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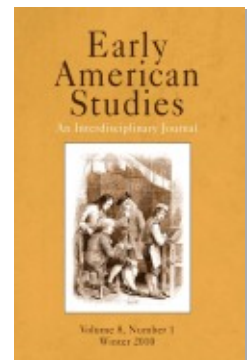
Defining the Right Side of Virtue: Crowd Narratives, the  
Newspaper, and the Lee-Mercer Dispute in Rhetorical  
Perspective

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# Defining the Right Side of Virtue

Crowd Narratives, the Newspaper, and the  
Lee-Mercer Dispute in Rhetorical Perspective

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**ABSTRACT** This essay uses a minor controversy that played out in the pages of the *Virginia Gazette* in 1766 and 1767 to explore the way in which the newspaper complicated an age-old question in Anglo-American monarchical-republican politics: Which was more important in attesting to (even determining) the virtue of gentleman politicians, the approbation of fellow gentlemen or that of the people at large? At this early moment in the newspaper's history, the question could remain testily unresolved. But the very fact that the newspaper helped open up the question made this medium a distinctly complicated arena for competing politicians.

On October 17, 1765, a description of a political protest appeared in the *Maryland Gazette*. The protest had taken place three weeks earlier, on September 24, outside the Westmoreland County courthouse in Virginia. According to the newspaper account, two effigies, one of George Grenville, the chief minister of Parliament and principal architect of the recently enacted Stamp Act, and one of George Mercer, the Virginian who had been appointed as the colony's first stamp distributor, "were carried in a Cart to the Gallows, and were there publicly hanged with the Acclamations and Applause of a large Concourse of People, of all Ranks and Denominations." The newspaper account went on to provide telling details about the effigies: the one of Grenville bore a placard identifying him as the "infamous Projector of AMERICAN SLAVERY," and Mercer's figure carried signs in its hands declaring "MONEY is my GOD" and "SLAVERY I LOVE." The account ended by discussing

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a follow-up spectacle that took place the next day, in which Mercer's figure first gave a mock "dying Speech," confessing his "parricidal" betrayal of the country that had nurtured him "like the tenderest and best of mothers," and then, before another "crowded Audience of all Ranks and Degrees of People," was "Hanged, and then Burnt, for Traitorously aiding and assisting in the Destruction of his Country's Liberty."<sup>1</sup>

Accounts like this one are familiar to any student of the Stamp Act crisis. The images of carted effigies, mock executions for stamp distributors, and jeering crowds have come to be so much associated with the events of 1765 that they barely elicit surprise. My aim in what follows, however, is not to examine this text in the context of the Stamp Act crisis alone but rather to contemplate what the text reveals more generally about a set of themes that transcended the crisis itself and whose relationship to one another remains, in many respects, obscure: the newspaper, the eighteenth-century colonial polity, and "the people" at large—that body that the author of this piece was so eager to portray in the guise of the "crowded Audience" cheering on the hanging and burning of George Mercer.

These were themes, of course, that interested many contemporaries as well, and perhaps no one more so than Benjamin Franklin himself. Franklin might never have seen the *Gazette* piece, and he might never have followed the minor controversy that spilled into the pages of Virginia's newspapers in the wake of that publication; but he no doubt would have been intrigued by the whole affair, for it cut right to the heart of an ambiguous tension in the relationship between the newspaper and eighteenth-century Anglo-American politics that Franklin pondered on numerous occasions. On the one hand, the controversy, which involved strenuous efforts by George Mercer's father and brother to clear his reputation, was a clear manifestation of the newspaper's tendency to descend into what Franklin called "Personal Abuse." The reputations of gentlemen were paraded before the polity in the pages of the newspaper, and too often the motives behind such parading were, indeed, personal. On the other hand, the line between the personal and the public was often precariously thin in the world of gentlemanly politics, and Franklin was certainly an advocate for the ideal of the newspaper as a medium that upheld the public good—even if that involved exposing immoral conduct that sought to pass for the virtuous behavior of a true gentleman.

What made this fine line between keeping the pages of the newspaper safe for the reputations of true gentlemen and allowing the newspaper to serve its

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1. *Maryland Gazette*, supplement, October 17, 1765.

own public role of upholding truth and virtue where it really lay was made all the more complicated by an additional factor that, in some respects, was the most complex of all: “the people” themselves. The people, after all, had a remarkable dual role in the monarchical-republican thinking that informed Franklin’s and other eighteenth-century Anglo-American politicians’ understanding of gentlemanly virtue: not only were the people meant to be the beneficiaries of that virtuous conduct; they were also, to a considerable extent, expected to be its judges. Thus, in the elaborate scene that played out that day in front of the Westmoreland courthouse, it was the “Acclamations and Applause” of the Westmoreland community as a whole (residents “of all Ranks and Denominations”) that finally determined the verdict of immorality that the county’s gentlemen justices were themselves rendering on Mercer’s conduct. Though the gentlemen justices might pass the initial sentence, it was the people’s applause that indicated that that sentence expressed the judgment of the community as a whole, not just the agenda of a narrow faction of politicians.

But what happened when the judgment of the people and personal battles between gentlemen entered the paper simultaneously? Where did one then draw the line between “Personal Abuse” and the “Public Good”? In this most public of media, which authority was greater, the approbation of gentlemen or the approbation of the people—or were they so intertwined that one could scarcely be separated from the other? These questions, which Franklin continually found both interesting and worrying as he pondered the effect of this still quite new medium on a political world that had long accorded utmost importance to the proper judgment of virtue, are also the questions that this essay examines.

Before grappling with those questions, however, we must first establish the degree to which the account of the Westmoreland protest, like the protest itself, was a clever piece of political theater. The author of the account, who also happened to be the protest organizer, was Richard Henry Lee, a Westmoreland justice and burgess. In the previous year, Lee had been engaged in an extraordinarily delicate act of political maneuvering, of which the *Gazette* piece was, to a great extent, the culminating moment. It is to that year that we now turn.



In November 1764 Lee himself applied for the stamp distributor position for which he would later so savagely attack Mercer. Short on funds, recently disappointed in his quest for a seat on the Virginia council, and hungering for the kind of political esteem and fame that he considered his due as the

scion of one of Virginia's most prominent gentry families, Lee had allowed himself to be talked into applying for the imperial post, which promised both profits and, equally important, a way of bolstering his reputation for "service to the public"—that is, to the king and the country.<sup>2</sup> The ideal of service was a profound preoccupation for Lee, who regarded a reputation for good service as largely what determined whether a gentleman received honor and recognition as a person of virtue.<sup>3</sup> But service, like virtue, was an ever-fickle mistress. Even before applying for the post, Lee had confided to a friend that he considered the proposed stamp duties as a way of depriving settlers of their "English liberty" and thus as warranting the rise of both "virtuous industry" and "generous and manly sentiments" against such an unconstitutional measure.<sup>4</sup> Yet, if such "virtuous" and "manly sentiments" never presented themselves—and who was to say whether they would?—a post that paid well and that garnered recognition was difficult to pass up, especially in a colonial environment in which positions of honor were few and far between.

