Colden suggested in two representations on the bill that it was in fact merely cover for the settling of tenures in a manner that would defraud the crown of its rightful quit-rents, much like the quieting possessions bills in Jamaica.<sup>31</sup> The board eagerly seized upon his assertion that "if justice were done to your majesty" in the quit-rents, "this province might produce a sufficient revenue for the support of your majesty's government there without doing injustice or hardship to any person whatsoever."<sup>32</sup> It was the dream of the

<sup>30</sup> This bill and its similar successors are hereafter called "partition bills" or "partition acts."

<sup>31</sup> Colden, like Walpole, had a personal interest in the matter—though he was the surveyor-general of New York, the bill would allow for private surveyors to assess land boundaries, thereby denying him his fees. Representation of Cadwallader Colden to Burnet, 19 July 1721, CO 5/1053/44-6; Representation of Colden to Burnet, 30 November 1721, CO 5/1053/48-51.

<sup>32</sup> Representation of the board of trade to the king, 26 September 1722, CO 5/1124/310.



metropolitan authorities: a revenue not dependent on the whims or demands of an assembly, but merely on the due execution of the law, which could support colonial prerogative government to the fullest.

However, the means the board proposed in the autumn of 1722 demonstrated the fundamental quixotry of their project. They noted that “there is not much redress to be hoped for from [...] proceeding in the courts of law, where it would be difficult to impanel a jury that are not concerned in the consequence of these trials.”<sup>33</sup> Having just acknowledged the unlikelihood of cooperation in New York, they then recommended that Burnet “should be instructed to procure another act to pass the council and assembly [...] for vacating all the exorbitant grants remaining.”<sup>34</sup> Should the people who would not cooperate with the law not provide their support through legislation, the board then recommended another tired old expedient. If the assembly would not pass the bill, then the crown would “be obliged to have recourse to the legislature of Great Britain for justice against such unreasonable frauds and encroachments.”<sup>35</sup> The board well knew that no such threat would ever be substantiated, and after their experience under Hunter’s government, the New York elite knew it too. But like Walpole in 1720, the board had no feasible solutions to the problem of prerogative weakness.

At the same time as the board developed their flaccid scheme for securing an independent revenue in New York, they did seek to gratify some New York interests. Their lawyer (and Burnet’s brother-in-law) West had reported positively on the 2% European goods duty bill, concluding that though it did “affect the trade of Great Britain,” the inclusion of a suspending

<sup>33</sup> Representation of the board of trade to the king, 26 September 1722, CO 5/1124/311.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*, 312.

clause prevented the act from setting any worrying precedent.<sup>36</sup> The board concurred, representing in the bill's favor to the crown on 5 June 1722. They wrote to Burnet that though they were "extremely averse" to such acts generally, they had "consider[ed] the present necessities of your government, as well as the services to which the produce of the said act is to be applied" in representing for its approval.<sup>37</sup> They also studiously avoided making any determination in the auditor general controversy, though the assembly gave them occasion to make some remark by denouncing Walpole's claims once again in summer 1722.<sup>38</sup>

As Ian Steele has written, however, by this time there was an "increasing distance between the Board of Trade and the executive power in the British Government," and policy decisions on New York reflected that reality.<sup>39</sup> Backed by the influence of his elder brother Robert, who was now first lord of the treasury and effective prime minister, Horatio Walpole bypassed the board and secured instructions from the treasury to Burnet to be paid his fees "out of the first money due or to become due to his majesty."<sup>40</sup> Metropolitan politics had once again proven its primacy over colonial concerns. Meanwhile, the 2% duty bill did not receive royal approval, a rare fate for a bill with the board's imprimatur. Nine days after the board's representation, the bill was referred to the committee of the privy council for hearing appeals from the plantations. It languished there for nearly two years, until it was finally rejected on 30

<sup>36</sup> West to board of trade, 30 May 1722, CO 5/1053/60.

<sup>37</sup> Representation of the board of trade to the king, 5 June 1722, CO 5/1124/283-4; Board of trade to Burnet, 6 June 1722, CO 5/1124/285.

<sup>38</sup> *JNY* 481.

<sup>39</sup> Steele, *Politics of Colonial Policy*, 172.

<sup>40</sup> Commissioners of the treasury to Burnet, 28 April 1722, CO 5/1085/149.

April 1724.<sup>41</sup> Perhaps the crowning humiliation was that the board's eighteen-folio representation on the quit-rents and the revenue in New York never received any formal consideration whatsoever. The board was the only body in the British administrative apparatus that could be relied upon to concern itself with colonial information and policy, and it was now being ignored more starkly than ever before.<sup>42</sup> Metropolitan policy towards the colonies, inconsistent and of variable effectiveness even when the board was heeded, was likely to suffer even further.

At least partially aware of this reality, Burnet had pressed on with his own measures. He told the assembly in May 1722, at the same time West was voicing approval of the 2% duty bill, that the bill "never will" be confirmed.<sup>43</sup> He sought instead only a one-year allowance for his project on the frontiers, and received the paltry allowance of 1,250 ounces of plate in October.<sup>44</sup> Burnet would have liked to seek more money from the assembly when they reconvened in May 1723, but by then he had received the royal orders for the payment of Walpole's fees. He therefore had instead to secure a bill for over £2,000 to be raised "to supply the deficiencies in the revenue" created by issuing warrants for Walpole's payment, which came with only a paltry sum for promoting Burnet's frontier plans.<sup>45</sup> In the summer of 1724, since the assembly had not raised the full amount of Walpole's fees, and because the payment of Walpole's fees had pushed

<sup>41</sup> Order in council, 30 April 1724, CO 5/1053/177-8.

<sup>42</sup> Steele, *Politics of Colonial Policy*, xiv.

<sup>43</sup> Burnet's speech to the assembly of New York, 31 May 1722, *JNY* 470.

