Imperial Regulation of Colonial Paper Money, 1764-1773

One of the most complicated issues exacerbating relations between Great Britain and her American colonies in the pre-Revolutionary decade was imperial regulation of provincial currency. Although many factors, including a shortage of specie, led the legislatures of the mainland colonies to issue legal tender bills of credit, "war provided the immediate occasion" in the eighteenth century. Massachusetts Bay had first used this expedient in 1690, and by the end of the War of the Spanish Succession (1713) the experiment had made considerable progress.

In many cases, colonial assemblies continued the practice after the cessation of hostilities and invariably the paper depreciated in value. Ordinarily, an assembly would pass legislation issuing bills of credit (sometimes as legal tender) for a specified number of years, at the same time pledging future taxes for the redemption of the issue. Several factors accounted for the almost invariable depreciation: failure to vote or collect sufficient taxes to retire the paper, an extension of the period for redemption, and, most important, too large an issue of money for normal commercial needs. It was primarily this last factor, according to Curtis P. Nettels, which accounted for the marked depreciation of the issues after 1712.

Following a war with its large-scale emissions of paper, far in excess of the requirements of peacetime commercial transactions, there would be a surplus of money. Inflation and depreciation of the currency would result. Such appeared to be the case following the Seven Years' War. On returning from London to Philadelphia in 1763, Benjamin Franklin complained of the great increase in prices. It was due, he speculated, "in great measure to the enormous Plenty

of Money among us”—specie spent by the royal army and paper bills issued by the local assembly during the recent conflict. Then, too, colonial legislatures were often tempted by political considerations to issue paper bills without future taxes as security. But in either case, devaluation followed with “devastating effects upon the price and credit structure and with repercussions on the whole money market.” According to the report of a committee of the Rhode Island assembly, admittedly an extreme case, paper bills issued in 1750 had depreciated some sixty per cent by 1764.2

Since debtors tended to pay their obligations in depreciated currency, creditors, both colonial and British, protested.3 The situation was especially bad in New England, and in 1751 Parliament passed an act regulating the colonies of that area in their emissions of paper currency. But the practices of Virginia and North Carolina brought further complaints, especially from British creditors,4 who for six years between 1759 and 1764 sought redress of their grievances. Nor were British merchants the only creditors to suffer; the depreciation


3 There might be a connection between the two, for colonial creditors could enlist the aid of British merchants in combatting paper money laws. William Allen of Pennsylvania wrote to David Barclay & Son concerning a Pennsylvania law reissuing paper money which, he feared, would result in depreciation of the currency. “Should not this law be disallowed by the King in Council, the British Merch[an]ts, and all who have money owing to them will be great Sufferers, and all property rendered very insecure, and we shall be plunged into the same difficulties they have been in New England.” Allen to Barclay & Son, June 20, 1759, The Burd Papers: Extracts from Chief Justice William Allen’s Letter Book Selected and Arranged by Lewis Burd Walker Together with an Appendix Containing Pamphlets in the Controversy with Franklin (Pottsville, 1897), 36.

4 The view that Virginians considered British merchants as parasites who fleeced the planters and kept them in perpetual debt is well known. But James H. Solow, “Scottish Traders in Virginia, 1750–1775,” Economic History Review, XII (1959), 83–98, noting the antimerchant sentiment in the colony, points out that they performed indispensable economic functions in marketing and mobilizing credit. Furthermore, the Virginians enjoyed a high standard of living, and many of the perpetually “debt-ridden” planters led a luxurious life. The debts owed the British merchants may have reflected the tardiness of the planters in repaying debts. As Dora Mae Clark, British Opinion and the American Revolution (New Haven, 1930), 28–29, points out, while Dutch and German customers enjoyed only six months’ credit, and the French even less, the colonists demanded and received from one to three years, and in many cases even more.
of Virginia currency in 1762 also meant losses to not a few merchants in the northern colonies.\(^5\) Discontent in Great Britain over Virginia and North Carolina paper currency finally led in 1764 to an act of Parliament limiting the conditions for emitting bills of credit, a measure the British merchants, as a group, did not desire. After conferring with the principal merchants, James Abercromby, agent for the Council of Virginia, pointed out that “their way of reasoning is by no means unanimous, with regard to the Operation of paper payments. ...”\(^6\)

Many factors complicated the question. First, merchants used provincial currency in clearing trans-Atlantic debts between the colonies and Britain. The entire economic complex determined the exchange rate, so that the price of bills of exchange depended on the value of provincial currency, supply and demand, and the volume and price of exported American produce as against imported British goods. The price of bills of exchange, thus linked to the value of bills of credit, “was more or less a reflection of the total condition of trade in relation to local conditions.”\(^7\)

Since paper bills of credit raised difficulties in almost all of the colonies, the home government had attempted to lay down certain rules to protect creditors from depreciation of paper money. In 1754, the Board of Trade and a committee of the Privy Council had approved the emission of £60,000 in paper bills by New Jersey with the provision that the assembly was not to declare them legal tender.

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Further, the governor was not to assent to additional emissions until the assembly had retired the outstanding issues of 1730 and 1733. Later, the Commissioners of Trade informed the governor that they would not object to bills of credit provided the assembly issued them under the regulations of the act of 1751 as applied to New England. This law was a "proper example," the Commissioners thought, fit to be "extended to all His Majesty's Colonies." In 1761, the Privy Council imposed a further condition when, in approving an emission of paper bills by Georgia, it stipulated that they might be legal tender for debts owed in the colony, but not to British creditors.