At some point shortly after soliciting for the post, Lee decided that he had misjudged the political winds. Very possibly it was during the session of the General Assembly later in November that he realized how firm his fellow colonists' resolution against the stamp duties had turned out to be,

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2. Richard Henry Lee to James Abercrombie, August 27, 1762, in James Curtis Ballagh, ed., *The Letters of Richard Henry Lee*, vol. 1, 1762–1778 (New York: Da Capo Press, 1970), 1–2; Lee to Thomas Cummings, August 27, 1762, *ibid.*, 2–4; John C. Matthews, "Two Men on a Tax: Richard Henry Lee, Archibald Ritchie, and the Stamp Act," in Darrett B. Rutman, ed., *The Old Dominion: Essays for Thomas Perkins Abernethy* (Charlottesville: University Press of Virginia, 1964), 96–108; J. Kent McGaughy, *Richard Henry Lee of Virginia: A Portrait of an American Revolution* (Lanham, Md.: Rowman and Littlefield, 2004); Jack P. Greene, "Character, Persona, and Authority: A Study of Alternative Styles of Political Leadership in Revolutionary Virginia," in Greene, *Understanding the American Revolution: Issues and Actors* (Charlottesville: University Press of Virginia, 1995), 209–46.

3. Lee to Cummings, August 27, 1762, in Ballagh, *The Letters of Richard Henry Lee*, 2–4; Lee to unknown recipient, n.d. (1762), *ibid.*, 4; Lee to [Landon Carter], *ibid.*, 7–9. On the theme of service as it relates to the ethos of the gentleman and ideas of virtue, liberality, and reputation, I have found especially helpful John Marshall, *John Locke: Resistance, Religion, and Responsibility* (Cambridge: Cambridge University Press, 1994), *passim*. See also, Joanne B. Freeman, *Affairs of Honor: National Politics in the New Republic* (New Haven: Yale University Press, 2001), and Kevin R. Hardwick, "Narratives of Villainy and Virtue: Governor Francis Nicholson and the Character of the Good Ruler in Early Virginia," *Journal of Southern History* 72 (February 2006): 39–74.

4. Lee to unknown recipient, in Ballagh, *The Letters of Richard Henry Lee*, 5–7.

for it was in that session that Lee suddenly propelled himself onto the public stage as one of the Stamp Act's strongest Virginia opponents. Making the first motion that the General Assembly send a remonstrance to the House of Commons against the act, he proceeded to play an active role in the drafting of the documents eventually sent to England and personally prepared the petition to the king.<sup>5</sup>

Yet simply throwing himself into the opposition movement against the Stamp Act was not enough for Lee. His determination to remain on the right side of ever-capricious virtue encouraged him not simply to maneuver decisively to ensure that he was always aligned with the angels, but also to take every opportunity to guarantee that the line dividing virtue and villainy did not itself budge unpredictably on him. Of course, to a great extent, all early modern Anglo-American politicians of any talent or experience became adept at navigating the intricate shoals that their complex political world, with its bewildering array of often-conflicting allegiances and rarely straightforward moral imperatives, placed in their way.<sup>6</sup> Lee was not exceptional in this regard. But he was aggressively ambitious, and he apparently came to see with particular clarity, perhaps because of his near brush with an almost fatal political mistake, how unusually complex a challenge and opportunity the Stamp Act crisis presented to politicians who sought to emerge from the controversy with their reputations intact—and perhaps even with newly acquired fame. The real dilemma that the crisis posed occurred after March 22, 1765, when the act became statutory law. Until that time, politicians like Lee could criticize the act with relative impunity; afterward, they criticized it only at the risk of inviting the dreaded charges of criminality and treason.<sup>7</sup> Once again, remaining on the right side of virtue—even keeping the line between virtue and villainy fixed—became difficult.

This dilemma almost certainly explains why Lee at this time became committed to an all-out campaign of character assassination against George Mercer. Although the Virginia General Assembly's passage of the defiant

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5. J. A. Leo Lemay, "John Mercer and the Stamp Act in Virginia, 1764–1765," *Virginia Magazine of History and Biography* 91 (January 1983): 8.

6. On this theme in a different context and earlier period but with broad implications that arguably span the early modern era, see John M. Wallace, *Destiny His Choice: The Loyalism of Andrew Marvell* (New York: Cambridge University Press, 1968). See also Conal Condren, *Argument and Authority in Early Modern England: The Presupposition of Oaths and Offices* (Cambridge: Cambridge University Press, 2006).

7. Lemay, "John Mercer and the Stamp Act in Virginia," 12–13, 21–23.

Stamp Act Resolves at the end of May undoubtedly provided Lee with some reassurance that opposition to the Stamp Act would retain the moral high ground, he could hardly help being conscious of his many fellow gentlemen in the General Assembly who saw such opposition as defying a constituted law and thus as impeachable.<sup>8</sup> Defaming Mercer, however, provided a tangible way of whittling away at these elite misgivings about the propriety of opposition. That Mercer had beaten him to the post that he himself had once coveted, of course, made such an attack all the more satisfying. But Lee had grander objectives in mind than simple revenge. He recognized that paving his own path to fame as one of Virginia's great patriots required making Mercer seem so contemptible in the eyes of fellow Virginia gentlemen that none of them would dare cast their fate alongside his.

On July 4, 1765, Lee wrote to a friend in England who had helped him in soliciting for the stamp distributor position to say that he was glad in retrospect that "the appointment has passed me by." The reason for his relief, he said, was that "by the unanimous suffrage of his countrymen," Mercer was "regarded as an execrable monster, who with parricidal heart and hands, hath concern in the ruin of his native country."<sup>9</sup> That this characterization of Mercer mirrored almost exactly the language that two months later Lee would include in Mercer's supposed dying speech suggests strongly that Lee was not simply witnessing his countrymen express such sentiments but was actively promoting such sentiments himself. But Lee's language reveals something else, too. Mercer would not be reviled as an "execrable monster," Lee realized, unless that image really did receive the "unanimous suffrage of his countrymen." The people themselves, in other words, had to be convinced to throw their own "unanimous suffrage" behind such a judgment of Mercer's character.

What exactly did Lee mean by *suffrage*? Suffrage is a word that has come to be associated narrowly today with the electoral process. Throughout the early modern era, however, the term related not only to votes but also more broadly to the general expression of consent or opinion. Samuel Johnson, in his famed eighteenth-century dictionary, captured this broader understanding of suffrage by defining it as "a vote, voice, approbation."<sup>10</sup> It was

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8. Ibid., 22–23.

9. Lee to unknown recipient, July 4, 1765, in Ballagh, *The Letters of Richard Henry Lee*, 9–10.

10. [Samuel Johnson], *Johnson's Dictionary* (Boston, 1836), 329. The *Oxford English Dictionary* similarly identifies as one contemporary definition of suffrage "Approval, sanction, consent."

this sense of suffrage as “approbation” that Lee almost certainly had in mind when he said that the “unanimous suffrage of his countrymen” underlay his portrait of Mercer as a parricidal monster. What he meant was that such a characterization was politically meaningful, certain of locking in place the ever-unpredictable line dividing virtue from villainy, only if the people themselves approved it. And Lee, of course, was somebody who knew and thought a great deal about the people’s approbation. It was the people’s approbation that was the basis of his own self-image and reputation as a dedicated servant of king and country. And it was the people’s approbation that would ultimately elevate him to the pantheon of Virginia’s most virtuous patriots—if he managed to navigate the tricky waters of the Stamp Act crisis successfully.

