

Exploring the Bounds of Liberty

Exploring the Bounds of
LIBERTY

*Political Writings of Colonial British
America from the Glorious Revolution
to the American Revolution*



VOLUME I

Edited and with an Introduction by
Jack P. Greene and Craig B. Yirush

Latin Translations by Kathleen Alvis



LIBERTY FUND

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Introduction

When scholars think about early American political writings, they think principally about the *Federalist* or about the writings involving various issues associated with the founding era of the American republic, particularly the debates over metropolitan efforts to tax the colonies after 1764, independence, and the formation of the federal state. The most important of these writings have long been accessible to scholars, many of the principal pamphlets and newspaper writings of the Revolutionary era having been included in the collection edited by Charles Hyneman and Donald Lutz and published by Liberty Fund nearly three decades ago.¹ Several other important collections have republished many of the significant writings for and against the Federal Constitution of 1787.² As it has become more widely and easily available and thus familiar to more scholars, this literature has elicited considerable scholarly respect for its political precociousness, learning, and sophistication as well as for its relevance to the ongoing project, so central to the history of the West, of defining the nature of civil liberty and determining how best to cultivate and maintain it. Yet, the impression remains that this literature somehow sprang, phoenix-like, out of the heads of geniuses, the revered founding fathers of the Revolutionary generation.

Geniuses many of the founders may have been, but their achievements in political analysis were built on a long and rich tradition of political writing. Scholars have acknowledged the indebtedness of the founders to the

1. Charles Hyneman and Donald Lutz, eds., *American Political Writing in the Founding Era*. 2 vols. (Indianapolis: Liberty Fund, 1983).

2. See, for instance, Bernard Bailyn, ed., *The Debate on the Constitution: Federalist and Antifederalist Speeches, Articles, and Letters during the Struggle over Ratification* (New York: Library of America, 1993). See also Colleen Sheehan and Gary McDowell, eds., *Friends of the Constitution: Writings of the "Other" Federalists 1787–1788* (Indianapolis: Liberty Fund, 1998); Herbert J. Storing, ed., *The Complete Anti-Federalist* (Chicago: University of Chicago Press, 2007).

great British and European legal and political writers, Edward Coke, John Locke, James Harrington, John Trenchard and Thomas Gordon, Frances Hutchinson, David Hume, William Blackstone, and Baron Montesquieu, to name only the most prominent.³ What has largely escaped systematic analysis, however, is the rich and extensive political literature produced in and about colonial British America during the century *before* the American Revolution. Already by the 1670s, colonial spokespersons were producing formal writings about political questions, a few of them published in New England, which had the only printing presses then in English America, but most of them published in London. Throughout the colonial era, colonials and metropolitans concerned with colonial questions continued to publish their political writings in London or elsewhere in Britain. However, with the expansion of printing to most of the colonies during the last decade of the seventeenth century and the first three decades of the eighteenth century (part of the expansion of print culture that was taking place throughout the English-speaking world), political polemical literature published in America increased exponentially throughout colonial British America, from Britain's southernmost colony in Barbados to its northernmost colony in Nova Scotia. Indeed, the number of imprints dealing with political questions increased in every decade after 1710 to become, by the 1750s, a veritable flood.

This vast literature was both sacred and secular. Some of it appeared as essays in newspapers, some in sizable volumes, some in sermons, some in poetry, plays, and other belletristic writings, but most of it in pamphlets or short treatises of fewer than a hundred pages. A large proportion of this literature has survived, widely scattered among rare book libraries in the United States, Britain, Canada, and the West Indies. Altogether, between 1670 and 1764 as many as a thousand to twelve hundred explicitly political writings issued from colonial and British presses on matters of moment to the colonial British American world. Because of the ephemeral character of this literature and because it was not associated with a founding national moment, scholars have remained mostly unaware of it.