The dispute between Virginia and British merchants, however, involved not so much the practice of issuing paper bills as legal tender, but of fixing, by legal or judicial procedures, the exchange rate between the provincial tender and British sterling, rates which did not reflect economic conditions or the real market value of the paper money. A sharp break in tobacco prices, which reduced the purchasing power of Virginia produce and increased the demand for bills of exchange to balance imports from Great Britain, brought on the paper currency crisis in Virginia. There, provincial currency was discounted as much as fifty to sixty per cent to purchase bills of exchange. Yet, by a 1749 statute, the legislature had set the discount rate at twenty-five per cent advance on sterling for the difference of exchange. After British merchants had petitioned for relief, the Board of Trade instructed the lieutenant governor of Virginia to recommend to the legislature that it pass another law correcting the situation.

British merchants had also objected to emissions in North Carolina. In their petition they pointed out that £133 North Carolina currency would not buy the legal rate of £100 sterling, but only £70 in the market. They asked the home government to instruct the governor to recommend to the legislature an act providing that sterling debts be discharged in sterling, or in paper bills of credit only if the creditor would accept them, and not according to the nominal exchange rate.

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value of such bills, but at the actual difference of exchange at the
time of payment. When Governor Arthur Dobbs recommended such
legislation, the assembly of North Carolina refused to act, admitting
that the depreciation “of our Currency is too well known and felt,”
but all remedies hitherto proposed had proved abortive. “We are
of Opinion that the Growing demand to pay our Taxes and the
Gradual decrease by the Sinking Fund, Whereby the torn and worn
Bills are Yearly Burnt must soon Enhance their Value.”¹⁰ This was
small consolation to British merchants.

The legislature of Virginia was more amenable. In 1755, it had
passed an act providing that the colonial courts should set the dis-
count rate between bills of credit and sterling. Later, the House of
Burgesses sent to its agent in London, Edward Montague, a lengthy
justification of its paper money issues.¹¹ But the merchants were to
find this unsatisfactory, for a significant margin could exist between
the rate set by the provincial court and the commercial rate at the
time a debtor finally settled his account.

Fresh difficulties arose in 1762 when the legislature had to emit
additional paper money to fill a requisition from the home govern-
ment for military forces. The act issuing the bills of credit easily
passed the Burgesses, but cleared the Council by the narrow margin
of five to four. Lieutenant Governor Francis Fauquier privately in-
formed the Secretary of State, the Earl of Egremont, that the
 councillors who had opposed the new emission had been “taking great
Pains to Spirit up the Merchants [in Virginia], against the paper
Currency.” He feared lest the merchants of Great Britain “take

¹⁰ See the royal instructions to the executives of Virginia and North Carolina in Leonard
W. Labaree, ed., Royal Instructions to British Colonial Governors, 1670–1776 (New York, 1935),
I, 229–230, 236–238; also Journal of the Lords Commissioners of Trade and Plantations, 1759–
1763, 24–25, 26, 37–38, hereinafter cited as Journal of the Board of Trade; and Acts of the Privy
Council, Colonial Series, IV, 415–416. The petitions of the British merchants and the report of
the Board of Trade are printed in William L. Saunders, ed., Colonial Records of North Carolina
(Raleigh, 1888–1890), VI, 17–18, 22–24. See also H. R. Mcllwaine, ed., Journals of the House
of Burgesses of Virginia, 1758–1761 (Richmond, 1908), 40–41; and James Abercomby to John
Blair, May 3, 1759, Abercomby Letter Book. The reply of the North Carolina House, dated
Nov. 28, 1759, is in P.R.O., Colonial Office (C.O.) 5/299:18. See also the speech of Governor

¹¹ See the Va. Committee of Correspondence to Montague, Dec. 12, 1759, “Proceedings of
the Virginia Committee of Correspondence,” Virginia Magazine of History and Biography, X
(1902–1903), 345–347; and their instructions to the agent, ibid., XI (1903–1904), 2–5.
Alarm” and protest the bills being made legal tender for the payment of sterling debts. Fauquier assured Egremont that their debts were secure by an amount sufficient to purchase a sterling bill at the current price of exchange. But when the Secretary of State refused to intercede in behalf of the Virginia executive, Fauquier tried another line with the Commissioners of Trade. While some attributed the great rise in the rate of exchange exclusively to the new emissions of paper money, he thought there was a more fundamental cause: Virginians were importing more goods than their exports of tobacco would cover. According to Fauquier, “the most thinking Gentlemen of the Colony” acknowledged this, but the situation was “so disagreeable a truth to the generality that they obstinately shut their eyes against it.” He could suggest no remedy, for he feared that Virginians were “not prudent enough to quit one Article of Luxury, till Smart obliges them.” His greatest concern was that creditors in the colony would encourage British merchants to petition against the new emission.  

Fauquier’s fears proved correct. In the winter of 1762–1763, merchants from London, Glasgow, and Liverpool, among the more prominent of whom were James Buchanan, Anthony Bacon, Edward Athawes, and Capel and Osgood Hanbury, presented memorials to the Board of Trade. The commissioners received the petition of the London merchants on December 22, 1762, and promptly set a hearing on the Virginia paper currency issued to provide for the regiment raised on the King’s requisition the previous spring. Since Montague, agent for the Burgesses, was then ill, they granted a postponement until February 1, 1763, a procedure to which the chairman of the merchants’ committee, Edward Athawes, had “kindly consented.” On the appointed day, both Montague and Abercromby attended. The Commissioners then read the memorial of the London merchants, as well as one from Glasgow presented by Athawes and another from Liverpool delivered by Sir Ellis Cunliffe. Both sides


offered testimony, but the issue was not long in doubt. The following
day, the Board decided in favor of the merchants. Issuing paper bills
of credit as legal tender, the Commissioners charged, was destructive
of the public credit of the colonies and contrary to the sense of
Parliament as expressed in the 1751 act regulating the emission of
bills of credit in New England. Furthermore, putting into circulation
large quantities of paper money on insufficient and uncertain funds
had been the principal cause of the fluctuating rate of exchange, an
unstable rate operating to the prejudice of the public credit of the
colonies and British merchants. If the Virginia House of Burgesses
persisted in denying justice to the merchants as recommended in the
royal instructions of 1759 and neglected to pass legislation amending
the laws for emitting bills by voting sufficient taxes and fixing a
definite period of expiration for the paper money, then the Commis-
sioners would think it their duty to apply to Parliament for legisla-
tion extending the provisions of the act of 1751 to Virginia.14

