

POLITICAL TENSIONS OF THE BRITISH EMPIRE: COMPARATIVE ANALYSIS OF THE  
POLITICAL IDEOLOGY OF THE VIRGINIAN STAMP ACT CRISIS AND THE  
JAMAICAN PRIVILEGE CONTROVERSY

By

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ABSTRACT

During the eighteenth century, the exportation of British political ideology was an important imperial tool that was utilized by Great Britain to maintain control across the large expanse of their empire. The settlers of Virginia and Jamaica held onto essential principles of British political ideology into their own colonies and espoused them in their own manner as evident in their political discourse and provincial government systems. During the years of 1764-1766, the American Stamp Act crisis and the Jamaican privilege controversy were an imperial test of these shared political principles. Through a comparative analysis between these two significant imperial conflicts, an apparent ideological disconnect occurred between the British metropole and the Virginian and Jamaican colonies which played a significant role within the Stamp Act crisis and the Jamaican privilege controversy.

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## CHAPTER 1

### INTRODUCTION

As the British Empire expanded throughout the eighteenth-century, the metropolitan government struggled to maintain control over the extended colonies. Provincial governments were formed to address the growing needs of the colonies which was only made possible with the decentralization of metropolitan power.<sup>1</sup> It was during this period of little metropolitan intervention that the colonies were free to develop their own interpretations of British ideology.<sup>2</sup> Parliament disrupted the status quo in order to address the increasing national debt that was caused by the Seven Years' War.<sup>3</sup> Following the period of salutary neglect, the increasing amount of imperial conflicts between the colonies and the metropole exemplified a disconnect that had formed on their shared notions of British citizens' rights and privileges.<sup>4</sup> A comparison

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<sup>1</sup> Harold Underwood Faulkner, *American Political and Social History*, 7<sup>th</sup> ed. (New York: Appleton-Century-Crofts, Inc.), 55 and Jack P. Greene, "Of Liberty and the Colonies," In *Liberty and American Experience in the Eighteenth Century*, ed. by David Womersley, (Indianapolis: Liberty Fund, 2006), 25.

<sup>2</sup> The leading work on salutary neglect is James A. Henretta, "*Salutary Neglect*": *Colonial Administration Under the Duke of Newcastle*, (Princeton, New Jersey: Princeton University Press, 1972). Other works also on salutary neglect include Charles M. Andrews, *The Colonial Period of American History, IV: England's Commercial and Colonial Policy*, (New Haven: Yale University Press, 1938); Bernard Bailyn, *The Origins of American Politics*, (New York: Knopf, 1968); and Dora Mae Clark, *The Rise of the British Treasury; Colonial Administration in the Eighteenth Century*, (Hamden, Conn: Archon Books, 1970).

<sup>3</sup> The annual expenditure of the Seven Years' War was an estimated six times more than the Austrian Succession War. See Julian Gwyn, "British Government Spending and the North American Colonies 1740-1775," in *The British Atlantic Empire before the American Revolution*, ed. by Peter Marshall and Glyn Williams (London: Frank Cass and Company Limited, 1980), 77. This counteracts with Eliga Gould's calculations which estimated that the Seven Years' War was more than two times the amount spent than the Austrian Secession War. See Eliga Gould, *The Persistence of Empire: British Political Culture in the Age of the American Revolution*, (Chapel Hill, NC: University of North Carolina Press, 2000), 74.

<sup>4</sup> For some examples of this transatlantic disagreement, see Edmund Morgan, *The Birth of the Republic: 1763-89*, (Chicago: The University of Chicago Press, 1956), 45; Andrew Jackson O'Shaughnessy, *An Empire Divided: The American Revolution and the British Caribbean*, (Philadelphia: University of Pennsylvania Press, 2000), 119. Salutary neglect commenced under the administration of the Duke of Newcastle and continued until the Parliamentary acts that sparked the American Revolution. See Henretta, "*Salutary Neglect*": *Colonial Administration Under the Duke of Newcastle*, 34.



of the perspectives of North American and West Indian colonies provides greater insight into understanding what exactly was the impetus to these imperial conflicts. This thesis studies the divergent reactions in two key imperial provocations, the Virginian Stamp Act crisis and the Jamaican privilege controversy, in order to determine how influential the ideological notions of rights and privileges were in fueling these provocations. From their growing sense of colonial sovereignty, the Virginian and Jamaican Assemblies defended their own understanding of citizens' rights and privileges against metropolitan actions that many colonists disagreed with.

Following the historical trend of transatlantic and empire studies, this thesis starts with a general overview of the British rights and privileges that were protected under liberty. It then proceeds to follow the development of the political ideologies of Virginian and Jamaican colonies from its founding all the way to 1766. This provides a foundational understanding in order to determine the impact that the Stamp Act crisis and the privilege controversy had on the colonies' ideological perceptions of their rights and privileges. Lastly, the comparative analysis between the Virginian Stamp Act crisis and the Jamaican privilege controversy which helps determine the specific role that each colonial governments' ideological interpretations on their rights and privileges had within these conflicts. The purpose of this particular framework is to determine the specific role that Virginian and Jamaican ideological notions of rights and privilege had on these internal and external disagreements. The diverse set of primary sources that were utilized for this thesis includes charters, letters, newspaper articles, books, and journals from governing bodies. The Stamp Act crisis and the Jamaican privilege controversy were largely led by elite planters which informed the type of primary sources that were used within this study. The secondary sources that helped provide the historical understanding of these

conflicts include the leading scholarly articles and books on the Virginian, Jamaican, and British governments and their political ideologies.

## I. Historiographical Intervention

This thesis is an attempt to provide the first historical consideration of the Stamp Act crisis and the Jamaican privilege controversy together.<sup>5</sup> Previous scholars have not correlated these two imperial events together and there are many possible reasons for this. Despite the fact that they were both in the British Empire, these events occurred in different geographic areas. Especially in their infancy, the British colonies generally did not associate themselves with each other. The Stamp Act Congress was one of the first times that the North American colonies united in an official political setting.<sup>6</sup> The British West Indies were even more geographically isolated from one another and often did not interact much with their northern counterparts. Trade would have provided one opportunity for these two regions to interact with one another. However, the North American colonists often preferred to trade with the French West Indian colonies over the British West Indies.<sup>7</sup> This caused these two areas of the British Empire to not interact much with one another because they did not express much support for one another.<sup>8</sup>

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<sup>5</sup> While some sources have mentioned both the Stamp Act crisis and the Jamaican privilege controversy, these sources were dedicated to just one conflict or were supporting elements to studies on the British Empire. See Andrew Jackson O'Shaughnessy, *An Empire Divided: The American Revolution and the British Caribbean*, (Philadelphia: University of Pennsylvania Press, 2000).

<sup>6</sup> Lynne Oats, and Pauline Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008), 127.

<sup>7</sup> An example of this was during the Molasses Act of 1733. The colonists of the British West Indies actually lobbied ferociously for the Molasses Act of 1733 upon the North American colonies because it would have imposed foreign import duties. See O'Shaughnessy, *An Empire Divided*, 63.

<sup>8</sup> It seemed that the British West Indies were largely motivated for reasons related to trade as they only intervened during the North American revolution when they were threatened by embargoes. See O'Shaughnessy, *An Empire Divided*, 63.

The other main reason why the Stamp Act crisis and the Jamaican privilege controversy were not considered together before is because they were principally and structurally different from one another. On the matter of political principles, the Stamp Act crisis was largely over the issue of direct representation while the Jamaican privilege controversy started because of a violation of the colonial iteration of parliamentary privilege.<sup>9</sup> The formulation of how each matter played out was also different from one another. The Stamp Act crisis was a matter between the British Parliament and the North American colonies while the Jamaican privilege controversy was a matter between the governor and the Jamaican Assembly while.<sup>10</sup> While both required metropolitan intervention, one was an external conflict between the metropole and the colonies while the other was an internal conflict between the two governing entities within the same provincial government.

This thesis is predicated on the belief that there were a few significant similarities that makes the conjoined consideration of the Stamp Act crisis and the Jamaican privilege controversy a worthy scholarly pursuit. One strong similarity that pairs these conflicts together is that they both required metropolitan action to remedy both conflicts.<sup>11</sup> Parliament repealed the Stamp Act while the Board of Trade eventually taking the side of the Jamaican Assembly ended the privilege controversy.<sup>12</sup> Another important similarity found between the Stamp Act and the

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<sup>9</sup> Morgan, *The Birth of the Republic*, 20, 24; Greene, "Liberty and Slavery: The Transfer of British Liberty to the West Indies, 1627-1865," In *Exclusionary Empire: English Liberty Overseas, 1600-1900*, ed. by Jack P. Greene, 69.

<sup>10</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008), 108-111; O'Shaughnessy, *An Empire Divided*, 112-114.

<sup>11</sup> Justin du Rivage, *Revolution Against Empire: Taxes, Politics, and the Origins of American Independence*, (New Haven: Yale University Press, 2017), 132-133; O'Shaughnessy, *An Empire Divided*, 114.

<sup>12</sup> du Rivage, *Revolution Against Empire*, 132-133; George Metcalf, *Royal Government and Political Conflict in Jamaica, 1729-1783*, (London: Royal Commonwealth Society by Longmans, 1965), 161.

Jamaican privilege controversy was how the end of each conflict resulted in the metropole taking the side of the provincial governments. The comparison of colonial sentiment before and after each respective metropolitan intervention provides an unique perspective on the role of the colonists' conception of their rights and privileges had in resolving these significant imperial conflicts.

The most significant similarity that provides the foundation for this whole intellectual exercise is the fact that the North American and West Indian colonies initially shared the same political ideology as the metropole.<sup>13</sup> The disagreements on political principles found within these transatlantic debates raises the question on what the exact role that ideology about citizens' rights and privileges had within these conflicts. Prior to the Stamp Act crisis and the Jamaican privilege controversy, the elite planters lived in relatively harmony with the metropole. The elite planters' uncharacteristic rebellious actions in the Stamp Act crisis and the Jamaican privilege controversy elevates the role that these ideological discrepancies on citizens' rights and privileges had in causing these significant imperial conflicts.

The Stamp Act crisis and the Jamaican privilege controversy provoked colonists and their colonial assemblies into protesting through the form of legislative action. The new historical intervention this thesis provides is its consideration of how the Virginian and Jamaican Assemblies exercised its sovereignty to protect their ideas of rights and privileges. With the additional consideration that these conflicts occurred within the same time frame, this historical study not only justifies the exploration of this underexplored consideration but it also provides

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<sup>13</sup> Edmund Randolph, *History of Virginia*, ed. by Arthur H. Shaffer, (Charlottesville: The University Press of Virginia, 1970), 18; Edward Long, *The History of Jamaica, Volume 1 : Reflections on Its Situation, Settlements, Inhabitants, Climate, Products, Commerce, Laws, and Government*, (Montréal: McGill-Queen's University Press, 2000), 9.

valuable insight and evidence on the specific role that the Virginian and Jamaican political interpretations of their rights and privileges had on these imperial conflicts. The Stamp Act crisis and the Jamaican privilege controversy demonstrate the significant role that the colonists' rights and privileges had in both causing and ending the conflicts. Both imperial conflicts were important victories for the protection of provincial governments' sovereignty in the Virginian and Jamaican colonies.

## II. Literature Review

Political ideology is a complex notion that is not easily determined however there is a general historiographical consensus that political ideology is a collective agreement about the same political principles.<sup>14</sup> Within the consideration of the Virginian and Jamaican colonies, colonists had the freedom to interpret British political ideology with their own unique perspectives.<sup>15</sup> There is less agreement on the political ideologies of the Virginian and Jamaican colonies as each historical school of thought comes to different conclusions. The wide variance in the scope of the contextual considerations found in each historical work further supports the existence of diverse interpretations of the same political ideology across the British colonies. Through the use of an interdisciplinary approach, this study will consider the colonists' ideological notions of their rights and privileges which drove the imperial debates of the Stamp Act crisis and the Jamaican privilege controversy.

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<sup>14</sup> For example, Bernard Bailyn believes that reoccurring themes found within the political discourse are indicators of a group's political ideology. See Bernard Bailyn, "The Central Themes of the American Revolution: An Interpretation," In *Essays on the American Revolution*, ed. by Stephen Kurtz and James Hutson, (Chapel Hill: University of North Carolina Press, 1973), 5-6.

<sup>15</sup> Ibid.

Historical treatises on the cause of the Virginian Stamp Act crisis have either considered the political principles the colonists were expressing or the reactions of the colonial governing bodies. Eliga Gould and Justin du Rivage present arguments that were based upon their analyses on the political discourse and culture of the colonies. While both of these scholars analyze the Stamp Act crisis, they do not take a particular consideration within Virginia other than the casual mention of the Virginia Stamp Act Resolutions. Peter Onuf studies the Virginian Stamp Act crisis with the dual consideration on the role that Virginian political thought and the Virginian provincial government while Lynne Oats and Pauline Sadler utilizes the same framework but takes a broader consideration of all the North American colonies. William Nelson takes on a more narrowed approach through his analysis of the colonial court systems and its use in combatting against the unconstitutional Stamp Act.

In *The Persistence of Empire: British Political Culture in the Age of the American Revolution*, Eliga Gould predicated much of her theoretical framework upon the notion that the metropole and the colonies were at an impasse as they did not understand the other's perspective. For example, Gould mentions how the metropole mistakenly assumed that the American colonists would acknowledge Parliament's imperial sovereignty.<sup>16</sup> This key impasse was the main reason in explicating why reconciliation between the two sides was almost impossible. Gould considers the colonists' sentiment, patriotism for Great Britain, and political discourse to find the point in which American colonists started to develop its own political identity.<sup>17</sup> Gould's methodology of finding the point of origin of America's own political identity and placing her

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<sup>16</sup> Ibid., xviii.

<sup>17</sup> Gould, *The Persistence of Empire*, xviii-xxiv.

argument upon this imperial debate on Parliament's sovereignty informed the methodologies that were used in this thesis.

Justin du Rivage's *Revolution Against Empire: Taxes, Politics, and the Origins of American Independence* analyzes the Stamp Act crisis through the consideration of political economy.<sup>18</sup> Rivage tells a detailed historical narrative that contains the conjoined consideration of the perspectives from the metropole and the colonies. He also considers the multiplicity of opinions that formed on each side to provide a more varied depiction of the political discourse occurring on both sides of the Atlantic. Rivage provides an economic perspective on the Stamp Act crisis and argues that the North American and West Indian colonies disliked the Stamp Act because of the imposition it posed on their expanding commercial economy.<sup>19</sup> This provides greater detail to the backdrop of the Stamp Act and the proper context in understanding the radical colonists' reactions towards the unconstitutional Parliamentary measure.<sup>20</sup>

In *Jefferson and the Virginians: Democracy, Constitutions, and Empire*, Peter Onuf deliberates the role that the provincial government had through his close analysis of Thomas Jefferson and his influence upon Virginian political discourse.<sup>21</sup> Onuf makes the strong case that Jefferson's strong political views heavily influenced the development of Virginian political thought. Jefferson's personal views on property rights, popular sovereignty, the role of the provincial constitution, and expansionism shaped the political landscape of Virginian politics.<sup>22</sup>

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<sup>18</sup> du Rivage, *Revolution Against Empire*.

<sup>19</sup> Ibid., 114.

<sup>20</sup> Ibid., 119.

<sup>21</sup> Peter Onuf, *Jefferson and the Virginians: Democracy, Constitutions, and Empire*, (Baton Rouge: Louisiana State University Press, 2018), 10, 34.

<sup>22</sup> Ibid., 2-16.

In his chapter titled “Democracy,” Onuf compares the views and personalities of Thomas Jefferson and Patrick Henry in order to exemplify their political influence.<sup>23</sup> Throughout his analysis, Onuf threads in Virginian political thought which provides the necessary support in understanding what caused the Stamp Act, the Stamp Act Resolves, and the Stamp Act Congress.

In “Accounting for the Stamp Act Crisis,” Lynne Oats and Pauline Sadler makes a historical intervention into the historiography of the Stamp Act through their consideration of the impracticalities of deploying the Stamp Act as an element which led to its eventual repeal.<sup>24</sup> With the consideration of the geographical distance as well as the underestimation of the resistance movement, Oats and Sadler conclude that the Stamp Act failed largely due to its flawed design and implementation.<sup>25</sup> Similar to Onuf, Oats and Sadler analyze both political discourse and the role of the provincial government. Oats and Sadler give the reasoning behind the metropole’s decisions conjointly with the colonists’ reasoning behind their protests. While this article portrays both sides of the conflict and their respective political discourses, this is a broader analysis than Onuf’s *Jefferson and the Virginians*. It is important to note that Oats and Sadler do mention specific examples of Virginia’s reactions.<sup>26</sup>

Within the revised and expanded edition of *Marbury v. Madison: The Origins and Legacy of Judicial Review*, William Nelson adds a new chapter that is solely dedicated to the

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<sup>23</sup> Ibid., 47-48, 50-51.

<sup>24</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008), 106.

<sup>25</sup> Ibid., 107.

<sup>26</sup> For examples of Virginia, see Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008), 115, 120, 126.



Stamp and Townshend Acts.<sup>27</sup> From his analysis of the colonies' political discourse, Nelson argues that the main drive for colonial protest of the Stamp Act was due to its unconstitutionality.<sup>28</sup> Nelson portrays the Stamp Act crisis as a battle between the metropole and the colonial court system. Some colonists used the provincial courts to attempt in making it null and void. Only the colonies of New Jersey, North Carolina, Pennsylvania, and Virginia decided to keep their courts open during the Stamp Act crisis so that they could hear cases related to stamps.<sup>29</sup> Nelson pieces together various North American colonial perspectives found in primary sources that expressed sentiments in order to determine the precise political principles that the colonies were using to defend their protests against the Stamp Act.

Most of the historical considerations on the Jamaican privilege controversy contain the political principles the colonists were expressing and the actions of the colonial governing bodies themselves. Jack P. Greene's article on the Jamaican privilege controversy was the only study that was solely dedicated to the privilege controversy and it provides great insight into this imperial event.<sup>30</sup> George Metcalf centers his depiction of the Jamaican privilege controversy around the actions of Governor William Lyttleton because of the central role he played within the conflict. Andrew Jackson O'Shaughnessy is one of the only secondary sources that considers

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<sup>27</sup> William Nelson, *Marbury v. Madison: The Origins and Legacy of Judicial Review*, 2nd Ed., (Lawrence: University Press of Kansas, 2018).

<sup>28</sup> *Ibid.*, 46.

<sup>29</sup> *Ibid.*, 51.

<sup>30</sup> Jack Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1: 16-53.

both the North American and the West Indian colonies together and his comparative analysis heavily informed the structure of this thesis.

In "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," Greene asserts that this lesser known imperial conflict had the earmarks of other ideological disputes that were also occurring in the British empire that was based on "liberty versus arbitrary government, local rights versus metropolitan power, law versus executive decrees or instructions."<sup>31</sup> The privilege controversy was one event in a string of debates between the Jamaican colonial leaders and the metropolitan authorities over the amount of power that the colonial government had.<sup>32</sup> Greene contextualizes his depiction of the privilege controversy with the fact that Parliament had repealed the Stamp Act within the same year that the privilege controversy was resolved.<sup>33</sup>

George Metcalf's *Royal Government and Political Conflict in Jamaica* provided a great amount of detail on the Jamaican governors that ruled during the years of 1729-1783 which also provided context on how the metropolitan governing bodies and the other Jamaican Assembly responded to each Jamaican governor.<sup>34</sup> Governor William Lyttleton and his role within the privilege controversy was paired with the Board of Trade's response to the growing internal conflict.<sup>35</sup> This detailed account provides the necessary context in order to fully understand the

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<sup>31</sup> Ibid, 20-21.

<sup>32</sup> Ibid., 21.

<sup>33</sup> Ibid., 16.

<sup>34</sup> Metcalf, *Royal Government and Political Conflict in Jamaica, 1729-1783*.

<sup>35</sup> Ibid, 160-165.

complex relationship that the Jamaican Assembly had with many of the metropolitan appointed governors.

