

Legislatures, legislation and legislating in the British Atlantic, 1692-1800

Abstract: Despite recent work quantifying the legislative output of the British and Irish parliaments between 1692 and 1800, the same has not been extended to the imperial territories of the British Atlantic in the same period, despite the importance of colonial politics in the sweeping constitutional changes that culminated in 1775 and revolution. This article is the first to track the basic patterns of legislative output from all the colonial legislatures in North America and the West Indies and to link these data with population. It shows that the overall output jumped considerably in the period, as in Britain and Ireland, but that this was largely concentrated in the 1750s and 1760s under the pressure of warfare, though colonial elites afterwards began to exploit their new legislative experience for their own needs. However, no clear correlation was found between legislation and revolution. The experience of individual territories varied wildly, suggesting the causes of revolution were neither inherent nor inevitable, and that legislation was a tool used by both sides rather than a cause of conflict in its own right.

One of the defining features of the British Atlantic world in the eighteenth century was the widespread importance of legislatures, legislation and legislating to their internal politics. Even Bermuda, a miniscule island of some 8,000 people in the midst of the Atlantic Ocean, was granted an assembly, as were the four islands of Grenada, Dominica, Tobago and St Vincent ceded by France to Britain in 1763. It was only in the wake of the American Revolution that the British state began to reassess this policy. These legislatures had important constitutional and political functions that have been the subject of considerable scholarship, but they were also, and perhaps even primarily, institutions intended for the making of law. Yet despite recent work quantifying the legislative outputs of the Westminster and Dublin parliaments between 1660 and 1800, which has revealed the importance of this legislation to the politics, societies and economies of the British Isles, a comparable exercise has never been properly attempted for the other territories of the British Atlantic in this period. Basic questions are therefore still unanswered, such as how much legislation was passed in this period, in individual colonies and as a whole; how and why patterns changed across the period; whether this legislation served the same purpose in the British Atlantic as in Britain and Ireland; and whether this can help to explain why some colonies chose to rebel against British rule in 1775 and others to remain loyal. This preliminary study of legislation in the British Atlantic between 1692 and 1800 shows that the output increased in this period, driven mainly by the pressures of warfare, and that there were substantial variations within and between the different regions of the British Atlantic, though some general trends can still be identified.

The legislative initiatives of the British and Irish parliaments between 1692 and 1800, including the failed legislation that did not make it into law, have been quantified and examined by Julian Hoppit, Joanna Innes, David Hayton and James Kelly, and many others.¹ They have argued that this development was of particular importance to any understanding of the political, social and economic development of these two nations, since it suggested a changing and even recognisably ‘modern’ pattern of intervention by government and the state in the lives of its citizens. Major constitutional shifts, such as the decline in the power of the Crown, the rise of political parties and a wider level of participation by the populace in national politics all took place against the backdrop of the expanded output of the two legislatures. Quantification has therefore proven a useful exercise by providing a basic yardstick for measuring the scale, scope and speed of legislative change, and studies of the British Atlantic have consequently suffered through the lack of a similar exercise. The sole attempt to quantify colonial legislative output within a comparative framework was made by Alison Olson in an article of 1992, which argued that output increased across most North American colonies during the eighteenth century, and that this reflected a new and more productive relationship between colonial legislatures and their citizens that preceded the revolution.² Drawing together existing secondary literature on individual

¹ Julian Hoppit, ‘Patterns of parliamentary legislation, 1660-1800’, *Historical Journal*, 39 (1996) pp. 109-31; Julian Hoppit and Joanna Innes, *Failed legislation, 1660-1800* (London, 1997); Joanna Innes, ‘Parliament and the shaping of eighteenth-century English social policy’, in *ibid*, *Inferior politics: social problems and social policies in eighteenth-century Britain* (Oxford, 2009) pp. 21-47; David Hayton, ‘Introduction: the Long Apprenticeship’, *Parliamentary History*, 20 (2001) pp. 1-26; James Kelly, *Poyning's law and the making of law in Ireland, 1660-1800* (Dublin, 2007)

² Alison Olson, ‘Eighteenth-century colonial legislatures and their constituents’, *Journal of American History*, 79 (1992) pp. 543-67

assemblies and offering a few brief comparisons of petitioning and legislative output, Olson argued that by the mid-eighteenth century ‘the assemblies were gathering power ... [partly] through their developing ability to handle the legislative needs of their constituents’. This pointed to a common process of legislative development that was supported by Jack Greene’s quantitative study of the levels of turnover among legislators within the British Atlantic before 1775, which found a convergence on metropolitan norms in many colonies across the region, and Elmer Beecher Russell’s earlier study of colonial legislative review, which identified relatively consistent levels of imperial disallowance of colonial laws across individual colonies.³

Though Olson was careful to draw no explicit conclusions from this comparison, an obvious interpretation of her work was that this process formed the prelude to the outbreak of the American Revolution in 1775. Combined with other indicators such as the growing number of petitions to legislatures, the rise of an active public sphere, the increasing tempo of confrontation between imperial and colonial groups, the increasing terms and experience of colonial legislators and the larger number of appeals from colonial to imperial courts, this has arguably encouraged the tacit and unspoken assumption that by 1775 the colonists had basically outgrown the imperial constitution and were ready to embrace an independent legislative, judicial and even executive authority. The new intellectual engagement with constitutional and political theory visible in the colonies after 1763, described by Bernard Bailyn and others as the ‘ideological origins of the American Revolution’, was therefore based on

³ Jack P. Greene, ‘Legislative turnover in British America, 1696 to 1775: a quantitative analysis’, *William and Mary Quarterly*, 38 (1981) pp. 442-63; Elmer Beecher Russell, *The review of American colonial legislation by the king in council* (New York, 1915), esp. pp. 203-27.

an increasing concrete experience of colonial law-making.⁴ These assumptions need to be tested though, not only to establish a more satisfactory quantitative measures for this process but also to compare the experience of the Thirteen Colonies against similar territories in the West Indies and Canada, and in the British Isles. The importance of adopting an ‘Atlantic’ perspective for studying colonial history has been widely recognised, but rarely applied to the study of political matters except by Jack Greene and a few others, and even the landmark studies of the ‘transatlantic constitution’ by Bilder and Daniel Hulsebosch were focussed on individual colonies, of Rhode Island and New York respectively.⁵ A quantitative study that establishes the basic patterns of legislative output in the British Atlantic between 1692 and 1800, in particular how many acts were passed each year, in each colony, and how this changed, can thus contextualise existing research on individual colonies and test the links between legislation and revolution in 1775 while also offering a useful basis for further work on the role of legislation in the development of their politics, societies and economies.

⁴ Bernard Bailyn, *The ideological origins of the American Revolution* (Cambridge, MA, 1992)

⁵ Mary Sarah Bilder, *The transatlantic constitution: colonial legal culture and the empire* (Cambridge, MA, 2004); Daniel Joseph Hulsebosch, *Constituting empire: New York and the transformation of constitutionalism in the Atlantic world, 1664-1830* (Chapel Hill, NC, 2005). For the importance of an ‘Atlantic’ approach to American and Caribbean topics, see P. J. Marshall, *The making and unmaking of empires: Britain, India, and America c.1750-1783* (Oxford, 2005) pp. 1-12; H. V. Bowen, Elizabeth Mancke, and John G. Reid, *Britain's oceanic empire: Atlantic and Indian Ocean worlds, c.1550-1850* (Cambridge, 2012); Trevor G. Burnard, *Planters, merchants, and slaves: plantation societies in British America, 1650 - 1820* (Chicago, IL, 2015)

The following sections consequently offer a broad survey of legislative output in the colonies of the British Atlantic between 1692 and 1800, or 1775 in the case of the North American colonies that joined the American Revolution. Although many colonies had assemblies of various kinds in the seventeenth century, the period was one of constitutional evolution and frequent change, leading to volatile legislative outputs and unreliable bases for comparison. By contrast, 1692 saw the political settlement of Ireland in the wake of the Williamite Wars, the transformation of Massachusetts Bay into a royal colony, and the beginning of a degree of stability in colonial politics.⁶ The final date of 1800 has been chosen to align this study with existing work on Britain and Ireland and to chart the trajectory of the West Indian and Canadian colonies after 1775. Although The National Archives of the United Kingdom have several dozen feet of shelves with copies of the colonial acts sent to Britain for confirmation, for convenience this study uses instead the collections of laws that were printed at various times by the individual colonies, and which have in some cases been digitised and assembled into online databases.⁷ Where these