In presenting the position of the home government to the Virginia
legislature in May, 1763, Fauquier pointed out that the Board of
Trade had been lenient in postponing any action. He now recom-
mended that the legislature make more adequate provision for the
redemption of paper money at the time fixed for its expiration either
through better collection of existing taxes or by voting additional
taxes. The Burgesses flatly refused and declined to pass any further
legislation on this issue. No laws, they declared, could guard against
the fluctuating rate of exchange. Furthermore, British merchants
had no cause for complaint about the excessive rise of the exchange
rate for that would be “sufficiently balanced by the Advantage they
must inevitably receive from its present declining State.” Although
the taxes voted to retire the bills of credit at the expiration date were
sufficient, the Burgesses maintained, the laxness of the sheriffs in not
remitting the money collected had prevented the annual retirement
of bills on schedule. These bills must be made legal tender in order
to ensure their circulation. Moreover, determining the rate of ex-
change for the payment of sterling debts by judicial decision was the
only method to guarantee equity for both debtor and creditor. The

14 Edward Montague to John Pownall (secretary to the Board of Trade), Jan. 17, 1763,
C.O. 5/1330:269; Montague to Pownall, [Jan. 24, 1763], C.O. 5/1330:273; Board of Trade to
Fauquier, Feb. 7, 1763, C.O. 5/1368:214–216; and Journal of the Board of Trade, 1759–1763,
Burgesses did concede that in some instances this method had been faulty inasmuch as the rate had risen between the time of the judgment by the courts and the actual remittance of the money. But, they concluded, the resulting disadvantage had been "small and inconsiderable, of a casual Nature, against which no human Laws can provide, and for which therefore we cannot suggest a Remedy...."  

Fauquier was in a dilemma. He attempted to explain his failure by appealing privately to Secretary of State Egremont. The lieutenant governor pointed out that both his predecessors had always allowed the redemption period for retiring paper money to exceed that stipulated by royal instructions. If he had attempted to deviate from this practice he would not have been able to raise the troops requested in the royal requisition of 1762. In his public account to the Board of Trade, Fauquier supported the Burgesses in their claim that the taxes voted were sufficient to retire the issues of paper money at the times prescribed by law. He had attempted privately to persuade some members of the House to remove the legal tender provisions for sterling debts, but with no success.  

An impasse had been reached. But the issue was no longer the paper currency of a single colony; rather it was the larger question of the regulation of bills of credit of all provinces not encompassed by the Parliamentary act of 1751. On receiving the address of the Virginia Burgesses, the Commissioners of Trade sent copies to the interested London merchants with a request that they submit their observations on the arguments of the colonial assembly. Late in November, 1763, Edward Athawes notified the Board that the merchants desired to testify. On December 8, with a committee of the London merchants trading to Virginia and the agent for the Burgesses present, the Board conducted a hearing on Virginia currency. The merchants declared that they would be "well satisfied" if the provincial bills were so regulated that judgments for sterling debts

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15 Speech by Fauquier, May 19, 1763, John Pendleton Kennedy, ed., Journals of the House of Burgesses of Virginia, 1761-1765 (Richmond, 1907), 171-172; reply by the Burgesses, May 20, 1763, ibid., 173-174; and also their report of May 28, 1763, ibid., 188-192. See also the Va. Committee of Correspondence to Edward Montague, June 16, 1763, Virginia Magazine of History and Biography, XI (1903-1904), 345-349; the printed address of the Burgesses to Fauquier, C.O. 5/1330:443; and Fauquier to the Board of Trade, May 24, 1763, C.O. 5/1330:431-433.  

16 Fauquier to Egremont (private), May 19, 1763, Egremont Papers, P.R.O. 30/47/14:1-2; Fauquier to the Commissioners of Trade, June 1, 1763, C.O. 5/1330:455; and the Burgesses' state of the treasury notes, C.O. 5/1330:463-474.
would be discharged in sterling either in Great Britain or in Virginia. The Board evidently decided to allow the colonists another opportunity, but any further neglect by the Virginia assembly in redressing the grievances of the merchants would be neither just nor equitable. Fauquier was to inform the legislature that if it did not comply, the only alternative would be legislation by Parliament. The "Candour of the [British] Merchants" in agreeing once more to appeal to the "Equity of the Legislature of Virginia" for redress of their grievances which the Board would otherwise have taken to Parliament, would, the Commissioners hoped, "induce the gentlemen of the House of Burgesses to comply with what is required of them."

For some unaccountable reason, the Board of Trade then rejected the procedure suggested by the merchants, i.e., to refer the matter to the Virginia assembly. The next month, after notifying Edward Montague and the London merchants to submit evidence, and without waiting to hear from the Virginia legislature, the Commissioners began considering the question of paper money in all the colonies. At the request of Montague, who was ill, they did grant a delay until early the following year, however. Among the merchants invited to attend were James Crokatt, Edward Athawes, John Lidderode, Capel and Osgood Hanbury, Barlow Trescothick, John Thomlinson, Jr., Sir William Baker, and John Nutt. Crokatt was to notify such other merchants as he thought able to present information to the Board. The colonial agents invited were William Knox for Georgia, Charles Garth for South Carolina, Edward Montague for Virginia, Robert Charles for New York, and Joseph Sherwood for New Jersey. The Board also called on various former governors and officials familiar with the colonies to attend a hearing on February 2, 1764—General Robert Monckton and Sir Charles Hardy of New York, Thomas Pownall and Joseph Hardy of Massachusetts and New Jersey, Henry Ellis of Georgia, Thomas Penn, Richard Penn, and Richard Jackson (agent) of Pennsylvania, Robert Dinwiddie and Thomas Ludwell of Virginia, and James Glenn of South Carolina.18


Unfortunately, we do not know fully what transpired at the hearing on February 2. But it was "agreed on all hands" that it would be "highly expedient and proper" to prohibit by act of Parliament all further emissions of paper bills of credit as legal tender, to remove the character of legal tender from all bills now circulating after the period fixed for their redemption, and to fix such a period for bills having no set date for redemption. Thomas Penn and Richard Jackson, however, requested that Parliament not pass such legislation until the following session to allow the colonies an opportunity of "transmitting their sentiments upon it."  