Andrew Jackson O'Shaughnessy's *An Empire Divided* provides a broader contextual understanding of the Jamaican privilege controversy.<sup>36</sup> O'Shaughnessy places the privilege controversy in the midst of the other internal and imperial conflicts occurring at the same in order to provide a better understanding to the cause and effects it had on the Jamaican colony. O'Shaughnessy's seeks to determine why the revolution occurred within the North American colonies and not in the West Indian colonies despite the fact that they shared a similar political ideology.<sup>37</sup> His comparative analysis with the North American and West Indian colonies found that there were many similarities that tied the two areas together. It was because of these strong commonalities that O'Shaughnessy was able to make the strong case that the British West Indies played a pertinent role on the origins of the American Revolution.<sup>38</sup>

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<sup>36</sup> Andrew Jackson O'Shaughnessy, *An Empire Divided: The American Revolution and the British Caribbean*, (Philadelphia: University of Pennsylvania Press, 2000).

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

<sup>38</sup> *Ibid.*, xi-xii.

## CHAPTER 2

### POLITICAL IDEOLOGY IN VIRGINIA AND JAMAICA PRIOR TO 1765

#### I. Eighteenth-Century British Political Ideology

There were many shared political principles found in all regions of the British empire which arguably acted as the glue that held the empire together. Considering the large expanse the British Empire covered in the eighteenth-century, this shared view on the structure and operation of government was essential in maintaining order throughout the extensive empire. One of the most essential tenets of British political thought was that they enjoyed certain constitutionally protected rights and privileges which granted British citizens the ability to enjoy liberty.<sup>39</sup> While there are some variances in which entities and governing documents protected these rights and privileges, it was generally understood throughout the British Empire that any actions or policies that violated citizens' rights and privileges were considered a threat to liberty.<sup>40</sup> North American and West Indian planter elites used the "language of liberty" to defend their rights against the metropolitan policies that infringed upon them.<sup>41</sup> The North American and West Indian colonies understood and used the concepts of liberty and rights together as they were often found used almost interchangeably within specific discussions of rights and privileges. It was ardently

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<sup>39</sup> *The Rights of the British Colonies Considered. The Administration and Regulation of the Colonies Exploded. And the Best Means Recommended to Make the Colonies Most Useful to the Mother Country*, (London, 1765), 12.

<sup>40</sup> *Boston Evening-Post* (Boston, Massachusetts), no. 1567, September 23, 1765: [1]. *Readex: America's Historical Newspapers*. <https://infoweb-newsbank-com.proxyau.wrlc.org/apps/readex/doc?p=EANX&docref=image/v2:1089C792E64CF650@EANX-108B723F7812B898@2365979-108B723F87B85568@0-108B72401875E2F8@>.

<sup>41</sup> Elizabeth Mancke, "The Languages of Liberty in British North America, 1607-1776," In *Exclusionary Empire: English Liberty Overseas, 1600-1900*, ed. by Jack P. Greene, (Cambridge: Cambridge University Press, 2010), 28; In the West Indies, planters used liberty to protect their right to property. See O'Shaughnessy, *An Empire Divided*, 137.

believed that if any of their rights and privileges were infringed upon, their liberty was also compromised.<sup>42</sup>

Due to the wide range of liberties, historians have categorized liberty into different classifications to delineate the groups and patterns found within the political literature. Jack P. Greene restates Sir William Blackstone's classifications of liberty which were the protection of citizens' right to personal security, freedom from imprisonment without cause, and the free use and enjoyment of property and dictates that these liberties were protected by juries and Parliament.<sup>43</sup> Greene states that some components of these rights were used in the defense of colonial liberties throughout the late eighteenth-century within both North American and West Indian colonies.<sup>44</sup> Elizabeth Mancke collated liberty into different groups that was based on her analysis of the North American colonies. Her categories are the liberty to travel, liberty of protection of property and people, liberty of self-government, and liberty of conscience.<sup>45</sup> Natural law and the Magna Charta were the two main sources that provided the authority for colonists to use these different forms of liberty.<sup>46</sup> Mancke argues that these expressions of liberty were used as justifications by British colonial enterprises because the "language of liberty

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<sup>42</sup> Gordon Wood, *The Creation of the American Republic, 1776-1787*, (Chapel Hill, NC: The University of North Carolina Press, 1969), 12.

<sup>43</sup> Greene purposefully used rights in replacement of liberty and considers liberty and rights as interchangeable. Jack P. Greene, "Introduction: Empire and Liberty," In *Exclusionary Empire: English Liberty Overseas, 1600-1900*, ed. by Jack P. Greene, (Cambridge: Cambridge University Press, 2010), 3.

<sup>44</sup> *Ibid.*, 12.

<sup>45</sup> The liberty to travel was only applicable to certain individuals. Mancke, "The Languages of Liberty in British North America, 1607-1776," In *Exclusionary Empire: English Liberty Overseas, 1600-1900*, 25-26.

<sup>46</sup> *Ibid.*, 26.

became entwined in the ideology of the British empire” as well as became an essential component to the identities of Britons within the metropole and its colonial peripheries.<sup>47</sup>

The dictation of citizens’ certain rights and privileges would be meaningless without the ideological support and protection from governing documents. This assures citizens that the government would not only acknowledge their rights but would also protect these rights. The best explanation of this arrangement can be understood through the Enlightenment idea of the social contract.<sup>48</sup> The social contract theory was an essential component of English political ideology and was a widely used concept in transatlantic arguments.<sup>49</sup> Gordon Wood describes the social contract as such: “not a governmental contract between magistrates and people, rulers and ruled, but an agreement among isolated individuals in a state of nature to combine in a society.”<sup>50</sup> Significant British governing documents listed out the rights that citizens had and the role the government had in protecting these rights. The inherited rights of English citizens were protected by the Magna Charta (1215), the Petition of Rights (1628) and the Bill of Rights (1689).<sup>51</sup> Many of the North American and West Indian colonists drew from these same governing documents as it was often cited within colonial documents.<sup>52</sup>

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<sup>47</sup> Ibid.

<sup>48</sup> Clark, *The Language of Liberty: 1660-1832: Political Discourse and Social Dynamics in the Anglo-American World*, 122; Paul Langford, "Old Whigs, Old Tories and the American Revolution," In *The British Atlantic Empire before the American Revolution*, ed. Peter Marshall and Glyn Williams, (London: Frank Cass and Company Limited, 1980), 109-110.

<sup>49</sup> Clark, *The Language of Liberty: 1660-1832: Political Discourse and Social Dynamics in the Anglo-American World*, 122.

<sup>50</sup> Wood, *The Creation of the American Republic*, 283.

<sup>51</sup> O’Shaughnessy, *An Empire Divided*, 118.

<sup>52</sup> Greene, “Introduction: Empire and Liberty,” In *Exclusionary Empire: English Liberty Overseas, 1600-1900*, ed. by Jack P. Greene, 3; O’Shaughnessy, *An Empire Divided*, 118.

Another commonly cited governing document was the English constitution as it was believed to protect these rights and privileges most ardently.<sup>53</sup> The English constitution was generally understood as the ancient constitution which was built upon Enlightenment principles such as the social contract, right to property, and natural law.<sup>54</sup> The North American and West Indian colonies often used the ancient constitution as their main source of defense for their liberties. The ancient constitution became comparatively far less powerful during the eighteenth century than it did during the seventeenth century.<sup>55</sup> This disparity was largely due to what Eliga Gould calls the “fiscal bargain” that was made between the crown and the British populace during the second half of the seventeenth century.<sup>56</sup> England’s political modernization took decades of change which essentially decentered the monarch’s power. This gradual destruction of the system of influence that England utilized for so long allowed representative bodies such as the House of Commons to gain more power.<sup>57</sup> Britain was utilizing a modern consideration of

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<sup>53</sup> Various colonial newspapers articles cited the Stamp Act as a violation of the English constitution, natural law and consent. See *Boston Evening-Post* (Boston, Massachusetts), no. 1567, September 23, 1765: [1]. *Readex: America's Historical Newspapers*. <https://infoweb-newsbank-com.proxyau.wrlc.org/apps/readex/doc?p=EANX&docref=image/v2:1089C792E64CF650@EANX-108B723F7812B898@2365979-108B723F87B85568@0-108B72401875E2F8@>; Edward Long also listed the English constitution as the source of their rights as British citizens. See Long, *The History of Jamaica, Volume 1*, 9.

<sup>54</sup> A New York Mercury article states that the English constitution was founded on a compact. See "The Rights of Colonies Examined." *New-York Mercury* (New York, New York), no. 692, January 28, 1765: [1]. *Readex: America's Historical Newspapers*. <https://infoweb-newsbank-com.proxyau.wrlc.org/apps/readex/doc?p=EANX&docref=image/v2:10DBEB948F3572A8@EANX-10DEF2E54A3D3B28@2365741-10DEF2E55BD2BDE0@0-10DEF2E5DE479E10@The+Rights+of+Colonies+Examined>; Clark, *The Language of Liberty: 1660-1832*, 18; Wood, *The Creation of the American Republic*, 10.

<sup>55</sup> Clark, *The Language of Liberty*, 18.

<sup>56</sup> Gould, *The Persistence of Empire*, 116.

<sup>57</sup> Bailyn, "The Central Themes of the American Revolution: An Interpretation," In *Essays on the American Revolution*, ed. by Stephen Kurtz and James Hutson, 25.

these political principles while the American colonists were operating from a traditional concept of the same political principles.

There are many theories on why American colonists were drawn to a more traditional understanding of the English constitution.<sup>58</sup> J. C. D. Clark believed it was the American colonies' lack of unity as a result of their diverse demographic makeup which caused the colonists to be ever more drawn to the ancient constitution.<sup>59</sup> Gordon Wood provides an alternative explanation by arguing that American colonists were being purposefully selective in the British political literature that they chose to adhere to.<sup>60</sup> Radical American colonists utilized a lot of principles that stemmed from Whig political thought. One colonial newspaper article attempts to reconcile this debate with its assertion that colonists enjoyed both "ancient and modern" freedom.<sup>61</sup> Ancient liberty being traced back all the way to the Roman empire and modern liberty being the late seventeenth century British empire's concept of liberty.<sup>62</sup> All of these rights and privileges are granted and protected under "the then English, now British constitution."<sup>63</sup> Considering the differing perspectives and degrees of radicalness within the colonies, the political ideology of the

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<sup>58</sup> Bernard Bailyn, *The Ideological Origins of the American Revolution*, (Cambridge: The Belknap Press of Harvard University Press, 1967), 35.

<sup>59</sup> *Ibid.*, 19-20.

<sup>60</sup> Wood, *The Creation of the American Republic*, 14.

<sup>61</sup> "The Rights of Colonies Examined." *New-York Mercury* (New York, New York), no. 692, January 28, 1765: [1]. *Readex: America's Historical Newspapers*. <https://infoweb-newsbank-com.proxyau.wrlc.org/apps/readex/doc?p=EANX&docref=image/v2:10DBEB948F3572A8@EANX-10DEF2E54A3D3B28@2365741-10DEF2E55BD2BDE0@0-10DEF2E5DE479E10@The+Rights+of+Colonies+Examined>.

<sup>62</sup> Greene, "Of Liberty and the Colonies," In *Liberty and American Experience in the Eighteenth Century*, 57.

<sup>63</sup> *Ibid.*



colonies was on a spectrum between the ancient and modern considerations of the British constitution.

An essential component of the legal system was the concept of common law. Common law structured the entire legal system as well as protected citizens' rights and privileges. Jack P. Greene explained that "the common law, or *lex non scripta*, was the product of the time, continuous usage, and the quiet and common consent of the people."<sup>64</sup> The common law was important to British citizens because it provided guidelines for the courts in how to protect the liberties of the English people. Sir Edward Coke, an early seventeenth century judge and jurist, believed that "even the Magna Charta and other important statutes in the constitutional tradition were 'but a confirmation or restitution of the common law.'"<sup>65</sup> North American and West Indian colonial assemblies utilized the common-law tradition of Sir Edward Coke to increase their powers "by appealing to the precedents, traditions, and statutes in both their own and other colonies."<sup>66</sup> North American and Irish colonies recreated English common law culture to create consensual politics. This was largely done through the formation of republican institutions that were able to create their own laws and levy their own taxes.<sup>67</sup>

Liberty, protection of property, and consent were considered the most revered rights in early modern English political thought. James Otis II, deputy advocate-general of the

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<sup>64</sup> Greene, "Of Liberty and the Colonies: A Case Study of Constitutional Conflict in the Mid-Eighteenth Century British American Empire," In *Liberty and American Experience in the Eighteenth Century*, ed. by David Womersley, 2.

<sup>65</sup> Ibid.

<sup>66</sup> O'Shaughnessy, *An Empire Divided*, 119.

<sup>67</sup> Greene, "Introduction: Empire and Liberty," In *Exclusionary Empire: English Liberty Overseas, 1600-1900*, ed. by Jack P. Greene, 5.

Massachusetts vice-admiralty court, considered these three rights intertwined with one another.<sup>68</sup> Elements of these essential components of British political thought were scattered throughout the political discourse found in all of Britain's peripheries in some form. This provides the proper background in understanding why American colonists equated the violation of their liberties with the denotation of slavery.<sup>69</sup> For example, a New York Mercury article titled "The Rights of Colonies Examined" stated that "liberty is the greatest blessing that men enjoy, and slavery the heaviest curse that human nature is capable of."<sup>70</sup> Examples of this strong and evocative language proved how highly coveted these rights were by colonists and why they were most ardently protected.<sup>71</sup> The colonists believed that they were protecting the British political ideals that were forgotten by the very entity that created them.

## II. Virginian Political Ideology

Political thought in Virginia stemmed from English political thought. The colony modeled its government and constitution on English precedent.<sup>72</sup> The first Virginian settlers

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<sup>68</sup> William Penack, "Otis, James, Junior," Oxford Dictionary of National Biography, September 23, 2004, <http://www.oxforddnb.com.proxyau.wrlc.org/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-68723?rskey=gN30dd&result=4>; Otis, *The Rights of the British Colonies Asserted and Proved*, 57-58.

<sup>69</sup> Greene, "Of Liberty and the Colonies," In *Liberty and American Experience in the Eighteenth Century*, 62; Bailyn, *The Ideological Origins of the American Revolution*, 233. Morgan argues that Virginians were treated in this manner because the Virginian colony was created by Great Britain as a colony meant to be exploited. See Edmund Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia*, (New York: W. W. Norton & Company, Inc., 1975), 42; Randolph, *History of Virginia*, 235.

<sup>70</sup> "The Rights of Colonies Examined." *New-York Mercury* (New York, New York), no. 692, January 28, 1765: [1]. *Readex: America's Historical Newspapers*. <https://infoweb-newsbank-com.proxyau.wrlc.org/apps/readex/doc?p=EANX&docref=image/v2:10DBEB948F3572A8@EANX-10DEF2E54A3D3B28@2365741-10DEF2E55BD2BDE0@0-10DEF2E5DE479E10@The+Rights+of+Colonies+Examined>.

<sup>71</sup> Referring to both the Stamp Act and the Privilege Controversy.

<sup>72</sup> Randolph, *History of Virginia*, ed. by Arthur H. Shaffer, 87.

carried the same political ideology from England to their new homeland. After the mysterious end of Roanoke, King James issued two charters to Sir Thomas Gates and his crew to found a northern and southern colony within the borders that would later be known as Virginia.<sup>73</sup> A significant principle that can be found in this founding charter was the principle that inhabitants of this colony and their children were to enjoy the same liberties as native subjects of the British empire.<sup>74</sup> This hereditary principle that was shared with British citizens in both sides of the Atlantic was protected under the British constitution.<sup>75</sup> Along with this charter, King James also issued a series of instructions that were to be considered as laws for the colonists to abide by. From its founding charter, Virginia has laid its political principles upon the foundation of common laws. Thomas Jefferson described the English common law as such: “the common law of England by which is meant, that part of the English law which was anterior to the date of the oldest statutes extant, is made the basis of the work.”<sup>76</sup> Considering that Virginians would be valued as equal British subjects, it is understandable that any crime that violated these laws would be punishable in the same manner as it would in Great Britain. It was stated within this set of laws that all crimes committed within the Virginian colony would be tried within a trial and

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<sup>73</sup> Morgan, *American Slavery, American Freedom*, 42; Randolph, *History of Virginia*, 17.

<sup>74</sup> Randolph, *History of Virginia*, 18.

<sup>75</sup> Clark, *The Language of Liberty*, 137.

<sup>76</sup> Thomas Jefferson, *Notes on the State of Virginia*, ed. by William Peden, (Chapel Hill: The University of North Carolina Press, 1954), 137.

convicted by a jury.<sup>77</sup> British subjects relied upon courts with juries to protect their coveted liberties.<sup>78</sup>

The Virginia Company, a joint-stock company that controlled Virginia from 1606 to 1624, quickly became the most influential governing body that the settlers took directives from.<sup>79</sup> During this time period, the economic reasons for settling in the Americas were much more prominent and were further embedded within the operations of the colony itself. From the discussion of the planting of corn versus tobacco to the use of slaves, it became clear the main purpose of the Virginia to the metropole was for monetary gains through its supply of raw materials.<sup>80</sup> As tobacco became the uncontested monopoly of Virginia, the tumultuous relationship between the Virginia Company and the metropolitan government was complicated further.<sup>81</sup> Scarcity of corn, decreased amount of exports, lack of defense against foreign threats and nutrient-depleted soil were all issues that caused the metropole to question the Virginia Company's governance of the colony.<sup>82</sup> There was also fracturing and disagreements within the Company itself which created a "pretense for its dissolution."<sup>83</sup> Virginia's reliance upon tobacco

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<sup>77</sup> Randolph, *History of Virginia*, 18. This principle was carried into Virginia's state government as shown within Thomas Jefferson's *Notes on the State of Virginia*. See Jefferson, *Notes on the State of Virginia*, ed. by William Penden, 130.

<sup>78</sup> Greene, "Introduction: Empire and Liberty," 3.

<sup>79</sup> Other entities such as the Board of Trade, Parliament and the provincial governors. See Randolph, *History of Virginia*, 32-33, 146; Mary Bilder, "English Settlement and Local Governance," In *The Cambridge History of Law in America*, edited by Michael Grossberg and Christopher Tomlins, 1:63-103, (The Cambridge History of Law in America. Cambridge: Cambridge University Press, 2008), 69.

<sup>80</sup> Morgan, *American Slavery, American Freedom*, 108; Randolph, *History of Virginia*, 88, 96-97.

<sup>81</sup> The tobacco contract was revoked as a new negotiated agreement replaced it. Randolph, *History of Virginia*, 116.

<sup>82</sup> *Ibid.*, 88-94.

<sup>83</sup> *Ibid.*, 99.

as its main cash crop proved to be economically unsound during the economic downturns.<sup>84</sup> All of these factors became fuel for the tensions that were mounting between the Virginia Company and the metropole.

The economic purpose of Virginia climaxed to a point when it started to infringe upon the liberties of the British subjects. The biggest obstacle of the Virginia Company was the Virginian provincial government. A declaration was signed by Governor Francis Wyatt, his privy-council, and twenty-four members of the House of Burgesses which informed the crown all of the issues that the colony was currently facing.<sup>85</sup> The monarch and the Virginian government went back and forth in trying to figure out a solution. After a petition was sent by the Virginian government, Parliament terminated the Virginia Company's contract on 1624.<sup>86</sup> The very provincial government that submitted the petition would rise to take its place.<sup>87</sup> Despite the short length of the Virginia Company's governance of the Virginian colony, the effects of its narrowed economic focus helped increase the economic productivity of Virginia which carried on in the years that followed.

As Virginia continued to grow in its economic importance, the Virginian landed gentry held onto their rights of owning property even closer.<sup>88</sup> The two major components of property, land and slaves, allowed the landed gentry to fulfill the growing demand of tobacco from Great

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<sup>84</sup> Ibid., 105.

<sup>85</sup> Ibid., 130-134.

<sup>86</sup> Bilder, "English Settlement and Local Governance," In *The Cambridge History of Law in America*, edited by Michael Grossberg and Christopher Tomlins, 1:63-103, 71.

<sup>87</sup> Ibid., 144-146.

<sup>88</sup> Gould, *The Persistence of Empire*, 185.