<sup>44</sup> *JNY* 485. This was raised, as most extraordinary levies for military and frontier expenses were, by a land tax. Tully suggests that the willingness to raise land taxes belies the landowner-merchant factional opposition that Bonomi has identified. See Tully, *Forming American Politics*, 219; Bonomi, *A Factious People*, 95. I agree with Tully that the factional alliances were not generally so simple as landowner versus merchant. But Tully ignores here that the Morris-Livingston party had sought to finance the frontiers with a tax on trade, and only turned to land taxes after the metropolitan authorities rejected their bill.

<sup>45</sup> *JNY* 495, 499-500.

the salaries of other officers into arrears, Burnet had to ask for a further £2,521 to discharge warrants in the revenue. He received it, but the repairs of the fortifications at New York and his imperial ambitions on the frontiers paid the price. Only £2,000 was allotted to the New York fortifications, which was hundreds of pounds less than the minimum estimate the assembly's own members had made, and a mere £200 went to Burnet's frontier project.<sup>46</sup> With no remaining avenue to raise the funds by taxes on trade, the Morris-Livingston party reluctantly raised the sums "on estates real and personal."<sup>47</sup> Metropolitan political concerns had both hindered imperial aims and frustrated the governor's allies.

However, the assembly did defy the crown in the manner of raising the funds, and not simply by the usual direction of the money to their treasurer. Their 1723 and 1724 aids to the revenue, and indeed all the funds raised since Burnet had arrived in the government, were supported by paper money. In their reluctant approval of the 1717 debts act, the board had inveighed against "the further increase of paper credit," which all future governors, including Burnet, were not to support.<sup>48</sup> Their worry, as always, was that paper money not controlled by the metropole would lead to the cheapening of debts owed to British merchants through inflationary pressure, which would clearly damage British interests. However, the New York assembly had never offered Burnet any ready revenues in specie, but only paper money up front, which would then theoretically be sunk by the collection of the taxes.

Burnet might perhaps have been able to minimize the issue of paper money if he had only required funds for the regular support of government. But Walpole's fees and Burnet's imperial

<sup>46</sup> *JNY* 506.

<sup>47</sup> *Ibid.*

<sup>48</sup> Representation of the board of trade to the king, 4 June 1719, CO 5/1124/106-7.

vision together swelled the sums required beyond what the assembly would ever have been willing to provide in cash up front. Moreover, for Burnet the interests of British merchants placed a distant third to his plans for the frontiers and the support of government in any case. He was consequently not only ready to violate the board's directions on the preservation of those interests, but to defend paper money to the board. Indeed, in a letter of November 1724, he went so far as to make the analogy to Parliament himself, arguing that "frequently a sum of ready money is wanted, which it would be an intolerable tax to raise at once, and therefore they are forced to imitate the Parliament at home in anticipating upon remote funds."<sup>49</sup> The metropolitan authorities liked this instance of "political mimesis" no more than the assembly's other efforts in the same vein.<sup>50</sup> However, they could not force the assembly to raise money differently, and could not afford to reject the acts if the colonial government were to be funded. The 1723 and 1724 revenue aids were therefore studiously ignored in London.

Despite those acts for payment, the auditor general controversy would not be resolved until 1725. The 1723 act had deliberately frustrated Walpole by providing only for "the officers residing in the government," which Walpole clearly did not.<sup>51</sup> Burnet interceded with the assembly to strike those words in the second act, but then connived with de Peyster junior to delay Walpole's payments, since both had better plans for the money in question.<sup>52</sup> Only after Newcastle, the secretary of state for the south, wrote sternly to Burnet to defend "the prerogative of the crown [...] so apparently concerned in this affair" in June 1725 did Walpole at last receive

<sup>49</sup> Burnet to board of trade, 21 November 1724, CO 5/1053/295.

<sup>50</sup> Greene, "Political Mimesis."

<sup>51</sup> George Clarke to Horatio Walpole, 10 October 1724, CO 5/1085/187.

<sup>52</sup> *Ibid.*, 187-8.

his full fees, which were in excess of £2,500.<sup>53</sup> Though Clarke continued to write Walpole complaining of the treasurer's grudging and partial compliance, the issue was finished as one that would trouble metropolitan policymakers.<sup>54</sup>

I have, in this dissertation, insisted on the intertwining of material and ideological motivations for the actions of the metropolitan authorities, governors, and colonial elites. But it is hard not to be cynical about the metropolitan authorities' conduct in this particular episode. Horatio Walpole had argued repeatedly that the prerogative, and even the crown's control over New York, were at stake, and Newcastle had echoed those concerns in his letter to Burnet. Seeking to return the revenue into the hands of the receiver general, however, would have required hard work and consistent attention, and might well end in failure. Therefore, despite their rhetorical mobilization in defense of the prerogative, the metropolitan authorities never seem even to have contemplated any action to restore the crown's rights in this regard. Nor did the auditing of the accounts by Walpole or his deputy alter the crown's actual exercise of authority, since the accounts had consistently been given to the governor and dispatched to London to be reviewed.<sup>55</sup> The only substantive victory in the controversy for imperial authorities was the enrichment of Horatio Walpole, to the tune of £2,500.

The price imperial government in New York paid, however, was a heavy one. It is unlikely the assembly would have appropriated that £2,500 to the frontiers in its entirety.

<sup>53</sup> Newcastle to Burnet, 3 June 1725, *CPSC*, XXXIV, no. 652.

<sup>54</sup> Clarke to Horatio Walpole, 24 November 1725, *Documents Relative to the Colonial History of the State of New York* (Albany: Weed, Parsons, and CO., 1855), Vol. V, 768-71.

