

Origins of the Virginia Committee System

A young Woodrow Wilson wrote in *Congressional Government: A Study in American Politics*, "it is not far from the truth to say that Congress in session is Congress on public exhibition, whilst Congress in its committee rooms is Congress at work."¹ More than 100 years later it would still be virtually impossible to exaggerate the importance of the committee system in American legislatures at either the state or national level.

From the very the earliest days of the great American experiment in representative democracy it was clear that there was not sufficient time to permit a full examination of every issue by every member. Even when legislative bodies were smaller there were simply too many members to effectively consider the implications of every method. On the first day of the first session of the first meeting of a legislative body in the western hemisphere the 22 members of the House of Burgesses were divided equally into two committees in order to more efficiently handle the matters before the House. Ever since, American legislatures have continued to recognize that a select group of the body's most talented members, preferably members with expertise in the specific field of concern, should carefully examine and recommend the best course of action to the larger body.

J. Franklin Jameson, writing in 1894, defined the standing committee system as the regular practice of establishing several committees, composed of its own members and continuing in existence throughout the session, each of which has specific subject matter jurisdiction, and to which all matters falling within that division are regularly and usually referred for preparative consideration prior to final action upon them by the house. Such a system exists today in not only the U.S. Congress, but all fifty state legislatures. It is this system that Thomas Reed, who served as Speaker of the U.S. House of Representatives during the late 19th Century, remarked served as the eyes, ears, hands and very often the brains of the House.

In 1861, American scholar George B. Galloway wrote, "In practice, Congress functions not as a unified institution, but as a collection of semi-autonomous committees that seldom act in unison."² It was a sentiment amplified by Woodrow Wilson, "The House sits, not for serious discussion, but to sanction the conclusions of its committees as rapidly as possible." Wilson later acknowledged this statement to be a slight exaggeration, noting that the House never accepted decisions of the Ways and Means or

¹ Woodrow Wilson, *Congressional Government*, 1885.

² "History of the House of Representatives"

the Appropriations Committees without due deliberation and discussion. In lesser matters, however, American legislatures have permitted the committees to assume almost completely the powers of legislating.

British historian, lawyer and politician, James Bryce, the first Viscount Bryce, in his 1888 book, *The American Commonwealth*, noted in reference to the U.S. House of Representatives, “It is as a committeeman that a member does his real work.” Certainly this is the case for members of the Virginia General Assembly. The non-profit, Virginia Public Access determined that of the 830 bills defeated during the 2014 Regular Session of the Virginia General Assembly 496 died in subcommittees of the House of Delegates, 196 were defeated in one of the 14 standing committees of the House, and 118 were defeated in one of the Senate of Virginia’s standing committees³. Five bills were vetoed by the Governor and 20 were defeated either on the floor one of the two chambers or because the two bodies could not reach agreement on a conference report after each house had passed different versions of the bill.

Bryce’s 1888 observance is today a common refrain. Considering that 97% of the bills defeated during the 2014 Regular Session of the Virginia General Assembly died in committee or subcommittee, it is little wonder that virtually every study of legislative bodies conducted over the last century have reached that same conclusion as Bryce and Wilson, namely that the real work of any legislature occurs within the confines of the committee system. In fact, the consideration of legislation by a system of standing committees can fairly be considered to be the most distinctive feature of American legislatures.

How did this distinctly American device develop? And what role did the Virginia House of Burgesses, later the House of Delegates, contribute to its development is the focus of this article.

EARLY ORIGINS

As with many American legislative practices, a system of legislative standing committee can be traced back to processes and procedures found in the English parliamentary system. Traces of a committee system can be found as early as the reign of Edward I (1272-1307) when, at the beginning of each session of parliament two groups were formed to consider petitions – one for England, Ireland, Wales and Scotland, and

³ The Senate of Virginia does not typically use subcommittees.

another for Gascony and other lands beyond the sea. The role of these groups was to receive and evaluate petitions and to report to the law-courts, king and Parliament those which should be properly referred to each. The earliest instance of a committee being appointed specifically to craft a particular statute from a petition can be found in the records of the House of Commons in 1340.

Since the House of Commons did not begin keeping printed journals until 1547 it is hard to trace the development of parliamentary committees in the 200-year period between 1340 and 1547. By 1565, when Sir Thomas Smith wrote his famous treatise, *De Republica Anglorum: The Manner of Government or Policie of the Realme of England*, committees for framing laws were already an essential part of the procedure of Parliament.

The Committees as such as either the Lords in the higher House, or Burgesses in the Lower House, doe choose to frame the Lawes upon such Bills as are agreed upon, and afterward to bee ratified by the same Houses.

It chanceth sometime that some part of the Bill is allowed, some other part hath much controversie and doubt made of it; and it is thought if it were amended it would go forward. They choose certain Committees of them who have spoken with the Bill and against it, to amend it, and bring it againe so amended as they amondst them shal thinke meet.

By the mid-16th century numerous examples of parliamentary committees abound, however, it is equally clear that committee referral was not automatic or even customary. Most bills were not sent to committee. As described by Sir John Neale committees under Elizabeth were appointed to consider amendments which had been proposed and in many ways functioned more like a modern conference committee than a standing committee.

The beginning of Elizabeth's third Parliament, in 1571, marks a transformative period in the evolution of legislative committee. On April 6th the Journal records reference of a group of bills all relating to the same general subject to a single committee.

And to meet To-morrow, at Afternoon, Three of the Clock, in Mr Treasuer's Chamber at the Court. – Upon a Motion for Uniformity of Religion and the Mention of certain Bills drawn for that Purpose the last Parliament, and for Redress of sundry defections in those Matters, a Committee is, by the House, appointed of these following ...