The obscurity of this literature has meant that an important body of English political writing has been largely ignored. Above all, English people

3. See Jack P. Greene, *The Intellectual Heritage of the Constitution: The Delegates' Library* (Philadelphia: Library Company of Philadelphia, 1986).

thought of themselves as distinct from other peoples because of their successful dedication to liberty and the rule of law, to which even the monarchy had been subjected. English people who migrated overseas to Ireland and to America during the seventeenth and eighteenth centuries took this dedication with them. Liberty and law, they were persuaded, were the essential badges through which they could continue to identify themselves as English people, although living far away in climates and places that bore little physical resemblance to the country they had left behind. Hence, from the very beginning of overseas settlement, colonists made every effort to lay claim to the principles of English law and liberty, to incorporate those principles into the political and legal structures of the communities they were establishing in the New World, and to elicit metropolitan acknowledgment that, by virtue of their national inheritance as English people or the descendants of English people, they were fully entitled to that system of law and liberty. In the 1680s, William Penn, founder of the newest and last of the seventeenth-century English colonies, offered to prospective colonists precisely the sorts of guarantees of their rights to English law and liberties that colonists in the older colonies had long claimed. Thus, when metropolitan officials during the Restoration sought to use prerogative powers to impose a more authoritarian regime upon the colonies, and when in the mid-1680s under James II they sought to amalgamate the New England colonies and New York into the Dominion of New England, a regime that eliminated representative government in those colonies, they encountered widespread and deep resistance.

That resistance was responsible for much of the political literature of colonial British America. The Glorious Revolution in England provided the occasion for the overthrow of seemingly absolutist or Catholic regimes in New England, New York, and Maryland, in the process generating an extensive literature that either justified or opposed the overthrow of existing regimes. In this discussion, apologists for settler resistance widely condemned the Crown's use of prerogative power to stifle or curtail traditional English liberties in the colonies, while their opponents depicted colonial uprisings as violations of the existing political order and invitations, not to liberty, but to licentiousness. At the very heart of these discussions was the question of how English people organized into and living in polities so remote from the parent state could enjoy the traditional liberties of Englishmen, and settler protagonists manifested a powerful determination

both to inscribe those liberties into their new polities and to resist any efforts to deprive them of their most valuable inheritance, as they often said, in paraphrase of Sir Edward Coke. At the same time, a significant number of authors in the colonies (many, but not all of them government officials) took the side of the metropolis, defending it against the defiance of colonial protagonists and their alleged encroachments upon metropolitan authority.

During the eight decades following the Glorious Revolution, the same question arose repeatedly, connected to a wide variety of issues. These included the vagaries of colonial justice, abuses of judicial and executive power, the ambiguity of colonial constitutions, the sanctity of colonial charters, the persecution of religious dissenters, the limits and responsibilities of proprietary government, freedom of the press, the enslavement of blacks, the desirability of balanced government, the privileges and powers of colonial legislatures, the efforts of power-seeking politicians to monopolize power, the entitlement of colonial settlers to English laws, and appropriate strategies for economic development. Mostly arising out of local crises, the conflicts over these issues generated a large literature, including formal political tracts, published speeches from legislative debates, political satires, grand jury charges, election tracts and sermons, accounts of political trials, and many other genres. This literature circulated freely around the British world; a pamphlet emanating in Williamsburg might be answered by one written in London, and authors frequently made references to writings produced in disputes in other areas of the colonial British American—or Irish—world. Authors of this literature thus drew upon not just metropolitan political writers but each other. Over time, this body of literature showed an increase in learning as well as in legal, political, and philosophical sophistication, and it produced a body of thought upon which spokespersons for the resisting colonies in the 1760s and 1770s could draw in their defense of colonial liberties from the encroachments of metropolitan power.

For over a century, in formal political writing, they had effectively been testing, defining, and expanding the bounds of liberty in Britain's overseas possessions. In this short general introduction, we can mention only a few of the most impressive examples of this literature. Published by an anonymous Virginian in London in 1701, *An Essay upon the Government of the Plantations in America* (Selection 8), identified most of the tensions between