<sup>55</sup> De Peyster junior's accounts were better and more precise than his father's had been. It is, however, unclear whether that was the result of the auditor general's intervention, or because de Peyster senior suffered from dementia that ultimately forced him to relinquish his position as treasurer to his son in 1720. Compare the treasurer of New York's accounts, 20 December 1726, CO 5/1054/99-123 with the treasurer's account from August 1715 to August 1718, 7 August 1718, CO 5/1051/397-9.

However, it seems probable that Burnet could have secured more funds to further British imperial interests in the contest with France had he not been compelled to seek payment of Walpole's fees. The payment of this unexpected extra £2,500 also necessitated further recourse to paper money, which the metropolitan authorities otherwise vigorously opposed.<sup>56</sup> Moreover, though Burnet's complaint to Clarke in 1725 that "all the interest he has lost in the assembly has been by his adhering so strenuously to the king's pleasure concerning [Walpole's] office" was surely histrionic, it contained more than a grain of truth.<sup>57</sup> Burnet had to expend significant political capital to get Walpole paid—especially since no one politically important in New York stood to gain by that payment—instead of using it for ends that could have served broader interests. The crown had won a symbolic victory for the sake of metropolitan political concerns. But in so doing, both Whitehall and the colonial governor had been forced to sacrifice other important imperial interests, with long-term consequences.<sup>58</sup>

#### *Struggles with the Opposition, 1724-1728*

Burnet found himself in need of the political capital he had used on Walpole's behalf in 1725. The revenue was once again due to expire, and the assembly had grown colder to him over the course of his government. In addition, the board had charged him with revising his "Indian

<sup>56</sup> The board actually scolded him for passing such bills, remarking that "in general, we must acquaint you that bills for increasing of paper credit will meet with no encouragement here." Board of trade to Burnet, 10 June 1724, CO 5/1124/343-4.

<sup>57</sup> Clarke to Horatio Walpole, 24 November 1725, *Documents Relative to the Colonial History of the State of New York*, V, 769. Clarke was always at pains to make his political interest in New York sound considerable in his letters to Walpole, but he was not yet the major player in the 1720s that he would become in the 1730s.

<sup>58</sup> Greene makes a similar general point in *Negotiated Authorities*, writing that "metropolitan authorities repeatedly sacrificed long-standing goals for bringing the colonies under closer supervision to immediate economic and political advantage whenever it seemed necessary and expedient to do so." However, Greene marks this out as peculiarly characteristic of "Walpole's administration." See Greene, *Negotiated Authorities*, 100. I have hopefully shown that this was not the case. Walpole's government, at most, marked an intensification of this tendency.

trade” acts.<sup>59</sup> Merchants in London had complained that the 1720 act “hath proved very pernicious to the British trade in general, and to the interest of New York in particular” by increasing prices, causing the French to export their own goods to North America, and damaging relations with the Haudenosaunee.<sup>60</sup> Burnet and the council of New York seized upon glaring factual inaccuracies in the complaint to discredit the merchants’ conclusions, but they could not so easily dismiss observations on the severity of the acts.<sup>61</sup> West had noted that the 1720 act gave “exorbitant” search and seizure powers to county officers in Albany, and that the 1722 act provided for “very extraordinary” administration of oaths “left entirely to the discretion, ill will, or malice” of the officers.<sup>62</sup> These were attacks on the rights of Englishmen as blatant as any made by the crown. Therefore, despite Burnet and the council’s assertion that “no penalties can be too severe to prevent a trade which puts the safety of all his majesty’s subjects of North America in the greatest danger,” the board disagreed.<sup>63</sup> They decided that the acts ought to be repealed due to the “methods prescribed for the execution thereof.”<sup>64</sup> However, believing that the aims of the laws were beneficial, the board recommended that Burnet get a new “Indian trade” act passed that was not liable to their previous objections.<sup>65</sup>

<sup>59</sup> Multiple acts clarifying or expanding upon the first act of 1720 had been passed in the intervening years.

<sup>60</sup> Petition of London merchants to the king against the 1720 Indian trade act in New York, 30 April 1724, CO 5/1053/185-6.

<sup>61</sup> The most egregious was the merchants’ claim that there were “very many nations of Indians who are at present in the interest of the French [...] who lie between New York and the nations of Indians in the English interest.” Petition of London merchants to the king against the 1720 Indian trade act in New York, 30 April 1724, CO 5/1053/185.

<sup>62</sup> West to board of trade, 30 May 1722, CO 5/1053/62; West to board of trade, May 1725, CO 5/1053/318.

<sup>63</sup> The report of the council of NY on the merchants’ petition, 6 November 1724, CO 5/1053/250.

<sup>64</sup> Representation of the board of trade to the king, 16 June 1725, CO 5/1124/376-7.

<sup>65</sup> *Ibid.*, 378-9.



When Burnet met the assembly on 31 August 1725, he discovered that the Morris-Livingston majority on which he had relied had finally evaporated. Thanks to a series of deaths and by-elections, a merchant-led party opposed to his measures now held the majority, and they elected Burnet's old nemesis Adolph Philipse as speaker.<sup>66</sup> Burnet then contrived to make matters worse by contesting the qualifications of the prominent merchant Stephen de Lancey, who had served in assemblies off and on for the past thirty years, and then retreating after Morris declined to support the challenge wholeheartedly in an opinion as chief justice.<sup>67</sup> The assembly then proceeded to make a grant of the revenue for only two years, while reducing several of the salaries, and came to no agreement on a new "Indian trade" bill.<sup>68</sup> For the first time, Burnet had encountered the very sharp limits set by an assembly that controlled the power of the purse and disliked the governor. And, like Hunter before him, he refused initially to accept the assembly's terms, instead rejecting the bill and proroguing them.