The following day, for the first time, the Journal reflects the appointment of a committee appointed with general subject matter jurisdiction, an entire division of the business of the house, rather than a single bill or even a set of bills. It is in the establishment of these committees in 1571 that elements can be found of three of the earliest standing committees of the House of Burgesses – the committees on privileges and elections, propositions and grievances and religion.

An equally developed committee structure does not appear, however, during either of the first two sessions of Elizabeth's fourth Parliament. In the Parliament of 1584-85, there are committees for the continuance of statutes, petitions and grievances of the religion, and penal laws. While committees are evident in other sessions, and elements of what resembles our own standing committee structure exist, the first modern standing committee, in the American sense, was not established until 1592.

EVOLUTION AND DEVELOPMENT OF ENGLISH COMMITTEES (17th Century)

The Parliament of 1601, the last under Elizabeth, had the same standing committees as its predecessor and by this time it was common for practically every bill to be referred to committee. With the additions of the committees of trade and courts of justice in 1621, the House of Commons completed its committee system consisting of committees on religion, trade, grievances, courts of justice, and privileges and elections.

Although the committee structure was by this time in place, the system of standing committees was not yet producing a more efficient means for handling legislation. On the April 12, 1604, a motion was made, "touching the slow proceeding and dispatch of such bills and business as were depending in the House, which grew, as was said, by the non-attendance of a sufficient number at committees." Thereupon it was ordered, "that if eight of any committee should be assembled, they might proceed to a resolution, in any business of the House." From this point through 1770, any eight persons was deemed a quorum for any committee of the house.

Beginning under James II, the standing committees slowly evolved into grand committees on which any member could sit. As a result, membership on English committees expanded exponentially. In 1614, committees typically had 12 or fewer members, but by 1626, the Committee on Religion had 30 members; the (Special) Committee for an Act against Adultery and Fornication, 31 members; the (Special) Committee for an Act that certain Clergymen shall not be Justices of the Peace – 35

members; and the Committee for Privileges, 69 members. Sir Henry Poole served on 97 committees during that one session of Parliament.

As a result of the fluctuating and ever increasing size of the standing committees, the House of Commons increasingly sat as a committee of the whole. By the beginning of the reign of George the First almost all matters of election were heard before a committee of the whole and in the Parliaments of King James, grievances and matters of religion were likewise considered by “grand committees.”

The rapid expansion of “grand committees” slowed as England approached the mid-17th Century. Cromwell’s Parliament of 1654, for instance, was more conservative and returned to a leaner committee structure, appointing standing committees on privileges, religion and trade, which had been entirely discontinued after 1632. The second Parliament of the Protectorate (1656-58) the House completely restoring the old system of committees (religion, trade, grievances, courts of justice and privileges) and plus special committees for Ireland, Scotland, and one or two financial matters. From the meeting of his second Parliament in 1661 to the session of 1832, with scarcely any exception, at the beginning of each session, the House of Commons a committee of privileges and returns, and appointed committees of the whole house for religion, grievances, trade and courts of justice.

The return of the old structure also saw the return of large, unwieldy committees. It was not unusual for the House to appoint from 100 to 300 of its members to a committee. In the 10th session of the Cavalier Parliament, February 27, 1672-73, it was voted that all members of the house who should come to the sessions of the committee of privileges, should have voices. Some committees thus grew as large as 400 members.

The committee system in Parliament gradually declined after the reign of Charles II as committees of the whole house came to dominate and the ministerial/cabinet form of government developed.

Ironically, colonial legislatures in the American colonies were creating a system of standing committees mirroring those in Parliament at the very time the committee system in England was fading.

INTRODUCTION TO THE DEVELOPMENT OF COMMITTEES IN AMERICA

Virginia was the first colony in America to establish a representative assembly, doing so on July 30, 1619. And she was the first to develop a system of standing legislative

committees for the transaction of business. As previously noted, on the first day of that first session, the Speaker, John Pory, read the charter which Governor Sir George Yeardley had brought over from England after which it divided into four parts, which were then divided between two committees in order to study the charter in greater detail and specificity, “not to the end to correct or control anything therein contained; but only in case we should find anything not perfectly squaring with the state of this Colony, or any law which did press or bind too hard that we might by way of humble petition seek to have it redressed; especially because this great charter is to bind us and our heirs forever.”

The first two committees of the General Assembly, indeed of any legislature in the western hemisphere, were thus appointed as:

<u>First Committee</u>	<u>Second Committee</u>
Captain William Powell, James City	Cpt. Christopher Lawne, Captain Lawne’s Plantation
Ensign Rosingham, Flowerdieu Hundred	Captain Graves, Smythes Hundred
Captian Ward, Captain Warde’s Plantation	Ensign Spense, James City
Captain Tucker, Kiccowtan	Samuel Sharpe, Charles City
Mr Shelley ⁴ , Smythes Hundred	William Capp, Kiccowtan
Thomas Douse/Dowse, City of Henricus	Mr Pawlett , Argals Guifte
Samuel Jordan, Charles City	Mr Jefferson, Flowerdieu Hundred
John Boys, Martin’s Hundred	John Jackson, Martin’s Hundred

The following members were not named to a committee: John Polentine of the City of Henricus; Thomas Davis and Robert Stacy from Captain John Martin’s Plantation ; Mr Gourgainy of Argals Guifte; Ensign Washer of Captain Lawne’s Plantation; and Lieutenant Gibbes of Captain Warde’s Plantation.

It is not surprising that that the first House of Burgesses submitted the charter to committee for review. Despite the proliferation of unwieldy committees of the whole in England that would characterize the committees of Parliament during the 17th Century, in 1619, English committees were still modestly sized, comprised of 12-20 members. Furthermore, the experience of Parliament had shown that standing committees, more or less permanent in nature, with defined jurisdiction, had proved to be an efficient means to transact legislative business.