Britain. However, the creation of the governorship and general concerns of possible tyrannical behavior added greater significance to the right of property ownership.<sup>89</sup> The lack of trust with the governorship transferred over to the Virginian Assembly when the Virginian provincial government expanded to include the legislative branch.<sup>90</sup> The story of Nathaniel Bacon and the leadup to his rebellion is an example of the lack of trust of the Virginian government. Bacon and his fellow neighbors came together to solve the growing issue of Indians and the threat they posed against their economic profits.<sup>91</sup> Bacon's Rebellion was a democratic response directed towards Governor William Berkeley and the Assembly that refused to protect their property against the threat of Indians.<sup>92</sup> The expansion of local governance's sovereignty paradoxically caused the colonists to rely further upon the monarchy to protect their rights and interests against possible tyrannical local government officials.<sup>93</sup> As the trust between the colonial government and its constituents grew, the political sovereignty of the colony grew correspondingly. By the middle of the seventeenth century, self-governance and self-taxation by property owners became a political tradition within Virginia.<sup>94</sup>

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<sup>89</sup> Randolph, *History of Virginia*, 152.

<sup>90</sup> Morgan, *American Slavery, American Freedom*, 258.

<sup>91</sup> *Ibid.*, 255.

<sup>92</sup> *Ibid.*, 258-259.

<sup>93</sup> This continued all the way to the start of the Revolutionary War as the king was largely addressed within revolutionary documents such as *Common Sense* and the *Declaration of Independence*. See Weldon Brown, *Empire or Independence: A Study in the Failure of Reconciliation, 1774-1783*, (Port Washington, NY: Kennikat Press, Inc., 1941), 95 and *Thomas Jefferson, et al, July 4, Copy of Declaration of Independence*, (-07-04, 1776, Manuscript/Mixed Material, Retrieved from the Library of Congress, <https://www.loc.gov/item/mtjbib000159/>).

<sup>94</sup> Ian Christie and Benjamin Labaree, *Empire of Independence 1760-1776: A British-American Dialogue on the Coming of the American Revolution*, (New York: W. W. Norton & Company Inc., 1976), 19.

Slavery was a prevalent focus for Virginian planters that drove political debates on property rights.<sup>95</sup> This was especially true when the profits from tobacco increased drastically.<sup>96</sup> The political issue of slavery became only more prevalent within political discourse as time progressed. An example of the impact that slavery had on Virginians' strong adherence towards property rights was a legislative bill about slavery. Balancing the metropolitan directives and Virginian political thought, Governor Fauquier faced a political conundrum that was ideological in nature. It was declared within a legislative bill that slaves would be considered as property and would not be taken unless it was to pay off debt.<sup>97</sup> The bill was meant to reassure colonists that their right to the protection of property would be upheld during this time of economic strain. Governor Fauquier supported this bill as it protected Virginians' property rights against any possible metropolitan policies. However, the House of Burgesses believed that this was not an issue of metropolitan intrusion but an issue of Virginian governance. In their rejection to this bill, the Virginia House of Burgesses expressed their devotion to the crown as well as their concern for the present state of affairs within Virginia. "The large Sums that we have been obliged to issue in Treasury Notes to enable us to comply with his Majesty's Requisitions, have already occasioned great Complaints, particularly from the Merchants of Great Britain trading to this Colony; and, as we have no other Means of Defraying the Expenses of the Regiment..."<sup>98</sup> The

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<sup>95</sup> Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia*, 42; Randolph, *History of Virginia*, 369; Bailyn, *The Ideological Origins of the American Revolution*, 232.

<sup>96</sup> Edmund Morgan calls this as the "boom" which occurred in Virginia during the 1620s. See Morgan, *American Slavery, American Freedom*, 42; Randolph, *History of Virginia*, 108-109.

<sup>97</sup> *Ibid.*, 890-891.

<sup>98</sup> *Ibid.*, 895.

added expenses of maintaining a regiment and following the metropole's directives have shown expressed economic stress upon the colony by the Virginia House of Burgesses.

An essential component of Virginian political ideology was the elements of a republican government found within the structure of its provincial government. Radical colonists had a "republican vision of Britain's imperial constitution."<sup>99</sup> Colonial politicians were expected to represent their constituents and their interests. An essential check upon power was the Whig idea of virtue. Similar to other forms of virtue, many Virginian colonists found Whig virtue necessary in protecting individual liberties from the selfishness of government leaders.<sup>100</sup> Tyranny was seen as a direct threat to individual liberties and virtue was deemed as a solution in staving off this threat.<sup>101</sup> Virtue was not only expected within politicians but it was expected within individuals as well. Particular to the North American colonies, religion was commonly equated to virtue and was often used to enforce virtuous behavior.<sup>102</sup> Radical colonists took personal initiative in attempting to fight against any tyrannical attempts that tried to deprive them of their rights.<sup>103</sup> Whether in the form of Whig virtue or individual virtue, the middle and lower echelons of American colonists used elements of Whig ideology to create their own "language of liberty."<sup>104</sup>

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<sup>99</sup> du Rivage, *Revolution Against Empire*, 117.

<sup>100</sup> Shelley Burt, *Virtue Transformed: Political Argument in England, 1688-1740*, (Cambridge: Cambridge University Press, 1991), 73.

<sup>101</sup> In fact, colonists correlated tyranny as a direct threat their liberties and rights that were protected under the constitution. See Clark, *The Language of Liberty: 1660-1832*, 18; Wood, *The Creation of the American Republic*, 249.

<sup>102</sup> David Womersley, "Introduction: A Conservative Revolution," In *Liberty and American Experience in the Eighteenth Century*, ed. by David Womersley, (Indianapolis: Liberty Fund, 2006), 11.

<sup>103</sup> Clark, *The Language of Liberty*, 262.

<sup>104</sup> Peter S. Onuf, & C. Matson, "Republicanism and Federalism in the Constitutional Decade,"



The concept of curbing state sovereignty was also considered a notion that was derived from federalism. Federalists such as Thomas Jefferson believed that provincial governments would act as a protective shield against any metropolitan actions that threatened Virginia's sovereignty.<sup>105</sup> The only way that provincial governments could successfully ward off foreign threats was that its own government would be rid of any internal threats to its own sovereignty. Implementation of "ward republics" and provincial constitutions were tools that Virginians used to ensure that their local government did not have any obstacles that stood in its way of governing itself.<sup>106</sup> While Virginian colonists received the notion of constitutions from the English constitution, Virginia's own constitution espoused unique political thought that differed from the ancient constitution.<sup>107</sup> Peter Onuf contends that from the inception of the colony, Virginian colonists have created a separate civic space where they could exercise freedom to develop their own ideas.<sup>108</sup> "Provincial constitutions represented local versions of a shared culture and history of liberty, dating back to the Magna Carta and beyond, adapted to the distinctive circumstances of American settlements."<sup>109</sup> Virginian colonists created its own conception of traditional British political thought and shaped it to be its own.

The unique structures of the Virginian constitution and provincial government caused some issues for the young colony. At the heart of Virginian political ideology was the democratic

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*Proceedings of the American Antiquarian Society*, 102 (1992): 181. The term "language of liberty" was borrowed from J.C.D. Clark's *The Language of Liberty: 1660-1832*.

<sup>105</sup> Onuf. *Jefferson and the Virginians*, 3.

<sup>106</sup> *Ibid.*, 3, 8.

<sup>107</sup> *Ibid.*, 8.

<sup>108</sup> *Ibid.*, 6.

<sup>109</sup> *Ibid.*, 8.

principle of centering government around the sovereignty of the populace it represents. Provincial constitutions was still a novice idea and “the challenge was to abstract and articulate fundamental principles from the poorly documented history of institutions and customary practices originally grounded in those rights.”<sup>110</sup> Jefferson’s personal qualms with Virginia’s constitution represents this challenge well. Jefferson believed that the fact that the constitution was not ratified by the Virginian populace made the document invalid.<sup>111</sup> Additionally, the Virginian constitution lacked the specific language that protected citizens’ rights and privileges which were often expressed in other colonial constitutions.<sup>112</sup> Thomas Jefferson, James Madison, and Patrick Henry were a few of the Virginian political leaders that continued to fight for the democratic principles that they personally espoused.<sup>113</sup>

The structure of Virginia’s provincial government also caused some conflict during its early years. Edmund Morgan believes that it was the poor organization and unbalanced power within the early forms of Virginian government that caused the many failures that plagued Jamestown in its founding year.<sup>114</sup> The president essentially had no authority while the council that was appointed by the king held all the power. Morgan further explains through the example of John Smith how this system was deeply flawed because of the increased chance of unfavored leaders’ ability to take control.<sup>115</sup> Smith’s confidence emboldened him to take control of the

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<sup>110</sup> Ibid.

<sup>111</sup> Ibid., 12.

<sup>112</sup> Ibid., 56.

<sup>113</sup> Ibid., 56, 70, 76.

<sup>114</sup> Morgan, *American Slavery, American Freedom*, 75.

<sup>115</sup> Ibid.

weak government despite his unpopularity amongst the colonists.<sup>116</sup> The lack of democratic principles during the formation of the Virginian provincial government caused a lot of tension within the colony itself. This stands as another example of the deep impact that the consequences of thoughtless planning and structuring had at the infancy of the inexperienced Virginian colony which influenced the formation of Virginia's own interpretation of British political principles.

### III. Jamaican Political Ideology

Even though the British colony of Jamaica was formed later than the colony of Virginia, they both share many commonalities within their founding principles and structure. Jamaican colonists similarly believed that they received the same inherited rights as their British and North American counterparts which was reflected in its founding charter.<sup>117</sup> The Jamaican colony also developed a provincial government that had a similar structure as the Virginian colony. While there were strong similarities found between the Jamaican and Virginian colonies, there were also some significant differences that made each colony stand apart from each other.<sup>118</sup> Jamaica had a more significant economic output than Virginia. Jamaica's more significant economic value caused the metropole to be more protective of the Jamaican colony against foreign powers and slave insurrections.<sup>119</sup> From Jamaica's start as a British colony, the threat of foreign powers

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<sup>116</sup> Ibid.

<sup>117</sup> O'Shaughnessy, *An Empire Divided*, 118.

<sup>118</sup> Both the Virginian and the Jamaican colonies were Royal Colonies. See Bilder, "English Settlement and Local Governance," In *The Cambridge History of Law in America*, edited by Michael Grossberg and Christopher Tomlins, 1:63-103, 69-71, 79.

<sup>119</sup> O'Shaughnessy, *An Empire Divided*, 34.

was always there.<sup>120</sup> The hugely disproportionate numbers between the planters and their slaves explicates the West Indies' reliance upon the metropole for defense and supports how much its economy was reliant upon cash crops.<sup>121</sup> While there were political disagreement amongst the Jamaican colonists, most Jamaican disputes were resolved by deferring to the metropole for their final decision. It is within these similarities and differences found between the Virginian and Jamaican colonies that a clearer picture emerges on determining which elements influenced the development of each colonies' own political ideologies.

After Jamaica was acquired from the Spanish empire in 1655, Jamaica became the largest British colony in the West Indies and quickly became Britain's most lucrative colony.<sup>122</sup> By 1700, the total wealth of the island was an estimated £2,217,662 which increased to almost £10 million by 1750.<sup>123</sup> Before it was deemed as Britain's most profitable colony, Jamaica had humbler beginnings at its start as a British colony. Britain received Jamaica from Spain as a compromise since Britain desired Hispaniola more.<sup>124</sup> The troops that were already stationed in Jamaica were the first settlers of the newly acquired British colony.<sup>125</sup> Following the same prescribed method with the earlier established American colonies, King Charles issued a

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<sup>120</sup> The Spaniards that were still living on the island would kill any strangers that they could come into contact with. Piracy was also a major issue. See Patrick Browne, *The Civil and Natural History of Jamaica*, (London: B. White and Son, 1789), 3-4.

<sup>121</sup> According to the essay "An Essay towards an Estimate of the riches and Value of Jamaica," slavery took up 40% of the island's economy. See Jack P. Greene, *Settler Jamaica in the 1750s: A Social Portrait*, (Charlottesville; London: University of Virginia Press, 2016), 11-13.

<sup>122</sup> Greene, *Settler Jamaica in the 1750s*, 1; Trevor Burnard, *Thomas Thistlewood and His Slaves in the Anglo-Jamaican World*, (Chapel Hill: University of North Carolina Press, 2009), 21.

<sup>123</sup> Burnard, *Thomas Thistlewood and His Slaves in the Anglo-Jamaican World*, 22.

<sup>124</sup> *Ibid.*, 21.

<sup>125</sup> Browne, *The Civil and Natural History of Jamaica*, 3.

proclamation to lure white settlers into this newest colony. With the same promise that was given to soon-to-be Virginians, the proclamation stated “all children of natural-born subjects of England, to be born in Jamaica, shall, from their respective births, be reputed to be, and shall be, free denisons of England; and shall have the same privileges, to all intents and purposes, as the free-born subjects of England.”<sup>126</sup> North American colonies, West Indian colonies and the metropole shared the common understanding that all British citizens would receive the same rights. “In addition, the colonists claimed a theoretical basis for their power, impelling them to make greater political claims for their assemblies. They took for granted that they possessed the inherited rights of Englishmen and were entitled to the same respect and advantages as their follow subjects in England.”<sup>127</sup> It was this initial understanding of the Jamaicans’ rights and privileges that eventually caused conflicts such as the Jamaican privilege controversy. King Charles also issued an early resolution that encouraged Jamaica to increase their economic output because he saw the monetary potential in Britain’s newest colony.<sup>128</sup> This resolution set the course of events that eventually made Jamaica into Great Britain’s most valuable colony.

Oliver Cromwell, lord protector, helped the Jamaican colony transition from being a Spanish to British protectorate.<sup>129</sup> As soon as he received the news of the acquisition of Jamaica, Cromwell sent three thousand troops to protect the island.<sup>130</sup> Just three years into being a British

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<sup>126</sup> Long, *The History of Jamaica, Volume 1*, 9.

<sup>127</sup> Ibid.

<sup>128</sup> Browne, *The Civil and Natural History of Jamaica*, 4.

<sup>129</sup> John Morrill, "Cromwell, Oliver," Oxford Dictionary of National Biography, September 17, 2015. <https://doi-org.proxyau.wrlc.org/10.1093/ref:odnb/6765>; Browne, *The Civil and Natural History of Jamaica*, 3.

<sup>130</sup> Browne, *The Civil and Natural History of Jamaica*, 3.

colony, Cromwell's death had caused the metropolitan government to fall into disarray.<sup>131</sup> Jamaica underwent a few changes in leadership as Governors Thomas Modyford, Thomas Lynch, Henry Morgan both ruled from the years 1664 to 1682.<sup>132</sup> It was not until the beginning of Governor Modyford's governorship that the Jamaican Assembly was formed in 1664.<sup>133</sup> As the settler population in Jamaica expanded, the metropolitan established a provincial government to better enforce and represent the directives of the mother country.<sup>134</sup> King Charles II granted Jamaica its charter with the desire of establishing a "regular form of government for this Island."<sup>135</sup> Sir John Vaughan, appointed as Jamaica's governor in 1674, intended to govern Jamaica in a similar manner as Parliament.<sup>136</sup> Governor Vaughan intended to follow the crown's orders with such enthusiasm and also hoped to solve the rampant piracy issue that was plaguing

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<sup>131</sup> Browne, *The Civil and Natural History of Jamaica*, 4.

<sup>132</sup> Nuala Zahedieh, "Morgan, Sir Henry," Oxford Dictionary of National Biography, October 4, 2004, <https://doi.org/10.1093/ref:odnb/19224>; Nuala Zahedieh, "Modyford, Sir Thomas, First Baronet," Oxford Dictionary of National Biography, January 3, 2008, <https://doi.org/10.1093/ref:odnb/18871>.

<sup>133</sup> Jamaica. "The New Act of Assembly of the Island of Jamaica, Intituled, An Act to Repeal an Act, Intituled, "An Act to Repeal Several Acts, and Clauses of Acts, Respecting Slaves, and for the Better Order and Government of Slaves, and for Other Purposes:" and Also to Repeal the Several Acts, and Clauses of Acts, Which Were Repealed by the Act Intituled as Aforesaid; and for Consolidating and Bringing into One Act the Several Laws Relating to Slaves, and for Giving Them Further Protection and Security; for Altering the Mode of Trial of Slaves Charged with Capital Offences; and for Other Purposes; Commonly Called, the New Consolidated Act, Which Was Passed by the Assembly on the 6th of November--by the Council of the 5th Day of December--and by the Lieutenant Governor on the 6th Day of December, 1788; Being the Present Code Noir of That Island. Published for the Use of Both Houses of Parliament, and the Satisfaction of the Public at Large, by Stephen Fuller, Esq., Agent for Jamaica." Hathi Trust. 1789. <https://catalog.hathitrust.org/Record/010445756/Home>.

<sup>134</sup> Long, *The History of Jamaica, Volume 1*, 9.

<sup>135</sup> Browne, *The Civil and Natural History of Jamaica*, 5.

<sup>136</sup> K. Grudzien Baston, "Vaughan, John, Third Earl of Carbery," Oxford Dictionary of National Biography, January 3, 2008, <https://doi-org.proxyau.wrlc.org/10.1093/ref:odnb/28135>.

Jamaica.<sup>137</sup> The metropole also modeled the provincial government after its own with its three branches and the governor holding the same position as the king.<sup>138</sup>

While the structure of the Jamaican provincial government bore many similarities with the metropolitan government, there were also some stark differences.<sup>139</sup> These differences were caused by the fact that each colony has specific needs that could properly be met by a local governing body.<sup>140</sup> One key difference was the importance of the Privy Council. The king appointed and removed members of the privy-council that held the same power as a justice. Within certain restraints, the privy-council had the sole authority of sentencing people that committed crimes against the state.<sup>141</sup> The privy-council is one of the many examples found within the Jamaican provincial government that showcased the ambiguity of sovereignty. The Jamaican privy-council in particular had responsibilities that overlapped with the jurisdiction of the judicial and legislative establishment. This vague and consolidation of power gets further complicated with the fact that the council within Jamaica could not truly exercise any of this power. It was more commonly understood that the council's sole job was to provide advice to the governor.<sup>142</sup> The privy-council was meant to be representative of the House of Lords in England, however the fluidity with the privy-council's obligations made this a far cry from being truly representative of the House of Lords.

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<sup>137</sup> Browne, *The Civil and Natural History of Jamaica*, 5.

<sup>138</sup> Long, *The History of Jamaica, Volume 1*, 10.

<sup>139</sup> Browne, *The Civil and Natural History of Jamaica*, 5.

<sup>140</sup> Long, *The History of Jamaica, Volume 1*, 163.

<sup>141</sup> *Ibid.*, 159-160.

<sup>142</sup> Metcalf, *Royal Government and Political Conflict in Jamaica, 1729-1783*, 24.

The very opposite occurred with the position of the governor as it had proportionally more power than the king did within the metropolitan government. Appointed by the king, the governor was meant to be the representative of the king and follows his directives.<sup>143</sup> George Metcalf described the royal governor as “the kingpin of colonial administration.”<sup>144</sup> The governor had a considerable amount of power: commander of military forces, president during piracy trials, keeper of the seal of Jamaica, judge of probate of wills and appeal in the court of errors, and grantor of administrations in the ecclesiastical court.<sup>145</sup> The Governor also had “power to summon, prorogue, or dissolve the assembly, power to veto laws, declare martial law, power expanded appoint/dismiss judges, militia officers and senior law officers such as attorney general.”<sup>146</sup> Long described the governor as “a vice-roy; a legislator; a general; a judge in equity and law, in ecclesiastical and in maritime affairs” which was essentially a “combination of offices.”<sup>147</sup> The many roles of the Governor required a person of considerable “genius, judgement, memory and experience.”<sup>148</sup> The Governor’s vast powers eventually increased elite Jamaicans’ fears of tyranny.<sup>149</sup> The governor’s significant amount of power caused the planter elite to realize that the Jamaican provincial government was “very foreign from that of the English constitution.”<sup>150</sup>

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<sup>143</sup> Following the English government as a model, the governor was appointed by the king. See Long, *The History of Jamaica, Volume 1*, 26, 164; Browne, *The Civil and Natural History of Jamaica*, 5.

<sup>144</sup> Metcalf, *Royal Government and Political Conflict in Jamaica*, xi.

<sup>145</sup> *Ibid.*, 26.

<sup>146</sup> O’Shaughnessy, *An Empire Divided*, 117.

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

<sup>148</sup> *Ibid.*

<sup>149</sup> In reference to the Privilege Controversy.