⁶ Robert M. Bliss, *Revolution and empire: English politics and the American colonies in the seventeenth century* (Manchester, 1990) pp. 219-47; Richard R. Johnson, *Adjustment to empire: the New England colonies 1675-1715* (Leicester, 1981) pp. 136-241; David Hayton, *Ruling Ireland, 1685-1742: politics, politicians and parties* (Woodbridge, 2004) pp. 35-105; Charles Ivar McGrath, *Ireland and empire, 1692-1770* (London, 2012) pp. 37-61

⁷ I used the following sources to assemble the statistics which follow: Albert Stillman Batchellor and Henry Harrison Metcalf (eds.), *Laws of New Hampshire, including public and private acts and resolves and the royal commissions and instructions, with historical and descriptive notes, and an appendix* (3 vols., 1904-15); 'State Library of Massachusetts: DSpace: Acts and Resolves', [<http://archives.lib.state.ma.us/handle/2452/116156>, accessed 9 October 2017]; Charles Jeremy Hoadly and J. Hammond Trumbull (eds.), *The Public Records of the Colony of Connecticut* (15 vols., 1850);

John Russell Bartlett (ed.), *Records of the Colony of Rhode Island and Providence Plantations in New England* (10 vols., Providence, RI, 1856-65); *The Colonial Laws of New York from the year 1664 to the Revolution*, (5 vols., Albany, NY, 1894); Samuel Allinson (ed.), *Acts of the General Assembly of the Province of New-Jersey, from ... 1702 to ... 1776* (1776); James Dunlop (ed.), *The General Laws of Pennsylvania from the year 1700 to April 22, 1846* (1847); 'Archives of Maryland Online', [<http://aomol.msa.maryland.gov/html/laws.html>], accessed 9 October 2017]; William Walter Hening (ed.), *The Statutes at large; being a collection of all the laws of Virginia* (13 vols., Richmond, VA, 1809-1823); William L. Saunders (ed.), *Colonial records of North Carolina 1662 to 1776* (30 vols., Wilmington, NC, 1969); John Faucher and Grimke (ed.), *The Public Laws of the State of South Carolina* (Philadelphia, PA, 1790); James Johnston (ed.), *Georgia colonial laws, 17th February 1755 - 10 May 1770* (Washington, DC, 1932); *The Laws of Jamaica*, (7 vols., St Jago de la Vega, Jamaica, 1802-24); Richard Hall (ed.), *Acts passed in the island of Barbados, from 1643 to 1762 inclusive* (London, 1764); Samuel Moore (ed.), *The Public Acts in Force; passed by the Legislature of Barbados, from May 11th 1762 to April 8th 1800, inclusive* (London, 1801); *The Laws of the Island of Antigua ... with, prefixed to each volume, analytical tables of the titles of the acts; and, at the end of the whole, a copious digested index*, (4 vols., London, 1805-47); *Laws of the Island of St. Christopher; from 1711 to 1791* (London, 1791); *The Laws of the Island of Saint Vincent, and its dependencies, from the first establishment of a legislature to the end of the year, 1809, and from the beginning of the year 1810 to the end of 1821* (Bridgnorth, Shropshire, 1811); *The acts of the legislature of the islands of Tobago, containing the whole of the laws up to the 1st August 1800, which are now in force* (Tobago, 1800); George Smith (ed.), *The Laws of Grenada, from the year 1763, to the year 1805, with tables of all the Statutes passed in that period* (London, 1808); John Harvey Darrell (ed.), *Acts of the Legislature of the Islands of Bermuda, remaining in force at the end of the year 1860* (New York, NY, 1862); *Acts of Assembly, passed in the Island of Nevis, from 1664, to 1739, inclusive* (1740); *Montserrat code of laws, from 1668 to 1788*, (London, 1790); 'British North American Legislative Database, 1758-1867', [<https://bnald.lib.unb.ca/>], accessed 1 March 2018]; *Statutes at large, passed in the several General Assemblies held in His Majesty's Province of Nova Scotia* (4 vols., Halifax, 1805-35). The earliest surviving list of legislation in Dominica only included the acts then in force: *Laws of the Island of Dominica from 1763 to 1841* (London, 1858).

collections are incomplete, as in the case of St Kitts, Montserrat and Nevis, or do not exist, in the case of the Bahamas and of Dominica, reference has been made either to collections original acts themselves or to the registers of acts collected by the Board of Trade for the period after 1783.⁸ The fact that so many colonies printed such comprehensive codes of law in this period is itself some indication of the importance of local legislation in their societies. Data for colonial population in this period are also uneven, especially for the West Indian islands, but where gaps exist figures have been extrapolated from nearby totals to produce figures for the decadal mid-points which can then be correlated with legislative output.⁹

Bringing these figures together shows that a very high degree of variation existed between individual colonies, both geographically and chronologically, but a few important general trends can be identified. Legislative output increased only slowly

⁸ See TNA, CO383. These run from 1783 into the nineteenth century, and although they do not always align exactly with the data assembled from collections of laws, this seems to reflect discrepancies in dating individual laws rather than substantive differences in overall legislative output.

⁹ Population figures for North America were taken from *Historical Statistics of the United States, Colonial Times to 1970* (Washington, DC, 1975), Table Z 1-19, 'Estimated population of the American colonies, 1610-1780'. Population figures for the West Indies for 1690 to 1750 were taken from Frank Wesley Pitman, *The development of the British West Indies: 1700-1763* (London, 1967) pp. 370-90 and for 1760 to 1790 from John J. McCusker, 'The economy of the British West Indies, 1763-1790: growth, stagnation or decline', in John J. McCusker (ed.), *Essays in the economic history of the Atlantic world* (London, 1997) p. 205. Figures for Canada are taken from 'Statistics Canada: censuses of Canada, 1665 to 1871', [<https://www.statcan.gc.ca/pub/98-187-x/4151287-eng.htm>, accessed 2 March 2018]. Where no figure exists for a given year, the closest figure within five years has been applied; where this did not exist, the figure represents an average of the two closest figures.

between 1692 and 1750, despite population growth and the settlement of more colonies, but then expanded rapidly between 1750 and 1775, driven mainly by the unprecedented demands and continental scope of the Seven Years War. Though colonies in North America generally increased their legislative output during this period, and those in the West Indies generally remained stable, important exceptions occurred in both places that make it difficult to extract general rules, and in terms of the overall ratio between legislation and population there was usually very little to distinguish loyalist colonies from rebellious ones. Legislative change therefore did not serve as a trigger for revolution, but once the decision had been made to revolt or remain loyal they provided colonists with the instruments to put that decision into effect.

-II-

The British Atlantic world produced about 150 acts per year between 1692 and 1749, rising from about around 130 in the earlier period to 170 by the end. This increased to around 225 per year in the 1750s, 300 in the 1760s and 340 in the 1770s, despite the decline in acts from North America after 1775 for obvious reasons. Total legislation fell back to about 130 acts per year in the 1780s and 140 in the 1790s, around two-thirds from the West Indies and one-third from the burgeoning colonies in Canada. The middle of the eighteenth century was therefore marked by a sustained upsurge in colonial legislative output across the British Atlantic world, which was mirrored, as noted above, by the growing amount of legislation emanating from the Westminster and Dublin parliaments after a previous peak between 1689 and 1713. In Britain the

period after 1760 saw ‘an era of remarkable growth’ as the number of annual acts doubled from about 100 in 1750 to 200 in the 1770s and then 250 in the 1790s.¹⁰ In Ireland the annual output remained about 10 acts per year from 1692 to 1760, but this doubled in the 1770s, reached about 50 acts in the 1780s, and peaked at more than 60 acts on average in the 1790s.¹¹ All these legislatures therefore increased their output in this period, but colonial output began to rise before that of Westminster and Dublin, ruling out a direct link and suggesting that other factors lay behind this transformative legislative change.