metropolitan power and colonial liberty that would prove to be constant irritants in metropolitan-colonial relations until the American Revolution and, for those polities that remained in the British Empire after 1783, well beyond it. In 1721, Jeremiah Dummer's *A Defence of the New England Charters* (Selection 20) brilliantly argued the colonial case for the sanctity of the charters on which the governments of several of the colonies depended for their immediate legal foundations. Later in the same decade, in *The Right of the Inhabitants of Maryland, to the Benefit of English Laws* (Selection 26), the Maryland lawyer and recent Irish emigrant Daniel Dulany used English jurisprudential thought and natural rights theory to fashion an effective case for the entitlement of Marylanders to the laws and liberties of Englishmen, a subject also canvassed with enormous learning in two New York pamphlets of 1734: William Smith, *Mr. Smith's Opinion Humbly Offered to the General Assembly of the Colony of New-York* (Selection 29), and Joseph Murray, *Mr. Murray's Opinion Relating to the Courts of Justice in the Colony of New York* (Selection 30). In 1748, five anonymous Maryland writers in the *Annapolis Maryland Gazette* (Selection 41), Maryland's only newspaper, subjected that colony's constitution to an elaborate examination in which they explored in detail the relationship between balanced government and liberty and debated the concept of fundamental law. In 1752, the royal officeholder Archibald Kennedy produced *An Essay on the Government of the Colonies* (Selection 42), the best of several tracts attacking the efforts of colonial legislatures to overturn the balance of power that he thought characteristic of the British constitution by vesting all authority in legislative hands. In 1755 and 1756, the Boston printer Daniel Fowle offered two ringing defenses of freedom of the press from legislative control, one of which, *A Total Eclipse of Liberty* (Selection 53), is reprinted here. In 1764, in *A Speech, Delivered in the House of Assembly of the Province of Pennsylvania* (Selection 63), the young Pennsylvania lawyer John Dickinson denounced the efforts of Pennsylvania's proprietary party to exchange its existing government for a royal one as a move that would endanger the colony's existing liberties and privileges. Finally, in 1766, in *The Privileges of the Island of Jamaica Vindicated* (Selection 66), Nicholas Bourke, another Irish emigrant lawyer, in this case to Jamaica, offered the single most impressive defense of parliamentary privilege produced in the English-speaking early-modern overseas world.

This literature has not commanded much scholarly attention. Looking for the roots of American political thought, a few scholars in the late 1940s

and early 1950s, notably Clinton Rossiter⁴ and Max Savelle,⁵ treated this literature seriously. Rossiter and Savelle identified some of the principal writers and sketched out some of the main themes in colonial political discourse. Limited by existing technologies and the scattered nature of this literature, however, they barely scratched the surface. In the 1960s, a few scholars, in particular, T. H. Breen,⁶ made careful studies of New England election sermons. At the same time, Lawrence H. Leder⁷ and Bernard Bailyn⁸ made casual forays into some of the literature without doing justice to its richness, learning, and developing sophistication. Although Jack P. Greene made considerable use of some of this literature in the early 1980s in his analysis of colonial constitutional thought and development,⁹ no one seems to have revisited this subject or delved again into these sources until the late 1990s, when Craig Yirush began to read them in preparation for his monograph on selected aspects of colonial political thought.¹⁰

This work will also be available in an expanded edition of 172 pamphlets.¹¹ While the present edition includes 75 of the most impressive of the 172 pamphlets, both versions are intended to provide readers with an introduction to this neglected and impressive body of colonial British American political literature. Rather than arranging the selections into modern categories, the editors have chosen to present them in chronological sequence from the earliest in 1688 to the latest in 1774. The choice of a beginning should not be taken to imply the absence of political controversy and political thought

4. Clinton Rossiter, *Seedtime of the Republic* (New York: Harcourt, Brace, 1953).

5. Max Savelle, *Seeds of Liberty: The Genesis of the American Mind* (New York: A. A. Knopf, 1948).

6. T. H. Breen, *The Character of the Good Ruler: A Study of Puritan Political Ideas in New England, 1630–1730* (New Haven: Yale University Press, 1970).

7. Lawrence H. Leder, *Liberty and Authority: Early American Political Ideology, 1689–1763* (New York: Quadrangle Press, 1968).

8. Bernard Bailyn, *Origins of American Politics* (New York: Alfred A. Knopf, 1965).

9. Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States, 1607–1788* (Athens, Ga.: University of Georgia Press, 1987).

10. Craig Yirush, *Settlers, Liberty, and Empire: The Roots of Early American Political Theory, 1675–1775* (New York: Cambridge University Press, 2011).

11. Jack P. Greene and Craig B. Yirush, eds., *Exploring the Bounds of Liberty*, ebook edition (Indianapolis: Liberty Fund, forthcoming).

before 1688. From the early work of Herbert Levi Osgood¹² and Charles M. Andrews¹³ and many studies of the seventeenth-century history of several colonies, we have long known that the main outlines of both colonial political claims and metropolitan responses to them had been worked out in considerable detail during the years of the English Civil War, the Interregnum, and especially the Restoration. Before the late 1680s, however, few of the important documents arising out of this process found their way into print.¹⁴ The starting point, 1688, acknowledges the beginning of a more extensive resort to print culture and a more consistent pattern of publication during the era of the Glorious Revolution. The tacit ending date, 1764, is a function of the change in the focus of political discussion. Before 1764, the main issue shaping discussions about colonial rights was the extent of the Crown's political prerogative in the colonies. After 1764, Parliament's efforts to tax the colonies shifted to the question of Parliament's colonial authority, a subject already covered extensively in other Liberty Fund publications.