Thus, in the fall of 1765 Lee made his boldest gamble yet in this year of political maneuvering. He brought the question of where virtue and vice lay in the polity to the only group in Virginia who could ultimately judge that matter meaningfully, the people themselves. Evidently with the assistance of other gentlemen justices on the Westmoreland court, he staged the remarkable drama that played out in front of the county courthouse on those late September days. What is extraordinary to consider is the amount of preparation that such an event must have required. Effigies needed to be constructed, a cart acquired, signs painted, people organized, roles assigned. At some point Lee must have sat behind his desk and composed the mock dying speech that, during the event itself, he himself evidently read aloud on Mercer’s (unwitting) behalf and that later appeared in full in the *Gazette* piece.<sup>11</sup>

Lee very probably also had a hand in producing another document that was composed at this time. This was an open letter to Virginia’s Governor Francis Fauquier and his council by the Westmoreland justices declaring that the “strongest Motives of Honour and Virtue” had compelled them to make an agonizing decision, one that required that they reconcile what were ultimately moral irreconcilables: on the one hand, performing the obligations of public service placed on them by their “Judicial Oath”; on the other hand, upholding a law that made them “Instrumental in the Destruction of Our Country’s most essential Rights and Liberties.” Whether this letter was read aloud at the protest itself is impossible to determine, although Lee

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11. Evidence that Lee himself read the speech, a perfectly plausible scenario, appears in the attacks that George Mercer’s father and brother, John and James Mercer, later made against him. For one example among many, see John Mercer to the Printer, *Virginia Gazette* (Purdie & Dixon), September 26, 1766.



conspicuously placed it at the very beginning of the protest account that he posted in the newspaper.<sup>12</sup> Yet even if the letter was a last-minute decision that did not play before the “crowded Audience” of Westmoreland residents themselves, it signifies precisely the kind of excruciating moral decision that Lee saw the people’s own “Acclamations and Applause” as endorsing. In the ever-uncertain casuistical political universe that Lee and other aspirants for fame and esteem inhabited, those “Acclamations and Applause” by the people at large were the critical ingredient grounding such a decision on a foundation that promised some degree of stability and widespread recognition.<sup>13</sup>

What made the Westmoreland protest a political gamble rather than simply a matter of elite string pulling, of course, is that Lee could not know for certain how the people would respond. No matter how much preparation went into the performance; no matter how many persons in the crowd might be Lee’s own clients or debtors; no matter how much the performance’s own rhetoric loaded the deck against Mercer while making the magistrates’ position virtually synonymous with self-sacrificing virtuous behavior—in short, no matter how careful Lee was to ensure that the outcome favored his own bid for the people’s esteem, at no point could he be confident that that esteem would be forthcoming.

On the other hand, the protest itself was only the first stage in Lee’s intricate exercise in political theater. The protest was essential for his receiving the credible proof that he needed that the people really did endorse the characterization of prevailing moral circumstances that he sought to put forward, but ultimately it was the newspaper depiction of that endorsement that mattered most to Lee. For it was in the newspaper that Lee was liable to reach that dispersed body of colonial gentlemen before whom his competition for honor and reputation had the most bearing.

The newspaper, which we so casually accept today as a mass medium that reaches the people as a whole, almost certainly did not appear that way to Lee. Newspapers were still a distinctly new medium in the colonial public landscape; Virginia had not acquired a permanent printing press or a newspaper until Lee himself was a young child.<sup>14</sup> What we know of the subscribers to the *Virginia Gazette* suggests that they were a fairly elite body of

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12. *Maryland Gazette*, supplement, October 17, 1765.

13. On casuistry and early modern politics, see especially Condren, *Argument and Authority*.

14. The *Virginia Gazette* was first published in August 1736, at which time Lee would have been five years old.

substantial planters, gentleman politicians, merchants, and members of the emerging professions of law, medicine, and the ministry.<sup>15</sup> Even if the newspaper was read by, or on occasion to, a more diverse group of people, the image that Lee himself probably had of the typical newspaper reader was that of a person with elite credentials not altogether different from his own. As Rhys Isaac has observed, the casual confidence with which elite writers to the *Virginia Gazette* at this time denounced one another with Latin quotations drawn from their favorite classical authors suggests that, at this early moment in the history of the American newspaper, settlers with the wealth and education to perform in such a high-stakes environment could still imagine themselves as operating in a fairly select social milieu.<sup>16</sup> Talented members of the middling sort who aspired to gentry status might seek to bolster their own elite credentials on this public stage, but the unwritten rules governing this space and the understanding of what was negotiated there were matters that were still largely determined by the provincial gentlemen and merchants who made up the newspapers' primary subscribers. These were also the persons of course who, in this era predating the emergence of hired journalists, provided much of the content that printers squeezed into the colonial newspapers' small number of folio pages.

Why, if Lee's aim in writing to the newspaper was to reach local gentlemen and to convince them to take his side, did he post his piece in the *Maryland Gazette* and not the *Virginia Gazette*? The answer almost certainly relates to the well-known reluctance of Joseph Royle, the Virginia newspaper's printer, to print materials that offended his paymasters in the General Assembly.<sup>17</sup> Even thinly cloaked in the guise of a mere protest, Lee's account was clearly a form of character assassination, and that against a man

15. Robert M. Weir, "The Role of the Newspaper Press in the Southern Colonies on the Eve of the Revolution: An Interpretation," in Bernard Bailyn and John B. Hench, eds., *The Press and the American Revolution* (Worcester, Mass.: American Antiquarian Society, 1980), 99–150. These were men willing to pay the subscription cost of fifteen shillings per year.

16. Rhys Isaac, *Transformation of Virginia, 1740–1790* (Chapel Hill: University of North Carolina Press), 245; Isaac, "Dramatizing the Ideology of Revolution: Popular Mobilization in Virginia, 1774 to 1776," *William and Mary Quarterly* 33, 3 (July 1976): 357–85. Low literacy rates among the rank and file also contributed to the elite character of the newspaper public. See Kenneth A. Lockridge, *Literacy in Colonial New England* (New York: Norton, 1974), 73–84.

17. See, for instance, Edmund S. Morgan and Helen M. Morgan, *The Stamp Act Crisis: Prologue to Revolution* (1953; rept., Chapel Hill: University of North Carolina Press, 1995), 102.

whose family had enjoyed alliances with John Robinson, the House's recently deceased speaker-treasurer, and with Governor Fauquier—two prominent politicians whom Lee himself had tended to annoy rather than befriend.<sup>18</sup> Jonas Green, the *Maryland Gazette's* printer, in contrast, was more receptive to controversial materials, perhaps especially if they came from an altogether different colony. There was also the highly significant point that the *Maryland Gazette* was a genuinely regional newspaper. Although James Mercer, George's brother, would later point out in trying to denounce Lee's newspaper performance that there were "not more than fifty in the whole colony" of Virginia who "subscribe to that gazette," nevertheless fifty persons constituted a fairly substantial group relative to the small size of Virginia's gentry population.<sup>19</sup> Thus, even in the *Maryland Gazette* Lee could have assumed that he was reaching the elite provincials whom he most wanted to impress, including Virginians as well as Marylanders who might be convinced to accept his portrayal of where to draw the line between virtue and villainy.