<sup>150</sup> Browne, *The Civil and Natural History of Jamaica*, 5.



The unbalanced structure of the Jamaican provincial government scared the elite planter class of the possible threat of despotic power.<sup>151</sup> Jamaican planters hoped that virtue could combat the threat of tyranny.<sup>152</sup> This Enlightenment principle of civic virtue was deemed as an essential trait of republican leaders and helped keep the balance between freedom and governance.<sup>153</sup> The Jamaican Assembly, which represented the planters, was to act as a check against any attempt of attacking individual liberty. An example of this can be found when the House of Commons instructed the Jamaican Assembly to dismiss the indiscretions of Governor Knowles.<sup>154</sup> This further reiterates the high value the Jamaican Assembly placed upon the principle of virtue as it was expected from their governors as Governor Knowles was accused of “monstrous tyranny.”<sup>155</sup> The king had the power to replace governors and did so on the ones that abused its powers to the planter elites’ discontent.<sup>156</sup> In the case of Knowles, he was eventually recalled from office and was sent back to England.

The Jamaican Assembly is the third major governing entity that was meant to be representative of the House of Commons in England.<sup>157</sup> The members of the Assembly would be electorally chosen and each township would have three representatives each.<sup>158</sup> The Assembly

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<sup>151</sup> Ibid., 5.

<sup>152</sup> Virtue is used throughout Long’s comprehensive history of Jamaica when describing the various components of its government. See Long, *The History of Jamaica, Volume 1*, 5.

<sup>153</sup> Burt, *Virtue Transformed*, 65.

<sup>154</sup> The Board of Trade also took the side of Governor Moore. See Metcalf, *Royal Government and Political Conflict in Jamaica*, 136 and 143.

<sup>155</sup> Ibid., 135.

<sup>156</sup> In dealing with a tyrannical governor, oftentimes the metropole avoided further controversy by removing them from power. See Metcalf, *Royal Government and Political Conflict in Jamaica*, 135.

<sup>157</sup> Browne, *The Civil and Natural History of Jamaica*, 5.

<sup>158</sup> Browne, *The Civil and Natural History of Jamaica*, 5; Long, *The History of Jamaica, Volume 1*, 54.

was created through a writ that was issued by the governor which was following a royal proclamation.<sup>159</sup> The Assembly was the only entity of the Jamaican government that was democratically elected and held other democratic traits as well. The rights and privileges that the Assembly possessed came from the constituents that they represented.<sup>160</sup> As Edward Long described the Assembly to not have “concessions from the crown, but the right and inheritance of the people; and that the privileges which they claim are absolutely necessary to support their own proper authority...”<sup>161</sup> The Assembly’s sovereignty rested upon the Jamaican populace itself which makes the Assembly reliant upon the colonists’ support. Out of all three of the entities, the Assembly was the governing entity that directly represented the Jamaican colonists. Long finishes his description of the democratic characteristics of the Assembly by describing that the Assembly was “to give the people of the colony that protection against arbitrary power, which nothing but a free and independent assembly can give.”<sup>162</sup> The Assembly’s reliance upon the colonists and its independence from the metropole made the Assembly the only governing entity that properly represented and protected the colonists from any other threats.

In *The History of Jamaica*, Edward Long spends a great deal on describing the legislative branch of the Jamaican government. Long states that the purpose of the legislature was to “exercise the highest acts of legislation; for it raises money; and its laws extend to the life, liberty, and property, of the subject...”<sup>163</sup> This notion of laws protecting “life, liberty, and

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<sup>159</sup> Long, *The History of Jamaica, Volume 1*, 54.

<sup>160</sup> Ibid., 56.

<sup>161</sup> Ibid.

<sup>162</sup> Ibid.

<sup>163</sup> Ibid.

property” stems from John Locke’s *Second Treatise on Government*. In his chapter on legislative power, Locke lists these three rights as essential components within the state of nature. Within a legislative government that represents the populace, Locke states that these components of natural rights could not be infringed upon by another person.<sup>164</sup> The mention of “life, liberty, and property” within Long’s description of the Jamaican Assembly illustrates that Jamaica’s legislature borrowed elements of its political thought from Enlightenment ideals.

Within the description of how the first representatives that would serve in the newly formed Jamaican provincial government, Edward Long provides a detailed summary of how these three governing entities would interact with one another during this process.<sup>165</sup> The manner in which each entity has to approve the other’s appointments and decisions showed how the Jamaican government utilized a system of checks and balances. The whole process was meant to be done in the name of “their ancient rights and privileges, freedom of debate, liberty of access to his excellency’s person, and exemption from arrests during the fitting.”<sup>166</sup> This list of rights and privileges reveals these ideals to be essential components to English political ideology according to the Jamaican government. The charter that formed these three governing entities was authorized by the metropole “to make and ordain such laws and regulations as they think necessary, for the better government of the community, or prosperity and welfare of the colony.”<sup>167</sup>

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<sup>164</sup> John Locke, “Second Treatise on Government,” (<https://www.gutenberg.org/files/7370/7370-h/7370-h.htm>).

<sup>165</sup> Long, *The History of Jamaica, Volume 1*, 54.

<sup>166</sup> Ibid.

<sup>167</sup> Browne, *The Civil and Natural History of Jamaica*, 5.

Despite the fact that the Assembly had the most democratic characteristics, all three components of the Jamaican government was ordered to consider the needs of the colony above anything else. An important caveat to this principle was that the monarch had the final say on all colonial matters.<sup>168</sup> If any of the laws and actions of the provincial government went against any “laws or interests of the mother country,” the metropole not only had the right to override any provincial actions but also had the right to dissolve the assembly.<sup>169</sup> Through this close analysis and consideration of how the provincial government was formed and its relationship with the metropole, it is clear that the provincial government was created to represent the metropole and all of its directives.

Another governing entity that also possessed democratic characteristics was the Jamaican court system which was responsible in handling any internal legal matters. While the provincial court system was considered outside of the main three governing entities, it still had a significant role within Jamaica. The chief justice, the head of the Court of Judicature, was deemed by Edward Long as the most important position in ensuring the well-being of the Jamaican colony.<sup>170</sup> This important position possessed a lot of power and responsibility which included to attend to “matters of common plea, king’s-bench, and exchequer,” and the greatest responsibility it possessed was to protect “the customs, the policy, and equitable laws of Jamaica.”<sup>171</sup> The metropole also understood the necessity of having the chief justice to be familiar with the customs of Jamaican life which could only be achieved through living for a long period of time

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<sup>168</sup> Ibid., 5-6.

<sup>169</sup> Ibid., 6.

<sup>170</sup> Browne, *The Civil and Natural History of Jamaica*, 6; Long, *The History of Jamaica, Volume 1*, 70.

<sup>171</sup> Long, *The History of Jamaica, Volume 1*, 70.

in the colony.<sup>172</sup> To further support this, the position of the chief justice would receive little interference from the metropole itself. To ensure that the chief justice would dutifully and rightfully conduct all aspects of the position correctly, the appointed chief justice must possess the characteristics of virtue and honor.<sup>173</sup> The judges that would serve under him were expected to possess “the solid principles of the constitution, of right and wrong, of truth and reason.”<sup>174</sup> The chief justice and court system possessed a considerable amount of power to uphold the principles found within the English constitution. The metropole entrusted the provincial court system the autonomy to rule over the Jamaican colony as it saw fit. The judicial branch of the Jamaican government possessed an unique position within the colony since it received more freedom from metropolitan oversight. The political principles that were used to defend judges’ court rulings were based on the English constitution.

Other than the Court of Judicature, there were two other main courts within the judicial branch of the Jamaican provincial government. The first court was the Court of Equity which was led by the chancellor to hear suits, complaints and appeals from other courts.<sup>175</sup> The role of this court was to act as the higher court that would be the final say on court cases. The Court of Admiralty, also known as Vice-Admiralty, was appointed by the governor and was to address any litigation matters that were committed at sea and could not be resolved with common law.<sup>176</sup>

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<sup>172</sup> Ibid.

<sup>173</sup> Ibid., 71.

<sup>174</sup> Ibid., 72.

<sup>175</sup> Browne, *The Civil and Natural History of Jamaica*, 6.

<sup>176</sup> Ibid.

This was the first civil court in Jamaica and was established in 1662.<sup>177</sup> Vice-Admiralty Courts were created to fulfill a need of the colony and was later refined and placed within a larger system of courts.<sup>178</sup> Some of the types of trials that the Vice-Admiralty Courts oversaw dealt with major imperial issues such as piracy and international trade. The high importance of the types of cases these Vice-Admiralty Courts had required the judges to also have virtue, have integrity, and have no errors of judgement.<sup>179</sup> A common thread that can be found in all the high positions within the Jamaican colonial government was the requirement for the representatives to be virtuous and to be a Jamaican. These were the qualities that were deemed to be the most valued and useful in protecting and upholding the political principles in the ideology that they shared.

Paul Browne accredited to Jamaica's "agreeable form of government" to the prosperity of the island.<sup>180</sup> An increasing amount of settlers came to Jamaica which led to the growth of agricultural industries. The Jamaican provincial government was formed within the first ten years of its existence as a British colony. From the initial acquisition of the colony, metropolitan leaders such as Cromwell predicted the high economic value of the colony and formed a colonial government that would serve to protect and foster this valuable purpose of Jamaica. Edward Long's *The History of Jamaica* details the strength of the Jamaican legislature and the Whig values that it was meant to represent and protect.<sup>181</sup> Whig ideals of virtue and planter values of

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<sup>177</sup> Michael Craton, "The Role of the Caribbean Vice Admiralty Courts in British Imperialism," *Caribbean Studies* 11, no. 2 (1971), 6.

<sup>178</sup> Ibid.

<sup>179</sup> Long, *The History of Jamaica, Volume 1*, 78-79.

<sup>180</sup> Browne, *The Civil and Natural History of Jamaica*, 7.

<sup>181</sup> Trevor Burnard, *Planters, Merchants and Slaves*, (Chicago: The University of Chicago Press, 2015), 163.

protection of property were influential during the formative years of the Jamaican provincial government; all of which was to set up the colony to be a successful representation of the British Empire and the ideology that it espoused.<sup>182</sup>

#### IV. Conclusion

While there were some differences between the Virginian and Jamaican provincial governments' structure, there were some significant similarities between the political principles that informed their governance. Protected under the founding charters of the Virginian and Jamaican colonies, the Virginian and Jamaican colonists' rights and privileges was considered by the colonists to be the same rights and privileges that British citizens enjoyed in the metropole. As the colonial governments continued to develop and govern from the authority of their political sovereignty, these initial notions of rights and privileges were fundamental political principles to both the Virginian and Jamaican colonial governments. The Stamp Act crisis and the Jamaican privilege controversy commenced because the colonists' rights and privileges were called into question and infringed upon by other governing bodies.

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<sup>182</sup> Ibid.

## CHAPTER 3

### THE IMPACT OF THE STAMP ACT ON VIRGINIAN POLITICAL IDEOLOGY

#### I. Increasing Imperial Tensions

By the turn of the century, the economic and political motivators behind British expansionism created a perfect breeding ground for both inner and outer imperial conflicts. As Britain continued their quest to expand their wealth and power through the acquisition of more colonies, the greater the threat neighboring European empires posed for the British colonies.<sup>183</sup> A paradox started to develop: the more profits that the colonies brought to the metropole, the more costs the colonies brought to the metropole as well.<sup>184</sup> The costs of providing the proper defense and management of the colonies started to become very expensive. When outside threats from other imperial powers began to increase Britain's debt further, the British empire started to consider different methods in funding the increasing costs of defending its valuable colonies.

By the middle of the eighteenth century, tensions mounted between Britain, France and America in the form of the Seven Years' War. The costly effects of the Seven Years' War caused the metropole to change their taxation policies so that they could place more of the financial burdens upon the colonies.<sup>185</sup> The colonial governments and radical colonists vehemently disagreed with Parliament's taxation measures because it violated the very political values that they thought they had shared with the metropole. The Stamp Act crisis revealed the growing

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<sup>183</sup> George Louis Beer, *British Colonial Policy: 1754-1766*, (New York: The Macmillan Company, 1922), 193.

<sup>184</sup> The increasing costs that the American colonies were incurring to the metropole was up for debate as well. See Gould, *The Persistence of Empire: British Political Culture in the Age of the American Revolution*, 123.

<sup>185</sup> This is referring to the Parliamentary taxes that were enforced shortly after the Seven Years' War. See Gwyn, "British Government Spending and the North American Colonies 1740-1775," In *The British Atlantic Empire before the American Revolution*, ed. Peter Marshall and Glyn Williams, 79.



disparity between British and Virginian perceptions of the Virginian colonists' rights and liberties. Virginians increasingly sought to be governed by their own self-governing bodies and this further encouraged Virginians to develop their unique interpretations of the same traditional political principles that they once shared with the metropole.<sup>186</sup> The Virginians emphasized the principle of British Whig thought that citizens should only be taxed by the government entity that represented their interests.<sup>187</sup> Justin du Rivage explains that at the heart of the Stamp Act crisis was the fact that “the power to tax and the power to govern were synonymous.”<sup>188</sup> In this series of misunderstandings between the metropole and the Virginian colony, the colonists' alternate interpretations of English political principles created irreconcilable differences between the colonies and the metropole.<sup>189</sup> This new historical interpretation considers the unique Virginian understandings of the British ideology which caused a divergence from the mother country.

## II. The Stamp Act

Out of all the measures that were issued by George Grenville, the Stamp Act was by far the most controversial and was considered to be the first imperial crisis.<sup>190</sup> The Stamp Act unified all thirteen North American colonies to come together to defend their rights.<sup>191</sup> The

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<sup>186</sup> Christie and Labaree, *Empire or Independence 1760-1776*, 10.

<sup>187</sup> Brown, *Empire or Independence*, 3.

<sup>188</sup> du Rivage, *Revolution Against Empire*, 109.

<sup>189</sup> Within early American historiography, the Seven Years' War and the taxation debate was based on many misconceptions. See Beer, *British Colonial Policy*, 4-14; Brown, *Empire or Independence*, 63, 71; Gould, *The Persistence of Empire*, xviii-xix.

<sup>190</sup> O'Shaughnessy, *An Empire Divided*, 82.

<sup>191</sup> O'Shaughnessy, *An Empire Divided*, 82; Zachary McLeod Hutchins, *Community Without Consent: New Perspectives on the Stamp Act*, (Hanover, NH: Dartmouth College Press, 2016), xiii.

historiographical considerations of the Stamp Act have even considered this moment to be the start of a schism that was forming between the metropole and the colonies over the notions of British patriotism.<sup>192</sup> Zachary McLeod Hutchins argues that the Stamp Act crisis was the start of American colonies' desire to formulate their own national identity. Edmund Morgan states that the fact that the colonists had united under this cause showed "an extraordinary conviction among them."<sup>193</sup> The following section will consider the role of the Virginian colony's understanding of their rights and privileges had on this significant imperial event.

After much deliberation, Parliament passed the Stamp Act on March 22, 1765. In the first line of the law, explains that the tax was meant for "defraying the expenses of defending, protecting, and securing the same [British colonies and plantations in America]."<sup>194</sup> It thereby appealed to the colonists' sense of patriotic duty towards the crown and declared that it was from this same duty that Parliament issued this taxation measure. In the remainder portions of the Stamp Act, Parliament asserted its authority over the colonies by referring itself as "the authority." In the last portion of the document, the Stamp Act listed the drastic consequences of violating this measure. The Stamp Act was enforced by Parliament's agents in North America "heard, tried, and determined, before any court of law."<sup>195</sup> The language of the law was a clear statement of how Parliament understood the empire as it asserted its sovereign authority over the colonies.

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<sup>192</sup> Gould, *The Persistence of Empire*, 133.

<sup>193</sup> Morgan, *The Birth of the Republic: 1763-89*, 23.

<sup>194</sup> The Parliament of the United Kingdom. "The Stamp Act." [http://avalon.law.yale.edu/18th\\_century/stamp\\_act\\_1765.asp](http://avalon.law.yale.edu/18th_century/stamp_act_1765.asp).

<sup>195</sup> Ibid.

Great Britain believed that the Stamp Act was a continuation of the earlier issued stamp duties that were enforced in the metropole. By the mid-eighteenth century, the stamp duties was seen by the British as a widely acceptable form of taxation.<sup>196</sup> Sir William Blackstone wrote in *Commentaries on the Laws of England* that the Stamp Act was “a means of authenticating documents and that made forgery more difficult.”<sup>197</sup> However, there were a few key differences with the Stamp duties in Great Britain versus the Stamp Act in the colonies. The main rationale that was provided for the Stamp Act was that its revenue was used to pay off the debts that were accrued from the Seven Years’ War.<sup>198</sup> Another significant difference was that they Virginian colonists did not receive direct representation.<sup>199</sup> These important variances between the two versions of the stamp duties are important when considering the transatlantic debate on the Stamp Act.

Grenville publicly introduced the Stamp Act in a budget speech in 1764.<sup>200</sup> News of the Stamp Duties came into the American colonies later that same year.<sup>201</sup> On May 7, 1764, the

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<sup>196</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 108.

<sup>197</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 109.

<sup>198</sup> Morgan, *The Birth of the Republic*, 17.

<sup>199</sup> Daniel Dulany, “Considerations on the Propriety of Imposing Taxes in the British Colonies for the Purpose of Raising a Revenue by Act of Parliament,” In *Tracts of the American Revolution: 1763-1776*, ed. Merrill Jensen, (New York: The Bobbs-Merrill Company, Inc., 1967), 96; Eliga Gould, "Liberty and Modernity: The American Revolution and the Making of the Parliament's Imperial History," In *Exclusionary Empire: English Liberty Overseas, 1600-1900*, ed. by Jack P. Greene, (Cambridge: Cambridge University Press, 2010), 113.

<sup>200</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 115.

<sup>201</sup> *Boston Evening-Post* (Boston, Massachusetts), no. 1496, May 7, 1764: Supplement [1]. *Readex: America's Historical Newspapers*.  
<https://infoweb.newsbank.com/apps/readex/doc?p=EANX&docref=image/v2:1089C792E64CF650@EANX-108B71B8D5F1AD00@2365475-108B71B8DD894B68@0-108B71B9760B3C50@>.

supplement of the Boston Evening Post printed the votes from the House of Commons that included its resolution of the Stamp Duties.<sup>202</sup> With the united cause of representation, the American colonies expressed their displeasure against the Stamp Act through various forms of resistance.<sup>203</sup> The Sons of Liberty, a group of radical patriots, organized protests in Boston, New York, and Newport.<sup>204</sup> Many acts of violence were utilized by the Sons of Liberty to pressure stamp distributors from resigning their post. Some examples of the rebellious acts that were conducted by the Sons of Liberties were the burning of effigies of stamp distributors, stating insults and abusing distributors and vandalizing their homes by breaking their windows.<sup>205</sup> Colonial assemblies, such as the Assemblies of Massachusetts, Pennsylvania, Connecticut, New York, North Carolina, Rhode Island, South Carolina, and Virginia, each produced their own petitions and resolutions which encouraged the protests even more.<sup>206</sup> The Sons of Liberty were also responsible for forcing stamp distributors to resign through the use of violent and excessive force.<sup>207</sup>

The colonists' angry responses to the Stamp Act revealed the divergence between colonial and metropolitan political ideology.<sup>208</sup> The Stamp Act awakened the radical colonists

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<sup>202</sup> Ibid.

<sup>203</sup> Morgan, *The Birth of the Republic*, 20.

<sup>204</sup> O'Shaughnessy, *An Empire Divided*, 82.

<sup>205</sup> "Boston, August 19." *Boston Evening-Post* (Boston, Massachusetts), no. 1562, August 19, 1765: [3]. *Readex: America's Historical Newspapers*. <https://infoweb-newsbank-com.proxyau.wrlc.org/apps/readex/doc?p=EANX&docref=image/v2:1089C792E64CF650@EANX-108B72377AA19520@2365944-108B7237CD093050@2-108B7238B3FF2070@Boston%2C+August+19>; Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 129.

<sup>206</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 115, 126.

<sup>207</sup> O'Shaughnessy, *An Empire Divided*, 82.