Seven criteria have been used in choosing all 172 selections.

The first criterion was that the selections be secular. Because Ellis Sandoz had already published under Liberty Fund auspices a selection of some of the more important New England election sermons,¹⁵ the editors resolved to limit this collection to secular political writings. They have adopted a fairly generous definition of *secular*, however. Some of the selections address religious issues that spilled over into politics, and some are the work of ministers.

The second criterion was that the selections should cumulatively cover the vast range of issues and concerns that characterized colonial political discourse.

12. Herbert Levi Osgood, *The American Colonies in the Seventeenth Century*. 3 vols. (New York: Columbia University Press, 1904).

13. Charles M. Andrews, *The Colonial Period of American History*, 4 vols. (New Haven: Yale University Press, 1934–38), Vols. 1–3.

14. A. P. Thornton, *West India Colonial Policy under the Restoration* (Oxford: Oxford University Press, 1956); Michael Kammen, *Deputies & Libertyes: The Origins of Representative Government in Colonial America* (New York: Knopf, 1969); Greene, *Peripheries and Center*, 7–42, and Carla Gardonia Pestana, *The English Atlantic in an Age of Revolution, 1640–1661* (Cambridge, Mass.: Harvard University Press, 2007), provide a more recent gloss on aspects of this subject.

15. Ellis Sandoz, *Political Sermons of the American Founding Era, 1730–1805*, 2 vols. (Indianapolis: Liberty Fund, 1998).

A third criterion was to obtain a broad temporal sweep that would illustrate the changing political landscape over the long period from the 1680s, when colonial political writing first became significant, through the first half of the 1760s, when it began to focus largely upon the issue of Parliament's claims to unlimited authority over the colonies. Many writings from 1764 having already been included in the Liberty Fund collection edited by Charles Hyneman and Donald Lutz, it seemed unnecessary to reprint them here.¹⁶ However, the editors did include eight pamphlets from the post-1764 era that were not part of the pre-Revolutionary debate, but addressed issues of the sort that had traditionally concerned colonial political writings, especially in those British colonies that did not join the thirteen colonies that revolted in 1776. As it stands, the resulting collection will contain eight selections from the 1680s, ten from the 1690s, twelve from the first decade of the eighteenth century, fourteen from the 1710s, twenty-one from the 1720s, fourteen from the 1730s, twenty-six from the 1740s, forty-two from the 1750s, seventeen from the 1760s, and eight from the 1770s. The rising number of selections beginning in the 1720s reflects the expansion of printing facilities and the growing use of the press as a forum for political debate.¹⁷

The fourth criterion was to produce a collection in which all of the polities that composed a part of Britain's American empire before the conclusion of the Seven Years' War in 1763 would be represented. By that time, Britain had twenty-three American colonies: the thirteen colonies that revolted to form the United States in 1776, plus Nova Scotia, the Atlantic island colonies of Bermuda and the Bahamas, and the West Indian colonies of Barbados, Antigua, Montserrat, Nevis, St. Christopher, Jamaica, and the Virgin Islands (Newfoundland did not have a settled government before the nineteenth century)—all part of the same political culture and most of them contributing extensively and sometimes decisively to the discussion of the bounds of English liberty in the overseas British world of the early modern era. The editors thus sought out pertinent selections not just from the revolting colonies but also from those that remained within the British Empire. They have managed to find at least one selection for each

16. Hyneman and Lutz, eds., *American Political Writing in the Founding Era*.

17. The expansion of print culture lacks a comprehensive study, but a number of essays in Hugh Amory and David D. Hall, eds., *The Colonial Book in the Atlantic World* (Cambridge: Cambridge University Press, 2000) shed considerable light on the subject.

of Britain's older colonies except Bermuda and the Virgin Islands, neither of which had a local printer before 1764 or generated any political writing that saw publication in Britain. The number of selections from each colony varies according to the vigor of its civic life, the extent of political controversy, and the level of its output. With thirty-three, Massachusetts has the most selections, followed by Pennsylvania with thirty-one, New York with twenty-five, Jamaica with twelve, Virginia with eleven, Connecticut and South Carolina with eight each, Maryland and Barbados with seven apiece, New Jersey and Georgia with five apiece, Rhode Island, Delaware, and Nova Scotia with three each, Antigua and Grenada with two each, and the Bahamas, North Carolina, Montserrat, New Hampshire, Nevis, and St. Christopher with one each. Two selections concern Grenada, one of eight new American colonies incorporated into the British Empire after 1763 as a result of conquests made by Britain during the Seven Years' War or ceded to it by the 1763 Treaty of Paris.¹⁸ One selection involving India is included here because it raises issues relevant to the American empire. All 172 selections deal directly with colonial affairs: the 57 published in Britain and the 115 published in the colonies.