The more important point, however, concerns how he sought to make that case. What is striking is that even before this relatively select social milieu, even before a body of readers that he seems to have regarded as composed primarily of fellow provincial gentlemen, Lee felt compelled to stake his own reputation on a plausible account of the people-at-large actively endorsing that he had indeed fallen on the right side of virtue. Very few contemporary sources of evidence, I would suggest, capture quite so vividly both how significant a political role the people were imagined as performing in the colonial polity at this time and how intricate that role was. Although we can see the seeds of future, more fully democratic understandings of the people's political role here, these were still clearly assumptions about the people that derived their meaning and legitimacy from the particular monarchical-republican constitutional arrangements that had gradually acquired shape in Virginia and the other British-American colonies over the course of the seventeenth and early eighteenth centuries. These arrangements upheld Lee's own conception of gentlemen as the nat-

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18. McGaughy, *Richard Henry Lee of Virginia*, chap. 2.

19. James Mercer to the Printer, *Virginia Gazette* (Purdie & Dixon), October 3, 1766. Jack Greene has estimated that at the "core" of the Virginia gentry at midcentury were "about forty interrelated families." Jack P. Greene, "Society, Ideology, and Politics: An Analysis of the Political Culture of Mid-Eighteenth-Century Virginia," in Greene, *Negotiated Authorities: Essays in Colonial Political and Constitutional History* (Charlottesville: University Press of Virginia, 1994), 260.

ural leaders of the social and political order, a privileged status predicated largely on the “service to the public” that a gentleman’s reputation for virtue was supposed to enable him uniquely to perform. Yet those same arrangements also reserved for the people at large a more robust and complex role than has sometimes been acknowledged, a role that consisted of nothing less than identifying whether a gentleman really was aligned with virtue or, alternatively, had stumbled into the snares of vice.



This understanding of the people’s political role was by no means new, and it had informed a long Anglo-American rhetorical tradition of which Lee’s Westmoreland account deserves to be seen as merely the latest variant. In virtually every one of Virginia’s critical political junctures in the preceding century and a half, politicians had scrambled to legitimize their own positions by grounding them in some credible depiction that they aligned with the sentiments of the body politic as a whole. As early as 1635, when members of Governor Sir John Harvey’s council had sought to counter disliked royal policies that he supported, they had organized a small uprising that was no less stage-managed than Lee’s protest and then had sent letters to well-placed English officials around the king identifying the rage-filled crowd that had marched past the council chamber as compelling proof that only their own intervention as councilors could prevent the governor from propelling the colony into anarchy.<sup>20</sup> Four decades later, during Bacon’s Rebellion, the young councilor Nathaniel Bacon Jr. and his supporters had employed a similar tactic, depicting the ordinary people who came to follow him as evidence *in themselves* that Bacon’s actions were just and that Governor William Berkeley’s own actions lacked legitimacy.<sup>21</sup>

Of course, the governors struck back, either by attempting to discredit these accounts or by defending their own virtue by similarly drawing on the motif of the people’s approbation. Harvey and his supporters quickly took up their own pens in the wake of the 1635 uprising, eagerly pointing out that a carefully timed hand signal from one of the councilors was the stimulus that initiated the people’s supposedly spontaneous burst of “fury” against

20. Samuel Mathews to unknown recipient, May 25, 1635, in “The Mutiny in Virginia, 1635,” *Virginia Magazine of History and Biography* 1, 4 (April 1894): 416–24.

21. Mrs. [Elizabeth] Bacon to [her sister], June 29, 1767, *William and Mary Quarterly* 9 (1900), 4–5.

the governor.<sup>22</sup> Berkeley and his supporters likewise denounced Bacon's followers as merely the "rabble" and thus not a genuine representation of the people as a whole, while at the same time claiming that the bulk of the population still respected the governor and his rule.<sup>23</sup>

What all these politicians recognized, the royal governors no less than their challengers, was that in the highly uncertain political environment of a developing colony nobody had a monopoly on legitimacy. They all had an incentive, especially in moments of crisis, to ground their actions on a foundation of popular consent. As a result, politicians of all stripes and persuasions learned how to construct and to recognize these narratives of popular approbation or, as we might also call them, crowd narratives.

Crowd narratives as a genre consisted less of a rigid form and more of a generally consistent rhetorical logic. This logic typically centered on the motif of a generalized body of persons, a crowd, responding in some way, favorably or not, to recognizable public figures in their midst. The rhetorical implication of such texts was virtually always the same. The crowd, representing all or certain substantial parts of the general populace, indicated through its particular reactions to local public figures how it esteemed them. That expression of popular esteem, in turn, indicated whether those individuals still had the capacity to fulfill their offices. But the logic of the rhetoric did not stop there, for the people's judgment in these texts not only determined their leaders' continuing capacity to rule but also provided a barometer of sorts—really the only reliable measure available—of the inner moral characters of their leaders. As we have seen, for an individual officeholder like Lee that power that the broader populace held over the final determination of his moral character, at least as it figured in his social and political dealings, was an awesome and not altogether comforting force. Yet the people's power in this regard was not limited to determining the fate of individuals alone. Instead, what really drove the rhetorical logic behind crowd narratives, as Lee so clearly understood, was that, precisely through the act of distinguishing between the virtuous and the villainous magistrates in their midst, the people could be imagined as actively determining what in fact constituted virtuous and villainous conduct in their own communities.

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22. Sir John Harvey to the Lords Commissioners for Forraigne Plantations, n.d., "The humble Declaration of Sir John Harvey his Majesties Lieutenant Governor of Virginia touching the Mutinous proceedings of the councill there and their confederates with the causes thereof," *Virginia Magazine of History and Biography* 1, 4 (April 1894): 425–30.

23. William Sherwood to Sir Joseph Williamson, June [1], 1676, *Virginia Magazine of History and Biography* 1, 2 (October 1893), 167–69.