<sup>208</sup> du Rivage, *Revolution Against Empire*, 124.

towards a mission in protecting the rights and privileges in which they held dear. While Americans disliked the Currency Act and Sugar Act, many American colonists considered the Stamp Act as an escalation from the previously issued measures.<sup>209</sup> The Stamp Act had a greater impact as it potentially harmed anyone that used paper products on a daily basis.<sup>210</sup> The Stamp Act was an economic and political issue that reiterated the colonies' supposed subservient status.<sup>211</sup> Even though this was one act in a series of other taxation acts that were imposed by Parliament, the scope of the Stamp Act mobilized the colonies into action.<sup>212</sup> Like the previous taxation acts before it, the main issue of the Stamp Act was the fact that it was considered as a violation of their rights as British citizens because of the fact that Parliament did not represent them.<sup>213</sup> This violated the terms of the Virginian colonists' agreement with the monarch that was established in its founding charters. Direct representation was an essential tenet found in British political ideology and it was a principle that was largely practiced and ardently protected within the colonies.<sup>214</sup> The pre-stamped paper that American colonists were forced to use under the

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<sup>209</sup> Gould, *The Persistence of Empire*, 108-109.

<sup>210</sup> The Parliament of the United Kingdom, "The Stamp Act," [http://avalon.law.yale.edu/18th\\_century/stamp\\_act\\_1765.asp](http://avalon.law.yale.edu/18th_century/stamp_act_1765.asp).

<sup>211</sup> du Rivage, *Revolution Against Empire*, 115, 117, 118.

<sup>212</sup> J. Patrick Mullins, "The Sermon That Didn't Start the Revolution: Jonathan Mayhew's Role in the Boston Stamp Act Riots," in *Community Without Consent: New Perspectives on the Stamp Act*, ed. Zachary McLeod Hutchins (Hanover, NH: Dartmouth College Press, 2016), 5; Protests against the Stamp Act were mild at first but then increased in its violence. Also see Molly Perry, "Buried Liberties and Hanging Effigies: Imperial Persuasion, Intimidation, and Performance during the Stamp Act Crisis," in *Community Without Consent: New Perspectives on the Stamp Act*, ed. Zachary McLeod Hutchins (Hanover, NH: Dartmouth College Press, 2016).

<sup>213</sup> Langford, "Old Whigs, Old Tories and the American Revolution," *The British Atlantic Empire before the American Revolution*, ed. Peter Marshall and Glyn Williams, 108.

<sup>214</sup> Daniel Dulany, "Considerations on the Propriety of Imposing Taxes in the British Colonies for the Purpose of Raising a Revenue by Act of Parliament," 96; Gould, "Liberty and Modernity: The American Revolution and the Making of the Parliament's Imperial History," 113; Gould, *The Persistence of Empire*, 108-109.

Stamp Act became “a constant and visible reminder of the nature of the tax as an imperial imposition.”<sup>215</sup>

In responding to the Stamp Act, colonists began to question with Parliament’s right to rule. These American colonists doubted Parliament’s sovereignty because of their more traditional understanding of the ancient British constitution which stated that taxation was chiefly a matter for self-government.<sup>216</sup> Many American colonists did not believe Parliament had sovereignty based their views on the British constitution while Parliament based their authority from the Magna Charta. This disparity in the views of Parliament’s role within the empire stems from the “fiscal bargain” that was made in the second half of the seventeenth century.<sup>217</sup> During this half century of Whig rule, this “fiscal bargain” was foundational to Parliament’s metropolitan authority.<sup>218</sup> This evolution of the British constitution explains why some American colonists did not formally recognize Parliament as a legitimate power.<sup>219</sup>

In the years leading up to the Stamp Act, Virginia faced internal political conflicts of its own. Virginians often turned to the position of the monarch rather than Parliament to help them with their disputes.<sup>220</sup> This is another example of colonists’ growing distrust of Parliament that

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<sup>215</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 119.

<sup>216</sup> Brown, *Empire or Independence: A Study in the Failure of Reconciliation*, 11; Gould, *The Persistence of Empire*, 123.

<sup>217</sup> Gould, *The Persistence of Empire*, 116.

<sup>218</sup> Ibid.

<sup>219</sup> This is in reference to the colonial petitions that were addressed towards the king. See Brown, *Empire or Independence*, 90. Parliament believed that they had the right to tax on behalf of the king. See Morgan, *The Birth of the Republic*, 17.

<sup>220</sup> Previously mentioned examples found in Chapter 1. See Brown, *Empire or Independence*, 95 and Thomas Jefferson, et al, July 4, *Copy of Declaration of Independence*, (-07-04, 1776, Manuscript/Mixed Material, Retrieved from the Library of Congress, <https://www.loc.gov/item/mtjbib000159/>).

was based upon their traditional understanding of metropolitan governance. The growth of the provincial government within Virginia also explains why colonists were more inclined to disobey Parliament's directives. As seen in earlier examples of internal conflicts within Virginia, the provincial government's expansion of power grew steadily.<sup>221</sup> While the earlier forms of the Virginian government was mistrusted due to the unbalanced distribution of power, the addition of the Assembly that created Virginia's own legislative body made the colonists more inclined to trust the provincial government over Parliament.<sup>222</sup> While many radical colonists lead the charge in these taxation protests, it is important to note that whether Parliament or the provincial government had the right to tax the colonies was a divided issue amongst the colonists themselves. Loyalists believed that Parliament indeed had sovereignty over them and had the right to issue policies such as the Stamp Act. Parliament's sovereignty became a point of contention all the way to the last attempts of negotiation and reconciliation before the signing of the Declaration of Independence.<sup>223</sup> Parliament relied heavily upon their superior authority to issue policies and believed that this provided enough support to win this debate with the colonists.<sup>224</sup> On the other hand, American colonists believed it was their patriotic duty to defend their rights and privileges that they protected in the colonies.<sup>225</sup> The heart of the matter was the issue of Parliament's right to rule over the colonies which provided an foundation for the transatlantic debate on the Stamp Act. If Parliament's sovereignty was legally obtained, than

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<sup>221</sup> Randolph, *History of Virginia*, 144-146.

<sup>222</sup> Direct representation also plays a role within this. See Onuf. *Jefferson and the Virginians*, 33.

<sup>223</sup> Brown, *Empire or Independence: A Study in the Failure of Reconciliation*, 86.

<sup>224</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 117.

<sup>225</sup> *Ibid.*, 110.

their act of changing the British understanding of taxation would have been a less elevated issue in the American colonists' eyes.

Edmund Burke, a prominent member of Parliament, spoke about the issue of taxation within the American colonies in a speech he addressed to the House of Commons in 1775.<sup>226</sup> Burke described the Stamp Act as a “scheme of taxation” that caused the colonies to be filled with great uncertainty. This welcomed the colonists to question the authority of Parliament and had “shaken the solid structure of this Empire to its deepest foundations.”<sup>227</sup> Nearing the start of the Revolutionary War, Burke displayed empathy towards the American colonists which was in stark opposition of Parliament's earlier stance on taxation. During the 1760s, Parliament truly believed that they had the power and right to issue these new taxation measures to the colonies. The Stamp Act in particular was seen as a revision of old laws as it introduced an innovated concept of taxation.<sup>228</sup> There was a minority within Parliament that was sympathetic towards the American colonists' views on taxation, however they did not condone their rebellious behavior.<sup>229</sup> The majority of Parliament agreed with the reasoning that the American colonists had to pay more taxes in order to offset the large war debt from the Seven Years' War.<sup>230</sup> Similar to their participation in fighting against the French and the Native Americans, Parliament believed that the colonists should also contribute their portion towards paying off heavy costs

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<sup>226</sup> Paul Langford, “Burke, Edmund,” Oxford Dictionary of National Biography, <http://www.oxforddnb.com.proxyau.wrlc.org/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-4019?rskey=mh91qx&result=1#odnb-9780198614128-e-4019-div1-d109312e2428>.

<sup>227</sup> Edmund Burke, “The History of American Taxation, From the Year of 1763, to the End of Last Session,” (London: J. Dodsley, 1775), 11-12.

<sup>228</sup> Morgan, *The Birth of the Republic*, 17.

<sup>229</sup> *Ibid.*, 23.

<sup>230</sup> *Ibid.*, 31.



that the Seven Year's War had incurred. The British government underestimated the "logistics of implementing a complex form of taxation across vast geographical distances and the strength of the resistance movement in the local setting."<sup>231</sup> The Rockingham ministry repealed the Stamp Act because it became clear that the Stamp Act was impossible to enforce and voluntary compliance would not be achieved.<sup>232</sup>

The British Whigs were generally more sympathetic to the colonists' arguments and many radical Whigs opposed the Stamp Act.<sup>233</sup> Burke, a leading Whig, provides a contextual understanding to Whig principles that can also be found within Virginian political ideology. Both the British Whigs and American radicals held onto the "ancient constitution" and the principles that it espoused.<sup>234</sup> Starting in the early-eighteenth century, both groups gravitated towards this more traditional understanding of the English constitution because both groups desired for England to return its older ways of governing. These strong commonalities between the British Whigs and the American radicals provide another piece to the puzzle which played a supporting role within the development of colonial political ideology.

While these similarities help explain Virginian political ideology, it is important to note that the American radicals borrowed selectively from the British Whig tradition. Similar with the divergence of ancient and modern British political ideology, Whig thought was divided into two categories as well. Old Whig thought appealed to Enlightenment principles such as natural rights

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<sup>231</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008), 107.

<sup>232</sup> *Ibid.*, 129-130.

<sup>233</sup> du Rivage, *Revolution Against Empire*, 110.

<sup>234</sup> Melinda Zook, *Radical Whigs and Conspiratorial Politics in Late Stuart England*, (University Park, PA: The Pennsylvania State University Press, 1999), 97.

of man and the social contract while New Whig thought focused on more contemporary issues such as executive corruption.<sup>235</sup> These alternate forms of Whig thought were representative of the larger trend of the evolution of British political thought. American colonists closely adhered to Old Whig thought which explained the imperial tension behind the Stamp Act. There was a clear ideological disconnect between the political interpretations of the metropole and the North American colonists.

The Stamp Act crisis was built upon many transatlantic misunderstandings between Great Britain and the colony of Virginia. In addition to the main debate on representation, the colonists believed that the metropolitan government did not have the authority to impose an internal tax.<sup>236</sup> George Grenville, the creator of the controversial Stamp Act, defended Parliament's right to tax the colonists for the purposes of decreasing the national debt.<sup>237</sup> The British were unaware the strength of colonial sentiment on taxation until they passed the Stamp Act.<sup>238</sup> One of the major issues that colonists had with the Stamp Act was the fact that it was an unprecedented method of taxation.<sup>239</sup> Prior to the Stamp Act, the provincial governments were the main governing entity that taxed the colonies.<sup>240</sup> This was another example of how British politics evolved over time

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<sup>235</sup> William Pencak, "Warfare and Political Change in Mid-Eighteenth Century Massachusetts," In *The British Atlantic Empire before the American Revolution*, ed. Peter Marshall and Glyn Williams, (London: Frank Cass and Company Limited, 1980), 54.

<sup>236</sup> Gould, *The Persistence of Empire*, 123; Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 126.

<sup>237</sup> *Ibid.*, 109.

<sup>238</sup> Morgan, *The Birth of the Republic*, 23.

<sup>239</sup> *Ibid.*, 21.

<sup>240</sup> Gwyn, "British Government Spending and the North American Colonies 1740-1775," In *The British Atlantic Empire before the American Revolution*, ed. Peter Marshall and Glyn Williams, (London: Frank Cass and Company Limited, 1980), 79.

and was one of the reasons why American colonists did not agree with their policies.<sup>241</sup> Grenville contextually supported this new notion of taxation with his description of Britain's frail economic condition. The British perceived this weakness as directly connected with its future stability as a global power.<sup>242</sup> Justin du Rivage described this imperial fear as the "great debts and rising taxes undermined the political-economic power of Britain's landed elite."<sup>243</sup> This line of reasoning was meant to scare the British elite into supporting Grenville's taxation policies however it did little in convincing the American elite planters. The different reactions of both further supports the development of two unique political ideologies. As Edmund Morgan argued, the colonial response to the Stamp Act formed a rift between the metropolitan and provincial understandings of patriotism.<sup>244</sup> The emergence of the patriot movement in Virginia would deepen this divide between the American colonies and the metropole even further.

### III. The Stamp Act and Virginia

While there was an misunderstanding between Parliament and American colonists, the Board of Trade's relationship with the colonists reveals an alternate perspective. The Board of Trade had a lot more direct contact with the colonists and acted as a mediator between Parliament and the colonial governments. The Board of Trade was created to be a supervisory authority.<sup>245</sup> While the Board of Trade appointed the colonial authorities with people that they

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<sup>241</sup> du Rivage, *Revolution Against Empire*, 104.

<sup>242</sup> Ibid.

<sup>243</sup> Ibid.

<sup>244</sup> Gould, *The Persistence of Empire*, 133.

<sup>245</sup> Bilder, "English Settlement and Local Governance," In *The Cambridge History of Law in America*, edited by Michael Grossberg and Christopher Tomlins, 1:63–103.

could trust, the Board of Trade considered multiple perspectives before it made any of its final decisions on a matter.<sup>246</sup> For example, Governor Fauquier's initial letters and papers that were sent to the Board of Trade were considered alongside with the President of the Council and Commander in Chief within Virginia.<sup>247</sup> A closer analysis of the Board of Trade's interactions with Virginia provides a deeper understanding to how the Stamp Act accelerated the development of Virginian political ideology.

Governor Fauquier tried to act as a mediator between Great Britain and the Virginian colonists during the Stamp Act crisis which was evident in the multiple of perspectives that he provided in his report to the Board of Trade. He explained to the Lords how chaotic Virginia had become and to shed some light on the reasons behind the riots.<sup>248</sup> Governor Fauquier received a report that the Council voted that "Parliament imposing Taxes on America is unconstitutional and Illegal and therefore determined in case the Stamp Act is to be enforced that they will stand by each other in order to oppose it with all their might."<sup>249</sup> The explicit mention of the Stamp Act's unconstitutionality being the main reason for the rebellions reveals a lot about the specific political tenets Virginian colonists were basing their claims upon.<sup>250</sup> Governor Fauquier

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<sup>246</sup> "Journal, December 1758: Volume 65," in *Journals of the Board of Trade and Plantations: Volume 10, January 1754 - December 1758*, ed. K H Ledward (London: His Majesty's Stationery Office, 1933), 432-437. *British History Online*, accessed February 21, 2019, <http://www.british-history.ac.uk/jrnl-trade-plantations/vol10/pp432-437>.

<sup>247</sup> Ibid.

<sup>248</sup> This correlates with George Washington's description of Virginia as "loudly exclaim" against this violation of their liberties. See "From George Washington to Francis Dandridge, 20 September 1765," *Founders Online*, National Archives, version of January 18, 2019, <https://founders.archives.gov/documents/Washington/02-07-02-0250>. (Original source: *The Papers of George Washington*, Colonial Series, vol. 7, 1 January 1761–15 June 1767, ed. W. W. Abbot and Dorothy Twohig. Charlottesville: University Press of Virginia, 1990, pp. 395–396).

<sup>249</sup> Governor Fauquier received a letter from Jeremiah Morgan. See *The Official Papers of Francis Fauquier: Lieutenant Governor of Virginia, 1758-1768*, Vol. 3, Ed. by George Reese, 1349.

<sup>250</sup> George Washington also mentioned the unconstitutionality of the Stamp Act in a letter to Robert Cary. See "From George Washington to Robert Cary & Company, 20 September 1765," *Founders Online*, National Archives, version of January 18, 2019, <https://founders.archives.gov/documents/Washington/02-07-02-0252-0001>. [Original

concluded by requesting advice on how to cope with future riots.<sup>251</sup> The Stamp Act provided Governor Fauquier a conundrum since his role was to enforce metropolitan laws while also representing the Virginians' interest. Following the growing discontent and pressure that the war debt had caused, taxation measures such as the Stamp Act became a point of division among Virginian colonists.<sup>252</sup>

At the start of his tenure of being a member in the House of Burgesses, Patrick Henry proposed five resolutions as to why the Stamp Act was a violation of the English Constitution and why it violated Virginians' political norms. The most telling portion of the resolutions was their declaration that Parliament "has a Manifest Tendency to destroy American freedom."<sup>253</sup> The strongly worded language caused a divide amongst Henry's fellow members as many of the more conservative members equated the resolutions as an act of treason.<sup>254</sup> Despite these concerns, four out of five of the resolutions passed in the House of Burgesses by a small margin. As Peter Onuf succinctly described the momentous occasion: "radical young patriots in the House were thrilled by Henry's bold rhetoric; their conservative senior colleagues were appalled."<sup>255</sup> The conservative members of the House attempted to expunge the fifth resolution

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source: *The Papers of George Washington*, Colonial Series, vol. 7, *1 January 1761–15 June 1767*, ed. W. W. Abbott and Dorothy Twohig. Charlottesville: University Press of Virginia, 1990, pp. 398–402.]

<sup>251</sup> Ibid., 1353-1354.

<sup>252</sup> The Board of Trade read and responded to Governor Fauquier's letters on July 11, 1766. Similar format and dictation within the Journal as the previously mentioned bill. See "Journal, July 1766: Volume 73," in *Journals of the Board of Trade and Plantations: Volume 12, January 1764 - December 1767*, ed. K H Ledward (London: His Majesty's Stationery Office, 1936), 303-317. *British History Online*, accessed February 21, 2019, <http://www.british-history.ac.uk/jrnl-trade-plantations/vol12/pp303-317>.

<sup>253</sup> Onuf. *Jefferson and the Virginians*, 47.

<sup>254</sup> Ibid.

<sup>255</sup> Ibid.

from their records while Governor Fauquier ensured that none of the resolutions were printed in the *Virginia Gazette*.<sup>256</sup> The resolutions marked a point of no return for Virginians as it forced them to choose a side: Britain or Virginia.

In comparison with the governorship, the House of Burgesses was more likely to deviate from metropolitan political thought and directives. A closer analysis of the resolutions provide evidence of the House of Burgesses' allegiance to traditional political principles. The first resolution stated that the colonists enjoyed the same rights and privileges that were enjoyed by all citizens of Great Britain.<sup>257</sup> This principle was found within Virginia's charter and solidified the agreement between the metropole and Virginia that they held the same rights as their British counterparts. Here the House implied that the Stamp Act had violated this basic accord.<sup>258</sup> In the third resolution, the House addresses the Stamp Act directly in stating that "the Taxation of the People by themselves, or by Persons chosen by themselves to represent them, who can only know what Taxes the People are able to bear..."<sup>259</sup> This resolution confirms that the principle of direct representation was one of the major qualms that colonists had with the Stamp Act. In the fourth and final resolution, the House reiterates the point that the Virginian colony has enjoyed these rights that were protected by laws without interruption up to this point.<sup>260</sup> With this specified pivotal moment, the Stamp Act was Parliament's initial violation of the colony's rights. While it is not clearly dictated, it seems that the House viewed the Stamp Act as the start of

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<sup>256</sup> Ibid., 48.

<sup>257</sup> "Virginia Colony Journals," *Journal of the House of Burgesses*, Oct. 30-Dec. 13, 1764; May 1-June 1, 1765, (Williamsburg, 1765), 150.

<sup>258</sup> Randolph, *History of Virginia*, ed. by Arthur H. Shaffer, 17-18.

<sup>259</sup> Ibid.

<sup>260</sup> Ibid.

Parliament's violations upon their rights and dismissed the previous taxation measures. These reactions to the Stamp Act reveal how the House of Burgesses provides a closer look into the political ideology that was developing in Virginia.<sup>261</sup>

The House of Burgesses resolutions soon led to the meeting of the nine colonies who shared similar views on the Stamp Act. On October 7, 1765, twenty-seven delegates from nine colonies met in New York to form the Stamp Act Congress.<sup>262</sup> Together, the delegates created fourteen declarations in order to protect the rights and liberties of the colonies against the Stamp Act. The two most fundamental rights that were highlighted within the declarations was the right to a trial by jury and the right to be exempted from taxes.<sup>263</sup> One of the reactions that the colonists had against the Stamp Act was to address the unconstitutionality of the policy within the courts. The provincial courts were faced with the question on whether or not they should remain open to process all the pleas of unconstitutionality of stamped documents.<sup>264</sup> Colonists were faced with the choice of using the stamped documents or violating a Parliamentary act through the use of unstamped documents.<sup>265</sup> The highest courts of nine colonies were closed while the courts in New Jersey, North Carolina, Pennsylvania, and Virginia remained open.<sup>266</sup> Edmund Pendleton believed that the courts should remain open in order to keep law and order

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<sup>261</sup> These resolutions were modeled after Patrick Henry's resolutions. Henry originally had five resolutions and the House adopted four of them. See Stan V. Henkels, *The Patrick Henry Papers and Relics and Other Important Historical Letters and Documents*, (Philadelphia: Samuel T. Freeman & Co., 1910), 37-38.