Over the sessions that followed the Virginia House of Burgesses, developed a system of standing committees closely analogous in name and function to those

⁴ Mr Shelley is recorded in the journal of the proceedings of the first session as being deceased on Sunday, August 1.

employed in England. The first committee, in origin and standing, the committee of privileges and elections was unquestionably the American equivalent of the House of Commons' committee of privileges and returns, and the committees for courts of justice, grievances, trade and religion, all bore a close connection in name and function with the similar ones in England.

The differences between the committee system in England and those in Virginia is that while the committee system in Parliament was marked by the rapid expansion in the size of the committees and the use of committees of the whole house, the standing committees of the House of Burgesses, were much smaller and more workable. While a member of Parliament would have marveled that the colonial assembly would entrust such a vast amount of important business to a series of committees limited in size; he would have felt at home as far as the form of the chamber, the ceremony, and the method of carrying on debates.

Although the system of standing committees developed in the colonies was modeled after the English system, it was adapted as the legislative needs for such committees became apparent and modified into a system of workable standing committees to serve these needs.

COLONIAL COMMITTEES IN OTHER COLONIES

Just the standing committee system was not blindly imported to the shores of Virginia from England, but evolved based on the needs of the colony, so too did the committee systems that were developed in other English colonies in America. The colonial legislatures in the middle and southern most colonies more closely and consciously emulated the rules, behavior and structure of those in Parliament than did those of the New England colonies.

There were no standing committees in New Hampshire, Rhode Island or Connecticut before the Revolution, and the few that operated in Massachusetts were the result of local needs rather than a conscious emulation of Parliament. The lower house in Pennsylvania did not form standing committees until 1720 and North Carolina did not develop a standing committee structure until the 1730's (although the journal of the lower house for the 1725-26 session references committees of the whole on elections and propositions and grievances).

Outside of New England every colonial legislature had one or two standing committees. With the exception of Delaware, every colony from George up to New York, had a committee on grievances (although there were slight deviations in the exact name). In New York and New Jersey, this was a grand committee, in much the manner of the committees of Parliament.⁵

Indeed in many respects, New York virtually copied the House of Commons. The New York Assembly, in 1699, had a committee of elections and select committees on accounts and grievances. Between 1699 and 1737 the New York Assembly had one committee most sessions, but no session in which there are more than two. In 1737 New York instituted a system that remained in place through the Revolution, featuring a select committee of Privileges and Elections and grand committees of grievances, courts of justice and trade. New York's committee mirrored the form but not the substance of English committees. These committees never carried forward the bulk of NY's legislative work and served more as memorials of "ancient English usage" than as a functioning committee system.

The contributions to the legislative process of these committees is, in most cases, questionable. Introduction of legislation by individual members was unusual. In most colonial legislatures select committees were used to write bills rather than standing committees, and much, if not most, of the work of the lower houses was conducted while sitting as a committee of the whole. Indeed, outside of Virginia, standing committees were not generally part of the actual lawmaking process and even when they existed were subject to being ignored or bypassed.

EARLY COLONIAL COMMITTEES IN VIRGINIA

This was not true in Virginia. Although a handful of colonies, developed committee structures that were modeled, some more closely than others, on those of Parliament, the evolution of committees in Virginia evolved into something that was unique, and would become distinctly American in nature. In Virginia, there was a determination not found elsewhere in the colonies to get the work done efficiently. During the period between 1619 and the start of the 18th century, committees in the House of Burgesses evolved slowly in response to an increasing workload that required more

⁵ The lower house in New Jersey remained without a system of standing committees throughout its history, although in 1771 there was a proposal to form a grand committee (committee of the whole house) of grievances

efficient organization of the legislature. This led Virginia to gradually forego special committees, appointed to do specific things after which the committees were discharged, in favor of permanent standing committees with wider jurisdiction over a defined subject area.

The records of the General Assembly for much of the 17th Century are incomplete and it is hard to point with confidence to the exact dates for the formation of the earliest recurring committees. It is known that by September 1632 the General Assembly had determined that the laws of the colony had become confusing and “in some cases defective and inconvenient.” And, that as a result, they felt it necessary to declare all existing laws “void and of no effect.” Thus began a regular, thorough review of the laws of the colony and to facilitate this was formed the committee for the revisal of laws, sometimes known as the Committee for the Review of the Acts.

It was not only one of the first committees of the General Assembly but it is almost assuredly the first that would function like a legislative committee in the sense we understand committees today. While the Committee on Privileges and Elections concerned itself with determining member credentials, judging election results and deciding questions of legislative privilege; and the Committee for Private Causes was performing its quasi-judicial function, the committee for revising the laws was tasked with reviewing legislation that created or modified statutory law. In a manner very similar to the way the legislature today treats legislation from the second house, a bill would be given its first reading and then referred to the committee for the revisal of laws for vetting prior to returning the bill to the full House for consideration.

In the session that convened in December of 1655, we find a committee for revising the laws, consisting of a chairman and three members, and a committee for private causes composed of a chairman and seven members. The committee for private causes was again formed during the session of March 1659, and continued until at least 1684.

In the modern sense, the committee for private causes is unique in the committee structure of the House for served primarily a judicial rather than a legislative function. The colony’s court system was in its infancy and there was nothing akin to the notion of separation of powers between the branches of government. Indeed, the General Assembly served both legislative and judicial functions. Under the Charter of 1606 the Council fo State was grnated not only executive and legislative functions, but the ability to try all but the most serious criminal cases. Beginning in 1619, when the General Assembly was

established it assumed virtually unlimited jurisdiction in judicial matters. By 1632, the Governor and Council were meeting quarterly, on the first day of September, December, March and June, to consider judicial matters. For its part the House of Delegates exercised appellate jurisdiction as a court of last resort. While the General Assembly lost much of its appellate jurisdiction in 1682 following Bacon's Rebellion, the Assembly continued to hear civil and criminal cases up until the American Revolution. The function of the Committee for Private Causes was to assist in determining which civil appeals merited consideration by the full General."⁶

See separate document on the origin of the Committee on Courts of Justice for further discussion of the evolution of the judicial system.