That this logic overlapped with certain influential strands of contemporary social and ethical thought undoubtedly reinforced the resonance and legitimacy of crowd narratives. In pondering how people could distinguish between vice and virtue when divine law itself was inscrutable, John Locke in *An Essay concerning Human Understanding* posited that all “Nations and Societies of Men in the World” similarly attribute virtue and vice “only to such actions, as in each Country and Society are in reputation or discredit.” Locke called this common mode of judging the moral standards within a community the Law of Opinion or Reputation, which he distinguished from Divine Law, the law that God had instilled in man to know the difference between sins and duties, and Civil Law, “the Rule set by the Commonwealth” to indicate what was criminal or not. The Law of Opinion or Reputation, Locke suggested, tended “in a great measure” to correspond with Divine Law, simply because God had so perfectly devised the laws that people could hardly distinguish them from their own interests. Yet the Law of Opinion or Reputation could also be seen as essentially what constituted the subject’s freedom in any civil society. “For though Men uniting into politick societies, have resigned up to the publick the disposing of all their force, so that they cannot employ it against any Fellow-Citizen, any farther than the Law of the Country directs: yet they retain still the power of Thinking well or ill; approving or disapproving of the actions of those whom they live amongst, and converse with: And by this approbation and dislike, they establish amongst themselves, what they will call Vertue and Vice.” Because free men never lost the vital power of “Thinking well or ill” or “approving or disapproving” of others in their midst, they themselves, Locke stressed, were always the prime shapers of their own societies’ moral contours.<sup>24</sup>

One did not need to be familiar with Locke’s actual writings on this subject, however, to be familiar with their basic logic. As Locke himself made clear in his discussion of the Law of Opinion or Reputation, it was not a theoretical abstraction but an observable commonplace. The Lees, Harveys, Bacons, and Berkeleys of the early modern Anglo-American world knew this reasoning virtually intuitively. They took for granted the people’s role in this regard because they experienced it firsthand and because it touched so directly on their coveted self-conception as gentlemen. Longing to be recognized as men of service while also convinced that a good reputation was itself necessary to perform the duties of service, these men could

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24. John Locke, *An Essay concerning Human Understanding* (London: Printed for Thomas Tegg, 1841), 242–43.

hardly help spending much of their time furtively eyeing the crowd to ensure that they did not fall on the wrong side of the people's approbation. Equally important, however, they also never lost sight of how powerful a weapon the people's never-forsaken capacity for "Thinking well or ill" could be. Used prudently, the people's approbation or disapprobation could serve as a means not only of skewering political rivals but also of drawing the lines of propriety so squarely around one's own position that rivals would have no choice but to conform to that position themselves. On the other hand, the reverse was also true. Because nobody could claim exclusive control over the people's approbation, the person who sought to exploit it always faced the risk of being outmaneuvered.



Lee, who knew well the dangers of gambling on the people's esteem, undoubtedly also recognized the particular perils that the newspaper posed, especially to a person who hoped to seize some interpretive control over the question of what constituted proper political conduct. Who was to say, for instance, whether any of his elite readers would find that the elaborate drama that he had presented in the account was either plausible or compelling? And what if the target of his thinly veiled character assassination, George Mercer, chose to strike back, perhaps aided by the scandalous news of Lee's application to be stamp distributor, which an acquaintance might very well be persuaded to leak?

On the first score, Lee could soon breathe a sigh of relief. During the last week of October, George Mercer arrived in Virginia from England, where he had spent the previous two years working as an agent for the Ohio Company. When he arrived in Williamsburg on October 30, two days before the Stamp Act was to go into effect, the General Court was in session, so an unusually large number of merchants and substantial planters were in town from counties all over Virginia. According to a piece that appeared in the *Virginia Gazette* the following day, Mercer had not proceeded far before he was surrounded by a "concourse of Gentlemen assembled from all parts of the colony" who demanded to know "whether he intended to act as a Commissioner under the Stamp Act."<sup>25</sup> This was, of course, precisely the kind of welcome party that Lee had hoped Mercer would encounter, and it went a long way toward confirming that, perhaps partly as a result of his own hard work, the colony's elite population really had become emboldened to regard opposition as the true route to virtue.

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25. *Virginia Gazette*, supplement (Royle), November 1, 1765.

Lee could feel smug, too, about how curtailed the moral choices concerning the Stamp Act had suddenly become. Mercer himself appears to have felt this limiting of options acutely. Although his father and brother, the Virginia lawyers John and James Mercer, had written to him urging him to resign while he was in England and although they persisted in this request upon his return home, reportedly feeling “frighted out of their senses for him,” Mercer seems genuinely to have been uncertain after arriving in Williamsburg on that late October day about how to weigh the competing moral imperatives before him. As Governor Fauquier told the Board of Trade, “He left me that night in a State of uncertainty what part he should act.”<sup>26</sup> Ultimately, however, Mercer recognized that he had little real choice but to throw his lot in with the victors. The speech that he finally gave that evening, a masterpiece of tactical prose, explained his acceptance of the commission as the result of the ignorance that his two-year hiatus from the colony had forced on him concerning his countrymen’s “real sentiments” about the Stamp Act’s “propriety.” He would not execute the duties of his post, he reassured his audience, until he received “further orders from England,” and even then only if he received the “assent of the General Assembly of this colony.” Lee, no doubt one of the “vast number of Gentlemen” who allegedly attended this speech, must have delighted to hear how firmly his own conception of “propriety” was endorsed by Mercer’s words.<sup>27</sup>

Yet, even if he had won the battle, Lee could not know for certain that he had won the war. The people’s approbation, after all, was a tricky weapon. It could as easily be turned against him as serve his own cause. And in the pages of the newspaper, where local gentlemen delighted to see their adversaries diminished in stature, scandals could readily take on a life of their own.

That the Mercers did turn to the newspapers to attack Lee and that they made the scandalous revelation about his application a crucial part of their campaign to discredit him are well known.<sup>28</sup> The Mercers did not have to inquire for long before they found persons willing to divulge not only the name of the author of the offensive Westmoreland account but also the sinisterly delightful news about his application. For half a year the Mercers,

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26. Fauquier to Lords of Trade, November 3, 1765, House of Lords Manuscripts, January 27, 1766, quoted in Morgan and Morgan, *The Stamp Act Crisis*, 161.

27. *Virginia Gazette*, supplement (Royle), November 1, 1765.

28. For a recent treatment, see Warren E. Billings, John E. Selby, and Thad W. Tate, *Colonial Virginia: A History* (White Plains, N.Y.: KTO Press, 1986), 311.



lawyers accustomed to building up a case, sat on this news while George Mercer, now back in England, sought proof of it there. When word arrived that his search had uncovered letters attesting to the application, the Mercers launched their attack. On July 18, 1766, James Mercer, writing under the pseudonym “An Enemy to Hypocrisy,” posted a scathing attack in the two newspapers that now circulated in the colony, both of which were called the *Virginia Gazette*. In the piece he exposed the news of Lee’s application, holding it up as evidence that Lee was a false patriot and that George Mercer, in contrast, was the innocent target of a malicious character assassination.<sup>29</sup> With this opening salvo, a yearlong newspaper war erupted, the Mercers lining up against Lee and his brother Arthur Lee, a medical doctor and aspiring pamphleteer who functioned in the conflict as effectively a character assassin operating on his brother’s behalf.

These details of the conflict are well known, but what has been all but overlooked is the degree to which the Mercers explicitly sought to counter the credibility of Lee’s Westmoreland account itself. This discrediting effort, which has eluded attention because the rhetorical logic of the piece has never been fully grasped, was a major preoccupation for the Mercers because they understood perfectly how it was meant to be read and by whom.