<sup>262</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 127.

<sup>263</sup> Ibid.

<sup>264</sup> Nelson, *Marbury v. Madison: The Origins and Legacy of Judicial Review*, 2nd Ed., 45.

<sup>265</sup> Ibid.

<sup>266</sup> Ibid., 51.

within the colony during this uncertain time.<sup>267</sup> A Virginian lawyer also made the case that Parliament did not have the authority to enact the Stamp Act and he argued that the act was “null and void and of no effect.”<sup>268</sup> The Northampton County court took an even bolder stance as their justices made the unanimous decision to nullify a Parliamentary policy.<sup>269</sup> In their ruling, the Virginian county court declared that the Stamp Act was unconstitutional and was therefore non-binding. Westmoreland and Culpepper County courts also agreed in principle with Northampton County but did not suggest any actionable steps.<sup>270</sup> Despite the fact that the ruling was published after the repeal of the Stamp Act, the Northampton County court’s use of judicial review against a metropolitan measure was a bold step that exemplifies the strength of Virginians’ belief in the unconstitutionality of the Stamp Act.

#### IV. The Repeal of the Stamp Act

After less than a year, Parliament repealed the Stamp Act and brought a sense of victory.<sup>271</sup> However the issues that the crisis brought were long from being resolved. The simultaneous issuance of the Declaratory Act and the repeal of the Stamp Act was an attempt by

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<sup>267</sup> Bob Ruppert, "How the Stamp Act Did Not Affect Virginia," *Journal of the American Revolution*, August 28, 2016, <https://allthingsliberty.com/2016/03/how-the-stamp-act-did-not-affect-virginia/>.

<sup>268</sup> Nelson, *Marbury v. Madison*, 2nd Ed., 51.

<sup>269</sup> Ruppert, "How the Stamp Act Did Not Affect Virginia," *Journal of the American Revolution*, August 28, 2016, <https://allthingsliberty.com/2016/03/how-the-stamp-act-did-not-affect-virginia/>.

<sup>270</sup> This correlates with Gould’s observation that the American colonists wanted to balance between their right of direct representation and not directly challenging Parliament’s authority. See Gould, "Liberty and Modernity: The American Revolution and the Making of the Parliament's Imperial History," In *Exclusionary Empire: English Liberty Overseas, 1600-1900*, ed. by Jack P. Greene, 122.

<sup>271</sup> “From George Washington to Robert Cary & Company, 21 July 1766,” *Founders Online*, National Archives, version of January 18, 2019, <https://founders.archives.gov/documents/Washington/02-07-02-0304-0001>. (Original source: *The Papers of George Washington*, Colonial Series, vol. 7, 1 January 1761–15 June 1767, ed. W. W. Abbot and Dorothy Twohig. Charlottesville: University Press of Virginia, 1990, pp. 456–457).



Parliament to assert its authority over the colonies and effectively end the debate on its sovereignty.<sup>272</sup> The logistical errors of the Stamp Act gave Parliament the ultimatum of either repealing the Stamp Act or issuing military troops to further enforce them.<sup>273</sup> The Declaratory Act (1766) was then followed by the Townshend Act (1767) further proved to the American colonies that the lingering effects of the Stamp Act would stay.<sup>274</sup> The Declaratory Act and the subsequent taxation measures did little to convince the American radicals into believing that Parliament had their best interests in mind. Parliament's economic motives in passing these new taxes was justified through their reasoning of increasing revenue.<sup>275</sup> This continued to be viewed as a sign of disrespect towards the provincial governments and its sovereignty since the colonists considered them as the proper government entities that were allowed to issue local taxes.<sup>276</sup>

While many colonists agreed with the unconstitutionality of the Stamp Act, they struggled to find consensus about the proper course of action. In the name of democracy, the Virginian House of Burgesses adopted most of Patrick Henry's Stamp Act Resolves which declared that Virginian colonists possessed the same rights as English citizens and should only have to pay taxes that were passed by the Virginian legislature.<sup>277</sup> The House of Burgesses

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<sup>272</sup> du Rivage, *Revolution Against Empire*, 132-133.

<sup>273</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 129-130.

<sup>274</sup> Caroline Wigginton, "Letters from a Woman in Pennsylvania, or Elizabeth Graeme Fergusson Dreams of John Dickinson," in *Community Without Consent: New Perspectives on the Stamp Act*, ed. Zachary McLeod Hutchins (Hanover, NH: Dartmouth College Press, 2016), 92; Nelson, *Marbury v. Madison: The Origins and Legacy of Judicial Review*, 2nd Ed., 53.

<sup>275</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 111.

<sup>276</sup> Christie and Labaree, *Empire or Independence 1760-1776*, 10.

<sup>277</sup> Alexander R. Jablonski, "Providence Never Designed Us for Negroes,": Slavery and British Subjecthood in the Stamp Act Crisis, 1764-1766," in *Community Without Consent: New Perspectives on the Stamp Act*, ed. Zachary McLeod Hutchins (Hanover, NH: Dartmouth College Press, 2016), 148.

intended their four resolutions to be a formal protest against the unpopular Parliamentary measure. Conservative members of the House and the Governor felt bound by their duty towards the metropole and fought against these treasonous measures. Not only did Governor Fauquier prevent the public from seeing the resolutions, he also dissolved the House of Burgesses because of this rebellious act.<sup>278</sup> The varied reactions found within all the different levels of the Virginian government represents the division that the Stamp Act had caused amongst these British imperial subjects.

The Stamp Act was a pivotal moment that tested the divergent understandings of the citizens' rights and privileges between the Virginian colonists and the British. The defenses that both sides formed and used against one another originated from the same traditional political principles. Discontent began to rise due to the metropole's use of an evolved understanding of these same political principles.<sup>279</sup> The Stamp Act increased the stakes from previously enacted taxation proclamations because it became clearer to American colonists the trajectory in which future events would transpire. The passing of the Declaratory Act and the Townshend Act offended the American colonists because they believed that they deserved proper representation

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<sup>278</sup> Governor Fauquier reported to the Crown the Virginia Resolves and the British government dismissed it as youthful indiscretion. See Christie and Labaree, *Empire or Independence 1760-1776*, 62; "Fairfax County Poll Sheet, 16 July 1765," *Founders Online*, National Archives, version of January 18, 2019, <https://founders.archives.gov/documents/Washington/02-07-02-0241>. (Original source: *The Papers of George Washington*, Colonial Series, vol. 7, *1 January 1761–15 June 1767*, ed. W. W. Abbot and Dorothy Twohig. Charlottesville: University Press of Virginia, 1990, pp. 377–384).

<sup>279</sup> Referring here to the ancient English Constitution. See note 19 on where the British government departed from the English Constitution could have possibly occurred.

in order to for them to pay taxes as this would grant them equal status within the greater empire.<sup>280</sup>

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<sup>280</sup> Wigginton, “Letters from a Woman in Pennsylvania,” in *Community Without Consent*, ed. Zachary McLeod Hutchins, 92; John Dickinson declared that taxation without representation meant that the colonists were essentially slaves. See Hutchins, “The Slave Narrative and the Stamp Act, or Letters from Two American Farmers in Pennsylvania,” in *Community Without Consent: New Perspectives on the Stamp Act*, ed. Zachary McLeod Hutchins, 116.

## CHAPTER 4

### THE IMPACT OF THE PRIVILEGE CONTROVERSY ON JAMAICAN POLITICAL IDEOLOGY

#### I. Rising Internal Struggles

The unequally distributed power of the Jamaican provincial government was enough to cause many internal disputes amongst Jamaica's governing bodies and politics further complicated matters.<sup>281</sup> The two strongest governing entities within the Jamaican provincial government, the Jamaican Assembly and the governor, often obstructed one another.<sup>282</sup> Although the governor was more powerful than the Jamaican Assembly, the Assembly protected the rights and privileges that it possessed.<sup>283</sup> In the conflicts between the governor and Assembly, both parties eventually turned to the Board of Trade in London for adjudication.<sup>284</sup> These crucial elements played significant roles in many of the internal struggles that occurred between these institutional entities of the Jamaican provincial government.

During the first half of the eighteenth-century, the Jamaican governorship changed significantly. Even though the Board of Trade was only to intervene only when necessary, the Board of Trade often found itself in the midst of Jamaican matters due to controversial actions of their appointed governors. One of the biggest controversies was under the rule of Governor Charles Knowles when he moved the capital of the Jamaican colony to Kingston.<sup>285</sup> Governor

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<sup>281</sup> The pivotal example of unequal distribution of power found in Jamaican governing body was the significant amount of power the governor held in comparison with the Jamaican Assembly and the Judiciary. See Metcalf, *Royal Government and Political Conflict in Jamaica, 1729-1783*, 23.

<sup>282</sup> *Ibid.*, 26.

<sup>283</sup> The Assembly was said to have the same privileges as the House of Commons. *Ibid.*, 26.

<sup>284</sup> *Ibid.*, 29.

<sup>285</sup> *Ibid.*, 127-128.

Knowles believed that moving the capital was necessary for his own personal safety.<sup>286</sup> The Jamaican Assembly became divided over the issue as nineteen members attempted to pass a resolution asking for the removal of Governor Knowles.<sup>287</sup> The Board of Trade did not find the governor's reasons sufficient and ordered him to move the capital back to Spanish Town; however, Knowles had already resigned his position.<sup>288</sup> Despite the fact that the Jamaican Assembly had explicitly stated their opposition against the governor in this matter, the Board of Trade had to intervene on the Assembly's behalf in order to mediate the situation.

Across the gulf, the disproportionate distribution of power in the Jamaican government caused more internal issues to occur. The Jamaican Assembly attempted to fight against many of its governors' actions as they were the result of the largely unchecked power of the executive position. The legislative and the executive branches of the Jamaican government frequently bargained to impasse. It was in these stalemates that they turned to the metropole in mediating these spats.<sup>289</sup> Despite their political differences, most Jamaican Assembly members respected the sovereignty of the metropolitan government and believed that it had the right to rule over their affairs. These major conflicts were easily quieted by metropolitan intervention. This makes the actions of the Jamaican Assembly during the privilege controversy stand as a stark contrast

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<sup>286</sup> J. K. Laughton, "Knowles, Sir Charles, first baronet," Oxford Dictionary of National Biography, January 3, 2008, <https://doi-org.proxyau.wrlc.org/10.1093/ref:odnb/15765>.

<sup>287</sup> Laughton, "Knowles, Sir Charles, first baronet," Oxford Dictionary of National Biography, January 3, 2008, <https://doi-org.proxyau.wrlc.org/10.1093/ref:odnb/15765>.

<sup>288</sup> Metcalf, *Royal Government and Political Conflict in Jamaica*, 128; Laughton, "Knowles, Sir Charles, first baronet," Oxford Dictionary of National Biography, January 3, 2008, <https://doi-org.proxyau.wrlc.org/10.1093/ref:odnb/15765>.

<sup>289</sup> For example, issues with the Maroon population on the island was a persistent problem for the Jamaican provincial government. See Metcalf, *Royal Government and Political Conflict in Jamaica, 1729-1783*, 61.

from its previous interactions with the metropole. This new historical interpretation considers the role that the Jamaican colonists' interpretation of their rights and privileges had in causing the unprecedented and rebellious acts of the Jamaican Assembly to occur during the Jamaican privilege controversy.

## II. The Jamaican Privilege Controversy

The resolution of the Jamaican Privilege Controversy occurred at about the same time as the repeal of the Stamp Act. Both were considered victories that celebrated provincial governments' sovereignty. The Privilege Controversy had gone on for eighteen months and was considered as one of the most important markers of constitutional negotiation with the metropole had unfolded over the preceding century.<sup>290</sup> Jamaican House and Assembly members "privileges," or protected rights, lay at the heart of the controversy. The following section will consider the role of Jamaican colony's own view of British ideology had on this significant imperial event. While the privilege controversy lasted close to nineteen months, only the first month of the controversy is relevant because the start of the conflict reveals the cause of the conflict as well as the principles that each side used to support their perspectives and actions. The first month of the privilege controversy will be analyzed in three different parts to better assist with understanding the complex interactions that occurred.

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<sup>290</sup> The privilege controversy was considered as one instance in a long constitutional negotiation with the metropole that has been continuing for almost a century. See Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 16; Greene, "Liberty and Slavery: The Transfer of British Liberty to the West Indies, 1627-1865," In *Exclusionary Empire: English Liberty Overseas, 1600-1900*, ed. by Jack P. Greene, 62.

a. The Beginning of the Controversy

On December 8, 1764, a breach of House rules occurred when Richard Thomas Wilson issued a writ of seizure against John Olyphant.<sup>291</sup> A law officer who was enforcing the civil writ of debt seized the carriage horse of Olyphant while the Assembly was in session.<sup>292</sup> The House ruled that Wilson's actions to be a breach of privilege because a writ of seizure cannot be issued while a member is in session.<sup>293</sup> This was the beginning of the privilege controversy. Later, it was discovered that Wilson was acting under the orders of Lachland McNeil, who was carrying a court judgement that was issued by Pierce Cooke. All three of them were ordered by the House to be taken into custody. The Jamaican Assembly attempted to get the issue resolved internally because Olyphant was a significant leader within the Assembly and Wilson violated House rules.<sup>294</sup> The Assembly ordered both of them to be taken into custody and were both brought to the House to answer for their actions. While imprisoned, McNeil and Cooke could have appealed to the Jamaican legislature and they would have been set free. This should have been the end of the controversy; however, McNeil and Cooke turned to Governor William Henry Lyttelton who signed a writ of habeas corpus to set them free.<sup>295</sup> The Governor's involvement would only further exacerbate the issue.

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<sup>291</sup> The House ruled that Wilson's actions to be a breach of privilege because a writ of seizure cannot be issued while a member is in session. See Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 16-17.

<sup>292</sup> O'Shaughnessy, *An Empire Divided: The American Revolution and the British Caribbean*, 112.

<sup>293</sup> *Ibid.*, 17.

<sup>294</sup> See Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 16-17.

<sup>295</sup> *Ibid.*

A crucial background to the controversy was the broader transatlantic debate on provincial government's authorities.<sup>296</sup> Starting in 1748, the Jamaican House fought against many metropolitan attempts of restricting the Jamaican provincial government's authority.<sup>297</sup> This is still an important aspect to deliberate with the Jamaican privilege controversy considering that the Jamaican Assembly was formed to be representative of the House of Commons.<sup>298</sup> As the Jamaican government's authority continued to be challenged by the metropole, this negotiation of power and dominion in Jamaica made issues like the privilege controversy not easy to resolve.

The elected Speaker of the Assembly Nicholas Bourke was a self-proclaimed unbiased witness of the Jamaican Privilege Controversy.<sup>299</sup> Shortly after the entire event unfolded, Bourke wrote a polemic that investigated the conflict. He believed that British Parliament did not properly address and handle Governor Lyttelton's misuse of power. Bourke's central argument was that the conflict could have been avoided altogether if the different bodies of the colonial government did not deviate so much from their assigned roles. The monarch exercises mainly an executive role within the government because "there can be no liberty, where the judicature is not separated from the legislative and executive powers."<sup>300</sup> Despite the fact that the Jamaican government was modeled from the metropolitan government, a colonial governor exercised some executive, legislative and judicial powers that not only violated the British constitution, but also

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<sup>296</sup> Ibid., 21.

<sup>297</sup> Ibid.

<sup>298</sup> Browne, *The Civil and Natural History of Jamaica*, 5.

<sup>299</sup> Metcalf, *Royal Government and Political Conflict in Jamaica*, 179.

<sup>300</sup> Bourke, "The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of that House," 49.



showed how this was “a power, which puts the lives, liberties and properties of the King’s subjects here, too much in his mercy.”<sup>301</sup> The stark differences between these two government structures that existed within the same empire, proved to be one of the main issues found in the privilege controversy. Bourke viewed the privilege controversy as a violation of the rights and liberties that Jamaican citizens were entitled to as it was declared that “all the children of his natural born subjects to be born in Jamaica, should be free denizens of England, and have the same privileges to all intents and purposes, as the free born subjects of England.”<sup>302</sup> Thus, Bourke believes that Jamaicans received the same rights and privileges that their British counterparts enjoyed in the metropole.

The Jamaican privilege controversy might therefore appear solely to have been a disagreement on the right of privilege that members of the Assembly possess. But why did this privilege exist in the first place? And what purpose did it serve? John Olyphant was issued the writ because he had refused to pay a considerable amount of money to Pierce Locke.<sup>303</sup> Richard Wilson issued the writ to seize his horse and carriage under the orders of Charles Price Jr.<sup>304</sup> These first three events of the privilege controversy reveal a lot about what was considered more important to these members of the Assembly. Olyphant initiated the chain of events by refusing to comply with a decision made during the session. While it is uncertain what his exact reasons

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<sup>301</sup> Ibid., 50.

<sup>302</sup> Ibid., Appendix, iii.

<sup>303</sup> Pierce Locke received a favorable judgement over John Olyphant during a session of the Assembly. See Metcalf, *Royal Government and Political Conflict in Jamaica, 1729-1783*, 160.

<sup>304</sup> Greene, “The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire,” *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 17.

were for disobeying the decision, it was clear that he dishonored the authority of the Assembly by refusing to respect its decision.

On the other hand, it is important to note that Wilson and McNeil were also at fault for issuing a writ of seizure while the Assembly was in session. Olyphant's central complaint was that he considered this as a breach of privilege that became the reason why Wilson and McNeil were arrested.<sup>305</sup> The Jamaican Assembly's privilege stemmed from the notion of Parliamentary privilege because of the fact that it was modeled after Parliament.<sup>306</sup> Yet the idea of Parliamentary privilege is not as clear cut and definitive as the Jamaicans may have believed.<sup>307</sup> Donna Spindel explains that Governor Lyttelton had the right to prorogue the Assembly as he saw fit because he had the right to interpret the notion of parliamentary privilege.<sup>308</sup> This acted as another example of the governorship's superior power over the Assembly. However, this was a major point of disagreement between the Assembly and the governor as evident in the unfolding events of the privilege controversy.<sup>309</sup> This internal disagreement on parliamentary privilege in

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<sup>305</sup> Metcalf, *Royal Government and Political Conflict in Jamaica*, 160.

<sup>306</sup> Mary Patterson Clarke, *Parliamentary Privilege in the American Colonies*, (New Haven: Yale University Press, 1943), 2.

<sup>307</sup> Mary Clarke states that the notion of Parliamentary privilege was not common until the nineteenth century. Liberties were commonly considered by individual because of the fear that a representative body could become tyrannical. See Mary Patterson Clarke, *Parliamentary Privilege in the American Colonies*, (New Haven: Yale University Press, 1943), 1-2.

<sup>308</sup> Donna J. Spindel, "The Stamp Act Crisis in the British West Indies," *Journal of American Studies* 11, no. 2 (August 1977): 210.

<sup>309</sup> One of the Assembly's resolutions explicitly stated their stance on which governing entity should determine their privileges. See Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, (Jamaica: Printed. London, Reprinted, for J. Williams [etc.], 1766), 2.

the colonial context did not make resolving matters any easier.<sup>310</sup> The manner in which the privilege controversy commenced calls into question on what the exact purpose did parliamentary privilege serve and whether it should be more significant than enacting justice against Assembly members that violated any laws.<sup>311</sup>

The purpose of parliamentary privilege was to protect the work of the Assembly while it is in session. It was generally viewed that a matter such as Olyphant's would have been detrimental to the progress that the legislative bodies were making.<sup>312</sup> Bourke contextualizes the matter with the fact that "a very great majority of the members were against entertaining the matter" and that the fact that Olyphant was declaring this as a breach of privilege was "very far from being favoured by the house."<sup>313</sup> This implies that the degree of importance of the issue at hand played a role on whether or not a breach of privilege was justified. However, the unclear denotations of what specific crimes were severe enough to breach a member's privilege made the privilege controversy harder to reconcile. Considering the degree of importance of the matter of Olyphant, the issue should have been resolved within the Assembly itself. However, the fact that McNeil and Cooke turned to Governor Lyttelton for assistance caused the matter to escalate quickly.