After two more sessions, Burnet finally secured an adequate revenue renewal in the spring of 1726. It was, however, much reduced from the previous two grants in 1715 and 1720. The opposition majority "would not be brought to continue the revenue for five years, so that I was obliged to take it for three," as Burnet wrote to the board.<sup>69</sup> They reduced many of the salaries, most especially that which their enemy Morris drew as chief justice. They also reshaped the streams of income, removing several import duties and replacing them with property taxes

<sup>66</sup> *JNY* 514.

<sup>67</sup> *Ibid.* 515-6, 518-20.

<sup>68</sup> *Ibid.* 521-6.

<sup>69</sup> Burnet to board of trade, 28 April 1726, CO 5/1054/22.

that were likely to produce less money.<sup>70</sup> Burnet did get his new “Indian trade” act, but at the cost of agreeing to lifting the prohibition on the trade with the French. Instead, the act laid a double duty on “Indian goods” going to Canada, and a single duty on those headed west. This, Burnet wrote, was “the best expedient” he could use, given the determination of “the people of Albany to evade the laws [...] and screen one another.”<sup>71</sup> It was also the most he could get through an assembly in which opponents of the last decade of tax and frontier policy dominated. With no leverage and no political capital, Burnet had been forced to accede to their demands.

Burnet thereafter dissolved this assembly, which had sat for nearly eleven years, hoping to win a return of a crown’s party majority in the new elections. The new assembly that met in autumn 1726 disappointed his expectations, electing Philipse once again for their speaker and refusing to raise the salaries of the officers of the government back to their prior levels. Instead, they insisted that Burnet issue no warrants for salaries other “than those particularly expressed in the resolutions abovementioned.”<sup>72</sup> Burnet recoiled at the assembly’s attempt to force explicit compliance with the deal agreed implicitly in 1715 and 1720. Instead, he determined to issue the warrants at the same levels as he had previously. He would thereby run the revenue further into debt, while directly challenging the assembly’s control of the power of the purse. Like Hunter, it seems that Burnet, when confronted by opposition control of the assembly, made the best of a bad situation by trumpeting his resolve to defend Whitehall’s interests. He ostentatiously wrote

<sup>70</sup> *JNY* 535-8; Burnet to board of trade, 14 October 1726, CO 5/1054/33. In a distinct departure from Jamaica, where electoral attention was rarely paid to the non-elite, there was a distinct popular element to these laws. Not only were the elite merchants’ interests aided, but so too were those of “the middling and lower classes” who enjoyed the franchise and resented the duties on salt, molasses, and rum in particular. Kammen, *Colonial New York*, 184; Tully, *Forming American Politics*, 235.

<sup>71</sup> Burnet to board of trade, 14 October 1726, CO 5/1054/33-4.

<sup>72</sup> *JNY* 548.

the board that he had “engaged myself in a contest with the assembly to support his majesty’s prerogative [...] at the risk of their dissatisfaction, though it should be ever so much against my private interest.”<sup>73</sup> Perhaps he had. But he had also ensured that the opposition majority would resent him for violating their arrangement, which they still believed necessary to limit the governor’s fiscal independence and protect them from corruption and arbitrary power. He had done the equivalent of unilaterally increasing the size of the civil list, and it would exercise his enemies in the New York assembly just as it had stoked resentment in the House of Commons only six years before.<sup>74</sup>

Moreover, in the service of his imperial vision, Burnet had also made a few concessions not so amenable to the power of imperial government. The assembly strengthened the last “Indian trade” act, provided for further repairs to the fort at New York, and made a small appropriation for building a fort at Oswego. In exchange, Burnet agreed to a new partition bill, and a bill allowing the speaker to issue instructions to the colony’s agent in London.<sup>75</sup> Indeed, Burnet lobbied for the partition act to the board, telling them that its passage would “be the greatest means of keeping the assembly in good humor.”<sup>76</sup>

Upon meeting a new assembly in 1727 that remained stubbornly opposition-dominated, Burnet again had to accept infringements on the prerogative.<sup>77</sup> He had run vastly over the £500 the last assembly had appropriated for the construction of the fort at Oswego, and needed

<sup>73</sup> Burnet to board of trade, 20 December 1726, CO 5/1054/96.

<sup>74</sup> Reitan, “The Civil List in Eighteenth-Century British Politics,” 321.

<sup>75</sup> *JNY* 552-6.

<sup>76</sup> Burnet to board of trade, 29 June 1727, CO 5/1054/173.

<sup>77</sup> *JNY* 557. The new assembly was occasioned by the death of George I, which necessarily dissolved the old assembly.

reimbursement for his expenses. The assembly, for their part, wanted a bill passed to prevent prosecutions by information, which the majority felt the attorney general had “carried on either to serve some extravagant fees and charges from the people, or to frighten them into unreasonable compositions.”<sup>78</sup> They also certainly resented that the prosecutions had touched on quit-rents, and had interfered with the administration of regular county business by justices of the peace.<sup>79</sup> Richard Bradley, the attorney general, alleged that the governor and council had opposed the bill until some leading assemblymen told them “that unless this bill were passed, they would not pass a bill for raising money to defray the costs of a trading house at a place called Oswego.”<sup>80</sup> Given that the assembly did not in fact pass the appropriation of £1,612 for reimbursing the Oswego expenses until the council had agreed to the anti-information bill, Bradley’s accusation has the ring of truth.<sup>81</sup> Burnet had sacrificed the prerogative in exchange for the funds to help realize his imperial vision.

Burnet’s concessions of elements of the prerogative had been necessary to ensure that New York government was funded and functional, and to advance Burnet’s idea of Britain’s imperial interests in North America. The mechanism was exactly as Cadwallader Colden described it in his 4 December 1726 letter to Alured Popple, who had succeeded his father William Popple junior as secretary of the board of trade. The need to renew the revenue made “the officers become almost entirely dependent on [the assembly],” and put the governor and

<sup>78</sup> *JNY* 566. Burnet agreed with them in his letter home to the board, writing that “the attorney general has indeed been very vexatious and industrious to make use of trifling pretenses to bring himself into business, in a very mean and sordid manner.” See Burnet to board of trade, 21 December 1727, CO 5/1054/240. Prosecuting by an information sidestepped the usual process of grand jury indictment, so the New York elite naturally regarded the practice as contrary to their rights as Englishmen and destructive of their interests.