In 1660, a committee of audit was appointed to review the accounts of the tax collectors to ensure that the two shillings per household duty was being collected and properly accounted for. To aid in this endeavor the committee was given the explicit power to examine witnesses, administer oaths and use other legal means as may be necessary to determine the accuracy of the accounts. Thereafter an audit committee was fairly commonplace, albeit under a variety of names.⁷

In 1661, 1662 and 1663 committees were again formed for the revision of laws. The first of these consisted of but two members, Francis Moryson and Henry Randolph. While hardly representative of the Assembly as a whole, Moryson and Randolph were especially well-qualified for the task. Moryson was a former Speaker of the House, a member of Council and in May 1661 would become deputy governor. Randolph had been clerk of the House since 1656 and had been responsible for drafting most of the laws passed during that time.⁸

These committees were unique in that they were formed as recess committees, appointed to sit and transact business during periods when the House of Burgesses was not otherwise in session. In 1669, the committee for the revision of laws was appointed as a joint recess committee consisting of three members of the Council and six Burgesses, with six of the committee constituting a quorum, provided that there be not less than two from the Council nor four from the House of Burgesses present to constitute such a quorum. While the Committee on Privileges and Elections may have been the most

⁶ Billings, *A Little Parliament*, pg. 38

⁷ Treasurer's Accounts (1702-1764, 1817-1866), First Auditor's Office (1821-1866), Second Auditor's Office (1827-866), Auditing (1938-1970)

⁸ Billings, *A Little Parliament*, pg. 43-44

prestigious of the standing committees, the committee for the revision of laws had the heaviest workload. Unlike today, when the House of Delegates routinely considers 2,500 bills per session, during the colonial period, the work load of the House routinely consisted of no more than about 55 bills. In this light, one cannot fail to be impressed by the 39 bills reported by the committee for revising the laws in 1699 to the General Assembly for action.

As we will see, in subsequent sessions Committee on Propositions and Grievances, and later, the Committee for Courts of Justice, would eventually assume this function.

Propositions and Grievances

It was noted earlier that the first traces of a committee system in England date to the reign of Edward I (1272-1307) when committees were formed to consider petitions from the lands of the realm. This function continued for more than three centuries, as evidenced by the records from Queen Elizabeth's third Parliament, which on April 7, 1571 it is recorded that a committee was formed to consider "grievs and petitions." By the early 17th century, it was commonplace to find committees of Parliament for receiving grievances from the different counties, which were then framed into the form of a petition. Once adopted by the lower house, the official grievances were sent to the Lords for concurrence, and in their final form were presented as a petition to the king by the houses jointly. One such committee, during the Parliament of 1610, consisted of the king's Privy Council, the first knight of every shire, all the lawyers of the house, the first burgess of every borough and Sir Edwin Sandys, who was also one of the founders of the Virginia Company of London.

While the first recorded reference to a committee for propositions and grievances comes from a clerk's petition in 1677 given the Burgesses's desire for an efficient process for transacting legislative business it should not be surprising that a committee for dealing with grievances was among the earliest developed by the General Assembly. Although refined over time the general procedure called for colonists to go before a magistrate asking the legislature to remedy some evil by law or through a proposed change in existing legislation. Once certified at the local level, the grievance would then be brought to the legislature and referred to the Committee on Propositions and Grievances which would review the petition and, if necessary, make recommendation to the House of Burgesses. From at least 1677 through 1900, the Committee on Propositions

and Grievances served Virginians as a means of addressing the complaints of the average citizens on an endless variety of problems.

Public Claims

Closely akin to the Committee on Propositions and Grievances is the Committee for Public Claims (or sometimes, simply, “Claims”). Like the Committee on Propositions and Grievances, the first mention of a claims committee can be found in the records of the Session of 1677.

Originally appointed as a joint committee, the Committee for Public Claims assumed most of the judicial functions of the former Committee on Private Causes. After its judicial functions were taken away in 1680, the Committee for Public Claims continued to thrive to investigate claims laid before the House. Unlike the Committee on Propositions and Grievances, the Committee for Public Claims functioned as a “money committee.” The Committee for Public Claims dealt with the accounts of local officials, such as the clerk, sheriff and prosecutor of each county court and was charged with determining the amount due for summoning witnesses and transporting prisoners, as well as with the claims of individuals, whom the state might owe money for any of a variety of reasons.

In some cases, especially larger projects, such as the building of the governor’s house, or the raising of troops, money was appropriated in advance but in small matters a project would be directed without an accompanying appropriation and only after the completion of the work would the house consider a petition asking for payment. The amounts payable were entered in a book of public claims by the committee, presented to the house in the closing days of the session, passed by the house and by the council. It was in this manner that early appropriation of public money was handled.

***See separate document for further discussion
of the evolution of the “money” committees.***

By the mid- to late- 18th Century, by standing order (rule) of the House, certain categories of claims were automatically referred to the committee. For example, the Journal for the Session of 1766 records, that the House “Ordered that all the claims for taking up runaways, sworn before a magistrate, be referred to the consideration of the committee of claims.”