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<sup>310</sup> This was one of the main points that were brought up in the Assembly's first ten resolutions. See Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 18.

<sup>311</sup> This was also another main point found in the Assembly's first ten resolutions. See *Ibid.*, 18.

<sup>312</sup> Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, vi.

<sup>313</sup> *Ibid.*

Governor Lyttelton breached an internal legislative matter at the moment when he accepted McNeil and Cooke's request for succor. This act widened the constitutional debate "over the relative judicial powers of the assembly and the governor."<sup>314</sup> This act was also a breach in protocol since McNeil and Cooke were supposed to petition the House instead. Greene argues that if they had petitioned the House, they would have been discharged and the controversy would have ended there.<sup>315</sup> McNeil and Cooke also would have been in their right to petition to the House because every member had the constitutional right to be heard.<sup>316</sup> Considering the fact that a large majority of House members viewed the situation as an minor issue, the whole matter would have been dropped. Additionally, Olyphant's defense on why he believed it was the breach of privilege would have been listened to by the House as well and this would have probably placated both sides.<sup>317</sup> Taking into consideration with all the details of House protocol, McNeil and Cooke must have had a particular reason to reach out to Governor Lyttelton.

#### b. The Controversy Deepens

William Lyttelton was considered as an experienced governor as he had served as governor for both South Carolina and Jamaica and had received little criticism in either of his terms.<sup>318</sup> During his five years as governor for South Carolina, Lyttelton welcomed the South

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<sup>314</sup> O'Shaughnessy, *An Empire Divided*, 112.

<sup>315</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 17.

<sup>316</sup> Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, vi.

<sup>317</sup> *Ibid.*, vi-vii.

<sup>318</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 22;

Carolinian legislature's attempts in limiting the power of the governor.<sup>319</sup> In fact, Lyttelton refused the Board of Trade's request of altering the balance of power to be more in favor of the governorship.<sup>320</sup> Lyttelton responded in this manner because he believed that he did not have enough power to alter the balance of power and also predicted that this act would incite many protests.<sup>321</sup> Lyttelton's refusal of expanding his power as governor in South Carolina was in stark contrast to his actions during the privilege controversy.

When Lyttelton received the writ of habeas corpus, he spoke privately with three House leaders about the matter as an attempt to mediate the situation.<sup>322</sup> After careful consideration, Lyttelton ordered the House to release Wilson and to prevent the commitment of McNeil and Cooke.<sup>323</sup> But, the House ignored Lyttelton's orders and instead took McNeil and Cooke into custody. McNeil and Cooke appealed to Governor Lyttelton, also the chancellor of the Court of Chancery, and this time Lyttelton granted them a writ of habeas corpus.<sup>324</sup> Lyttelton still wanted to resolve the matter as quickly as possible and to ensure that the matter did not become public knowledge so he decided to prorogue the Assembly for one day.<sup>325</sup> When the Assembly

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Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, x.

<sup>319</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 22.

<sup>320</sup> Ibid.

<sup>321</sup> Ibid.

<sup>322</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 17.

<sup>323</sup> Ibid., 18.

<sup>324</sup> Ibid.

<sup>325</sup> Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, viii.

reconvened the following day, the Assembly believed that Lyttelton granting the writ of habeas corpus was a violation of its own privilege. The Assembly responded in kind by arresting Wilson, McNeil and Cooke again.<sup>326</sup> With an unanimous vote, the Assembly passed ten resolutions that established that the Assembly had the right to define their own privileges because it believed that it had a superiority over the Court of Chancery.<sup>327</sup> Additionally, the House published the resolutions in the newspapers in order to propagate Governor Lyttelton's actions to the wider public.<sup>328</sup>

Given this unprecedented situation, Governor Lyttelton chose to meet with House leaders before making his decision.<sup>329</sup> This also showed intentionality on Lyttelton's part by including the House before making his decision. At every step of the situation, Lyttelton wanted to choose the path of least resistance which informed his decision in recommending the House to resolve the situation as quickly as possible. Given his great track record as a governor and his inclusion of the House's view, it seems likely that Lyttelton wanted to find the best solution that would satisfy everyone. Despite the fact that this was an internal issue that only involved four members, the privilege controversy had become a symbolic struggle over the constitutionally protected rights and privileges of the Jamaican Assembly members.<sup>330</sup>

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<sup>326</sup> Ibid.

<sup>327</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 18.

<sup>328</sup> Ibid., 19.

<sup>329</sup> This was the first time that the chancellor was requested to issue a writ of habeas corpus. See Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, vii.

<sup>330</sup> Ibid., v-vi.

The fact that the House refused the governor's recommendation provides insight on the House's stance on the matter. The moment that McNeil and Cooke appealed to the governor for help became a turning point in the overall situation for two main reasons. First, the act of McNeil and Cooke including the governor into this internal matter further aggravated the situation.<sup>331</sup> Bourke describes this moment as an insult to House and in violation of their duty of allowing the House to handle their own matters themselves.<sup>332</sup> O'Shaughnessy describes the Assembly's view on the matter as being "contented that its power to imprison was an essential safeguard of its privileges and its judicial role."<sup>333</sup> When the House chose a different course of action than the one suggested to them, the governor further escalated the situation by granting the writ of habeas corpus. This moment is the second reason on why the inclusion of the governor became a turning point in the situation. The very act of the governor issuing the writ gave credence to McNeil and Cooke's violation of the House's protocol.<sup>334</sup> This was only further exacerbated with the fact that the Assembly had a general mistrust of the position of the governorship.<sup>335</sup> With this added consideration, the best solution would have been for Lyttelton to stay out of the situation altogether. During this particularly aggressive moment of the privilege controversy, it became a contest that tested the sovereignties of the Assembly and the governor.

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<sup>331</sup> Ibid., viii.

<sup>332</sup> Ibid.

<sup>333</sup> O'Shaughnessy, *An Empire Divided*, 112.

<sup>334</sup> Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, viii.

<sup>335</sup> This follows with the previously mentioned example of Governor Knowles and the Assembly. See Metcalf, *Royal Government and Political Conflict in Jamaica*, 128.

The prorogation caused the Assembly to become even further entrenched in its views. The Assembly believed that this act was evidence of the governor trying to declare his superiority over it.<sup>336</sup> The Assembly decided to arrest Wilson, McNeil and Cooke again as well as passed resolutions to act as their defense. The Assembly listed the particular reasons why it believed Governor Lyttelton's actions violated the privileges of the Assembly's privileges. Bourke describes this moment as the Assembly "called upon by an indispensable duty, to assert their rights and vindicate their jurisdiction" as well as declare "their legal rights and privileges."<sup>337</sup> The content of the resolutions reveal the specific rights and privileges that the Assembly believed it was defending.

United in their cause, the Assemblymen passed the ten resolutions without any dissent. The first resolution established that its members were free from being arrested or imprisoned as it was traditionally understood, except for treason and major crimes.<sup>338</sup> This made explicit the the Assembly's privileges. It also revealed that the Jamaican Assembly believed their privilege were rooted in the regnant metropolitan understanding of Parliamentary privilege. The following resolutions then proceeded to explicitly state how the Assembly would regard any reflection and misrepresentation of its proceedings as a "high violation' of their rights and privileges" and "destructive of the freedom of this house."<sup>339</sup> This belief stemmed from the notion that the Jamaican provincial government was modeled after the metropolitan government and that

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<sup>336</sup> Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, viii.

<sup>337</sup> Ibid.

<sup>338</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 18.

<sup>339</sup> Ibid., 18-19.



Jamaicans enjoyed the same rights and privileges as Britons residing in the metropole.<sup>340</sup> Any statement that declared this to be untrue was seen as a violation of the constitution of the House.<sup>341</sup> It was evident that the provincial government's right to rule was foundational for this highly evocative and politicized language which was protected in Jamaica's founding charter.<sup>342</sup>

The Assembly's resolutions revealed that it relied upon British principles as it was understood within the metropole.<sup>343</sup> These resolutions were based upon the Jamaican Assembly's belief that its members had the same rights and privileges as their metropolitan counterparts which was stated in its founding charter.<sup>344</sup> Given the fact that the privilege controversy was an issue of which governing entity had the jurisdiction over this matter, this became a key part in the Assembly's defense against the governor's belief that he had superiority over the Assembly. Even though there are clear similarities with British ideological principles, the resolutions also mentioned the constitution of the House. This fact showed the added consideration of the sovereignty of the provincial government itself. The Assembly's belief in its own power and sovereignty was foundational to understanding the Assembly's actions during the privilege controversy as well as the prose found in its resolutions.

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<sup>340</sup> Long, *The History of Jamaica, Volume 1*, 10.

<sup>341</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 19.

<sup>342</sup> O'Shaughnessy, *An Empire Divided*, 118.

<sup>343</sup> Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, 3.

<sup>344</sup> O'Shaughnessy, *An Empire Divided*, 118.

The remaining resolutions defended the Assembly's action of retaking Wilson, McNeil and Cooke into custody and additionally added protection to arresting officer Edwart Bolt.<sup>345</sup> This acted as the defense of not only the Assembly's ability to handle matters on their own but also established the fact that it had the power to override the governor's writ of habeas corpus.<sup>346</sup> As an added protection, the House proceeded to make the matter public in order to expose Lyttelton's tyrannical acts and to gain support from the populace.

### c. The Controversy Stalled

In response to the fact that the House made the matter public, Lyttelton decided to remand and grant Cooke and McNeil another writ of habeas corpus. Lyttelton then granted them a hearing the following day which he found Cooke and McNeil innocent and set them both free.<sup>347</sup> Lyttelton declared that his decision was considered as an act of Parliament, governor, council and Assembly of Jamaica because of the fact that his position was appointed by the king.<sup>348</sup> This explicit statement of the metropolitan authority was meant to effectively end the debate because of the generally accepted belief that the monarch had superiority over all provincial governments. He also reminded the Jamaican colonists that he had a king's commission with the belief that this was itself a valuable reservoir of authority. Lyttelton believed that this declaration would resolve the matter fully.<sup>349</sup> However, the Assembly took

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<sup>345</sup> Ibid.

<sup>346</sup> This based on the fact that the Assembly believed that it had superiority over courts. See Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 18.

<sup>347</sup> Ibid., 19.

<sup>348</sup> Ibid.

<sup>349</sup> Ibid.

greater offense to the fact that Lyttelton chose to disregard its previously released resolutions and the principles that were represented in them. The Assembly found that the governor's actions violated not only their privileges but also the rights that it believed it had as free Britons.<sup>350</sup> The House chose to pass five more resolutions that were directly addressing Lyttelton's violation on the privileges of the House and the "liberties of the people."<sup>351</sup> The House also unanimously decided to not take further action and create a committee instead that would appeal to the king for assistance on the House's behalf.<sup>352</sup> Before the committee could address the king however, Lyttelton decided to dissolve the Assembly and called for the election for a new Assembly on December 24, 1764.<sup>353</sup>

Lyttelton's response was meant to not only correct the actions of the Assembly but was also meant to be a clear assertion of his superiority over the Assembly. Lyttelton's choice to conduct a court case on the matter was meant to provide further defense on the legality of his act of releasing McNeil and Cooke. This was then ideologically supported with his inclusion of every previously issued acts from every Jamaican governing entity. The addition of the Assembly in the list of governing entities was a clear challenge to the Assembly's resolutions. Furthermore, Lyttelton chose to include his position of governorship which certainly had superiority over the Assembly as a direct response to the Assembly asserting that it had

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<sup>350</sup> Jack P. Greene, "Liberty and Slavery: The Transfer of British Liberty to the West Indies, 1627-1865," In *Exclusionary Empire: English Liberty Overseas, 1600-1900*, ed. by Jack P. Greene, (Cambridge: Cambridge University Press, 2010), 69.

<sup>351</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 20.

<sup>352</sup> Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, xi.

<sup>353</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 20.

superiority over the position of chancellor.<sup>354</sup> Lyttelton's inclusion of the fact that his governorship was granted to him by the king not only emphasized his political superiority but it also defended his decision to release McNeil and Cooke.<sup>355</sup> Lyttelton's mention that his position was granted by the crown which was meant to appeal to the Assembly's strong loyalty to the monarch as the majority of the Jamaican colonists saw the crown as the "ultimate arbiter of colonial constitutional arrangements."<sup>356</sup>

Lyttelton utilizing his position as governor allowed him to also use his position as governor in order to dictate the Assembly's privileges.<sup>357</sup> However, as it is clear that the Assembly would not concede to this point of the debate and declared that the Assembly was the only governing entity that was permitted to dictate its own privileges.<sup>358</sup> The newly elected speaker, Charles Price avoided another confrontation with the unamenable governor by not petitioning the governor for their privileges. The governor's power to grant petitions of the Assembly was another power that the governor had over the Assembly. When the Assembly chose to publicly release their resolutions, the governor found no other option than to prorogue the Assembly as a punishment for their rebellious actions.<sup>359</sup> The governor believed that he had the power and the right to dissolve the assembly because it was his duty to "uphold the privileges

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<sup>354</sup> It is important to note that Lyttelton switched over to his position of governor to have the power and ability to dissolve the Assembly when his position as chancellor could not achieve what he wanted.

<sup>355</sup> Ibid., 23.

<sup>356</sup> O'Shaughnessy, *An Empire Divided*, 113-114.

<sup>357</sup> This was a point of contention between the governor and the Assembly as Bourke describes the origins in which this principle came from to support the Assembly's side. See Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, 2.

<sup>358</sup> Clarke, *Parliamentary Privilege in the American Colonies*, 89.

<sup>359</sup> Ibid.

of the house as well as the prerogative of the crown.”<sup>360</sup> Lyttelton regarded his actions to be considered as royal and therefore made it superior to local political traditions that the Jamaican Assembly espoused.<sup>361</sup> The repetition of similar reactions of the Assembly and the governor made it obvious that reconciliation was far off in the future and the metropole would need to step in to mediate this stalled debate.

The intense debate that had unfolded during the first month of the privilege controversy came to a temporary halt with the prorogation of the Assembly. The news of the privilege controversy finally reached the Board of Trade on March 23, 1765 in the form of a letter from Lyttelton which also included copies of all fifteen resolutions that were passed by the Assembly and a copy of the entry from the register of the Court of Chancery that related to case that considered McNeil’s writ of habeas corpus.<sup>362</sup> In his first appeal to the Board of Trade Lyttelton framed the situation as a threat against metropolitan authority within Jamaica.<sup>363</sup> Lyttelton’s hoped that the Board of Trade would resolve the problem by supporting his actions.<sup>364</sup> Indeed the Board responded by supporting Lyttelton’s actions, reprimanding the Assembly’s resolutions, and permitting Lyttelton to handle the matter in the way he saw fit.<sup>365</sup> Additionally, the Board

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<sup>360</sup> Ibid., 89-90.

<sup>361</sup> O’Shaughnessy, *An Empire Divided*, 112.

<sup>362</sup> "Journal, March 1765: Volume 72," in *Journals of the Board of Trade and Plantations: Volume 12, January 1764 - December 1767*, ed. K H Ledward (London: His Majesty’s Stationery Office, 1936), 153-163. *British History Online*, accessed December 31, 2018, <http://www.british-history.ac.uk/jrnl-trade-plantations/vol12/pp153-163>.

<sup>363</sup> Ibid., 22.

<sup>364</sup> Greene, “The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire,” *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 21.

<sup>365</sup> Metcalf, *Royal Government and Political Conflict in Jamaica*, 163.

issued funds for regular soldiers to aid Lyttelton police the situation.<sup>366</sup> This led to a period that Lyttelton described as being of “great tranquility.”<sup>367</sup>

### III. The Resolution

In the remaining eighteen months of the controversy, the former members of the Assembly proceeded to continue its debate with Lyttelton by continuing to use their belief in their constitutionally protected rights and privileges.<sup>368</sup> Even though Lyttelton had metropolitan support, the Assembly continued contest the governor’s supposed authority to dictate its privileges.<sup>369</sup> Andrew Jackson O’Shaughnessy states that the Assembly’s continued defiance against the imperial government and the king makes this the “most significant phase of the controversy.”<sup>370</sup> The main defense used by the Jamaican Assembly was that the Assembly was modeled after the House of Commons while Lyttelton utilized his metropolitan appointed role as his main defense.<sup>371</sup> In his pamphlet *The Privileges of the Island of Jamaica Vindicated*, Bourke uses the English constitution as the foundation of his defense of the Assembly’s position.<sup>372</sup> The source of the discord that had formed between the Assembly and the governor was their disagreement upon the fluidity of essential components of their shared political ideology.

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<sup>366</sup> Ibid.

<sup>367</sup> Greene, “The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire,” *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 21.

<sup>368</sup> O’Shaughnessy, *An Empire Divided*, 114.

<sup>369</sup> Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, 2.

<sup>370</sup> O’Shaughnessy, *An Empire Divided*, 114.

<sup>371</sup> Ibid., 3, 23, 25.

<sup>372</sup> Bourke, *The Privileges of the Island of Jamaica Vindicated; with an Impartial Narrative of the Late Dispute Between the Governor and House of Representatives, Upon the Case of Mr. Olyphant, a Member of That House*, 10.

Governor Lyttelton believed that he had the power to dictate the privileges of the Assembly while the Assembly believed that their privileges were an explicit and essential component of British ideology. The Jamaican privilege controversy was a referendum about whether the British metropole truly respected the sovereignty of the provincial governments and the principles found in their shared political ideology.

In the early weeks of May 1766, Lyttelton was still waiting and hoping for metropolitan intervention and support to effectively end the debate on privilege.<sup>373</sup> He eventually received word from Secretary of State Henry Seymour Conway that the metropole no longer sought to fight against the will of the Jamaican provincial government.<sup>374</sup> Just two months after the repeal of the Stamp Act, the metropole overturned their earlier decision in order to support the will of the people. Despite the fact that the Privy Council supported Lyttelton two years prior, O'Shaughnessy contextualizes this surprising turn of events with the correlation of the new Rockingham ministry in England.<sup>375</sup> With this turn of events, Lyttelton abruptly resigned his position as governor and moved to England.<sup>376</sup>

His abdication meant that the Assembly was free to enact and establish protective legislation that clearly dictated the rights and privileges that were held by Jamaican colonists. The Assembly issued thirty-four resolutions that provided the metropole great amount of detail

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<sup>373</sup> This was delayed because Parliament was occupied with the Stamp Act crisis. See Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 38.

<sup>374</sup> Ibid.

<sup>375</sup> O'Shaughnessy, *An Empire Divided*, 114.

<sup>376</sup> See Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 38.

of the devious acts of Lyttelton that misrepresented the constitutional rights and privileges that they held and cherished.<sup>377</sup> These resolutions stated that the main disagreement between Lyttelton and the Assembly was the source in which the rights of Britons came from.<sup>378</sup> With the metropole's decision to support the passing of these resolutions, the Assembly victoriously ended the privilege controversy with the confirmation that their privileges would be defined only by the House.<sup>379</sup> With a renewed sense of authority, the Jamaican Assembly definitively ended the disputes of the privilege controversy with its resolutions' clear dictation of the very rights and privileges that came under question.<sup>380</sup>

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<sup>377</sup> Ibid., 43.

<sup>378</sup> Ibid., 42.

<sup>379</sup> Ibid., 46.

<sup>380</sup> O'Shaughnessy states that the Jamaican privilege controversy raised important constitutional issues and definitively determined "the boundaries of colonial rights and imperial power." See O'Shaughnessy, *An Empire Divided*, 115.



## CHAPTER 5

### COMPARATIVE ANALYSIS OF VIRGINIAN AND JAMAICAN POLITICAL IDEOLOGY

#### I. Introduction

Both the Virginian and Jamaican colonies were established with charters that declared that their colonists enjoyed the same rights and privileges as their British counterparts.<sup>381</sup> It was upon this foundational concept that these colonies eventually established their own provincial governments. 1764 proved to be a pivotal year for both the Virginian and Jamaican provincial governments as they each experienced their own constitutional crisis. As these conflicts unfolded, both the colonies and the metropole witnessed Virginia and Jamaica's ideological understanding of their citizens' rights and privileges diverge from their shared British heritage. Comparing the Stamp Act and the Jamaican privilege controversy reveals how the colonial governments' nascent understandings of their citizens' rights and privileges played a pivotal role in each of these conflicts. This new historical interpretation finds that both the Virginian and Jamaican colonists' understanding of their rights and privileges not only caused these imperial conflicts to occur but also explicate why the metropole eventually supported the rebellious acts of the colonial assemblies.