<sup>79</sup> Memorial of Richard Bradley to Alured Popple, 30 December 1727, CO 5/1054/287-8.

<sup>80</sup> *Ibid.*, 285.

<sup>81</sup> *JNY* 570-1.

council “under such difficulties in refusing or amending bills that the balance designed by our constitution to keep that house within bounds is very much weakened.”<sup>82</sup> In order to win the assembly’s support, therefore, governors were “forced [...] to fall upon the many expedients to obtain a support that have not been well approved of in Great Britain.”<sup>83</sup> Bradley was less forgiving, contending that resisting the assembly’s efforts at aggrandizing power did not “consist with [Burnet’s] own private interest, which [...] seems to have been almost the only thing intended.”<sup>84</sup> But both agreed that “a resolve of the house of representatives [might] be looked on as of more force than his majesty’s most positive command,” and that New York was tending towards “being independent on the kingdom of Great Britain.”<sup>85</sup> This hysteria about the weakening of colonial “dependence” starkly illustrated the central conflict. Imperial authorities regarded the colonists’ efforts to reduce transatlantic institutional dissonance as fundamentally misguided, if not actively disloyal. The colonists, on the other hand, sought to secure what they believed to be their rights as Englishmen, as enshrined in the Glorious Revolution settlement. No compromise existed that could satisfy two such disparate views of the same phenomenon.

Indeed, for all their perspicacity in identifying the problem, Colden, Bradley, and their ilk had no good ideas for solving it. Colden sounded the same note as he had in his memorials of 1721, suggesting that full and proper collection of the quit-rents would render the executive independent of the legislature.<sup>86</sup> This was no more practicable in 1727 than it had been in 1721,

<sup>82</sup> Colden to Alured Popple, 4 December 1726, CO 5/1054/154.

<sup>83</sup> *Ibid.*, 154.

<sup>84</sup> Bradley to Alured Popple, 4 January 1728, CO 5/1054/258.

<sup>85</sup> Colden to Alured Popple, 15 December 1727, CO 5/1054/260; Bradley to Alured Popple, 4 January 1728, CO 5/1054/258.

<sup>86</sup> Colden to Alured Popple, 4 December 1726, CO 5/1054/155; Colden to Alured Popple, 15 December 1727, CO 5/1054/261.

and this time did not receive a favorable hearing from the board. Bradley, for his part, did not offer any solution until 1729, when he suggested that the salaries be “settled by act of Parliament.”<sup>87</sup> Nothing beyond these two worn-out suggestions was offered to or by the board. And, as ever, there were no concrete suggestions for enforcement. Colden vaguely alluded to “sufficient force to put it in execution,” but what that meant neither he nor the metropolitan authorities knew.<sup>88</sup> With no alternative to securing the cooperation of local elites, Whitehall’s hand-wringing would continue, and so would the assembly’s consolidation of the power of the purse.

However, the metropolitan authorities could still defend the status quo from legislation that did not raise money for colonial governments. The partition act was repealed on 15 February 1728, and the anti-information act met the same fate on 6 November 1728, with the latter act termed a particularly “high encroachment upon your majesty’s undoubted prerogative.”<sup>89</sup> Of course, the appropriations acts for which Burnet had traded his assent to these infringements on the prerogative remained in force. Since the Poynings’ Law crisis, it had always been the metropolitan authorities’ policy to recognize as few explicit negotiations as possible, and to cancel anything objectionable in the deals their governor made. The New York assembly would have tried to expand its powers in any case. However, repeated reminders of the metropolitan authorities’ refusal to honor their governor’s agreements probably reinforced the desire to play hardball with every revenue bill, which the metropolitan authorities could scarcely afford to repeal. As in the case of Jamaica in the first decade of the eighteenth century, Whitehall’s

<sup>87</sup> Bradley’s representation to the board of trade, 22 November 1729, CO 5/1055/129.

<sup>88</sup> Colden to Alured Popple, 15 December 1727, CO 5/1054/260.

<sup>89</sup> Order in council, 15 February 1728, CO 5/1054/234; Order in council, 6 November 1728, CO 5/1054/290; Representation of the board of trade to the king, 8 October 1728, CO 5/1125/120.

insistence on defending every inch of the prerogative made sacrifices of some of the crown's interests inevitable.

*A Modus Vivendi? 1728-1731*

The death of George I also brought an end to Burnet's government in New York. George II appointed John Montgomerie, an army officer and one of his confidants, to the post in August 1727. In addition to his charge to renew the revenue, which was to expire in 1729, Montgomerie departed Britain with three new instructions. They were the first changes in the instructions for a governor of New York in thirty years, and all enjoined against practices the metropolitan authorities had found deleterious to the interests of imperial government. Montgomerie was not to assent to any law repealing one still depending before the king, not to assent to any law establishing paper money without a suspending clause, and to compel "takers-up of land to cultivate the same."<sup>90</sup> Of course, Montgomerie had no power to execute the last. And, though the first two sought to limit the agency problem of the governor, Montgomerie would still find ways to compromise on the spirit of his instructions to secure funds from the assembly.

Montgomerie arrived on 15 April 1728, and met a new assembly on 23 July.<sup>91</sup> Philipse was once again elected speaker at the head of another majority for his party, while Lewis Morris, Hunter's able manager in the assembly, had lost his own election.<sup>92</sup> The assembly also met with unresolved grievances. At the very end of Burnet's last assembly, they had made blistering resolutions against the court of chancery, terming its establishment "without consent in general assembly [...] unwarrantable, contrary to the laws of England, a manifest oppression and

<sup>90</sup> Representation of the board of trade to the king, 28 September 1727, CO 5/1125/3-5.