The following day, the agents had their chance. Garth, Sherwood, Montague, Choucet Jouvencal (for North Carolina), Charles, and William Knox attended the Board. They asked that the colonies be informed of the intention of the Commissioners to press for an act of Parliament so that they might "receive further instructions from their constituents upon it. . . ." Claiming that this procedure was inconvenient, the Commissioners asked if the agents intend to oppose such a bill in Parliament. The agents did not answer, but instead asked for time. Four days later, however, Charles, acting as spokesman for the group, announced that they could not agree with the proposal of the Board. It was their unanimous opinion that paper currency ought to circulate in the colonies as legal tender in all contracts and dealings within each province and that each colony be allowed to report on the amount it required.

These arguments seemed to have little immediate effect. Two days later, on February 9, 1764, the Commissioners issued a formal representation condemning the practices of the colonies in emitting paper money and calling for the extension of the act of 1751 to all the provinces. Specifically, they called for legislation to repeal all colonial laws creating paper bills as legal tender and extending the periods fixed for the redemption of these bills or altering the funds established for sinking the bills then in circulation. No bills of credit then current were to be legal tender after the expiration of the date

19 In his account of the hearing, Richard Jackson also mentioned that Monckton and another individual had "agreed that they had seen the good Effects & even Necessity of Paper Money. . . ." Jackson to Franklin, n.d. (but after April, 1764), Van Doren, 116-117.

20 Knox evidently compiled the arguments used by the agents. See his sixteen-page memorandum, "The Proposition of the Board of Trade to take away the lawful tender from all Paper Currency in the Colonies," Knox Papers, William L. Clements Library, Ann Arbor, Mich.
already fixed for their retirement. In such cases where bills circulated without fixed periods or without funds for their redemption, they were not to be legal tender after an interval set by Parliament.21

But the agents did not give up, and on February 13, Knox and Garth submitted a counterproposal. First, no bills of credit issued by a colonial legislature were to be legal tender for debts contracted with residents of Great Britain; second, these bills were not to be legal tender for the discharge of any debt whatsoever until the Privy Council approved the law creating such money.

What followed next is not clear, for in a letter written sometime in March to the First Lord of the Treasury, the president of the Board of Trade stated, "I wait yr Commands about . . . Paper Credit which will I believe . . . pass without Opposition; but we have not any time to lose." Something then occurred to halt the proceedings. From the correspondence of the agents, it seems clear that as late as March 24, the Commissioners of Trade dropped the idea of bringing a bill into Parliament that year. But later that month, Anthony Bacon, acting not as a member of the merchants' committee but in a private capacity as a member of Parliament, "unexpectedly revived" the "paper Money affair" in the House of Commons.22

On April 4, Bacon moved for permission to bring in a bill to prevent future emissions of paper money as legal tender and to regulate the legality of such bills of credit then circulating. Edward Rice, one of the Commissioners of Trade, seconded the motion. But Sir William Meredith and Peregrine Cust, both merchants, opposed it. Garth, agent for South Carolina and soon to be a member of the House, supplied them with arguments against Bacon's motion. Charles Townshend gave them some support by arguing that the colonists be

22 The Earl of Hillsborough to George Grenville, Mar. [?], 1764, George Grenville Papers in the possession of Sir John Murray, London. This letter is marked "Saturday, March, 1764." The five Saturdays of that month were Mar. 3, 10, 17, 24 and 31. The date of Mar. 3 seems most probable since the Privy Council approved the representation by the Board of Trade on the ninth. It might have been written on the thirty-first, two days after Bacon broached the matter of paper currency in the House of Commons. See also Journal of the Board of Trade, 1762-1767, 21; Jackson to Franklin, n.d. (but after April, 1764), Van Doren, 116; and Joseph Sherwood to Jacob Spicer of the N.J. Committee of Correspondence, Mar. 24, 1764; Sherwood to Samuel Smith, Apr. 19, 1764, Joseph Sherwood Letters, 1752-1768, New Jersey Historical Society, Newark, N.J.
allowed paper currency as legal tender, but under proper regulations. The issue then went to a committee consisting of Townshend, Sir William Baker, Rice, Bacon, Meredith, and Soam Jenyns, another Commissioner of Trade. According to Garth, after some debate Rice and Jenyns proposed to Meredith and other friends of the agents that they should confine the proposed bill "to the single point of preventing the Colonies for the future from passing Acts issuing paper bills with the clause of legal tender," but not to set an expiration date for any then in circulation. Since the "sense" of the House favored "restraining the provinces of this power," the agents thought it "better to close with this proposition."

In its final form, the Currency Act of 1764 (4 Geo. Ill, c. 34) was much less severe than the proposal originally suggested by the Board of Trade in its report of February 9, 1764. At that time, the Commissioners had advocated extending the curbs imposed on the New England colonies in 1751. That act did not abolish paper money as is sometimes thought, but merely established rules for enforcing the retirement of bills according to the legislation by which they were issued. The Currency Act of 1764, a compromise effected by the Commissioners of Trade, the British merchants, and the colonial agents, merely prohibited further legal tender laws and required the colonies to retire existing legal tender currency at the proper expiration date.