[Insert Figure 1 here]

One possible explanation for this overall increase in legislative output might be the rapid expansion of population in the British Atlantic, which increased from around 300,000 in the 1690s to some 2.6 million in the 1770s, largely through forced and voluntary migration. As the number of colonies and their inhabitants expanded it is reasonable to expect that the number of issues that needed to be addressed by legislation would increase in proportion, leading to a stable ratio between population and legislation. Calculating the number of acts as a ratio of the number of heads of population per act passed for each decade between 1692 and 1800 shows that this was not the case across the British Atlantic as a whole (Table 1). Because legislative output across the region between 1692 and 1750 was stable during a period of population growth, the ratio increased steadily from about 2,400 heads per act in the

¹⁰ Hoppit, ‘Patterns’, p. 110

¹¹ This calculation is based on Hayton, ‘Long Apprenticeship’, pp. 1-26 and a count of successful legislation in the ‘Irish Legislation Database’ [<http://www.qub.ac.uk/ild/>, accessed 10 October 2017]

1690s to about 6,600 heads per act in 1740. Though the amount of legislation then began to increase in the 1750s it did not keep pace with the continued increase in population, and in the 1770s the colonies were, on average, passing one law for every 7,400 heads. The loss of most of the North American colonies after 1775, the surge in legislation to stabilise the new colonies in Canada, and the challenges of warfare and revolution in the West Indies altered this pattern. Acts per head in the remaining colonies fell to roughly 4,200 in the 1780s and then rose again to about 5,700 in the 1790s, levels last seen in the early eighteenth century. There was therefore no direct relationship between population and legislative output, with a long era of stability and gradual expansion up to 1755 raising the ratio of legislation to the population, followed by a large expansion which failed to stabilise this ratio. Even in the 1770s, therefore, colonies across the British Atlantic were on average passing three or four times fewer acts per head of population than they had in the 1690s, even though the absolute number of acts had risen almost threefold during the same period.

[Insert Table 1 here]

Population increase therefore offers at best only a partial explanation for the broader increase in legislative output, indicating that certain external or exogenous events played some role in the alteration, particularly warfare. About 146 acts per year were passed between 1714 and 1738, when conflict was restricted to individual colonies, but during the global conflict from 1739 to 1748 this rose to 174 acts per year, and then rose even faster during the Seven Years War between 1755 and 1764 to 285 acts

per year (Table 1).¹² Peacetime was thus associated either with an outright decline in the number of acts, such as between 1759 and 1754, or with a lower rate of expansion, the number of acts per year rising slightly after 1765 to 297 per year until 1775. The foundation of new colonies of settlement such as Georgia in 1739, Nova Scotia in 1749, the Ceded Islands around 1763 and the Loyalist colonies in Upper and Lower Canada and New Brunswick after 1784 produced brief pulses of legislative activity as basic laws were passed for the immediate use of the territory, but this cannot account for the extensive and sustained increase in legislative output which began to occur in the 1740s across the British Atlantic and then expanded rapidly after 1755.

Legislation, in general, was therefore closely correlated with warfare, and closer attention to the experiences of individual colonies makes it possible to tease out some of the causal linkages. Taking as case studies the three important colonies of Massachusetts, Virginia and Jamaica, and comparing them with kingdom of Ireland, whose fiscal-military structures have all been the subject of recent scholarship, highlights the crucial impact that warfare had. Under sustained military pressure the output of their legislatures either began to increase or to rise at a faster pace to meet the new fiscal and military demands of war. Once this pressure abated, output either fell or slowed, though it rarely fell back to previous levels, suggesting that the experience of legislative expansion promoted by the imperial state often had the secondary consequence of schooling local elites in the advantages of legislation and the processes of legislating and encouraging them to apply it to other problems.

¹² For a global overview of these conflicts, see Richard Harding, *The emergence of Britain's global naval supremacy: the war of 1739-1748* (Woodbridge, 2010); Fred Anderson, *The crucible of war: the Seven Years' War and the fate of empire in British North America, 1754-1766* (London, 2000) and the essays in Mark H. Danley and Patrick J. Speelman, *The Seven Years' War: global views* (Leiden, 2012)

For much of the period between 1692 and 1775 the colony of Massachusetts Bay was the first major line of defence for the British possessions in North America, shielding the other New England and mid-Atlantic colonies from the French territories in New France and the Gulf of St Lawrence and from Native American incursions from the interior.¹³ The province mobilised troops regularly between 1692 and 1713, both for punitive raids against Native Americans and for major ventures such as the failed imperial expedition against Quebec in 1711. Its annual expenditure rose from just under £10,000 Massachusetts currency in 1702 to about £30,000 during the War of the Spanish Succession between 1702 and 1713, and hit around £50,000 per year in 1710 and 1712 as the province fitted out its forces for the attack on Quebec.¹⁴ The problems of raising taxes for military expenditure meant that Massachusetts developed a system of paper currency that permitted it to bridge gaps in income and expenditure, amounting to a 'financial revolution' similar in scope if not in scale with the financial revolution in Britain.¹⁵ As warfare resumed in 1739 the province once

¹³ Bruce Lenman, *Britain's colonial wars, 1688-1783* (Harlow, England, 2001) pp. 18-27, 35-40, 72, 135-49. For the fraught experience of one such 'outpost' between 1665 and 1715, see Richard I. Melvoin, *New England outpost: war and society in colonial Deerfield* (New York, 1989)

¹⁴ Alvin Rabushka, *Taxation in colonial America* (Princeton, 2008) pp. 374-81. All figures for colonial taxation and spending are given in the relevant colonial currency, rather than pound sterling.

¹⁵ For an overview of public credit in Massachusetts, see Julian Gwyn, 'Financial Revolution in Massachusetts: public credit and taxation, 1692-1774', *Histoire Sociale/Social History*, 17 (1984) pp. 59-77; Rabushka, *Taxation* pp. 357-74, 454-9, 575-82; Leslie V. Brock, *The currency of the American*

again raised men for expeditions against Carthagera in 1741 and Louisburg in 1746. Annual expenditures had grown in the interim to about £30,000 or £40,000 per year in the 1730s, but doubled in the 1740s, and the financial system of the province became even more complex as one set of paper notes was withdrawn and others substituted in their place.¹⁶ For the Seven Years War the province mobilised several thousand men and approved expenditures to a total of nearly £250,000 in 1761 in support of imperial aims.¹⁷ The pressure of warfare therefore placed intermittent but heavy and disruptive strains on the politics, society and economy of Massachusetts between 1692 and 1775.

These strains could be met mainly through legislation by the General Court of the province, which had successfully asserted the right to approve supplies and to organise its military. The province passed on average about 18 acts per year during the 1720s and 1730s, but to meet the complex demands of warfare and taxation it needed nearly 25 acts per year during the 1740s and about 35 per year during the 1750s (Figure 3). During the Seven Years War, the total rose to almost 38 acts per year, and then fell after the war ended to 27 acts per year between 1765 and 1775. Output was bolstered by successive votes of taxation and repeated measures for raising men, and by a range of miscellaneous acts intended to address issues raised by the conflict, such as the regulation of trade with neutral or hostile territories, the conduct of imperial troops, and the construction of barracks, roads and other military

colonies, 1700-1764: a study in colonial finance and imperial relations (New York, 1975) pp. 21-35, 244-91

¹⁶ Rabushka, *Taxation* pp. 466-70

¹⁷ Rabushka, *Taxation* pp. 590-8

works. William Pencak has accordingly concluded that from 1740 ‘a legislature primarily concerned with obstructing Britain’s plans to strengthen royal authority and with resolving disputes presented by towns and individuals became an active body which designed and implemented vast military campaigns.’¹⁸ The means by which this was effected was the existence of the ‘prerogative party’ in the assembly between 1740 and 1765.¹⁹ Composed mainly of Boston mercantile elites, it collaborated with governors to get wartime measures enacted in return for imperial support, but fell apart after 1765 once the benefits of this collaboration had passed. A sense of the growing importance of provincial legislation within the province is found in the estimated turnout of voters at Boston elections, which rose from about 17 per cent between 1692 and 1750 to 25 per cent between 1750 and 1775, peaking at nearly 50 per cent in 1763.²⁰

[Insert Figure 3 here]

It will also be clear that a ratchet effect existed, with legislative output after 1749 or 1764 declining but not falling back to pre-war levels. This reflected, firstly, the intrusion of war-time issues into peace-time politics, such as the paper currency of the province, which had been detached from its specie footing during the 1740s and had

¹⁸ William Pencak, ‘Warfare and political change in mid-eighteenth century Massachusetts’, *Journal of Imperial and Commonwealth History*, 8 (1980) p. 52.