<sup>91</sup> Montgomerie to board of trade, 6 May 1728, CO 5/1054/277; *JNY* 574.

<sup>92</sup> *JNY* 574.

grievance to the subjects, and of pernicious consequences to their liberties and properties.”<sup>93</sup>

Burnet believed Philipse had spurred this on in retribution for Burnet’s ruling against him in the court “only two days before.” Burnet noted also that the court had “raised a pretty general clamor” through his rulings in favor of the crown on quit-rents, which naturally cut against his enemies’ material interests.<sup>94</sup> However, as Alan Tully points out, anti-chancery sentiment was longstanding in New York and had genuine backing across factions and classes, because the court, in which the unqualified governor was sole judge, was “a symbol of the personal, unfettered power of the chief executive.”<sup>95</sup> Moreover, as Amy Watson argues, the New York elite were well aware that the court could “bolster ministerial finances” in the colony, by granting the governor a source of income independent of the assembly.<sup>96</sup> For New Yorkers to rid themselves of the chancery court would be to defend their material interests, guard against arbitrary power, and promote identity of political institutions across the Atlantic.

Since the elections had made little change in the assembly’s membership, Montgomerie “had some reason to fear that this assembly would begin where the other ended.”<sup>97</sup> They did not, however. Instead, the assembly swiftly passed a five-year revenue bill, which Montgomerie complained was likely to be insufficient, and a small support for the fort at Oswego.<sup>98</sup>

<sup>93</sup> Ibid. 571.

<sup>94</sup> Burnet to board of trade, 21 December 1727, CO 5/1054/241.

<sup>95</sup> Tully, *Forming American Politics*, 228, 234.

<sup>96</sup> Watson, “The New York Patriot Movement,” 43. However, I fundamentally disagree with Watson’s assertion that “New Yorkers found Cosby’s exchequer court dangerous, then, not because it collected a hated tax but because it was believed to infringe on two dearly held rights: jury trials and balanced government.” There is no need to disentangle what contemporaries recognized was intertwined. See Watson, “The New York Patriot Movement,” 46, for the foregoing quotation.

<sup>97</sup> Montgomerie to board of trade, 13 August 1728, CO 5/1054/299.

<sup>98</sup> *JNY* 579-85, 589-90; Montgomerie to board of trade, 30 November 1728, CO 5/1054/307.



Montgomery credited this restraint to an appreciation of his intention “to support his majesty’s prerogative [...] with the greatest zeal,” but it became apparent there were weightier reasons.<sup>99</sup> Having lobbied for the now-repealed partition act when he was in London, he asked the board “what alterations would make such a bill acceptable,” evidently with an eye to gratifying the New York elite.<sup>100</sup> He had also implicitly acceded to the assembly’s demands in their chancery resolutions by desisting from holding the court at all. His excuse to the board was that he feared the consequences of executing that duty “since I found the people here so divided, and at the same time stubborn in their opinions.”<sup>101</sup> Bradley preferred to term it “that great caution that has been [...] used not to displease assemblymen.”<sup>102</sup> It was good colonial politics, but bad prerogative politics.

Most importantly, Montgomery had done what Burnet would not, and conformed to the assembly’s enumeration of the salaries in their journals. This emerged in the summer of 1729. Lewis Morris junior, who had been a councilor since 1721, objected to Montgomery issuing a warrant for his father’s salary at the reduced £250 level. He complained that Montgomery “has thought it his interest to comply with the assembly in everything,” and by doing so had been complicit in “resolutions having [...] a manifest tendency to render them independent on the British crown and government.”<sup>103</sup> Montgomery countered that he had done no such thing. Instead, he claimed that Burnet’s practice of issuing warrants in excess of the assembly’s

<sup>99</sup> Montgomery’s speech to the assembly of New York, 23 July 1728, *JNY* 575; Montgomery to board of trade, 13 August 1728, CO 5/1054/299.

<sup>100</sup> Montgomery to board of trade, 30 November 1728, CO 5/1054/310.

<sup>101</sup> *Ibid.*

<sup>102</sup> Bradley’s representation to the board of trade, 22 November 1729, CO 5/1055/129.

<sup>103</sup> Lewis Morris junior to Newcastle, 15 July 1729, CO 5/1055/50.

allowances had “soured the assembly, and made them look back on their former sufferings from the mismanagement of the revenue.”<sup>104</sup> Montgomerie consequently believed that he had “to proportion the expense so as to make the revenue answer it accordingly.”<sup>105</sup> Otherwise, he warned, the next governor might face “insuperable difficulties” when the time came for renewal.<sup>106</sup> “Insuperable” was an exaggeration, but Hunter’s experience in the early 1710s strongly suggested that a heavy debt load and the perception of mismanagement would move the assembly to make aggressive inroads on the prerogative.

The board did not censure Montgomerie for this accommodation, though it was obviously a violation of the prerogative. Instead, they approved his suspension of Morris junior from the council, while saying nothing whatsoever of the exchange he had made.<sup>107</sup> And an exchange it was, despite Montgomerie’s preposterous protestation that he had “gained the assembly’s confidence, without ever giving them any assurance that I would comply with the application of the revenue.”<sup>108</sup> Far more plausible was Morris junior’s argument that “his promises, if not direct, were what they understood to be tantamount.”<sup>109</sup> The board could not disavow this arrangement, because then the government in New York would be without funds, and therefore not functional. They would have preferred the money to be routed through the receiver general, in a permanent grant sufficient for all the fiscal needs of the colonial executive. But imperial authorities did not have the leverage to enforce such concessions on the assembly, and had

<sup>104</sup> Montgomerie to board of trade, 30 June 1729, CO 5/1055/60.