It was only at this time and on the question of paper money as legal tender for sterling debts that the agents and British merchants disagreed. And, as James Abercromby noted, the merchants themselves were not unanimous in their opinion on the operation of colonial paper currency. Within a short time, particularly after legal tender then current was retired between 1766 and 1768, the merchants were to give full support to the agents in their arguments and attempts to ameliorate the restrictions imposed by the act of 1764. They were to work together to obtain remedial legislation satisfactory to both groups.

An analysis of the dispute over paper currency to this point reveals that the imperial government had not acted precipitously, blindly, or without obtaining information from various sources. The

23 Journal of the House of Commons, XXIX, 1027; and Charles Garth to the S. C. Committee of Correspondence, Mar. [?], 1764, quoted in Lewis B. Namier, England in the Age of the American Revolution (London, 1930), 293.
Commissioners of Trade had given the legislatures of North Carolina and Virginia five years to rectify what they considered an injustice to British and colonial creditors. Furthermore, the British merchants had not asked for Parliamentary legislation, but for recommendations to the colonial assemblies to correct the situation. The Board of Trade, not the British merchants as a lobby, had pressed for the extension of the restraining act of 1751. Even then, the Commissioners had been indecisive. It seems clear that Anthony Bacon, acting as a private member in Parliament and not for the merchants' committee, precipitated the act of 1764, basically a compromise.

Another, perhaps more far-reaching, point should be noted. The bills of credit issued by the colonial assemblies to finance the war effort served as currency while those bills were outstanding. As the provinces retired these bills between 1766 and 1768, the amount of money available as a medium of exchange decreased and the legislature requested permission to issue fresh bills of credit as legal tender. As George Grenville's pamphleteers were quick to note: "Their want of paper for circulation is, therefore, an evidence of their having no public debt outstanding; and that their ordinary expences are too inconsiderable to supply them with a medium equal to their trade." In other words, requests by the colonists for paper money indicated that they had retired their war debts and could now afford to pay the taxes imposed by Parliament during the Grenville administration in 1764–1765.24

While constitutional disputes over the right of the British Parliament to impose taxes on the colonists were the main concern of the administration succeeding the Grenville ministry, in 1766 the government headed by the Marquis of Rockingham had to deal also with the issue of paper money. Several of the colonies—Pennsylvania, New York, and South Carolina—had requested their agents to press for repeal or modification of the act of 1764 regulating the issuance of paper money. Governor Henry Moore of New York supported his assembly, for the colony would soon be in dire straits from the lack of a circulating medium and his instructions as governor were so positive as to prevent his assenting to acts issuing bills of credit as legal tender. The Board of Trade, after discussing the situation with

24 [Thomas Whately and/or William Knox], The Present State of the Nation: Particularly with Respect to its Trade, Finances, &c. &c. (London, 1768), 74.
the New York agent, Robert Charles, reported to the King in Council that while the monarch could not suspend the act of 1764, he could revise his instructions to allow the governor to sign acts issuing bills in conformance with the Parliamentary statute. In June, 1766, the Privy Council approved instructions drafted by the Board of Trade allowing the issuance of £260,000 in bills of credit backed by sufficient taxes to be redeemed in five years. But the New York legislature had to insert a clause in its act suspending its operation until it had been approved by the Privy Council.25

The problem was not peculiar to New York. Simultaneously, the Commissioners of Trade had been collecting information from all the American colonies on paper money then in circulation. These accounts were, in turn, submitted to the House of Commons in accordance with the request of Parliament when it had passed the Currency Act in 1764. Benjamin Franklin, agent for Pennsylvania, had submitted a petition from that colony calling for the repeal of the statute.26 Both he and Thomas Pownall, former governor of New Jersey and Massachusetts, had conferred with the First Lord of the Treasury, Rockingham, and Pownall had submitted a scheme for a general currency in the colonies supported by the Bank of England and authorized by act of Parliament. Franklin, however, after conferring with Charles Townshend, drew up his own plan which was to be introduced by a member of Parliament, probably his coagent, Richard Jackson. Since Franklin sought primarily to satisfy British merchants, he included in his plan a clause providing for the payment of sterling debts at the rate of exchange prevailing at the time of the payment of trans-Atlantic debts.

Apparently, there was no hope of remedial legislation that session, for the Rockingham ministry wanted to review thoroughly the paper


26 Journal of the Board of Trade, 1764-1767, 49, 244, 253. The returns from the colonial governors on the paper money circulating in the colonies are in C.O. 323/19. See also Journal of the House of Commons, XXX, 688; and Franklin to the Pa. Committee of Correspondence, Apr. 12, 1766, The Pennsylvania Magazine of History and Biography (PMHB), V (1881), 353.
money question before considering any repeal of the Currency Act. To strengthen the arguments of the agents in the session to come, Charles Garth advised his South Carolina constituents to follow the example of the Pennsylvanians and formally request relief from the act of 1764. Petitions from the assemblies over the signatures of their speakers would carry more “Dignity” and more weight than an application to the House of Commons by an agent only. The latter approach seemed more like an appeal “of a private nature regarding the Local Circumstances of particular Colonies.” Garth was optimistic, for the ministers had given the agents to understand that they would consider the question of paper money during the legislative recess in order that they might propose “some general and beneficial Plan for the whole Continent of America” at the next Parliamentary session. Although the Rockingham ministry fell from office in the summer of 1766, the agents were confident that they could secure from the newly formed Chatham administration some relief for their constituents.