¹⁹ Pencak, ‘Warfare and political change’, pp. 51-73; Marc Egnal, *A mighty empire: the origins of the American Revolution* (Ithaca, NY, 2010) pp. 20-50

²⁰ Robert J. Dinkin, *Voting in provincial America : a study of elections in the thirteen colonies, 1689-1776* (Westport, Conn.; London, 1977) p. 174. I have omitted years where two figures are given.

become devalued through over-issue. A heated internal controversy took place between 1749 and 1753 over whether it should be restored to its specie peg and at what rate, merging with existing disputes over the liquidation of the land bank that had been banned by imperial legislation in 1740, resulting in a series of legislative acts as various factions weighed in.²¹ The second reason for the ratchet effect has been suggested by Julian Hoppit in his study of British legislation. Once warfare created the need for regular and reliable sessions and familiarised members of the legislature with the process of making law, and the powers it offered, the result in Britain was that other interest groups could begin to envisage using these powers for their own ends.²² Although the proof of this phenomenon in Massachusetts must await a detailed study of its individual legislative programme, even a selective examination of individual years suggests that by 1775 the legislature had become more than an instrument of warfare. For instance, the peak year for legislation occurred in 1773, when 52 acts were passed, exceeding the previous peak of 51 in 1762. Sixteen acts in 1762 or about a third related to taxation or public finance, reflecting wartime circumstances, but in 1773 the number fell to seven or just under half that total. The other acts addressed a range of other issues in the colony, some relatively minor, such as the act ‘for granting two strips or pieces of the province land lying on the west side of Governor’s Alley, so-called, in Boston, towards widening

²¹ William Pencak, *War, politics and revolution in provincial Massachusetts* (Boston, 1981) pp. 129-33; Andrew McFarland Davis, ‘Legislation and litigation connected with the Land Bank of 1740’, *Proceedings of the American Antiquarian Society*, XI (1896) pp. 86-123; Brock, *Currency* pp. 53-65

²² Hoppit, ‘Patterns’, pp. 113-14, 121-3

said alley'.²³ The experience of wartime legislation therefore created the conditions for an expansion of peacetime output.

The experience of Virginia in this period suggests a similar process. Numbering just under 500,000 people in 1775 compared to roughly 300,000 in Massachusetts and Pennsylvania, the province faced a different set of military challenges, and so its own legislative development diverged from that of Massachusetts but in predictable ways. Whereas Massachusetts acted as the northern breastwork and bulwark for all the American colonies, Virginia faced no serious military threat between the defeat of Bacon's Rebellion in 1676 and the Seven Years War in 1754, and as a result faced much less military pressure. Colonial taxation therefore remained low, about £4,000 or £5,000 per year, and did not rise substantially even during the period of warfare in the 1740s.²⁴ The province therefore did not experience repeated votes of taxation and regular refinements of its revenue structures, and likewise avoided the need to develop a system of public finance. Because the colony made only limited contributions of troops to the imperial expedition to Cartagena in 1740, it also had no need to address the issues of recruitment and mobilisation that emerged in Massachusetts and required further legislative solutions.²⁵ Output thus therefore briefly during the War of the Austrian Succession from an average of 10 acts per year to 18 acts but then fell back to about 15 acts per year between 1749 and 1754, and remained low relative to its population (Figure 3). Its output therefore remained low

²³ 12 Geo III c. 28

²⁴ Rabushka, *Taxation* pp. 421-7, 532-7, 665-78; Brock, *Currency* p. 106

²⁵ James Titus, *The Old Dominion at war: society, politics, and warfare in late colonial Virginia* (Columbia, SC, 1991) pp. 1-5

relative to its population. Whereas in Massachusetts the ratio rose from 2,140 heads per act in the 1690s to 5,418 heads in the 1750s, in Virginia it was already at 8,216 heads in the 1690s, and hit 10,746 heads per act in the 1750s (Figure 4).

Consequently the rate of legislative output only increased substantially with the outbreak of the Seven Years War in 1754, which was triggered in part by a clash in the Ohio Valley earlier that year between a small party of the Virginia militia under George Washington and a group of Frenchmen and Native Americans. Under a series of royal governors who allied with the expansionist colonial elites, the province laid out large amounts of money in supporting imperial forces and its own colonial contingents.²⁶ Alvin Rabushka has argued that from 1754 ‘the fiscal landscape underwent a dramatic change’ and estimates that taxes rose from about £5,000 per year to £34,000 to £39,000 between 1758 and 1762, and the assembly also put into circulation nearly £440,000 in Treasury notes or public debt, which then had to be slowly retired between 1763 and 1769 with further taxation.²⁷ Between 1756 and 1762 the assembly also kept on foot a colonial regiment of 600 to 800 men, which posed unforeseen challenges to Virginia’s antiquated militia laws and required a series of contentious acts before an acceptable system of recruitment and enlistment could emerge.²⁸ These demands were each met by a predictable upsurge in

²⁶ For the political context of the 1750s, see Egnal, *Mighty empire* pp. 87-101; Robert Cain, ‘Governor Robert Dinwiddie and the Virginia frontier, 1751-57’, in Andrew Mackillop and Steve Murdoch (eds.), *Military governors and imperial frontiers c 1600-1800: a study of Scotland and empires* (Leiden, 2003) pp. 161-80

²⁷ Rabushka, *Taxation* pp. 673-8, 827-9, 835-42; Brock, *Currency* pp. 466-96

²⁸ Titus, *Old Dominion*, esp. pp. 28-45, 142-8

legislation. Although the assembly had only passed 15 acts a year in the five years before the beginning of the war, it passed an average of 27 acts between 1755 and 1764, enough to push the ratio down to 9,411 heads per act in the 1760s despite an increase in population from 230,000 to 340,000.

[Insert Figure 4 here]

As in Massachusetts, this first experience of wartime legislation between 1754 and 1764 also seems to have been sufficient to arouse the enthusiasm of Virginia's planters, and to promote a wave of law-making. This saw the average number of acts increase from 27 to 33 per year between 1769 and 1775, though because the population grew even faster, to nearly 450,000, the ratio of heads per act doubled to 20,319 heads per act. A similar test of two years shows the same pattern as in Massachusetts. Some 54 acts were passed in 1762 and ten or nearly 20 per cent related to the ongoing war, but though an unprecedented 89 acts were passed in 1772 only four, a mere five per cent, were fiscal or military in nature. The others were concerned with relatively minor public or private business, suggesting that output continued to grow after 1764 because planters were now ready to take advantage of the powers of the assembly. Admittedly this was not reflected by higher turnout in elections for the assembly, though the incomplete nature of the surviving lists means that this figure may be misleading.²⁹ The rise in legislation was mirrored though by the increase in petitions to the house of assembly, which rose from about 100 per year between 1700 and 1740 to about 220 per year between 1750 and 1770 and reaching a

²⁹ Dinkin, *Voting in provincial America : a study of elections in the thirteen colonies, 1689-1776* pp.

peak of 255 in 1760.³⁰ The average number of petitions per legislative enactment peaked at 19.7 in 1720, but then fell from 11.6 per act in 1750 to 6.5 per act in 1770. In other words, between 1720 and 1770 the chances that a petition to the house would become law doubled and then doubled again, even though there were at least twice as many per year after 1750 as before.³¹ Though there had obviously been a growing demand for legislative redress in 1750, before the Seven Years War, it clearly took the pressure of warfare to unblock this legislative logjam, and to enable or encourage the assembly of Virginia to begin to answer these demands.

The final case study of legislative change comes from Jamaica, the largest and richest island in the British West Indies and an economic and strategic redoubt in the western Caribbean. Captured from Spain in 1656, it served as an entrepôt for the illegal trade with Spanish America and a base for privateering, and from 1700 as a major site for the production of sugar.³² Its population increased from about 40,000 in 1692 to just under 200,000 by 1770, and around 300,000 by 1800. The volume of legislation likewise increased, from about 8 acts per year in 1700 to 16 acts in 1760, and 32 acts per year in 1790 (Figure 3). The ratio of legislation to population fluctuated considerably, between 14,130 heads per act in the 1710s to 6,752 per act in the 1730s,

³⁰ Raymond C. Bailey, *Popular influence upon public policy: petitioning in eighteenth-century Virginia* (Westport, CN, 1979) p. 62. For a more focussed study that broadly supports these conclusions, see Paul K. Longmore, 'From supplicants to constituents: petitioning by Virginia parishioners, 1701-1775', *Virginia Magazine of History and Biography*, 103 (1995) pp. 407-442

³¹ Bailey, *Popular influence* p. 64

³² Richard S. Dunn, *Sugar and slaves: the rise of the planter class in the English West Indies, 1624-1713* (Chapel Hill, NC, 1972) pp. 149-87

but averaged around 9,400 heads per act until the 1770s (Figure 4). The ratio then fell between 1770 and 1800 to about 8,400 heads per act, despite the large growth in population. As I have shown elsewhere, it was also accompanied by a greater level of efficiency, as legislators handled more bills per day of session than they ever had before and managed to turn a greater proportion of them into law.³³ The chances of a bill becoming law rose from about forty percent before 1760 to more than sixty percent between 1760 and 1800, and nearly seventy percent between 1800 and 1840. During a period of settled politics between 1783 and 1823, it nearly reached eighty percent. The number of bills introduced per day of session rose from 0.37 to 0.73 across the same period, and the number of acts grew from 0.16 per day of session to 0.49 after 1800. Although driven in part by rising popular demand, between fifty and sixty percent of total legislation across the whole period related to ‘public’ matters of finance, warfare and law and order, compared to about thirty percent for social and economic issues, ten percent for private purposes, and about five percent for slavery. The scale and timing of these fluctuations shows that population and legislation did not increase in step, but was an uneven process that took place largely in fits and starts and mainly in response to military needs.