<sup>105</sup> *Ibid.*, 61.

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*, 63; Representation of the board of trade to the king, 7 January 1730, CO 5/1125/142.

<sup>108</sup> Montgomerie to board of trade, 30 June 1729, CO 5/1055/60.

<sup>109</sup> Morris junior to Newcastle, 15 July 1729, CO 5/1055/55.

already allowed the assembly's control of the power of the purse to slide into precedent. And, as long as Whitehall remained unwilling and unable either to confront the assembly or to fund the colonial governments from the metropole, the assembly would only continue to gain fiscal power at the expense of the imperial authorities.

Throughout the rest of his government, Montgomerie had little trouble with the assembly, because he asked so little of them. In 1729, he secured £1,400 for Oswego, half of it borrowed from other appropriations and half of it raised by new taxes on the "Indian trade."<sup>110</sup> In 1730, he had news from Britain that the "Indian trade" acts had at last been repealed, and that he was not to assent to acts taxing the trade.<sup>111</sup> The majority in the assembly were deeply irritated by this. Resolutions penned by Robert Livingston's son Philip argued that Oswego ought to be supported "by those who reap the only benefit of it," and not by a general tax.<sup>112</sup> The assembly then proceeded to lay a flat £1 tax on everyone who departed Albany to trade with indigenous people anyway, supported by a three-shilling tax on everyone "that wears a wig or peruke."<sup>113</sup> Only £500 was appropriated for Oswego. In a further concession to the assembly of the power of the purse, all the rest was to be distributed afterwards as the assembly saw fit.

It soon became apparent, however, that the majority in the assembly did believe they reaped a benefit from Oswego—they were simply unwilling to pay for it. In a representation to the metropolitan authorities, the present assembly declared that though they had raised a paltry tax, they were "in no wise able to answer for the conduct of future assemblies, who [...] will

<sup>110</sup> *JNY* 594, 602-6.

<sup>111</sup> Order in council, 11 December 1729, CO 5/1055/127; Montgomerie's speech to the assembly of New York, 26 August 1730, *JNY* 606.

<sup>112</sup> *JNY* 610.

<sup>113</sup> *Ibid.*

hardly be inclined to burthen their constituents.” Since seventeen of the assembly’s twenty-six members came from counties “little or not at all concerned in any trade or navigation,” and distant from the frontiers, the representation advised the imperial authorities that this disinclination would be structural. But Oswego, the assembly warned, was a crucial bulwark for the security of Britain’s empire in North America, including New York, and abandoning it would signify “cowardice, weakness, and poverty.” The only possible solution, therefore, was to lay a tax on “those only to whom so great and manifold advantages and considerable fortunes and estates arise” by the more secure “Indian trade.”<sup>114</sup> It was a spectacularly disingenuous argument, even by the standards of colonial free-riding on imperial defense. But the central grain of truth was unavoidable. The assembly, empowered by control of the purse, had implicitly warned the crown that it had to choose between its preferred method of taxation or funds for its imperial ambitions.

Montgomerie did not contest the assembly’s arguments. Instead, he openly backed the address to the board. In his letter of 21 December 1730, he repeated the assembly’s main points, and asserted that “no arguments will ever persuade the assembly to support it any other way.”<sup>115</sup> Disagreement with the assembly would result in Oswego going unfunded, while Montgomerie might find himself engaged in a tiresome and unending contest in which he had no personal stake. Agreement, on the other hand, meant funding for Oswego and avoiding any unpleasanties about his salary or other funds in the future. Though supporting the assembly defied the spirit of the crown’s own instructions, it had probably been an easy choice for Montgomerie to make.

<sup>114</sup> Representation of the council and assembly of New York to the board of trade, 29 October 1730, *JNY* 622.

<sup>115</sup> Montgomerie to board of trade, 21 December 1730, *CO* 5/1055/157.

The board came to a similar conclusion in the summer of 1731. They let the assembly's tax on the traders stand, and said that they would allow such a "duty by way of license" for the future."<sup>116</sup> The board did complain "that the assembly [...] should think the province so little concerned with the success of this settlement at Oswego as not to contribute cheerfully to the support of it without throwing the burthen entirely upon the trade."<sup>117</sup> This was a feeble protest, however, and all parties would have known it. The tax on the trade was against Britain's interests, and flew in the face of the crown's repeal of the "Indian trade" acts in 1729. But without any leverage, and knowing that the assembly were perfectly willing to engage in brinkmanship on fiscal issues, the metropolitan authorities had little choice. Britain's mercantile interests, and respect for the prerogative, would have to suffer a little at the hands of the New York assembly for the sake of imperial competition.

By 1731, therefore, the power of the prerogative in New York had reached a low ebb. This was partly due to Montgomerie's nonconfrontational attitude, and partly due to the Walpole administration's slightly less insistent approach in colonial affairs. Mostly, however, it was a predictable result of the structural conflicts in the British transatlantic empire. New York elites, like all the other colonial elites, wanted to enjoy the rights of Englishmen, to exercise the powers of English elites, and to increase their material wealth. In their assembly, therefore, they had relentlessly contended for the power of the purse, in analogy with Parliament, and had struck at the restraints of the prerogative whenever the opportunity offered. Without either the will or the means to coerce the colonies or to fund their administration from the metropole, imperial authorities had no alternative. They had to accede to the New York assembly's most central

<sup>116</sup> Board of trade to Montgomerie, 21 July 1731, CO 5/1125/173.

<sup>117</sup> *Ibid.*, 173-4.

demands, or else see the colonial executive become nonfunctional due to lack of funds, and the empire fall behind in the race against the French. Attempts could always be made to revise the status quo, since the metropolitan authorities had never formally accepted the treasurer's control over the revenue, or indeed the rest of the assembly's inroads on the prerogative. But as long as the colonial executive in New York depended on the assembly for funds, those attempts would always fail, and the assembly would continue their slow, informal quest to bring the Glorious Revolution settlement across the Atlantic.