The Public Claims committee continued to perform this function through the Revolution (1778).⁹

COLONIAL COMMITTEE STRUCTURE IN THE 18th CENTURY

In the journal of the Session of 1693 there appears the committee of public claims, along with the committee of elections and privileges, and the committee of propositions and grievances. Subsequent Journals From 1696 to 1698 the journals note that these three committees constituted “the usual system.” With the exception of the one-day session of April 20, 1704, the shortest ever held by the House of Burgesses, this structure remained largely intact until the Assembly of 1727-1734.

***See separate document for further discussion
of the evolution of the P&E committee.***

Efficiency also dictated other changes. By the 1702-1703 Session of the General Assembly, the House had determined it necessary to impose a filing deadline for receiving both claims and grievances, and to publicly post the committee’s meetings.

Ordered that the Clerk of ye House publish ye latest time set by ye House for receiving propositions Greivances & publick Claims during this Session by Setting up a fair Copy of ye Resolve of ye House in that behalf at ye Colledge door Ordered That ye the Clerk of ye House publish the place where ye Committee of Grievances & Propositions, and the Committee of publick Claims are to sitt, vizt in ye upper Rooms of ye Colledge where they formerly sat, by Setting up a Certificate therof at ye Colledge door. ¹⁰

In addition, each of the three was also assigned a committee clerk whose duty it was to keep a record of the committee’s proceedings, much as they still do today. And just as is the case today, the whole of the House would frequently accepted the committee’s findings. Indeed, the cases in which recommendations of one of the committees were rejected or even amended by the House seem to be the exceptions rather than the rule. Early on it seems, the House determined that it was necessary that members be able to rely on the good judgment of the committees of the House.

⁹ In 1783, the word “public” was dropped from the title and the committee continued to function as simply the Committee on Claims from 1783-1788.

¹⁰ On account of a fire which destroyed the state house at Jamestown, October 31, 1698, this session of the Assembly was held in the College Hall of William and Mary at Williamsburg.

Unlike their counterparts in England, the committees of the House of Burgess did feel it necessary to expand the membership on the committees in order to have faith in their abilities. Committees of the House of Burgesses did not experience such a rapid growth as to morph into grand committees. Instead, they stayed small. At the turn of the century Elections and Privileges typically had 5 or 6 members; Public Claims, 7-9 members; and Propositions and Grievances, 10-12. A quarter of the way through the century, the memberships had not changed appreciably despite the growth of the Assembly as a whole. In the first session of 1723-1726, when the standing committees were appointed seven members were appointed to the Committee on Privileges and Elections; 11 to Public Claims (11 members) and 13 to Propositions and Grievances. The following Assembly (1727-1734) actually saw the membership shrink slightly. The membership of Privileges and Elections remained at seven, but that of Public Claims was reduced from 11 to 10 and Propositions and Grievances was reduced from 13 to 11.

More noteworthy is the fact that the first session of the Assembly of 1723-1726 was the first time the powers and duties of the committees were included in the Journal of the House following the listing of the membership. Of course, the language of the Journal largely stated the obvious, "they are to meet as often as they find it Necessary and to take into their Consideration All such Matters as shall be or may come in Question touching Returns Elections and Privileges and to report their proceedings with their Opinions therein to the House from time to time and the said Committee is to have power to Send for Witnesses Person Papers and Records for their Information." The language for Public Claims and Propositions and Grievances being nearly identical.¹¹

At the first session of 1727-1734 the duties of the committee on Propositions and Grievances was expanded. In addition to its regular work the committee was ordered "to inspect the Journals of the last Session of the last Assembly, and to prepare and draw up a State of the Matters then depending and undetermined, and the progress that was made therein and to report the same to the House. And they are also to examine what laws have expired since the last Session of the last Assembly, and to inspect such temporary Laws as will expire at the end of this Session of Assembly and Report the same to the House with

¹¹ For Public Claims, "and the said committee are to meet and to take into their Consideration all matters concerning the public Claims of the Country and to report their proceedings with their Opinions therein to the House and the said Committee is to have power to Sit from day to day and to send for Person Papers and Records and they are to inspect the Reports of the Committee for Publick Claims of the last session of Assembly and make report to the House of any matter they shall find therein necessary to be further Considered this Session." For Propositions and Grievances, "they are to meet to take into their Consideration All Propositions and Grievances wch. Shall be Offered to the Assembly."

their opinions which of them are fit to be revived or continued.” With these new responsibilities, the already hard-worked committee became the busiest in the House.

Courts of Justice

The work of the revisal committee appointed in April 1699 included only the laws passed up to the time of its appointment. After 1699, the House vacillated, sometimes forming a select (or special) committee for this purpose, and on other occasions directing the committee of public claims or the committee of propositions and grievances to undertake this responsibility. In 1727, a Committee for Courts of Justice was established and gradually, the Courts Committee assumed this role. By the second session of 1727-1734, the committee was considered important enough to be a permanent addition to the standing committee system.

When the Committee on Courts of Justice was first established it was composed entirely of members from the Committee on Propositions and Grievances, which was natural considering it was assuming that committee’s responsibility for revising laws. By 1732, the work of the Courts Committee had grown such that its membership had entirely changed, only its chairman, the eighth named member of the old group remained on the committee.

***See separate document for further discussion
of the evolution of the Courts committee.***

At 71 members, the House of Burgesses elected to the General Assembly of 1736-1740 was the largest that had yet represented the colony. The needs of the rapidly growing colony made the duties of the committee system more onerous. The increased workload and the increased membership of the body resulted in standing committees that were larger than at any previous time. Membership on the Committee on Privileges and Elections, which had never been larger than seven, was expanded to 12. Thirteen members were named to Public Claims, 18 to Propositions and Grievances, and 17 to Courts. By the end of that session, the numbers had expanded even further to 15, 20, 24 and 19 respectively. It was still a far cry from the committees of the House of Commons, which were numbering in the hundreds, but nearly double what they had been at the turn of the century.