Whereas Massachusetts faced repeated external threats between 1692 and 1775, which only reached Virginia after 1754, the threats that the island of Jamaica faced were primarily internal. Between 1730 and 1739 the planters of the island fought an extensive and long-running guerrilla war with runaway slaves or ‘maroons’ in the interior, which tripled taxes to about £30,000 or £40,000 Jamaica currency per year

³³ Aaron Graham, ‘Jamaican legislation and the transatlantic constitution, 1664-1839’, *Historical Journal* 61 (2018) pp. 327-55

and made it necessary to develop new military measures. The house of assembly passed about six acts per year on average between 1714 and 1729, but this doubled in the 1730s, led by the need to raise new taxes, allocate land for barracks and fortifications, and authorise the fitting out of raiding parties for deployment against the maroons.³⁴ A peace treaty was concluded with the maroons in 1739 which left an administrative residue, such as a standing garrison and a system of superintendents in the maroon towns which required legislative oversight, and the output of the assembly rose even further during the 1740s when the island hosted a naval squadron and acted as a jumping-off point for imperial expeditions to Spanish America.³⁵ Taxes rose to about £50,000 per year up to 1749, and legislation to 14 acts on average, and although taxes fell back briefly to £40,000 a year the legislative output continued slowly to increase. The transformative event was not the start of the Seven Years War in 1754, which initially did not much affect the West Indies, but a major slave revolt in 1760

³⁴ Michael Craton, *Testing the chains: resistance to slavery in the British West Indies* (Ithaca, NY, 1982) pp. 67-97; Mavis C. Campbell, *The Maroons of Jamaica, 1655-1796: a history of resistance, collaboration and betrayal* (Granby, MA, 1988) pp. 44-87; Frederick G. Spurdle, *Early West Indian government: showing the progress of government in Barbados, Jamaica and the Leeward Islands, 1660-1783* (Palmerston North, New Zealand, 1962) pp. 127-37. All figures for Jamaican taxation and spending are taken from Aaron Graham, 'The colonial sinews of imperial power: the political economy of Jamaican taxation, 1768-1838', *Journal of Imperial and Commonwealth History*, 45 (2017) pp. 192-99

³⁵ Richard Pares, *War and trade in the West Indies, 1739-1763* (London, 1963) pp. 227-64, 495-511; Duncan Crewe, *Yellow Jack and the worm: British naval administration in the West Indies, 1739-1748* (Liverpool, 1993) pp. 12-51, 145-232; Douglas Hamilton, 'Private enterprise and public service: naval contracting in the Caribbean, 1720-50', *Journal for Maritime Research*, 6 (2004) pp. 37-64

known as Tackey's Revolt.³⁶ Taxation hit £75,000 currency in 1761, the imperial garrison was reinforced, the colonial militia and maroon parties were called out, and the average annual number of acts jumped from about 15 to 20 between 1760 and 1764. Sharp increases in legislation were therefore the product of military threats, creating a demand for legislation that, as in Massachusetts and Virginia, seems to have cleared the way for further law-making by local elites once the threat passed.

This pattern is seen even more clearly in the subsequent pattern of legislation in Jamaica from 1764 to 1800, when the island faced an unprecedented combination of both internal and external threats that required the far more intensive mobilisation and organisation of its resources than ever before. The American Revolutionary War between 1775 and 1783 cut off supplies of provisions to Jamaica and raised fears that an increasingly discontented slave population would once again rise against the planters, while the string of French and Spanish conquests of the British possessions in the West Indies after 1778 generated a growing terror of invasion that would not fully abate until the decisive victory of George Brydges Rodney over the Comte de Grasse and the French fleet at the Battle of the Saints in April 1782.³⁷ I have shown elsewhere that the expenditure in the island rose to £80,000 after 1775, then £140,000 in 1780, and reached around £240,000 in 1782 as the French fleet under de Grasse neared the island. Planters and merchants in Jamaica were therefore taxing themselves as never before, and this was reflected, as in Massachusetts and Virginia,

³⁶ Craton, *Testing the chains* pp. 125-39; Graham, 'Colonial sinews', pp. 192-9

³⁷ Andrew O'Shaughnessy, *An empire divided: the American Revolution and the British Caribbean* (Philadelphia, 2000) pp. 167-81, 196-200; Craton, *Testing the chains* pp. 172-9; George Metcalf, *Royal government and political conflict in Jamaica, 1729-1783* (London, 1965) pp. 199-217

by an increase in legislative output from about 20 acts per year before 1775 to more than 30 acts on average in wartime. Legislative output stabilised once again at this higher level during the brief period of peace that followed, then resumed its rise after the traumatic events of the Haitian Revolution in nearby St Domingue in 1791, the outbreak of war with Revolutionary France in 1793, and a second conflict with the maroons in 1795 and 1796 that laid waste to large parts of the island.³⁸ The island raised nearly £400,000 currency per year after 1796, about five or six percent of its national income, and was forced to develop a system of public finance to support far greater expenditures.³⁹ The expansion of legislation in Jamaica was therefore an intermittent process triggered mainly by growing fiscal-military commitments.

Finally, the experiences of all three colonies broadly mirror that of Ireland in this era. Though heavily garrisoned to preserve the Protestant Ascendancy from the Catholic Irish, the absence of open warfare meant that revenue in Ireland only gradually grew from about £400,000 per year in 1692 to £1.2 million in 1782.⁴⁰ This matched the slow increase in legislation noted above from about 10 per year in the early eighteenth century to 20 per year in the 1770s, the continued but relatively subdued expansion in the fiscal-military establishment of the island, and the small scale of public debt.⁴¹

³⁸ Craton, *Testing the chains* pp. 211-23; Campbell, *Maroons* pp. 210-49

³⁹ Graham, 'Colonial sinews', pp. 197-202

⁴⁰ McGrath, *Ireland and empire* pp. 167-80. Revenue figures are taken from 'Public revenues and expenditures of Ireland in the 18th century' at *Duanaire: a treasury of digital data for Irish economic history* [http://www.duanaire.ie/dbases/public_finances_18_century/index.php, accessed 10 October 2017]

⁴¹ McGrath, *Ireland and empire* pp. 69-142, 181-96

Legislative output then rose to about 50 acts per year in the 1780s and 60 acts per year in the 1790s after the repeal of Poynings' Law, but these broader statistics conceal a more suggestive yearly pattern. Output peaked at 75 acts in 1785 but had fallen to 26 by 1794, while revenues increased only from £1.2 million to £1.6 million in the same period. In other words, the relaxation of military pressure after 1782 eventually led to a fall in legislation once the immediate demand from private individuals and interest groups had passed. However, from 1794 the island began to seem at increasing risk of invasion and revolution from external enemies such as Revolutionary France and internal opponents such as the United Irishmen, culminating in the Irish Rebellion of 1798 and the first sustained military conflict within the island since 1691.⁴² Revenues jumped from £1.6 million in 1794 to £2.5 million within four years and had reached £3.4 million by 1800, matched by an increase in legislation from the 26 acts passed in 1794 to 85 acts in 1798 and 110 acts in 1800. Although many factors were therefore operating on Irish legislative output in this period, not least the major constitutional change of 1782, warfare seems to have been among the most important of the secondary factors.