Actually, little relief was needed, since the Currency Act of 1764 and subsequent royal instructions to the governors had not prohibited, but merely imposed certain conditions on, the issuance of paper money in the colonies. This was not as great a hardship as might have been expected, for, as the experience of Maryland demonstrated, currency did not have to be legal tender to circulate as a medium of exchange. After 1750, the Maryland legislature had been able to build up a reserve fund by buying capital stock with the interest from its land-bank loans. By 1766, it had a reserve of £35,000, of which £26,000 was invested in stock of the Bank of England. When the old money issued by the colony had expired, the legislature was still able to issue new bills, but not as legal tender. Yet, these circulated freely, for the land-bank commissioners were able to draw on the reserve in London when the paper currency was presented for redemption. Maryland was thus able to float a currency despite the restrictions of the act of 1764.


Another alternative was suggested by the assembly of New York and transmitted by Governor Henry Moore to the Commissioners of Trade in December, 1766. The plan had apparently been conceived by private persons in England and sent to the colony by New York's agent, Robert Charles. Designed to obviate the objections of the British merchants to practices of Virginia in issuing paper money, it proposed to repeal the Currency Act of 1764 and issue money as legal tender in all cases except for sterling debts owed British residents and for special contracts in the colonies payable in sterling. In these two cases, the paper bills would not be legal tender at their nominal value but at the current cost of bills of exchange in London as set by a provincial court. 29

Since the new Secretary of State for the Southern Department, the Earl of Shelburne, seemed receptive to modification or repeal of the restrictions on paper currency, Charles Garth and Franklin, agents for South Carolina and Pennsylvania, met with a committee of London merchants trading to North America to concert action. The committee resolved that it was absolutely necessary to repeal the Currency Act, and that legal tender paper money in the colonies would not be prejudicial to the British merchants if such legal tender did not extend to sterling debts contracted with British residents. Six of the committee were to call on the Secretary of State to solicit his aid in implementing these resolutions. The lobbyists were evidently successful, for on February 13, 1767, Shelburne referred the petitions of the merchants and the several colonial assemblies to the Board of Trade. In turn, the Commissioners called on the merchants, who asked Garth, Franklin, Montague, and Robert Charles to submit their observations; the agents and merchants then settled on a joint representation. This was to be the answer of the merchants to the February, 1764, paper money report of the Commissioners of Trade. At the same time, Franklin drew up arguments in favor of paper currency for the Duke of Grafton, First Lord of the Treasury, as well as an outline for a bill which Richard Jackson was to bring into Parliament. 30


30 Garth to the S. C. Committee of Correspondence, Jan. 21 and Mar. 12, 1767, South Carolina Historical and Genealogical Magazine, XXIX (1928), 129-130, 220; Franklin to
But unforeseen developments complicated the situation. First, some members of the Chatham administration, particularly Charles Townshend, Chancellor of the Exchequer, indicated they would support a project allowing the colonial assemblies to issue interest-bearing bills, but on the condition that the interest be appropriated for an imperial revenue fund. Franklin claimed he had suggested such a scheme to Grenville two years before as an alternative to the Stamp Act, but now, after the polemic on taxation, the agents and merchants hesitated to commit themselves to such a project for fear of antagonizing the colonial legislatures. Interest-bearing notes would provide the imperial government with an American fund raised independently of the colonial assemblies.31

Another factor handicapped the efforts of the agents and merchants to secure repeal of the Currency Act. A conflict of authority between the imperial and colonial legislatures had arisen over the terms of the Mutiny Act of 1765 extended by Parliament to North America. In this statute, Parliament, by specified procedures, required the assemblies to provide quarters and certain incidental supplies for troops stationed in, or passing through, a province. The
legislatures of Georgia, South Carolina, and New York refused to comply. The case of New York became prominent, much to the embarrassment of the agents, who, on orders from the colonies, including South Carolina and New York, were then requesting repeal of the Currency Act. As Charles Garth noted, the refusal of New York to comply with the Mutiny Act hampered the cause of paper money.

On learning of the attitude of the New York assembly, the ministers had grown "cool . . . not to say shy," toward the proposal to repeal the restrictions on paper money. On what grounds, they asked the agents, could the imperial government support an "Indulgence for America" when in return the colonists refused to obey its laws? How could the ministers ask Parliament to pass legislation at the request of and for the benefit of Americans when at the same time Parliament had before it the refusal of the colonists to comply with one of its acts? Yet, the colonial assemblies were to use grants for the troops as a lever to extract concessions from the imperial government. The South Carolinians talked "publicly of refusing to provide" for the royal garrisons unless the governor consented to sign a bill emitting paper money as legal tender. In 1769, Lieutenant Governor Cadwallader Colden informed the Earl of Hillsborough, Secretary of State for the American Department, that "Great Pains" had been taken in the New York assembly to procure instructions for the members "against granting any money for the Troops otherwise than out of the money to be emitted on loan. . . ."

Initially, the prospects for some accommodation did not seem promising, particularly since the newly created post of Secretary of State for the American Department was held by the Earl of Hillsborough. The agents in London now had to convince the very minister who five years before as president of the Board of Trade had urged restrictions on colonial paper money.

In a conference with Benjamin Franklin, Hillsborough objected to these issues as legal tender, yet, he went on, if Pennsylvania, New York, and New Jersey applied for permission to issue currency as the

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82 Garth to the S. C. Committee of Correspondence, Mar. 12, 1767, South Carolina Historical and Genealogical Magazine, XXIX (1928), 219.
agent proposed, the Secretary of State promised to give their applications "fair play." Franklin was not too hopeful, for he realized that "nothing is to be done in Parliament that is not a measure adopted by the ministry and supported by their strength, much less any thing they are averse to or indifferent about." Garth also realized the futility of appealing to Parliament without ministerial support. The agents "dare not stir" without this backing. The British merchants were optimistic, however, since Hillsborough had listened to them before on other matters. They now agreed on a course of action with the agents. Repeal of the act of 1764 must be "proposed in the light of a favour" to British merchants, requested by them, and not by the agents as "a favour to America."34