Although membership in the House of Burgesses may have grown during this period, in theory providing more opportunities for more members to serve on one of the

four standing committees, in reality, in the 1736 session, five men handled were assigned to about a third of the committee assignments while seven others handled another fourth. Altogether these 12 burgesses – 1/6 of the total membership – occupied more than half of the committee seats.

The geographic balance on the committees was equally as unbalanced. Three of the 31 counties that existed at the time were unrepresented; 10 had members on only one committee, 18 had members on two committees and 7 had members on three. No county was represented on all four. Moreover, the seven Piedmont counties had a total of 10 members on committees compared to 62 for the 26 Tidewater counties. Moreover, the house did not draw leaders from the Piedmont counties until the late 1740's, nearly 25 years after the region was first settled.¹²

It was equally clear by this time that seniority played an important role within the committee structure with regards both to the chairmanship of each committee and the ranking members. As far as its ranking members were concerned, the members of the claims committee was revised in the second session of the Assembly of 1736-1740 exactly the same as in the first session, the only changes in membership being below the first six members. However important seniority, it was not an impediment to a rapid rise to leadership by an able Burgess. In 1740, the colony's attorney-general, Edward Barradall, was made chairman of the Committee for Courts of Justice, and William Beverley, chairman of Public Claims even though each had been a member of the Assembly for less than three years. However, these were exceptions; far more common was the gradual rise to the leadership of the committees through service on that committee.

Trade

In 1742, the Committee on Trade, with 12 members, was added to the Virginia committee structure. A committee on trade had been formed in Parliament 121 years earlier, and while it functioned frequently as a committee of the whole, it was quickly assimilated into the standing committee structure of the House of Commons.

It should come as no surprise given motives behind the Virginia colony's establishment by the Virginia Company of London that issues surrounding trade were routinely on the Assembly's agenda. In fact on August 2, 1619, on the third day of the first session of the House, the burgesses enacted legislation to preserve from "wrong & sinister

¹² Greene, pg 492

practices” all tobacco and sassafras destined for England in order that “the price thereof may be upheld the better.” Two days later, on August 4, 1619, the Assembly directed, “No man shall trade into the baye either in shallop, pinnace, or ship without the Governours license, and without putting in security, that neither himself, nor his Company shall force or wrong the Indians ...”

Despite the very early concerns demonstrated by the colonists, the House did not establish the Committee on Trade as a recurring standing committee until 1742 when the committee appointed in the first session of the General Assembly of 1736-1740 “to prepare and draw up a State of that Duty, the duty on slaves imported into the colony and the several Paiments that have been made, with the Amount thereof” was designated the standing committee of trade and made one of the regular system of committees.

Initially comprised of nine members, its first duty was to draft legislation requiring that pork and beef imported from Carolina or any other colony, but packed in Virginia be weighed and stamped by sworn officers before it could be exported.

The size of the other standing committees during the General Assembly of 1742-1747 continued to reflect fairly accurately their respective workloads. As a general rule, the heavier the workload of a committee the more members appointed to it; and members were frequently added from time to time during the session if the workload seemed to require it. In 1774, the Committee on Propositions and Grievances started with 37 members, but grew to 73 members by the end of the session. Based on the workload of the time, for the session of 1742-47, Propositions and Grievances was initially assigned 28; Court of Justice 16; Public Claims 15; Privileges and Elections 11; and Trade, just nine. More noteworthy than the size of the committees is the fact that it was during this session that membership on the committees was distributed much more broadly across the membership of the House. Prior to this time, it was not uncommon for as many as one-third to one-half of the burgesses to serve on no committees at all but for reasons that are not entirely clear, during this session nearly three-quarters of the members were given committee assignments.¹³

While the House of Burgesses largely resisted the English proclivity for grand committees of the whole house in favor of smaller, more manageable standing committees, they would still dissolve into a committee of the whole for especially important matters. Beginning with the Assembly of 1742-1747, it began customary for the

¹³ Greene, pg 486

House to meet as a committee of the whole to discuss the Governor's message, delivered at the start of each session, and very much akin to the modern "State of the Commonwealth" address in which the Governor presents his legislative agenda to the members.

In addition, the House continued to make use of special, recurring committees. Although not a part of the regular standing committee structure, special committees on specific topics were routinely appointed each session. The Committee for "proportioning the public levy", the earliest version of the Finance committee, had been appointed regularly since 1684. A special committee to examine the treasurer's accounts¹⁴ had been regularly appointed regularly since 1660 and a recurring committee to examine enrolled bills was regularly appointed beginning in 1738.

Despite the fact several of these special, recurring committees had been around for 50 years, they are not to be confused with standing committees. Standing committees are typically appointed at the beginning of session with broad subject matter jurisdiction which is exercised over the course of the session. These special, recurring committees were typically not appointed until the end of each session to assist in wrapping up the legislature's activities. The committee for apportioning the public levy did not begin its work until after the standing committee on Public Claims, certified the colony's financial obligations. Unlike today, where revenues dictate spending, initially government worked just the opposite. The legislature approved expenditures and then it charged the committee for apportioning the public revenue to raise the necessary money to fund the spending plan. And obviously, there was no real purpose for a special, recurring committee to examine enrolled bills until end of each session.

The General Assembly of 1748-1849 was especially burdensome on the committee structure of the House. The legislative session of July 1746 and March 1747 were short and focused primarily on addressing immediate needs, what would today be considered emergency legislation. As a result, none of the regular standing committees were appointed in 1746 and only Privileges and Elections was appointed in 1747. As a result, in addition to their regular work, all of the standing committees were burdened with consideration of legislation carried over from the two previous sessions.