In the first place, the Mercers saw immediately that the piece was not merely an effort to intimidate George Mercer from performing his duties as stamp distributor. This view captures how historians have commonly regarded such texts, but it misses the vital definitional—even constitutive—work that the piece was doing. As the Mercers recognized, what the piece sought ultimately to do was to rally local elite men around a shared view that the Stamp Act, even as statutory law, stood definitively outside the bounds of propriety. As James Mercer said, in criticizing Lee for publishing the account in the faraway Maryland newspaper, the only Virginia subscribers to that gazette were among the colony’s “most sensible and intelligent” gentlemen, precisely the kinds of persons “who did not require the aid of his scurrility . . . to convince them of the impropriety of the Stamp Act.”<sup>30</sup>

Second, the Mercers also recognized the deadly serious game of on-upmanship that the account effectively initiated. Although scholars have been much more attentive to this aspect of the account, recognizing, for

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29. [James Mercer], “An Enemy to Hypocrisy,” *Virginia Gazette* (Purdie and Dixon), July 18, 1766; [James Mercer], “An Enemy to Hypocrisy,” *Virginia Gazette* (Rind), July 18, 1766.

30. James Mercer to the Printer, *Virginia Gazette* (Purdie and Dixon), October 3, 1766.

instance, that Lee was “playing rough” in dealing with Mercer so severely, given Lee’s own application for the stamp distributor position, nobody has emphasized strongly enough, I think, Lee’s outright intentions of character assassination.<sup>31</sup> These intentions, which drew directly on the crowd narrative logic that tangible signs of the people’s contempt for a particular magistrate were the best way to demonstrate the impropriety of a more general law or policy, informed Lee’s dramatic presentation from the very beginning and continued to guide his actions in posting his account in the newspaper.

Third and most important, the Mercers also saw much more clearly than modern scholars have the importance and meaning of Lee’s motif of the “crowded Audience.” This motif must have leapt out with particular force for the Mercers, because throughout the conflict they returned to the theme over and over again. Recognizing that the crowd was basically the central theme of the account, the one that the newspaper’s readers were meant to consider the focus of their own attention, the Mercers went out of their way to discredit it, pouring their own creative and persuasive energies into trying to convince readers not to take Lee at his word that Westmoreland’s residents really did greet George Mercer’s mock execution with cheers. Because no other aspect of the dispute indicates so clearly how resonant and complex the image of the crowd was for their contemporaries, we should examine some of the Mercers’ denunciations of the crowd in detail.

James Mercer initiated these denunciations of Lee’s depiction of the crowd in his very first two entries in the dispute, his “Enemy of Hypocrisy” letter of July 18 and a follow-up posting of July 25. In the first piece, the allusion to the crowd is so subtle that a modern reader is very unlikely to catch it, however much it probably stopped an eighteenth-century reader in his tracks. The reference appears at the very end of the piece. By this time, Mercer had already defended his brother as someone who had lived an exemplary young life of service, first by leading Virginia regiments in the Seven Years’ War and then by representing the Ohio Company as its British agent. Mercer had also announced the revelation about Lee’s application, gleefully framing it as Lee’s own mock confession, a conspicuous payback for the dying speech. Finally, Mercer made a leering comment that would appear at first glance to have nothing whatsoever to do with the Westmoreland account; he noted that “there were many Negroes present” at the protest and then scoffs, “An honourable multitude indeed!”<sup>32</sup>

The remark, so clearly designed to play to the racist attitudes of white

31. Matthews, “Two Men on a Tax,” 101.

32. [Mercer], “An Enemy to Hypocrisy.”

readers, was also of course a direct thrust at Lee's own characterization of the Westmoreland "crowded Audience" as effectively the body politic in miniature. What Mercer recognized, indeed probably took utterly for granted at this late date, over half a century after slavery had expanded into a full-scale institution and after a formidable infrastructure of laws and ideas had been developed that defined whiteness as the principal criterion for even partial membership in the body politic, was that Lee's characterization of the Westmoreland "crowd" as a body comprising "all Ranks and Denominations" assumed the unalloyed whiteness of that group. By introducing the idea that "there were many Negroes present," therefore, Mercer was directly countering the supposedly "honourable" status of that representative body, a status that it needed to possess to be seen as credibly engaged in the all-important civic duty of judging the moral characters of local magistrates and thereby determining their locations within the community of virtue and vice.

In his July 25 letter Mercer further developed this theme of the blackness of the Westmoreland crowd. He said that the protest took place in the "presence of a very many of his majesty's illiege people (to wit, Negroes)." The term *illiege*, which might very well have been Mercer's own neologism, for it does not seem to appear in contemporary dictionaries, of course is meant to underscore that blacks in Virginia possessed no effective legal status as subjects. Again, the point was to discredit the Westmoreland crowd as lacking the legitimacy that it would require to do any genuinely constitutive political work.<sup>33</sup>

John Mercer, clearly relishing his son's parodic stabs, followed up on them by providing in his own entry of September 26 a remarkable "tragi-comi-farcical" retelling of the entire Westmoreland protest. According to Mercer, a "distant spectator, whose business had drawn him, and many others, to Westmoreland court-house, on that county court day," informed him what the protest had really consisted of. First appeared two of Lee's "Negroes, with long clubs, clothed in [John] Wilkes's livery." "Next appeared a confused rabble of other Negroes, and Whites of the lowest rank, if it could be properly said they were of any rank at all." Then, bearing the two effigies, came more of Lee's slaves, wearing nothing but their "birthday suits" yet officiating in the "several offices of sheriffs, gaolers, constables, bailiffs, and hangmen." Lee himself rounded out the procession, performing

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33. [James Mercer] to the Printer, *Virginia Gazette* (Purdie and Dixon), July 25, 1766.

the duty of reading aloud Mercer's "confession" and "last speech and dying words."<sup>34</sup>

Having described the protestors in ways intended to encourage the pitiless laughter of Virginia whites—in part because of the seemingly contradictory images of slaves and such a celebrated defender of liberty as the radical British politician John Wilkes, in part because of the cruel lampoon of blacks as too barbarous to perform the grave offices of a genuine protest—Mercer then turned to the main point of his "farcical" account, the "crowded Audience." Deliberately responding to Lee's depiction of the Westmoreland crowd as a respectable body of "all Ranks and Denominations," Mercer described them in a way that indicated that they hardly deserved such a distinguished designation. Instead, the crowd consisted of "those ranks and degrees of people generally, and not improperly, known and distinguished by the appellation of Tag Rag and Bobtail." "An honourable multitude indeed!" Mercer gaily chorused.<sup>35</sup>

The Lees picked up immediately on what the Mercers were doing in offering these revised depictions of the protest and its "crowded Audience." Arthur Lee, writing under the pseudonym "Democritus," a classical reference that was meant to signal his preference for contempt delivered via wit rather than gravity, chided James Mercer for attempting to disprove the "common saying, it is impossible to wash the Blackamoor white." This "ingenious author" must be "rouzed and sharpened by difficulties," Lee smirked, for after "many comical experiments . . . in a twinkling he changes whites into blacks, to the amazement of all readers."<sup>36</sup> That readers might in fact be convinced by these "comical experiments" to see the Westmoreland "crowded Audience" as black rather than white, of course, was less of a laughing matter than Lee was letting on. His ridicule took aim at these "experiments" precisely because the threat they posed to the rhetorical integrity of his brother's crowd narrative was so serious.