Hillsborough was primarily concerned with maintaining the authority of the imperial government as expressed in the Parliamentary restriction against paper money as legal tender, and in the royal instructions to the governors not to assent to any act issuing paper bills unless the act contained a clause suspending its operation until approved by the Privy Council. No law could be passed, he informed the governors of New York and New Jersey, without the prior consent of the royal government; consequently, a suspending clause must be included in any bill or any draft of proposed legislation sent to London before enactment. He wrote Governor William Tryon of North Carolina that so many in Parliament, the Privy Council, and the Board of Trade (which he himself also headed) agreed on the evils of paper money as legal tender that he could not see how any inconvenience to the colony would induce the ministry to abandon the sound principles of the Currency Act of 1764. In addition, the North Carolina assembly should have learned from the experience of New England and Maryland that it was possible to establish a paper currency without making it legal tender. But, regardless of his personal opinion, Hillsborough assured Tryon that the ministry would fully consider any plan the assembly might propose.35

34 Garth to the S. C. Committee of Correspondence, Jan. 27, 1768, South Carolina Historical and Genealogical Magazine, XXX (1929), 183; and Franklin to Galloway, Feb. 17, 1768, Writings of Franklin, V, 97-99.
Actually, as New Jersey's currency experience illustrates, Hillsborough objected to the legal tender aspects of paper money, not to paper money itself. In 1769, Governor William Franklin, son of the Pennsylvania agent, transmitted to the Secretary of State an act passed by the New Jersey assembly for emitting paper money. Unfortunately, a clause in the bill implied that the money would be legal tender in the colony. The Privy Council disallowed the measure. Since the governor had emphasized the need for money in the province, however, the Board of Trade recommended that Franklin might sign a new bill emitting currency if it contained a suspending clause and was sent to England for approval. Late in 1769, the assembly passed another act for emitting £100,000 in paper bills on loan at five per cent interest. As Governor Franklin informed Hillsborough in transmitting the act, the money would be considered legal tender only in a limited sense; the colonial loan office issuing the currency would be obliged to accept it when offered to discharge the mortgages given for the money. Some assemblymen had attempted to force the imperial government to accept the measure by tacking on a bill for supplying royal troops. Governor Franklin, on the other hand, had argued privately against the rider, believing that the ministry might resent any attempt at coercion. But his efforts were to little avail, as were those of his father, now agent for New Jersey as well as Pennsylvania, when on April 11, 1770, he appeared before the Commissioners of Trade to defend the law.

On June 6, the Privy Council disallowed the New Jersey act, much to the indignation of the assemblymen. They had never imagined that the ministry would have put so extensive a construction on legal tender as was done in the Currency Act of 1764. To them, it was only reasonable that the provincial loan office issuing the paper currency should accept the money when mortgages were redeemed. Also, it was absurd to expect anyone to mortgage his land to the loan office for paper money if that office could not accept those bills when he discharged his debt. Besides, the system proposed by the New Jersey assembly was not novel, as Governor Franklin pointed out. For years, Maryland and Pennsylvania had paper money circulating, money which was not legal tender in common payments between private individuals but which was accepted at the colonial treasuries where issued. The younger Franklin now warned Hills-
borough that the assembly so resented the disallowance by the Privy Council that it probably would not grant money for the troops stationed in the province unless the royal government permitted paper money laws.36

Governor Franklin’s analysis of the New Jersey land office plan was fair, but Hillsborough was evidently more interested in having the provincial legislature conform to the provisions of Parliamentary law than he was in the economics of the scheme. The solution to the dilemma on paper money obviously lay in amending or clarifying the Currency Act of 1764 to permit colonial legislatures to emit paper currency under less exacting conditions. The New Yorkers were able to accomplish this by working through their agent in London, Robert Charles, but only after an extended, exasperating struggle.

In 1769, the New York assembly passed a bill issuing £120,000 which Governor Henry Moore shortly before his death transmitted to the ministry in London. The lieutenant governor, Cadwallader Colden, then took up the cause when he informed the Secretary of State that unless the administration allowed paper money it would be difficult to persuade the assembly to vote provisions for the royal troops in the colony. In London, Robert Charles supported the New York paper money plan by petitioning the ministry: the bills to be issued would not be legal tender, but they must be accepted at the loan office where originally issued and at the colonial treasury for money due the provincial government.

The Privy Council referred the matter to the Commissioners of Trade, and the Board, in turn, called for the opinion of the Crown law officers on two questions. Was the paper money proposed under the New York law legal tender within the meaning of the Currency Act of 1764? Could the King, consistent with the provisions of this act of Parliament, authorize the governor of New York to assent to the bill in question? The Attorney General and Solicitor General, William DeGrey and John Dunning, reported on December 4, 1769, that the notes of credit to be issued by the New York bill were not legal tender within the “true meaning and intention” of the Currency

Act. As the law officers interpreted the preamble of this statute, Parliament intended to prohibit the practice of making paper bills legal tender in the discharge of private debts. The New York law made the bills legal tender only at the public loan office and the colonial treasury. Consequently, if the paper money should depreciate, the loss would fall only on the province. If their interpretation of the Currency Act was correct, DeGrey and Dunning continued, then the King could assent to the New York law, but if the prohibition against legal tender came within the general meaning of the words "Due and Demands whatsoever," contained in the Currency Act of 1764, the monarch could not assent to the provincial law without violating a Parliamentary statute.