Despite differing patterns of legislative change, both in absolute terms and relative to their respective populations, the four largest and most complex colonial states of the

⁴² For analytical narratives that draw attention to the growth of state power and revenue, see R.B. McDowell, *Ireland in the age of imperialism and revolution, 1760-1801* (Oxford, 1979) pp. 491-677; S. J. Connolly, *Divided kingdom: Ireland, 1630-1800* (Oxford, 2008) pp. 432-84. For a thematic survey of the Irish state in 1800, see R. B. McDowell, 'Ireland in 1800', in T.W. Moody and W.E. Vaughan (eds.), *A New History of Ireland, volume iv: Eighteenth Century Ireland, 1691-1800* (Oxford, 1986) pp. 695-711

British Atlantic in the eighteenth century therefore shared certain common features. All saw their own legislative output grow during this period, in broadly similar ways and for broadly similar reasons. None experienced a smooth and continuous rise but instead saw their output grow in fits and starts, and largely in response to the sudden demands placed upon their internal systems of taxation, public finance and military recruitment by warfare. The growth of a fiscal-military state in all four colonies was marked not by the increased sophistication or quality of the legislation – as Julian Hoppit has noted with reference to the British state, its expansion in the 1690s and 1700s ‘was not, in legislative terms, especially experimental or risky’ – but by its increased quantity.⁴³ Once this had given local elites some experience of passing higher volumes of acts, and some sense of the power of an individual piece of legislation, this seems to have encouraged individuals and interest groups within all four colonial societies to apply in greater numbers to their respective assemblies for legislative redress for economic and social problems. In a period when defence was one of the few unquestioned duties of national or colonial governments, and when wars were being fought increasingly intensively and over wider areas than ever before, warfare therefore proved a potent and powerful driver of legislative change across the British Atlantic.

-IV-

How far the growing legislative output of the British Atlantic and the varying ratios between legislation and population served to create the conditions for revolution in

⁴³ Hoppit, ‘Patterns’, p. 120

1775 can best be judged not through detailed analysis of specific colonies, as has so often been the case in the past, but by a quantitative study that compares them against each other and considers their overall trends. If an increasing volume of colonial legislative output did indeed lay the foundations for independence, and greater popular familiarity with legislation encouraged people to consider seeking independence, then some reliable correlation would be expected between the scale of output, and its ratio to population, and the decisions made by specific colonies in 1775 to revolt or remain loyal. In particular, colonies in the West Indies and Canada which remained loyal would display a stable or declining level of legislative output relative to their population, and a high ratio of acts per head of population when compared to the average for the colonies in the British Atlantic. By the same token, the Thirteen Colonies would be expected to show an increasing level of output and a lower ratio of acts per head of population compared with the average. Indeed, it might be predicted that the lowest ratio of all would be found in Massachusetts, where the American Revolution began in 1775, while colonies that demonstrated more reluctance and hesitation would show higher ratios.⁴⁴ Yet the totals produced by this legislative survey suggest otherwise. West Indian colonies in general had lower ratios of legislation to population, though their overall output remained stable, whereas North America colonies had higher ratios of legislation to population but a more active legislative culture, though there were enough exceptions on both sides to suggest that neither serve as reliable indicators of disaffection.

⁴⁴ Egnal, *Mighty empire* pp. 150-67, 275-301

Older islands in the West Indies such as Antigua, St Kitts, Montserrat and Bermuda all saw no real increase in legislative output, and in Barbados this actually declined from about 10.6 acts per year in the 1690s to 4.6 acts in the 1770s. The increase in output for the region was partially a product of the foundation of four new assemblies in the Ceded Islands after 1763, and the continued expansion of Jamaican output. Consequently, the overall ratio of legislation to population in the region rose from 4,749 heads per act in the 1690s to 6,584 heads per act in the 1770s, an increase of nearly forty per cent (Figure 1, Figure 2). By contrast, although the legislative output of the Thirteen Colonies rose from about 100 acts per year in the 1690s to nearly 250 acts in the 1770s, the tenfold expansion of population in this period meant that the ratio of legislation to population actually fell precipitately, from 1,841 heads per act in the 1690s to 8,453 heads per act in the 1770s. With the exception of Barbados, planters in the British West Indies were therefore on average rather more familiar in 1775 with the process and power of legislating than their counterparts in the Thirteen Colonies, especially because the high ratio of slaves meant that legislative activity was wholly concentrated in the small group of white elites who ran the island. Yet Andrew O'Shaughnessy and others have shown that most of the islands also saw virtually no protests against major American grievances such as the Stamp Act of 1763 and the Sugar Act of 1764.⁴⁵ Where complaints were voiced in the Leeward Islands such as Antigua, this was due to American pressure rather than genuine opposition. Though there were prolonged and sometimes acrimonious clashes

⁴⁵ O'Shaughnessy, *An empire divided* pp. 65-9, 80-108, 127-8; Donna J. Spindel, 'The Stamp Act Crisis in the British West Indies', *Journal of American Studies*, 11 (1977) pp. 203-21; T.R. Clayton, 'Sophistry, security and socio-political structures in the American revolution, or, why Jamaica did not rebel', *Historical Journal*, 29 (1986) pp. 319-44

between imperial and colonial interests that persisted beyond 1783, these issues never escalated into open confrontation, and the islands therefore remained firmly under British control.⁴⁶ The exception that might prove the rule is the island of Jamaica, which saw an increase in legislative output noted above that mirrored similar trends on the American continent, and was the Caribbean territory that showed the most sympathy for the American cause, even voting an address to the Crown in 1774 that condemned the intransigence shown by both sides and offered their services as a mediator to help resolve the disagreement.

However, closer study suggests that the importance of this episode can be overstated and that Jamaica does not serve as a satisfactory proof of a universal rule. Metcalf, Brathwaite and O'Shaughnessy have all argued that the address of 1774 was itself a generally exceptional act, pushed through by a small and unrepresentative mercantile clique within the assembly only a few days before the session ended, and driven largely by internal Jamaican politics.⁴⁷ When the planters of the island reconvened at the next session the address was withdrawn and replaced by a loyal address that pledged the support of the island for imperial policy, and although there were further conflicts between local elites and the governor in 1779 these were the product of personal conflicts and were not indicative of a broader desire for independence among

⁴⁶ Neville A.T. Hall, 'Governors and generals: the relationship of civil and military commands in Barbados, 1783-1815', *Caribbean Studies*, 10 (1971) pp. 93-112; Roger N. Buckley, *The British Army in the West Indies: society and the military in the revolutionary age* (Gainesville, FL, 1998) pp. 173-202; O'Shaughnessy, *An empire divided* pp. 147-59, 181-96, 200-6

⁴⁷ Metcalf, *Royal government* pp. 186-90; O'Shaughnessy, *An empire divided* pp. 129-51; Kamau Brathwaite, *The development of Creole society in Jamaica, 1770-1820* (Oxford, 1971) pp. 68-72;

the population of the island.⁴⁸ In the 1770s the ratio of legislation to population was about 7,585 heads per act, which was above the average for the West Indies but well below the ratio of major mainland colonies such as Massachusetts, Connecticut, Pennsylvania, Virginia and South Carolina which all joined the revolt. Colonies such as New Hampshire, Rhode Island, New York and New Jersey all had a ratios below 6,000 heads per act, but so did Antigua, Grenada, Dominica and Bermuda, while Georgia had a ratio of 1,299 acts per head, yet was the only one of the Thirteen Colonies with sufficient loyalists to enable the restoration of civil government by British forces during the American Revolutionary War (Table 1).⁴⁹ The next highest was Nova Scotia, at 1,338 acts per head, which also remained loyal in 1775. In Connecticut, the legislative output remained largely static at around 10 acts per year on average, despite the pressure of warfare and the fivefold increase in population, resulting in the ratio rising from 3,634 heads per act in the 1700s to 16,130 heads per act in the 1770s.⁵⁰ The colony nevertheless joined the revolution in 1775. Thus, perhaps because the ratio of legislation to population is a crude metric and potentially distorted even further by the need to group data into arbitrary decadal averages, it is almost impossible to extract meaningful correlations between legislative output and the decision to rebel in 1775.

⁴⁸ Metcalf, *Royal government* pp. 207-8, 211-16; O'Shaughnessy, *An empire divided* pp. 182-205

⁴⁹ Paul Hubert Smith, *Loyalists and redcoats: a study in British revolutionary policy* (New York, NY, 1972) pp. 100-11.