In addition to directly ridiculing the Mercers' revision of the crowd narrative, Lee also confronted this tactic in other ways. For instance, in a jab at the Mercers' own ethnic status as relatively recent Irish immigrants (John Mercer emigrated from Dublin in 1720), Lee drew on common Anglocentric pejorative views of "Northern Britons" in a satirical thrust that reveals

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34. John Mercer to the Printer, *Virginia Gazette* (Purdie and Dixon), September 26, 1766.

35. *Ibid.*

36. Democritus [Arthur Lee] to the Printer, *Virginia Gazette* (Purdie and Dixon), August 22, 1766.

just how fully he recognized that it was the traditional rhetorical role of the crowd that James Mercer had in mind in making his references to black audience members. Lee joked that when “Squire James’s paper,” presumably Mercer’s “Enemy of Hypocrisy” piece, was read aloud “there were many in company at the reading” and the “sentiments upon it differed as much as the countries in which the several hearers were born. . . . some North Britons grinned a glorious applause, and skipped about with great levity,” he wrote, until “A Gentleman of much approved gravity” put the frivolous North Britons in their place with a “witty remark upon the harp and bagpipe,” the traditional instruments of Ireland and Scotland. This cruel joke cut several ways at once. It nodded toward the Mercers’ fixation on the Westmoreland crowd, or any public performance in which the people express their “sentiments” in relation to a recognized public figure. It also suggested that only his fellow North Britons would appreciate the low humor in Mercer’s own writing, whereas a true “Gentleman” of genuine “gravity” would treat it with derision.<sup>37</sup>

Finally, in what is undoubtedly the most revealing of Lee’s responses to Mercer, he said simply that “the publick was not concerned to know Colonel Mercer was burnt in effigy.” This was the most cutting remark of all because it pointed directly to the issue that had most concerned the Mercers from the outset, the question of whether the “public” was delighted or appalled by Richard Henry Lee’s dramatic rendering of George Mercer’s execution before a “crowded Audience” of cheering Virginians. The public that Lee was referring to here, of course, was almost certainly not the “crowded Audience” itself; he did not mean that the contempt directed at Mercer failed to generate any concern among Virginians at large. Instead, he meant more specifically that the colony’s gentry, Mercer’s own peers, had been dismissive of that contempt; they accepted that the people really did revile Mercer, and they acknowledged that revulsion as a sign of Mercer’s actual immoral character. Here was the logic of crowd narratives played out to its fullest extent. The image of the people themselves contemning or acclaiming a magistrate in their midst was meant to be so significant, so indicative of where an individual’s character was actually supposed to fit along the spectrum from virtue to vice, that members of the gentry “public” were invited to make their own judgments about that person’s worth accordingly. Crowd narratives, therefore, took for granted that public opinion was a two-

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37. Although this piece appeared in an issue of the *Virginia Gazette* that is no longer extant, its content can be gleaned from John Mercer to the Printer, *Virginia Gazette* (Purdie and Dixon), September 26, 1766.

tiered entity. Its foundation lay in the crucial moral judgments that the people at large made in those everyday moments when they chose whether public magistrates deserved respect or contempt. But for the gentleman at the receiving end of such judgments a second evaluation always came in their wake. This was the assessment by the “public,” or the “world”—that imagined body of refined and knowing persons located in communities all over the Anglo-American world whose shared superior qualities were meant to provide their common bond, yet whose distinction from the masses was never so complete that they could afford to ignore the people’s own judgment.<sup>38</sup> To the extent that a Mercer or a Lee could expect respect in *this* “world”—the world that every gentleman on the rough provincial edge of the British Empire longed to be a part of—the people themselves would have to signal their approval.



During his and his sons’ yearlong controversy with the Lees, John Mercer revealed in two especially vivid instances how he thought about these two distinct forms of judgment, that provided by the people at large and that provided by the “public” of fellow elite men. The first instance occurred during his initial intervention in the controversy, the September 26 piece in which he offered his “tragi-comi-farcical” retelling of the Westmoreland protest. There Mercer made a remarkable rhetorical move, one whose significance becomes clear only in light of the rhetorical significance attached to the “Acclamations and Applause” of the “crowded Audience.” The move consisted of presenting to readers, as though they were a jury requiring concrete evidence to make their judgment in the case, two documents, each of which Mercer quoted virtually in full. The documents were both recognizably crowd narratives, and they both featured George Mercer as the subject of the crowd’s attention. But the assessments of Mercer’s character that they offered by means of the metaphor of the people’s cheers were sharply different.

The first piece was Lee’s own Westmoreland account, which Mercer (again, as though he were facing a jury) presented as evidence that his son, who until that time had been “as well respected and beloved” as any of his peers and who had possessed “as fair and unblemished a character and reputation, as perhaps any man of his age had ever acquired,” had been the target of a malicious character assassination. The only part of the Lee piece

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38. On the “world” as genteel society, see David Shields, *Civil Tongues and Polite Letters in British America* (Chapel Hill: University of North Carolina Press, 1997).

that Mercer failed to quote was, unsurprisingly, the justices' open letter declaring their principled stand against the Stamp Act. Mercer wanted to emphasize Lee's treachery, not his admirable response to the higher calls of "Honour and Virtue."

Immediately after quoting this piece, Mercer presented another extensive quotation from another document that also had appeared in a newspaper. This was the article that we have already touched on that appeared in the November 1 issue of the *Virginia Gazette* and that related the story of George Mercer's arrival in Williamsburg and his encounter with the "concourse of Gentlemen assembled from all parts of the colony." The piece went on to depict the speech that Mercer gave that evening outside the Capitol, and it narrated that event in terms that all contemporary readers would have recognized instantly as signaling that they were to read the piece not simply as an account of a significant public event, but as a crowd narrative, a form that specifically asked them to pay attention to the motif of the "crowd" and to draw their own conclusions on the basis of that group's reactions to the public officials in their midst, in this case George Mercer.

Yet the crowd that appeared in the piece and its reactions to Mercer were markedly different from the Westmoreland crowd and its own supposed assessments of Mercer's character. The Williamsburg crowd, according to *Virginia Gazette* account, was not just a county assembled with due attention to its members' qualitative differences in status, but was instead an even more impressive encapsulation of the body politic—the colony as represented by its most illustrious members, its collective gentry population. Having emphasized—very deliberately—that the General Court had brought about the unusual occurrence of a "concourse of Gentlemen from *all parts* of the colony," the piece went on to make clear that it was this remarkable embodiment of the colony as a whole that stood in attendance at Mercer's speech. His audience on this occasion, the article specified, was a "vast number of Gentlemen, among them all the principal trading people in the colony." As if the representative character of this group were not sufficiently apparent, the author went on to note that one "Gentleman, deputed by the whole" to speak for them, notified Mercer that, before this collective body of gentlemen drawn from every county, he was to "look upon himself as in the presence of the colony" itself.<sup>39</sup>

And how did this corporate body, this colony in miniature, respond to Mercer's speech? The piece related the reaction in exquisite detail, and

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39. *Virginia Gazette*, supplement (Royle), November 1, 1765.