This opinion did not settle the question. The New York agent, Robert Charles, then asked that the Commissioners of Trade consider the arguments in favor of the New York law used by the late Governor Moore and by Colden. The Commissioners did so, but in their report they refused to go beyond the observations on the general question of paper money as legal tender made in the Board of Trade report of February, 1764.37

The New York assembly continued to exert pressure. Colden warned the Secretary of State that it would not vote supplies for the royal garrisons unless the ministry allowed a paper money bill. On January 5, 1770, the assembly passed substantially the same bill the Privy Council had recently questioned. At the same time, it specified that the sums to be used for supplying the troops come from the paper money issued by this bill. Colden explained to Hillsborough that if he had not signed the measure there would have been no money for billeting the troops. Besides, the law would not go into effect for six months; the home government thus had time to act on the measure. The money was legal tender only at the provincial loan office and treasury. This was the only method of complying with the prohibition against legal tender, Colden argued in defending the statute. The lieutenant governor's plea made no difference. Inasmuch as the New York law of 1770 did not differ from that passed

the previous year, the Commissioners recommended that the Privy Council disallow it, particularly since it did not contain a suspending clause as provided in the royal instructions to the governor.38

Direct action in Parliament by Robert Charles helped resolve the impasse. On April 24, 1770, he petitioned the House of Commons to allow the New York legislature to issue £120,000 in paper bills of credit to be legal tender only at the colonial loan office and treasury. That same day, the House appointed Jeremiah Dyson, a Commissioner of Trade, and Richard Jackson to bring in a bill pursuant to the agent’s petition. Introduced by Dyson on April 23, the bill passed the House on May 7, and received the royal assent on May 19. The act of 10 Geo. III, c. 35 enabled the New York legislature to issue bills that would be legal tender at the loan office and the colonial treasury.39

The New Yorkers had obtained their paper money, but only by giving up a principle—the authority of the colonial assembly vis à vis the British Parliament. They had bartered the point in exchange for money for royal troops under the terms of the British Mutiny Act. Governor Thomas Hutchinson, then engaged in a bitter struggle with the General Court of Massachusetts, appreciated the point. Reflecting the loyalist position, he wrote privately to Hillsborough: “Every Act of Parliament carried into Execution in the Colonies tends to strengthen Government there. A firm persuasion that Parliament is determined at all events to maintain its supreme authority is all we want.” The New York paper currency act of 1770 “was extremely well adapted to maintaining the authority of Parliament. . . .” The Speaker of the New York assembly observed later that a subsequent measure of the legislature “was Neither Contrary to the Spirit nor Letter of the Act of Parliament Restraining the Issuing a paper curr[ency].”40

38 Colden to Hillsborough, Dec. 16, 1769, Jan. 6 and Feb. 21, 1770; Colden to the Board of Trade, Jan. 6, 1770, New York Colonial Documents, VIII, 194, 199, 206, 198; Board of Trade report, Feb. 8, 1770, C.O. 5/113:42–45; Order in Council, Feb. 9, 1770, New-York Historical Society Collections, LVI (1923), 166.

39 Journal of the House of Commons, XXXII, 899, 916.

40 Hutchinson to Hillsborough (private), Jan. 22, 1771, C.O. 5/246:5–6; John Cruger to Edmund Burke, Apr. 6, 1773, Wentworth-Woodhouse Muniments, Burke Correspondence, BK264, Sheffield City Library.
That Parliament might extend the dispensation granted New York to the other colonies was quickly realized by Charles Garth, agent for South Carolina. While the House of Commons was considering the New York petition, he prepared a clause for a general dispensation for the other provinces as an amendment to the Currency Act of 1764. The ministry would not admit it, however, speciously claiming that there was nothing before the House of Commons to show that the other colonies desired permission to issue paper money. This was mere sophistry, since several colonies had petitioned the King. The point was that they would have to come to Parliament, thus recognizing its authority, with their requests to emit paper currency. Possibly the ministers did have one valid argument in rejecting Garth's proposal in 1770: they would have to know the effects of the paper money experiment in New York before extending a general dispensation. Garth now suggested that if other assemblies were to petition through their agents, the ministers might listen in the future.

It happened as Garth thought it would. In the spring of 1773, the agent for South Carolina informed his constituents that he understood the new Secretary of State for the American Department, the Earl of Dartmouth, was considering a "Relaxation" of the Currency Act of 1764. While the ministry would not repeal that statute as the agents desired, it would allow colonial assemblies to issue certificates, notes, or bills, backed by taxes, to be legal tender at the public treasuries in discharge of any taxes or debts due the provincial governments. Among the papers of the Earl of Dartmouth is a document, probably written by William Knox or John Pownall, his undersecretaries, reflecting the attitude of the administration. According to this analysis, Parliament had intended by the act of 1764 to prevent paper money being made legal tender for private debts. Since the colonies were short of specie, some other medium of circulation was necessary. But the legality of paper notes payable at the colonial treasuries was questionable under a strict, or literal, interpretation of the Parliamentary statute which prohibited all bills of

41 Garth to the S. C. Committee of Correspondence, May 14, 1770, *South Carolina Historical and Genealogical Magazine*, XXXI (1930), 285-286; Garth to the S. C. Committee of Correspondence, Apr. 3, 1773, Letter Book of the Committee of Correspondence, fol. 150, South Carolina Archives, Columbia, S. C.
credit or notes "whatsoever" being legal tender. To remove any doubt, the Board of Trade under Dartmouth decided to move in Parliament for a bill amending that statute. On April 28, 1773, Bamber Gascoyne, a Commissioner of Trade, so moved, and on May 6, Richard Jackson, solicitor to the Board, brought in the bill. It received the royal assent on June 21. The 1773 act (13 Geo. III, c. 57), amending the Currency Act of 1764, allowed colonial assemblies to issue notes deemed legal tender at colonial treasuries for duties and taxes. Since this paper could be redeemed at the provincial treasury, it would circulate freely at face value as a reliable medium of exchange.

After nine years, the colonial agents had secured a paper currency for the provinces. But the Americans had tacitly, if not implicitly, acknowledged the authority of Parliament. And in the final analysis this was all the imperial government wanted.

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43 Journal of the Board of Trade, 1768–1774, 353; Journal of the House of Commons, XXXIV, 288, 302; and Garth to the S. C. Committee of Correspondence, May 4, 1773, Letter Book of the Committee of Correspondence, fol. 157, South Carolina Archives.