¹⁴ When first appointed in 1660, it was first known as the audit committee and was appointed under a variety of names during this period, but it was regularly designated as the committee to examine the treasurer's accounts beginning in 1702.

Beginning in 1748, the Speaker adopted the practice of appointing each member to at least one standing committee.¹⁵ As a result, the 72 members present on opening day all were appointed to committees. Thereafter, if new members came in, they too were at appointed to committees, expanding the membership beyond what was announced when the committees were first appointed. As a result, the committees were expanded slightly, Privileges and Elections began with 14 members; Propositions and Grievances, 32; Public Claims, 17; Courts of Justice, 18; and Trade, 7.

Public Claims and Propositions and Grievances traditionally had the heaviest workload and it should not be surprising that the total seats on those two committees, exceeded the total number on the other three committees combined; or that half of the House's membership served one of these two committees. However, it was the Committee for Courts of Justice that felt the greatest burden in 1748. As a result of the work done by the committee on revisal of the laws, the committee was confronted with recommendations for the repeal of 21 acts that had become obsolete, useless or were otherwise provided for; recommendations that 36 acts be allowed to remain in force without amendment, naming 36 acts to be so treated; and finally a number of other bills that sought to amend laws already in force or seeking to consolidate several laws on the same subject. In addition, because the committee for revisal of the laws looked at only permanent and public acts, the committee for courts of justice was charged with reviewing all the temporary and private laws about to expire and to recommend the continuance of those it deemed necessary. In all the Assembly of 1748 89 bills were sent to the Governor for signature and eventually became law.

While the Speaker began the practice of assigning every member of the House to at least one committee in 1748, it did not mean he treated every member equally. In 1752, less than 20 percent of House handled over half of the business of the house, with the six most powerful men occupying a fourth of the committee posts and 11 others holding another fourth.¹⁶

During the middle of the 18th Century, it became the norm for the Assembly to convene for shorter annual sessions to deal with only the most pressing of business. During the Assembly of 1756-1758, the full complement of standing committees was appointed just once, in 1757. During the first session, only the Committee on Privileges and Elections was appointed, as was customary, for it was this committee that reviewed

¹⁵ Greene, pg 486

¹⁶ Greene, pg 486

election returns and addressed any challenges to seating of members. No committees were appointed at the second session in 1756 or the fourth session in 1758.

The same was true for the seven sessions of the Assembly of 1758-1761. At the first session, only the committee on Privileges and Elections was appointed, and the regular system of committee was not appointed until the third session in 1759. The fourth, fifth and sixth sessions were likewise short sessions devoted to only the most urgent business with more routine matters deferred until the seventh and final session. As a result, a considerable amount of business confronted the members when they returned for the final session in Oct 1760. Even then, the first three weeks were devoted to consideration of the colony's tobacco law. On October 20th the House adjourned, and returned only briefly, on December 11, 1760, at which time the Speaker "attended the Governour in his Council Chamber, when his Honour was pleased to say, that having no particular business to communicate to them at this time, he ordered both Houses to adjourn themselves to Thursday the 5th of March (1761)." The Committee of Public Claims was appointed the following day, March 6th, and the remainder of the standing committees the following Monday, March 9th. Even so, when all was said and done, this "busy" session enacted just 31 bills.

It would be nearly two and half years before all five of the standing committees would again be appointed (the fourth session of the Assembly of 1761-1765). While the committees appointed in November 1762 were about the same, initially, as previous sessions, by the time the session concluded new members had expanded the size of every committee to record a record number: 18 (Privileges and Elections); 25 (Public Claims); 43 (Propositions and Grievances); 15 (Courts of Justice); and 19 (Trade). While the total number of members on committees was exactly equal to the number of members in the House at the time (112), it did not equate to every member having been appointed to a committee. Some members served on two or three and others none at all. The 29 Tidewater counties had 64 percent of the committee memberships and three counties (out of 54) had no representation on committees.

Thereafter, as the colony expanded ever further westward, the sizes of the committees also expanded, although still not nearly so fast as to morph into grand committees. In the session of 1766 Propositions and Grievances grew from 43 to 45 members; Public Claims from 25 to 29 members; and Courts of Justice from 15 to 23 members. Privileges and Elections had 18 members appointed, one fewer than in 1762 and Trade likewise shrank from 19 members down to 16.

After 1766, when Peyton Randolph succeeded John Robinson as Speaker, he further increased the size of the standing committees and, more importantly, sprinkled the major assignments among a greater number of members. By 1769, the numbers on the committees were 22, 30, 47, 29, 21 and the new committee for Religion, 45.

Religion

At the beginning of Queen Elizabeth's third Parliament, on April 6, 1571, a group of bills all relating to the uniformity of religion were referred to a single committee. This is the first known reference to a committee on religion in the annals of Parliament. A similar committee appears decade later in the Parliament of 1584-1585, but like its predecessor, this appears to have been a special committee for that session and not a recurring standing committee. A standing committee on Religion does not seem to have been appointed until 1621, and in the English tradition of grand committees, "every one that will come to have voice."