## Conclusion

As the 1730s dawned, the fundamental conflict between the colonial assemblies' rights and interests on the one hand, and the crown's on the other, stubbornly persisted. Neither side had achieved the ends they had sought decades before. The assemblies had lessened the power of the prerogative, but the crown still retained judicial and administrative powers in the colonies unlike those it held in the metropole. The assemblies had won victories over the crown in regulating the Atlantic economy and sharing the burden of imperial defense, but the crown had scored its own successes. Metropolitan authorities had denied the assemblies the formal cession of the rights of Englishmen colonists so desperately wanted. However, the assemblies had greatly expanded their share of the power of the purse, with the New York assembly gaining almost complete control. With that power, the assemblies would continue to chip away at the prerogative. The crown, for its part, still had the right to review colonial laws and to instruct its governors, and would continue to employ both in efforts to revise an unstable status quo to which it had never formally consented.

The half-century struggle had, however, wrought one major change. In the metropole and in the colonies, there was now a history of this transatlantic political conflict. The bitterness of the battles between crown and assembly would have accumulated in the political memory of any society. But early modern English political culture, with its immense valorization of precedent, was particularly susceptible to the growing resentments such conflict produced. Tensions did lessen after the end of each transatlantic dispute. Like the rising tide, however, they never receded to their previous level. Each confrontation after the first had higher stakes than it would have in isolation, because all parties arrived remembering the contests of the past. The conflict

drew ever closer to the boundaries of what the empire's structures would permit, but the catalyst for the radical transformation required to resolve the crisis still had not appeared.

Then, in the 1760s, major structural change came at last. Metropolitan authorities decided to abandon the principle for which they had fought the colonial assemblies since the Restoration. The aim of colonial policy was no longer to preserve prerogative government in the colonies, and to use the prerogative to exert metropolitan control across the Atlantic. Instead, in the wake of the Seven Years' War, the metropolitan authorities sought to impose the king-in-Parliament's fiscal and political authority on the colonies, so that Britain could enjoy a more stable and prosperous empire. The explicit involvement of Parliament in the transatlantic constitutional conflict, so studiously avoided in the past nine decades, now became the mode of metropolitan imperial policy.<sup>1</sup>

Sustaining the prerogative across an ocean against colonial demands for the rights of Englishmen had been difficult enough in 1675, when the crown's three kingdoms were more than twenty times as populous and wealthy as the colonies. By 1764, when the colonies had closed the gap by an order of magnitude, the prerogative had only shrunk on both sides of the Atlantic. Metropolitan policymakers probably did not consciously make this calculation, but it was true all the same. By the 1760s, the crown was barely treading water in the struggle against the demands of colonial English elites for political rights and power commensurate with their ever-growing wealth and numbers. It would have been impossible for the crown alone to impose, through the prerogative, the control that metropolitan authorities so desperately wanted after the Seven Years' War. However, the choice to make Parliament central to the transatlantic

<sup>1</sup> The transformation had been presaged by the House of Commons' resolution in 1757 condemning specifically Jamaica's, and generally all the colonies', constitutional pretensions. See Greene, "Jamaica Privilege Controversy," 21.



constitutional conflict was self-defeating to the prerogative. The crown had surrendered, and bequeathed its interest to Parliament.

There was continuity in the transatlantic political struggle, for a metropolitan entity was still asserting its right and power against that of the colonial elites and their assemblies. But now the metropolitan entity was Parliament, which did not share the crown's constraints. Parliament did not have to fear its own involvement; could deploy resources on a scale that might force the conflict to a resolution; and was not susceptible to the old seventeenth-century discourse against monarchical tyranny. The colonial assemblies could not, therefore, erode parliamentary authority as they had worn down the prerogative. Nor could they rhetorically oppose only a part of metropolitan authority, and a weaker part at that, as they had done with the crown over the past decades. Parliament's involvement left colonists in New York and Jamaica, and indeed all the British Atlantic, with a starker choice. If they wanted to continue their fight for their material and ideological interests, they would have to oppose the united whole of metropolitan authority in a contest of sovereignties. This conflict could not persist in unstable stalemate. For the colonists, the alternatives were submission or open defiance.

In the crisis that became the American Revolution, the Jamaican elite's nexus of material and ideological interests broke apart. They were, as Trevor Burnard writes, "reliant on the imperial state for defense and, more important, for supporting the Atlantic slave trade."<sup>2</sup> When forced to a choice, the Jamaican elite opted for the material benefits of imperial loyalty over the greater powers only achievable through outright antagonism. New York, by contrast, was much less materially reliant on the imperial government, and so the ideological and material interests of the dominant minority of the New York elite remained aligned in the crisis of the 1760s and

<sup>2</sup> Trevor G. Burnard, *Jamaica in the Age of Revolution* (Philadelphia: University of Pennsylvania Press, 2020), 206.

1770s. Choosing independence was easier for them, and at the crucial point, that was the decision they made. New York and Jamaica had walked together on the path of transatlantic constitutional politics since the seventeenth century. Now, at last, they finally diverged.

The conflict I have described in this dissertation thus ended in the American Revolution. There were, of course, other possibilities. Before Jamaica turned off the path of confrontation in the late 1760s, and even probably after, there were off-ramps available to both sides. However, I do suggest that, in Britain's eighteenth-century Atlantic empire, there was neither an available solution to the fundamental transatlantic constitutional conflict nor the means permanently to suppress it. The American Revolution did not have to happen. But some revolution was inevitable.

## References

The vast bulk of the primary source citations in this dissertation, and indeed the majority of all the citations, refer to the six sources listed under “Abbreviations.” In the following pages, I have listed the primary sources and secondary works to which other citations refer.

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