⁵⁰ For the politics and administration of warfare and taxation in Connecticut, see Richard Lyman Bushman, *From Puritan to Yankee. Character and the social order in Connecticut, 1690-1765* (Cambridge, Mass., 1967) pp. 235-88; Harold E. Selesky, *War and society in colonial Connecticut* (New Haven; London, 1990); Rabushka, *Taxation* pp. 380-7, 474-7, 601-9, 779-84

Focussing on legislative output though can suggest several broader developments from which to draw conclusions about the development of colonial politics. With the exception of Jamaica, Antigua and the Bahamas, the islands of the British West Indies appear to have had a relatively stable legislative culture, passing around five acts per year on average. Increases came overwhelmingly from the foundation of new colonies, whereas in the Thirteen Colonies it came mainly from a continual growth in the output of individual assemblies. Due to the small populations of the West Indies their output translated into a lower ratio of legislation per head than the Thirteen Colonies, but in absolute terms the assemblies of North America as well as Jamaica and the Bahamas dealt with a far higher volumes of business. The same is true for the legislators themselves. West Indian assemblies had about one-third the amount of legislative business of those in the Thirteen Colonies, but also on average about one-third the number of members, so legislators in both regions produced on average 0.3 acts per year in the 1770s (Table 2).⁵¹ However, in absolute terms the assemblies in the Thirteen Colonies had many more members, and much greater experience passing larger and more complex legislative programmes. For instance, the 22 members of the assembly in Barbados passed as many acts per member each year in the 1770s as the 125 legislators of the Massachusetts General Court, about 0.2 each, but the latter were passing about thirty laws passed per year compared to the five or so in Barbados. With certain exceptions the legislative culture of the Thirteen Colonies was therefore more active and interventionist compared to the stagnant culture of the West Indies, and by 1775 there were larger numbers of men with experience managing complex

⁵¹ Greene, 'Legislative turnover', p. 461.

legislative programme, even if they represented a smaller share of the total population of their respective territories. However, exceptions such as Jamaica, Nova Scotia, Connecticut and Rhode Island make it impossible to draw strong correlations.

[Insert Table 2 here]

-V-

Between 1682 and 1800 the British Atlantic therefore saw a profound shift in the output of colonial legislation. Despite a great deal of variation within individual colonies, the total amount of colonial legislation grew slowly until the 1740s, then exploded, catalysed by the unprecedented demands of global warfare but maintained by colonial elites, who seem to have seen how their new legislative power could be used to meet other issues. Considerable variation can be seen, however, reflecting the diversity of these territories. Assemblies in the West Indies tended to be small and somnolent, for example, but with some important exceptions such as Jamaica, while legislatures in North America tended to have far more active political cultures, though again with important exceptions. The importance of this study therefore lies, firstly, in the quantitative backing it offers to wider work by Jack Greene, Peter Marshall and others stressing the sheer diversity found in the colonies of the British Atlantic world before 1775, not just ideologically or politically but also now clearly in legislative terms. Though a few broad trends can be seen which may point towards a structural bifurcation, the exceptions to be found on both sides suggest otherwise and challenge the view that the Thirteen Colonies were on an alternative constitutional path by 1775.

Not only must the territories of the British Atlantic be viewed collectively, as Andrew O'Shaughnessy has recently argued, but the process reinforces the arguments of Greene, Marshall, Burnard, O'Shaughnessy and others that the American Revolution itself was not inevitable and should be more properly understood as the result of contingent and rather specific factors rather than the inexorable culmination of an extended historical process.

Secondly, this study complements and extends recent work on the political structures underlying the expansion of the fiscal-military state in Britain and its imperial territories during this period, such as by Pencack, Gwyn and others on Massachusetts, by Walsh and McGrath on Ireland, and my own work on Jamaica. As I have argued, governors in territories such as Jamaica had 'to persuade local elites to use whatever means they had at their disposal to support the aims of imperial policy ... [and] draw on local political and economic structures to put this support into practice', and this included colonial legislatures, which this study reveals as important partners in the business of empire, passing local laws to provide men, money and material to meet imperial needs.⁵² This should help support a recent turn away from the study of fiscal and military administrative structures as isolated bureaucratic systems and towards an understanding of their embeddedness within imperial and colonial politics and societies, reviving John Brewer's own focus in the *Sinews of Power* on the importance of parliamentary authority and legitimacy in the construction of the British fiscal-military state.⁵³ Colonial legislatures were thus some of the ligatures and ligaments

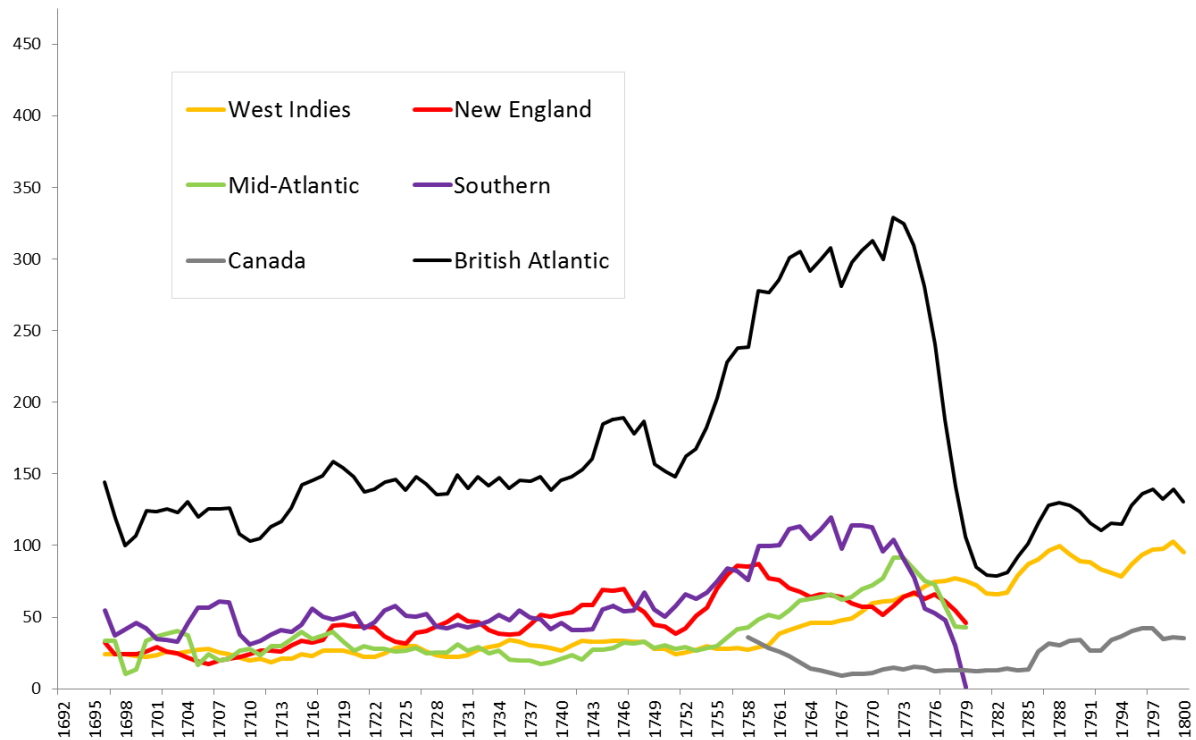
⁵² Graham, 'Colonial sinews', p. 203

⁵³ John Brewer, *The sinews of power: war, money and the English state, 1688-1783* (London, 1989) pp. 137-61, 221-49 and his comments in idem, 'Revisiting *The Sinews of Power*' in Aaron Graham and

that connected the fiscal-military state with the public interest across the entire British Atlantic, making them into ‘colonial sinew[s] of imperial power’, and in doing so it provided the basis for the wider application of legislation to other colonial problems, including the defence or destruction of empire after 1775. As in the British Isles, legislation therefore increasingly became the chief instrument used by interest groups across the British Atlantic world to serve their own views of the public interest.