As with questions of trade, issues of religion confronted the Virginia General Assembly from the very beginning. Among the earliest measures, adopted prior to the end of the first week of the first session of the House, were measures:

... for laying a surer foundation of the conversion of the Indians to Christian Religion, each town, city, boroughs and particular plantation do obtain unto themselves by just means a certain number of the natives children to be educated by them in true religion and a civil course of life. Of which children the most toward boys in wit (mind, intelligence) & graces of nature to be brought up by them in the first Elements of literature (learning in general) so to be fitted for the College intended for them; that from thence they may be sent to that work of conversion.¹⁷

All Ministers shall duly read divine service and exercise their Ministerial function, according to the Ecclesiastical laws and orders of the church of England, and every Sunday in the afternoon shall Catechize such as are not yet ripe to come to the Communion. And whosoever of them shall be found negligent or faulty in this kind shall be subject to the censure of the Governor and Council of State. .¹⁸

The Ministers and Churchwardens shall seek to present all ungodly disorders ... If any person, after two warnings do not amend his or her life ... that then he or shee be presented by the Churchwardens, and suspended for a time from the church by the Minister. In which Interim if the same person do not amend, and humbly submit him or herself to the Church, he is then fully to be excommunicate, and soon after a writ

¹⁷ Enacted on Monday, August 2, 1619

¹⁸ Enacted on Wednesday, August 4, 1619

*or warrant to be sent from the Governor for the apprehending of his person and seizing on all his goods. Provided always that all ministers doe meet once a quarter, namely at the feast of St. Micheal the Arkangell, of the nativity of our savior, of the Annuntiation of the blessed Virgine, and about Midsomer, at James citty, or any other place where the Governour shall reside, to determine, whom it is fitt to excommunicate, and that they first present their opinion to the Governour ere they proceed to the acte of Excommunication.*¹⁹

By the mid-18th Century, an increasing number of colonists were becoming dissatisfied with the vestries of many of the parishes, that the House was becoming overwhelmed with complaints. Rather than further overburden the Committee on Propositions and Grievances a standing committee on religion was formed just to consider these petitions. After framing a single bill for granting toleration, the committee devoted most of its time to the task of investigating petitions and counter-petitions for the division of parishes.

Unlike the Committee on Trade, which was originally appointed with a smaller membership than the other standing committee, and took a place at the end of the list of standing committees, when the standing committee on religion was appointed in 1769²⁰ with Robert Carter Nicholas, the treasurer of the colony, at its head, the membership totaled two dozen, and 25 more members were shortly added to it. Furthermore, if the order of insertion in the journal is indicative of rank, it can fairly be judged as one of the leading committees in the House. With this addition the six standing committees in the Virginia House of Burgesses mirrored, in both name and function, the standing committee structure of the Parliaments in the early 17th Century.

By the General Assembly of 1772-1775, the last Assembly prior to the American Revolution, the standing committees of P&E, propositions and grievances, courts of justice, public claims, trade and religion had become a permanent part of the legislative structure of the House and most of the routine work of the body was performed by them. As Peverill Squire noted in *The Evolution of American Legislatures*, “The committee system in Virginia evolved to become the most sophisticated and complex among the (colonial) assemblies.”

¹⁹ Enacted on Wednesday, August 4, 1619

²⁰ Jameson in *The Origin of the Standing Committee System* traces the creation of the committee on religion to “the memorable session of 1765” (p 236) but a search (by Leake) of the Journal from the 1765 session shows that no standing committee for religion was appointed in that year and that the committee on religion does not appear as a standing committee until 1769.

While the standing committees may have shared the work of the legislature, the work was not always distributed evenly. The leading members of the House were usually appointed to the Committees on Privileges and Elections and Propositions and Grievances, but rarely to Public Claims. And it was a well-established custom that the chairmanships of the other four standing committees would come from the memberships of these two committees.

The last session of the House of Burgesses at which standing committees were appointed was the session of June 1775 when they were made up as follows: Privileges and Elections (25 members, Dudley Digges, chairman); Propositions and Grievances (56 members, Thomas Jefferson, chairman); Public Claims (20 members, Archibald Cary, chairman); Courts of Justice (25 members, Joseph Jones, chairman); Trade (19 members, Thomas Nelson, chairman) and Religion (40 members, Robert Carter Nicholas, chairman). These were by far the largest committees – in terms of membership – yet appointed.

Reflecting on the U.S. House of Representatives, Woodrow Wilson noted in 1885, “The leaders of the House are the chairmen of the principal Standing Committees. Indeed, to be exactly accurate, the House has as many leaders as there are subjects of legislation.” What was true in 1885 was true in the colonial legislature of Virginia 100 years earlier, remains true a 100 years after. Chairmanships of the standing committees were then and are now highly coveted and among the most important posts in the House. During the 21 assemblies during the 18th Century prior to the American Revolution, these leadership posts were held disproportionately by the membership from the older counties in the Tidewater region. In fact, committee chairmanships were distributed to burgesses from just 24 counties over this 75 year period. The burgesses representing King and Queen County held a dozen chairmanships, including at one time or another, every one of the six principle standing committees. Burgesses from Prince George County had eight, King George, Surry and Westmoreland seven each and Williamsburg and the College of William and Mary five. Conversely only four Piedmont counties were awarded committee chairmanships.

While the American Revolution marked an important period of transition from royal colony to independent state and a seminal event in the development of representative democracy, the transition in Virginia from colony to commonwealth was remarkably smooth. “With the breakdown of the royal executive, no revolutionary change came over the legislative branch of the colonial government, and no cataclysm separated

the House of Burgesses from its successor, the House of Delegates. The legislative transition was so gradual that it might be termed evolutionary rather than revolutionary. No great change in the personnel or in the procedure of the House of Burgesses marks this transition.”

In 1776 the first House of Delegates chose to create only three of the traditional six standing committees, but this smaller structure lasted but one session. In 1777 the House of Delegates returned not only the six committee structure but did so using language almost verbatim from the language used by the House of Burgesses. The vast majority of the alterations were grammatical or were made in recognition transformation from colony to state, necessitating a change from “trade of this colony” to “trade of this state” in one instance. In fact the only real change to the committee structure in Virginia following the Revolution was that the Committee on Trade was renamed the Committee on Commerce in 1783. In every other respect, the six-committee structure of the Virginia House of Delegates mirrored the structure that had been developed in the House of Burgesses prior to independence.