

INTRODUCTION [to Volume 3]

Constitutional scholars and historians have typically characterized Britain's policy toward its North American colonies during the decades between 1690 and 1760 as one of salutary neglect. Edmund Burke first gave the term its currency in a 1775 speech in Parliament in which he urged his colleagues to abandon efforts at coercion of the colonies and return to the "wise and salutary neglect" that had resulted in America's economic growth and commitment to liberty. In Burke's view, "the colonies in general owe[d] little or nothing to any care of ours" and had not been "squeezed" into their "happy form by the constraints of watchful and suspicious government."¹

Historians have carried on the Burkean tradition. In a book entitled "Salutary Neglect", James Henretta, for example, wrote of "the great watershed of 1688-89 when a relatively strong and coherent colonial policy collapsed in the aftermath of the glorious revolution."² The decades that followed, according to Henretta, witnessed "the neglect of colonial problems by those in London" and the absence of any "concerted attempt . . . to administer the political life of the colonies in a purposeful way."³

The legal and constitutional history of Britain's North American colonies during decades from 1690 into the mid-eighteenth century suggests that, although there is much truth to the Burkean perspective, "salutary neglect" is not the whole truth. Indeed, it is a somewhat oversimplified mischaracterization.

As volume two showed, Charles II and James II both strove to strengthen the power of monarchy and wipe out the vestiges of republicanism remaining in England and its colonies in the

¹ Edmund Burke, "Speech on moving resolutions for Conciliation with America," in Edmund Burke, The Works of Edmund Burke, 2 (Boston: _____, 1839). 15. 30.

² James A. Henretta, "Salutary Neglect": Colonial Administration under the Duke of Newcastle (Princeton: Princeton University Press, 1972), ix.

³ Ibid, 346-347.

aftermath of the English Civil War. These strivings led to the conquest of New York, the establishment of the Carolina outpost under the administration of royal favorites, the imposition of the common law throughout the empire, and governance by lawyers in the newly established colonies. As this volume will show, the crown in the years before 1689 directed the imposition of the same royal policies in the Chesapeake and New England. Charles and James demanded the replacement of Puritan law by common law in New England, sent over a royal official to enforce the Navigation Acts, and even sent regular troops as an occupation army in New York and to help suppress Bacon's Rebellion in Virginia.

Professor Henretta is correct that the Glorious Revolution was a great watershed: it produced enormous change. Parliament's invitation to William of Orange to take the throne led over time to the end of a century of conflict between the king and Parliament. William and his successors solidified the monarchy, but in a constitutional, almost republican form. Within decades real power in England lay not with the king but in Parliament.

Even greater change in policy emerges when William's acceptance of the English throne is examined from a Dutch perspective. The Dutch republic had named William its stadholder in 1672, when it was under attack on all sides by Catholics, especially by Louis XIV, who threatened the republic's very existence and its Protestant religion. But when William III died in 1702, his accession to the English throne and the Dutch-English alliance to which it led -- an alliance that would remain in place after William's death -- had put an end to French expansionism and laid the foundations for British world hegemony that would begin to emerge in the War of Spanish Succession and fully emerge in the Seven Years' War. By enhancing and harnessing British power, William III thus accomplished the goal on which he set out in 1672 -- the defeat of Louis XIV's bid for what William called "universal monarchy," the preservation of Dutch and more generally European freedom, and the safety of Protestantism.⁴

⁴ See Wout Troost, William III, the Stadholder-King: A Political Biography (Aldershot: Ashgate Publishing Ltd. J.C. Grayson trans., 2005), 76, 95-99, 198-200, 235, 241, 297. For the language of "universal

Volume 3 will show that in America as on the North Sea littoral the primary goal of British colonial policy after 1689 was no longer the enhancement of royal power but the establishment of Protestant hegemony, ideally that of the Church of England but alternatively of other reformed sects as well. In New England the crown abandoned what had appeared, especially in New Hampshire, as an effort by Charles II and James II to wipe out Puritanism and impose conformity with the Church of England. Royal policy after 1689, most notably in Massachusetts, supported Puritanism as the established religion. Maryland after 1689 lost its unique Catholic status and became a royal colony with Anglicanism as its official religion. Even in Virginia, where the Church of England had long been dominant, greater efforts occurred to wipe out Catholic than sectarian Protestant dissent.

In short, Britain after 1689 did not neglect its colonies. On the contrary, officials in London used them at all times to promote their principal policy: before 1689 to enhance the power of the monarchy and to destroy the remnants of republicanism and after 1689 to promote Protestantism and to rein in French imperial pretensions. When, after 1689, the promotion of Protestantism also resulted in the acceptance of quasi-republican, communitarian institutions associated with it in America, so be it. The growth of such institutions was not inconsistent with William III's anti-French, pro-Protestant policy goals.

Nor was the generation of wealth, colonial as well as home-county wealth. As Christine Desan has written, Parliament's most important legislation in the 1690's was the creation of the Bank of England, which gave the nation a modern, flexible money supply. A subsequent act in 1704, the Promissory Note Act,⁵ which made promissory notes negotiable throughout the empire, similarly created a money supply for the colonies. As subsequent chapters will show, the existence of negotiable paper commercialized colonial economies, revolutionized colonial law, and stimulated the development of a legal profession as a leading force in colonial society.

monarchy," *see ibid.*, 293. For discussion of William's youth and its relationship to his passionate nationalism and Protestantism, *see ibid.*, 36-37, 63.

⁵ 3 and 4 Anne c. 9 (1704), in *Statutes of the Realm* 106.

Thus, English policy was never one of neglect. William III did not neglect England's colonies. Rather he sought to transform them from entities that enhanced monarchical power into vehicles for preserving Protestantism from the dangers of French expansion. Coincidentally he was prepared to build the companion commercial and quasi-republican institutions that would bring about Protestantism's nineteenth-century ascendancy. William's policy succeeded remarkably well.

As Professor Henretta has pointed out, a veneration for past precedent and for traditional ways of doing things pervaded English consciousness during the first half of the eighteenth century.⁶ Associated perhaps with the common law mentality, this tendency to adhere to what previously had been done meant that practices once adopted tended to remain in place, often without thought being given to why they had been adopted. This was certainly true of the imposition of the common law on the North American colonies. As will be seen in subsequent chapters, the centrality of the common law in colonial institutional structures grew stronger over the course of the early eighteenth century, albeit not necessarily in the interests of the crown's hegemony. Likewise, at least until the defeat of France in 1759-60, the anti-French and pro-Protestant policies of William III remained firmly entrenched in Britain's North American colonies, again not necessarily in the interests of the crown's hegemony.

Promoting the crown's hegemony was not, however, the goal of Britain or of its ministry's policies between 1689 and 1760. Rather the goal was to nurture Britain's own empire and destroy the empire of France. The time was not one of neglect, but of solid construction of America's economy and society. The decades between 1689 and 1760 laid the foundations for nearly two centuries of British imperial hegemony and a yet undetermined era of anglophile world dominance. As late as 1763, British policymakers could congratulate themselves on how successful their policies not of neglecting, but of building an empire had been.

⁶ See Henretta, "Salutary Neglect", 319.