#### II. Comparative Analysis

The colonists' understanding of rights and privileges within the Stamp Act crisis and the privilege controversy both caused these conflicts and was used as a defense for their rebellious acts. Both conflicts valued the components of British political ideology about citizens' rights and privileges that was protected under the ancient constitution. The colonists initially believed they

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<sup>381</sup> Randolph, *History of Virginia*, 18; Long, *The History of Jamaica, Volume 1*, 9.

had the same rights and privileges as British citizens as it was established in each of their founding charters. The Virginian and Jamaican colonists realized through the Stamp Act crisis and the privilege controversy that they in fact did not enjoy the same rights and privileges. This section argues that these imperial conflicts were largely caused because of the colonists asserting their own interpretation of their rights and privileges which buttressed broader claims of sovereignty.

a. Causes of the Virginian Stamp Act crisis and Jamaican Privilege Controversy

The traditional political principles that were at the center of the Virginian Stamp Act crisis and the Jamaican privilege controversy stemmed from the same ideological understanding of citizens' rights and privileges. Elements of British political ideology of citizens' rights and privileges were found in Virginian and Jamaican colonies' charters, governments, and discourse. By the mid-eighteenth century, these specific political principles had become so ingrained that it empowered some colonists to use these shared political principles to justify their rebellious actions and to defend themselves against the metropole. The Stamp Act crisis was largely over the principle of direct representation and upholding the traditional notion of taxation.<sup>382</sup> The Jamaican privilege controversy was centered around the principle of Parliamentary privilege.<sup>383</sup> Both Virginians and Jamaicans shared a similar pattern of referring to British understanding of rights and privileges in order to enunciate their principles during the Stamp Act crisis and the

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<sup>382</sup> Dulany, "Considerations on the Propriety of Imposing Taxes in the British Colonies for the Purpose of Raising a Revenue by Act of Parliament," In *Tracts of the American Revolution: 1763-1776*, ed. Merrill Jensen, 96; Gould, "Liberty and Modernity: The American Revolution and the Making of the Parliament's Imperial History," In *Exclusionary Empire: English Liberty Overseas, 1600-1900*, ed. by Jack P. Greene, 113.

<sup>383</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 16-17.

privilege controversy which revealed the high importance that political ideology had in these significant imperial conflicts.

White Virginians' response to the Stamp Act revolved around the question of citizens' rights and privileges. Almost immediately after Parliament had issued the Stamp Act, radical colonists condemned the unpopular taxation measure.<sup>384</sup> While Parliament claimed the measure was for "defraying the expenses of defending, protecting and securing the [British Colonies and Plantations in America]," the colonists claimed that this unconstitutional measure violated their rights and liberties as protected under the British constitution.<sup>385</sup> These rights were considered essential components of being British citizens. They were protected under the royal charters that founded each of the colonies.<sup>386</sup> The royal charter of Virginia stated that Virginians would receive the same rights and liberties as Britons but would also gain the right to develop their own provincial government.<sup>387</sup> The Virginian Assembly was not in session when the Stamp Act first came into the colony however a Committee of Correspondence expressed their concern over the Stamp Duties.<sup>388</sup> The Committee of Correspondence stated the unnecessary burden the duties

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<sup>384</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 129.

<sup>385</sup> *Boston Evening-Post* (Boston, Massachusetts), no. 1555, June 24, 1765: [3]. *Readex: America's Historical Newspapers*. <https://infoweb-newsbank-com.proxyau.wrlc.org/apps/readex/doc?p=EANX&docref=image/v2:1089C792E64CF650@EANX-108B7228B00960E8@2365888-108B7228F5AA9620@2-108B7229DD443BB8@>; *Boston Evening-Post* (Boston, Massachusetts), no. 1567, September 23, 1765: [1]. *Readex: America's Historical Newspapers*. <https://infoweb-newsbank-com.proxyau.wrlc.org/apps/readex/doc?p=EANX&docref=image/v2:1089C792E64CF650@EANX-108B723F7812B898@2365979-108B723F87B85568@0-108B72401875E2F8@>.

<sup>386</sup> *Boston Evening-Post* (Boston, Massachusetts), no. 1567, September 23, 1765: [1]. *Readex: America's Historical Newspapers*. <https://infoweb-newsbank-com.proxyau.wrlc.org/apps/readex/doc?p=EANX&docref=image/v2:1089C792E64CF650@EANX-108B723F7812B898@2365979-108B723F87B85568@0-108B72401875E2F8@>.

<sup>387</sup> Randolph, *History of Virginia*, 18; Jefferson, *Notes on the State of Virginia*, ed. by William Peden, 137.

<sup>388</sup> E. J. Miller, "The Virginia Legislature and the Stamp Act," *The William and Mary Quarterly* 21, No. 4 (1913): 233-234.

would have on the colony and its mounting debts which acted as a direct response to Parliament's defense of the Stamp Duties. Parliament had taken advantage, they continued, of the colony's vaguely defined liberties and privileges. Finally, they explained that the act violated the most essential constitutional principle of not enacting laws without the consent of their representatives.<sup>389</sup> Eventually, the Virginian Assembly matched the sentiments of the Committee of Correspondence and issued their own resolutions against Parliament.<sup>390</sup> In sum, the Virginian politicians who condemned the Stamp Act did so by propounding a radical vision of their citizens' rights and privileges.

The Jamaican privilege controversy started as an internal matter within the Jamaican Assembly because of writ of seizure issued against John Olyphant while the Assembly was in session. John Olyphant declared that this was a breach of privilege and the Assembly ordered to have the people responsible arrested.<sup>391</sup> The conflict expanded with the inclusion of the governor because of his other position as chancellor. Governor William Lyttelton utilized his metropolitan-appointed position as governor to try and force the Assembly into doing his bidding.<sup>392</sup> The Assembly refused to comply and issued resolutions that explicitly stated their reasons for doing so. The central issue between the Assembly and the governor was which governing entity had the power to dictate the privileges of the Assembly. The Assembly explicitly stated that the only governing entity that held that right was the Assembly itself and

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<sup>389</sup> Ibid.

<sup>390</sup> Henkels, *The Patrick Henry Papers and Relics and Other Important Historical Letters and Documents*, 37-38.

<sup>391</sup> O'Shaughnessy, *An Empire Divided*, 112.

<sup>392</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 18.

stated that any assertion otherwise was a “subversion of the constitution of the house.”<sup>393</sup>

Governor Lyttelton countered that he held the right to define the Assembly’s privileges because of the fact that his position was directly appointed by the metropole.

British political ideology about citizens’ rights and privileges played a central role in both the Virginian Stamp Act and the Jamaican privilege controversy. A common theme was the fact that the colonial assemblies defended their sovereignty through the expression of British ideological principles about citizens’ rights and privileges. Both of the royal charters that established the Virginian and Jamaican colonies granted the colonists the rights and liberties of Britons as well as the sovereignty of their provincial governments.<sup>394</sup> The Virginian and Jamaican Assembly referred back to either the British constitution or their own constitution in defending their rights and privileges. Both assemblies utilized these constitutional principles of rights and liberties to declare their political authority and to defend their stance.

In both conflicts, the empire had failed to clearly define colonial subjects’ rights and privileges. Beyond approving the founding charters, the metropole issued no further directives on how colonists’ rights and privileges would be protected. Nor did the central government explain which governing entity or institutions would have jurisdiction over colonial subjects’ rights and privileges. Because of this vagueness, colonial governments grew accustomed over the eighteenth century to governing matters pertaining their citizens’ rights, liberties, and privileges.<sup>395</sup> By the 1760s, the colonies’ autonomous concept of their citizens’ rights and

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<sup>393</sup> Ibid., 18-19.

<sup>394</sup> Jefferson, *Notes on the State of Virginia*, ed. by William Peden, 137; Long, *The History of Jamaica, Volume 1*, 9.

<sup>395</sup> The period of salutary neglect began with under the administration of the Duke of Newcastle. Newcastle’s administration was in stark contrast with his predecessor Lord Carteret. Carteret defended American interests with a clear understanding of the metropole’s interests in the colonies. Under the administration of Carteret, the administration system in the colonies were tightened. Newcastle had little experience of the American perspective

privileges had drifted well past the point of no return. During the two conflicts under study, the metropole was unable to reign in the colonial assemblies diverging ideological understanding of their citizens' rights and liberties.

b. Effects of the Virginian Stamp Act crisis and the Jamaican Privilege Controversy

Initially, the British government reprimanded colonial assemblies' resistance during the Stamp Act crisis and the Jamaican privilege controversy. Both colonial assemblies had chosen to defy a direct metropolitan order.<sup>396</sup> But the British government eventually decided to reverse its decisions. This, for a time, ended the metropolitan government's infringement upon the emerging sovereign authority of the provincial governments.<sup>397</sup> Even though the metropolitan government backtracked for different reasons in both cases, its actions became important victories for both colonies.<sup>398</sup> The Virginian and Jamaican Assemblies' use of British political ideology about citizens' rights and privileges played a significant role in ending each of their stand-offs with the metropole.

Indeed, both the Virginian and Jamaican assemblies drew on British ideological understandings of citizens' rights and privileges to flout the metropole's authority. The Virginian

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and was more amenable to suggestions than Carteret was. Initially, Newcastle ruled moderately taking into consideration both the colonists and the metropole's interests. However, due to the pressure from the colonists, Newcastle slowly became more favorable to the colonists' interests. See Henretta, "*Salutary Neglect*": *Colonial Administration Under the Duke of Newcastle*, 34-42.

<sup>396</sup> O'Shaughnessy, *An Empire Divided*, 82; Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 115, 126.

<sup>397</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 130; Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 38.

<sup>398</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 16.

and Jamaican colonies generally did not deny the British government's sovereign authority to govern its colonies. In fact, both colonies turned to the metropole for assistance in internal matters. For example, the Virginian Assembly had petitioned to Parliament to remove the Virginia Company as the main governing power.<sup>399</sup> In Jamaica, the Board of Trade settled a dispute between Governor Knowles and the Jamaican Assembly on moving of the capital.<sup>400</sup> The colonial assemblies did not deny the general sovereignty of the British government.

Yet both assemblies argued that British sovereignty over the colonies had its limits. In both cases, they saw a specific infringement of their citizens' rights and privileges. Both the Stamp Act crisis and the privilege controversy infringed upon the authority of the provincial governments and it was the colonial assemblies that created formal statements against the metropole's decision in these matters.<sup>401</sup> When Parliament issued Stamp Act, it was an attempt to overpower the Virginian provincial government's role of taxing the colonists.<sup>402</sup> Parliament believed it had the superior authority to tax the Virginians colonists however the Virginian Assembly argued that this right was only reserved to the representatives that the colonists vote for themselves.<sup>403</sup> In the privilege controversy, Governor Lyttelton's directives and definition of

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<sup>399</sup> An example of this can be found in the colonies petitioning to Parliament for the removal of the Virginia Company. See Bilder, "English Settlement and Local Governance," In *The Cambridge History of Law in America*, edited by Michael Grossberg and Christopher Tomlins, 1:71.

<sup>400</sup> Metcalf, *Royal Government and Political Conflict in Jamaica*, 128.

<sup>401</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 115, 126; Onuf, *Jefferson and the Virginians* 47-48; Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 18.

<sup>402</sup> This was only further exacerbated with the period of salutary neglect as the colonists did not have to adhere to many Parliamentary acts prior to the Stamp Act. See Henretta, "*Salutary Neglect*": *Colonial Administration Under the Duke of Newcastle*, 34-42.

<sup>403</sup> Found in the third resolution in the Virginia Stamp Act Resolutions. See Miller, "The Virginia Legislature and the Stamp Act," *The William and Mary Quarterly* 21, No. 4 (1913): 237.

privileges conflicted with the Assembly's authority to handle internal matters and to define its own privileges.<sup>404</sup> In the resolutions that were issued by the colonial assemblies, the inclusion of the ideological principles of rights and privileges gave the colonial assemblies the authority to counter against Parliament's claims since it stemmed from British political principles.<sup>405</sup>

After their initial resolutions, the Virginian and Jamaican Assemblies continued to believe that their ideological understanding of citizens' rights and privileges were correct. The colonial assemblies' built upon British ideological principles about citizens' rights and privileges as defense against metropolitan directives underscores their belief that their understanding of British ideology was superior. The Virginian and Jamaican Assemblies continued to adhere to the principles that were espoused in their resolutions created an impasse between the metropole and the colonies. The metropole had the choice to either impose more force upon the colonies or to rescind their initial position.

Parliament repealed the Stamp Act because it could not overcome the colonies' resistance.<sup>406</sup> Justin du Rivage argues that Parliament's desire to decrease the war debt from the Seven Years' War led Parliament to leave little room for them to reconcile and compromise with the colonists.<sup>407</sup> The strength that the principles of British ideology provided to the colonists made it difficult for Parliament to defend its right to tax. In the Jamaican privilege controversy,

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<sup>404</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 18-19.

<sup>405</sup> Bailyn describes this as the metropolitan government "overextending their claims." See Bailyn, *The Ideological Origins of the American Revolution*, 276.

<sup>406</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 129-130.

<sup>407</sup> du Rivage, *Revolution Against Empire*, 110.



the Privy Council's original decision was overturned to favor the provincial government.

Secretary of State Conway informed Governor Lyttelton that the Rockingham Ministry decided to not go against the will of the provincial government and the colonists that it represents.<sup>408</sup> Far more explicitly than during its backtracking of the Stamp Act, Parliament ended the Jamaican privilege controversy.

The British government folded in part because the Rockingham Ministry superseded Grenville's administration.<sup>409</sup> Before a decision was made on what to do with the numerous colonial protests the metropole was receiving. After some strenuous discussions, Charles Watson-Wentworth, the second Marquess of Rockingham, was appointed to lead the new administration.<sup>410</sup> The Rockingham Whigs were a faction of Whig politicians that opposed the Grenville ministry.<sup>411</sup> The British Whigs were also known for praising the ancient constitution which similarly many Virginian and Jamaican colonists did as well. In this way, they were predisposed to agree with the Virginian and Jamaican assemblies' ideological understanding of British citizens' rights and privileges.<sup>412</sup> The effects of this administrative change was evident in the Jamaican privilege controversy as well. Andrew Jackson O'Shaughnessy argues that it was

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<sup>408</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 38.

<sup>409</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 129; O'Shaughnessy, *An Empire Divided*, 114. On the dismissal of Grenville, see J.V. Beckett, and Peter Thomas, "Grenville, George," Oxford Dictionary of National Biography, September 23, 2004, <https://doi-org.proxyau.wrlc.org/10.1093/ref:odnb/11489>.

<sup>410</sup> Oats and Sadler, "Accounting for the Stamp Act Crisis," *The Accounting Historians Journal* 35, No. 2 (2008): 129; O'Shaughnessy, *An Empire Divided*, 114; Martyn Powell, "Rockingham whigs," The Oxford Dictionary of National Biography, May 24, 2007, <https://doi-org.proxyau.wrlc.org/10.1093/ref:odnb/95198>.

<sup>411</sup> Martyn Powell, "Rockingham whigs," The Oxford Dictionary of National Biography, May 24, 2007, <https://doi-org.proxyau.wrlc.org/10.1093/ref:odnb/95198>.

<sup>412</sup> Clark, *The Language of Liberty: 1660-1832*, 233-234.

because of the new Rockingham ministry that Governor Lyttelton was ordered to reconcile with the Jamaican Assembly.<sup>413</sup> Just as the Jamaican elite planters were celebrating their victory, news of the repeal of the Stamp Act had just reached the Jamaican colony.<sup>414</sup> The persistence of the Virginian and the Jamaican colonies had handsomely paid off in the form of the metropole finally recognizing the sovereignty of their colonial governments.

### III. Conclusion

The strength of the Virginian and Jamaican provincial governments' adherence to their constitutionally protected rights and privileges not only gave them the strength to defy direct metropolitan orders but it also led to their eventual victories. The act of the metropolitan government overturning their original stance in both the Virginian Stamp Act crisis and the Jamaican privilege controversy was an unexpected reaction towards the colonial assemblies' rebellious acts. These imperial conflicts was a significant battleground that both revealed and tested the different ideological interpretations of the colonists' rights and privileges. The colonial assemblies' use of the British constitution and other foundational political principles to support their stance was an effective strategy in their transatlantic debate with the metropole. The strongest support for the colonists' side was the fact that these rights and privileges were in the initial agreement with the metropole that was explicitly stated in their colonial charters. The Virginian Stamp Act crisis and the Jamaican privilege controversy essentially were tests for the metropole to grant the colonies what they were promised to begin with.

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<sup>413</sup> O'Shaughnessy, *An Empire Divided*, 114.

<sup>414</sup> Greene, "The Jamaica Privilege Controversy, 1764-66: An Episode in the Process of Constitutional Definition in the Early Modern British Empire," *The Journal of Imperial and Commonwealth History* 22, No. 1 (2008): 16.

## CONCLUSION

As the British Empire continued to expand throughout the eighteenth-century, provincial governments were formed to address the needs and interests of the British colonies.<sup>415</sup> Following the period of salutary neglect, many of the imperial conflicts were centered the transatlantic debate on citizens' rights and privileges.<sup>416</sup> From their stronger sense of colonial sovereignty, the Virginian and Jamaican Assemblies defended their own understanding of citizens' rights and privileges against the metropole's understanding. The Virginian Stamp Act crisis and the Jamaican privilege controversy were important victories for the protection of Virginian and Jamaican provincial governments' sovereignty.

The Stamp Act crisis revealed the growing disparity between British and Virginian perceptions of the Virginian colonists' rights and liberties. Radical Virginian colonists protested against Parliament's new taxation measures because it violated the Virginian colonial government's sovereignty. Prior to the Stamp Act crisis, Virginians had developed their own interpretations of their rights and privileges and were prepared to defend their interpretations when they were challenged during the Stamp Act crisis.<sup>417</sup> The Jamaican privilege controversy was the culmination point of the struggle of power between the two strongest governing entities within the Jamaican provincial government, the Jamaican Assembly and the governor.<sup>418</sup> The Jamaican Assembly had the significant role of protecting its own rights and privileges and

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<sup>415</sup> Faulkner, *American Political and Social History*, 55 and Greene, "Of Liberty and the Colonies," In *Liberty and American Experience in the Eighteenth Century*, 25.

<sup>416</sup> Morgan, *The Birth of the Republic: 1763-89*, 45; O'Shaughnessy, *An Empire Divided*, 119; Henretta, "Salutary Neglect": *Colonial Administration Under the Duke of Newcastle*, 34.

<sup>417</sup> Christie and Labaree, *Empire or Independence 1760-1776*, 10.

<sup>418</sup> Metcalf, *Royal Government and Political Conflict in Jamaica, 1729-1783*, 26.

proceeded to do so when it came under attack by Governor Lyttelton.<sup>419</sup> Both the Virginian Stamp Act crisis and the Jamaican privilege controversy signified important victories for the protection of provincial governments' sovereignties and the rights and privileges that the Virginian and Jamaican governments protected.

Both the Virginian Stamp Act crisis and the Jamaican privilege controversy drew from same rights and privileges that were granted to them in their colonial charters.<sup>420</sup> The rights and privileges not only granted the Virginian and Jamaican colonies the ability to establish their own provincial governments but also provided the foundation on which their political authority rested upon. From 1764 to 1766, both colonies experienced their own constitutional crisis which both ended with victories for colonial sovereignty. The comparative analysis of the Stamp Act crisis and the Jamaican privilege controversy reveals how the colonial governments' initial understandings of their citizens' rights and privileges played a pivotal role in each of these conflicts. The Stamp Act crisis and the Jamaican privilege controversy not only revealed the significant role that colonial rights and privileges had in causing these conflicts but it also provided the strength for the provincial governments to stand up against the metropolitan directives.

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<sup>419</sup> Ibid., 26.

<sup>420</sup> Randolph, *History of Virginia*, 18; Long, *The History of Jamaica, Volume 1*, 9.

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