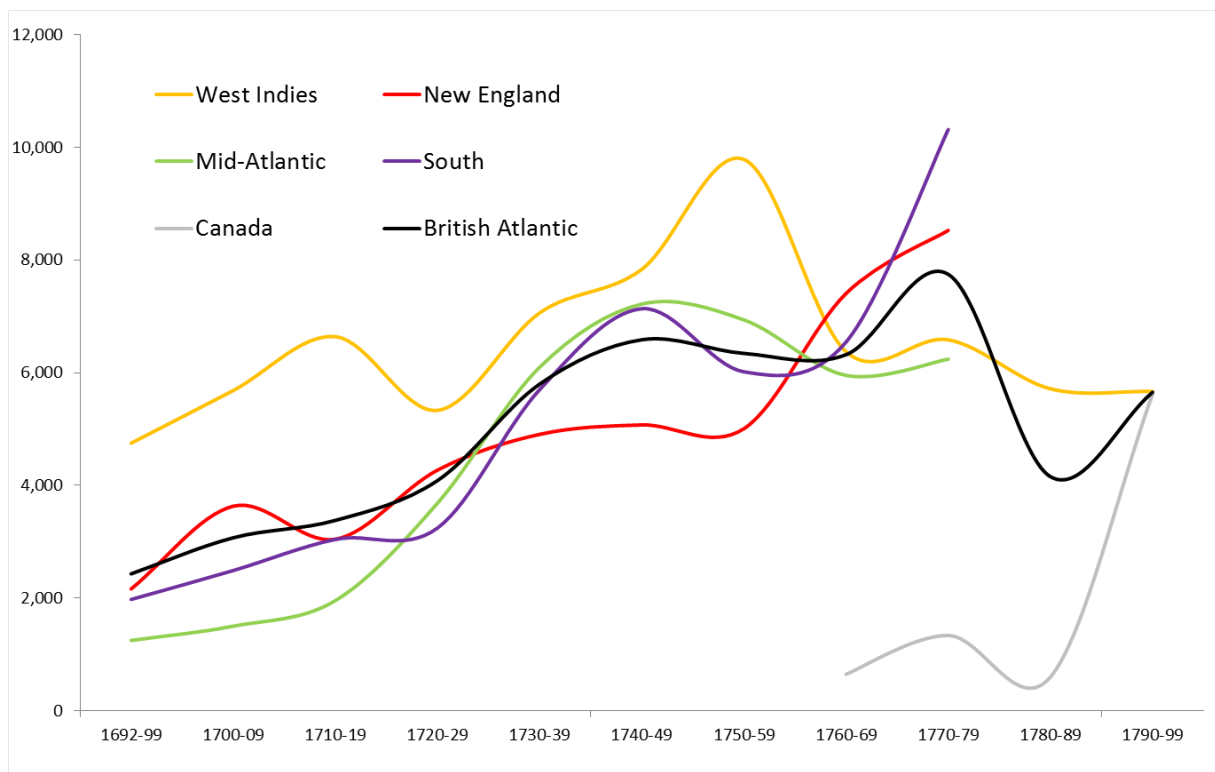
Patrick Walsh, *The British fiscal-military states, 1660-c. 1783* (London, 2016) pp. 27-34. Stephen Conway, *War, state, and society in mid-eighteenth-century Britain and Ireland* (Oxford, 2006) pp. 35-9, 143-63. For an historiographical overview, see Aaron Graham and Patrick Walsh, ‘Introduction’, in *idem.*, *British fiscal-military states* pp. 1-26.

Figure 1: Legislative Output of British Atlantic, in total and by region, 1692-1800 (5 yr averages)



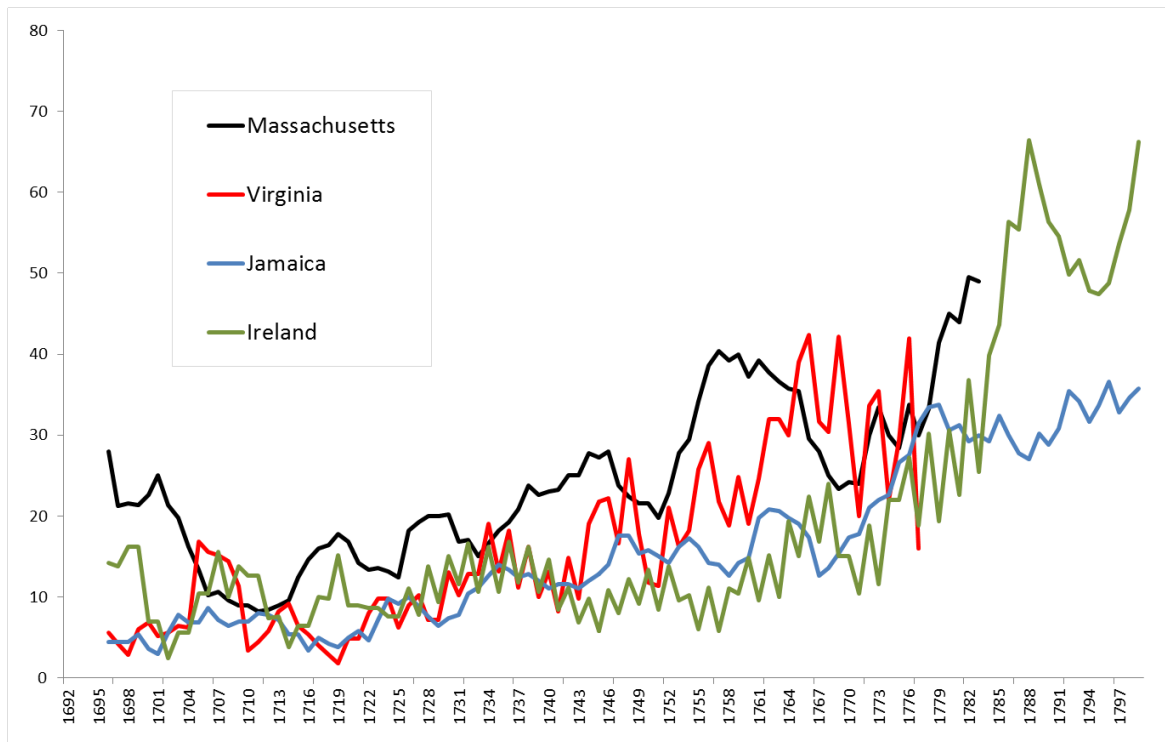
Sources: see Table 1

Figure 2: Ratio of population per act in British Atlantic, in total and by region, by decade, 1692-1800



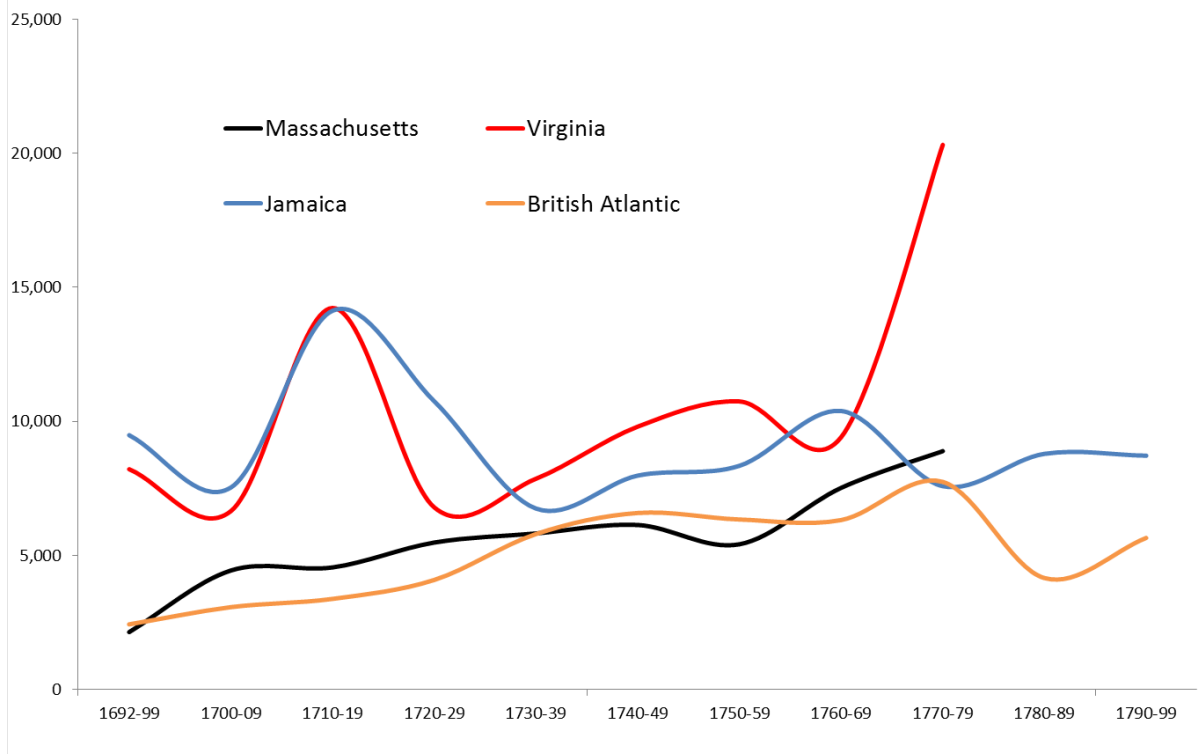
Sources: see Table 1

Figure 3: Legislative output of Massachusetts, Virginia, Jamaica and Ireland, 1692-1800 (5 yr averages)



Sources: see Table 1

Figure 4: Population per act in Massachusetts, Virginia, Jamaica and the British Atlantic, by decade, 1692-1800



Sources: see Table 1