Mercer rapturously copied down every word of it for his own newspaper audience:

This declaration gave such general satisfaction that he [George Mercer] was immediately born[e] out of the Capitol gate, amidst the repeated acclamations of all present. Then he was conducted to a publick house, and an elegant entertainment ordered to be provided, where he spends the evening with a number of Gentlemen. He had no sooner arrived there than the acclamations of the company were redoubled, drums, French-horns, &c. sounding all the while. As soon as night set in the whole town was illuminated, the bells set a ringing, and every mark of joy shown, at this Gentleman's declining, in such a genteel manner, to act in an office so odious to his country. In short, we have never had so much, and so general rejoicing upon any occasion, in so short a time; and to crown the whole, there will be to-morrow night a splendid ball.

Here were the “people”—represented by their most impressive members—demonstrating through their “acclamations” the *real* essence of George Mercer's character. Nobody witnessing such an exultant show of celebration for his son's virtue could possibly have failed to be persuaded that it was on this occasion, not the farcical Westmoreland protest, that Mercer's true estimation in the people's eyes was on display. John Mercer could hardly help concluding with a smirk that Lee, “upon hearing this paragraph,” reportedly gave such full vent to his “malice and envy” that he was “transformed . . . into an image greatly resembling one of the furies.”<sup>40</sup>

But Mercer's own display of self-confidence, as he well knew, was itself a fragile conceit. How could it not be, when the “public” whom he was so strenuously trying to persuade of his son's virtue was so torn by conflicting reports of popular sentiment and so unpredictable in its own judgment? Mercer might try to don the guise of the well-prepared and sober lawyer presenting to the public nothing but “facts.” (The Lees, seeing through this rhetorical device, teased him and James for so haphazardly “mixing . . . law language, falsehood, impudence, and scurrility” that the result was a kind of rhetorical “haggess”—a literary equivalent of the Scottish national dish, haggis.) But Mercer recognized that the public was no more predictable in its judgments than the people as a whole.

It was this sense of the newspaper “public's” own independent mind, its own playful readiness to elude the earnest gentleman's efforts to control its

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40. John Mercer to the Printer, *Virginia Gazette* (Purdie and Dixon), September 26, 1766.



judgment, that Mercer touched on in the second instance in which he made clear his feelings about the complexity of public opinion in this era. This instance occurred at the very end of the Lees' and Mercers' yearlong dispute in an anonymous posting in the July 30, 1767, issue of the *Virginia Gazette* titled "An Essay on Pride," a piece that almost certainly came from John Mercer's pen. It referred to an affair of honor that, at one point in the controversy, had almost taken place between Arthur Lee and James Mercer. Lee had initiated the challenge; Mercer had accepted. But on the morning of the duel on April 27 neither party could find the other. When on the following day James Mercer began "reporting"—presumably in select circles—that "Doctor Lee had failed in meeting him," Lee and his second, Corbin Griffin, decided that "it was necessary that the affair should be explained by my [Griffin's] testimony in the publick coffee room." Griffin then reported on this coffeehouse testimonial in a piece that appeared in the May 28 issue of the *Virginia Gazette*.

John Mercer was aware of the significance of Lee's coffeehouse testimonial. The coffeehouse, of course, was another favorite romping place for the "public," or the "world." As David Shields has shown, the coffeehouse, much like the newspaper, had become by this time a center of sociability in which colonial gentlemen, along with those select members of the "middling sort" who could play successfully by the intricate social rules of such spaces, gathered and thrilled in the sheer pleasure that such spaces offered. Griffin, therefore, in reporting the duel first to a local coffeehouse clientele and then to the newspaper, was simply taking his appeal on behalf of Lee's character from one assemblage of the colonial social elite, the "public," to another.<sup>41</sup>

But what Mercer wanted to emphasize in his "Essay on Pride" was just how risky it was for a gentleman to imagine that such a "public" would judge his character with the seriousness that he might wish. To a great extent, Mercer appears to have been responding to a piece that Landon Carter, a gentleman friend of Lee's, had placed in the July 23 issue of the *Virginia Gazette*, the week before Mercer's own article had appeared. Carter's piece, almost certainly intended to bolster Lee's reputation in the wake of the botched honor dispute, lauded the concept of honor itself, defining it as that "principle which will make a man blush at an unworthy action, as soon in his closet as in public." But it was in public, Carter made clear, that the gentleman of honor really stood to have his worthiness recognized or

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41. Shields, *Civil Tongues and Polite Letters*, passim.

challenged, for it was there that “*virtue*” was most likely to “meet with the reward of *applause*” and “*vice* and *baseness* with the punishment of *abhorrence* and *contempt*.”<sup>42</sup>

Mercer, however, countered that the “public” did not always reward virtue with applause. He made this case through the same satirical rerendering of events that had served him so well as a rhetorical device in earlier pieces. He reimagined Lee’s encounter with the “Coffee-house world,” suggesting that Lee did not simply provide a testimonial about what had occurred on the field of honor; he actually confronted his adversary, who upon similarly arriving in the coffeehouse at that time engaged with Lee in a spirited round of “fisty-cuffs.” As a result, Lee was outmatched. Rather than the honorable end he had so desired, he ended up “bled at the nose . . . as if he had been no better than a clown or a peasant.” And what was the “public’s” reaction? “The Coffee-House world manifest[ed] their esteem by laughing.” The moral of the tale was clear. Lee had expected the “Coffee-House world” to take as seriously as he did his own honor. But this “world” was unlikely to play by such stuffy rules of honor. “[I]t is a naug’ty world,” Mercer concluded; “it is fonder of enjoying its own diversion than of gravely giving applause where due. It behaves like a saucy schoolboy, who is not easily brought up to be serious, but prefers fun to matter of weighty consideration.” In the face of such a cheeky “public,” the ever-serious Lee was best advised to “turn up its bum, and give it a sound flogging; and so reduce it, by wholesome correction, to a solemn obedience to the laws of honour, and a becoming acquiescence under his authority.”<sup>43</sup>

The joke here was once again, as always seemed to be the case in these contests over public approbation, one that cut both ways. Mercer might ridicule Lee for taking his honor so seriously in the face of the public, but such wit only thinly concealed the earnestness with which Mercer and his son had made their own appeals before this body in their ongoing controversy with the Lees. Yet Mercer’s exasperation with this body was no doubt real by this time, as it was also understandable. The cost of a conception of public opinion as a two-tiered entity, a dual assessment of prevailing moral and political circumstances that rested not only on the people’s sentiments but also on the evaluations of an elite public that was itself fickle and not always serious in its judgment, meant that the earnest public official—even

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42. L.C. [Landon Carter] to Mr. Rind, *Virginia Gazette* (Rind), July 23, 1767; emphasis in original.

43. Amicus Superbiea [John Mercer], “An Essay on Pride,” *Virginia Gazette* (Purdie & Dixon), July 30, 1767.

the virtuous public official—was forever seeking applause that might not be forthcoming. That complex and worrying political world—one in which the people did not give “applause where due”—was the one, Mercer seemed to be saying, that the newspaper was rapidly ushering in. It was a world that aroused Franklin’s apprehension, too.