The fifth criterion was to include examples of every genre of political discourse. Thus, although the vast majority of selections can be classified as polemical political pamphlets of radically different lengths and orientations, the collection also includes five newspaper essays or exchanges, two essays from magazines, two poems, two plays, three charges to grand juries, three judicial opinions, three trial accounts, four state papers, eleven political speeches, and six analyses of the issue of chattel slavery.

The sixth criterion was that the items had to have been published contemporaneously. To this guideline the editors made two exceptions. Although written as an extended political essay, Gershom Bulkeley's *Will and Doom, Or the Miseries of Connecticut by and under an Usurped and Arbitrary Power*,¹⁹ composed in 1692 as one of the author's several attacks on the rationale for overthrowing the Dominion of New England but not published until the nineteenth century, is certainly the most profound defense of the sanctity of established authority and the dangers of rebellion written in colonial

18. The others were East Florida, West Florida, Quebec, St. John's Island (now Prince Edward Island), Dominica, St. Vincent, and Tobago.

19. Included in the ebook edition only.

British America. Selection 61, the Massachusetts House of Representatives' "Instructions to Jasper Mauduit," sent to the London agent in 1762 but not published until the twentieth century, represented the best statement the editors could find of the colonial point of view of the problems of British imperial governance at the conclusion of the Seven Years' War.

The seventh and last criterion was the quality of the production. For this collection, the quality of a selection was determined principally by the cogency, learning, and originality of the argument and how well the piece illuminates the specific and general issues under consideration and only secondarily by its rhetorical or literary merits.

The editors hope that this collection will help to bring about a deeper understanding of the process of transplanting English liberty to overseas colonies during the first centuries of English colonization, of the ideological context of the American Revolution, and of the formation of the political culture not only of the American nation and the states that composed it but also of those colonies that remained in the British Empire after 1776. Speaking directly to such important general themes in the history of liberty as the nature and source of corporate and individual rights, the importance of due process and the rule of law for the preservation of those rights, the centrality of private property and local autonomy in a free polity, and the ability of people to pursue their domestic happiness, this collection is intended to be a tool for scholars researching and endeavoring to understand the origins and spread of the Anglo-American tradition of political liberty.

Editors' Note

Like the 172 pamphlets and other writings that will comprise the expanded edition of this project,¹ this edition of seventy-five of the very best examples of those writings presents the original text in its entirety, with a brief headnote to set each selection in its contemporary context, place it in its genre, and assess its significance for understanding colonial British American political culture.² With the exception of providing translations of Latin and other foreign language passages, the editors have not annotated the selections. Nor have they indicated the original pagination within the selections. With certain exceptions, specified below, we have retained the original grammar, spelling, punctuation, abbreviations (including ampersands), italics, capitals, and footnotes. To make the texts more accessible to the modern reader, however, we have also observed the following conventions:

1. Every sentence begins with a capital and ends with a period.
2. Every long-tailed *f* has been converted to a lower case *s*.
3. The initial *ff*, an old form for a capital *F*, has been converted to a capital letter.
4. In cases where *u* and *v*, on the one hand, and *i* and *j*, on the other, have been used interchangeably, as was often the case in seventeenth- and eighteenth-century spelling, modern spelling conventions have been followed.
5. All *th* abbreviations such as *y^e*, *y^t*, *y^m*, and *yⁿ* have been expanded to *the*, *that*, *them*, and *then*.
6. Superscript letters in titles have been brought down to the line of text, e.g., *Capt.*, and common words abbreviated by superscript have been expanded on the line of text, e.g., *which* and *your*.

1. Jack P. Greene and Craig Yirush, eds., *Exploring the Bounds of Liberty*, ebook edition (Indianapolis: Liberty Fund, forthcoming).

2. This edition will also appear in ebook format.