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“Parliamentary Egotisms”: The Clash of Legislatures in the Making of the American Revolution

Richard R. Johnson

Our extended passage through the bicentennial of the American Revolution has sparked a renewed interest in the Revolution's origins and character. Scholars of the era's ideologies have given us a fresh appreciation of the role of antiauthoritarian traditions and fears of encroaching tyranny in hardening resistance to British rule. Social historians have drawn some compelling pictures of the ways in which men and women of different ranks and classes lived through the experience of revolutionary upheaval. One cost of such insights, however, has been a relative neglect of more traditional topics and approaches. New scholarship has centered more upon the transformation of political culture that accompanied the colonists' eventual resort to independence than upon the first stirrings of resistance to British policy. A search for underlying and hitherto unplumbed motives and for evidence of long-term social change has led scholars to look beyond the substantive political and constitutional issues that contemporaries themselves set at the center of debate during the formative first decade of the revolutionary crisis.

This essay seeks to redress that neglect. By drawing on the many studies of English and American politics, it aims to place back in focus both the substantive issues that engaged contemporaries and the historical context that gave those issues urgency and meaning. Such a focus not only reveals the importance of politics to the Revolution—and, by implication, to the new American nation. It also counters some powerful, but often distorting, influences on our understanding of events by making us mindful of how much our picture of the Revolution's origins is still colored by hindsight and by what we feel those origins ought to be. For at the core of most interpretations of the Revolution remains the belief that it was a clash of large and morally different forces—past and future, reaction and progress, tyranny and democracy—a clash well symbolized in the enduring image of an overbearing monarch confronting the American people. We may accept, a little grudgingly since serviceable myths die hard, that King George III was not mad during the 1760s and

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early 1770s. But that he was bad, in that he and his "Friends" sought to reestablish the royal prerogative and to curb what his subjects regarded as their liberties, remains a hardy perennial of school textbooks and bicentennial panegyrics, even if it has for the most part faded from more scholarly accounts.

That scenario, no doubt, reveals our human passion for constructing villains and heroes in explanation of complex historical events. The creation of the American republic, the Second Greatest Story Ever Told in the words of one recent textbook flyer, requires an epic cast. Yet such a dramatization could hardly have become so familiar had it not harmonized with the conviction that the king and the institutions he embodied represented almost everything that the Revolution would reject. On the one side stood hereditary monarchy and aristocracy, relics of the feudal past; on the other, the popular will, democracy in the making, the wave and hope of the future.

However accurate as a long-term judgment on the Revolution, that perspective carries with it the risk of assessing causes too much in the light of their ultimate consequences, and so neglecting those causes overshadowed by later events. To turn back to the American colonists' writings and actions in the 1760s, for example, is to find that none openly blamed King George for the measures attempted by his government. Not until the early 1770s, when it became clear that he was determined to support a coercive policy, did colonial feeling begin to turn and then showed a bitterness in keeping with an offspring's resentment of parental betrayal. Appropriately, two of those whose names supplanted George III's as symbols of nationality did most to fix in the mind of posterity the image of George as demon king—Thomas Paine with his blistering attack on "the Royal Brute of Great Britain" in *Common Sense* and Thomas Jefferson with his eighteen successive denunciations of George's alleged crimes in the Declaration of Independence.¹

To demonstrate that Americans were slow to implicate the king in the measures of his ministers does not, of course, prove him blameless. Here the issue becomes entangled in a long-standing debate over the Crown's role in English affairs. Did George III seek to revive the power of the Crown to the point that politics were disrupted and the English constitution endangered? Or was he a painfully sincere admirer of constitutional rule whose efforts to quiet faction and to hold a balance in government were opposed and slandered by the party politicians whose oligarchic dominance he threatened? Answers to those questions turn on how one defines the traditional powers of the Crown, the nature and intent of George's actions during the first years of his reign, and the status and legitimacy of political parties and

¹ Charles H. McIlwain, *The American Revolution: A Constitutional Interpretation* (New York, 1924), 2, 5–6; Pauline Maier, *From Resistance to Revolution: Colonial Radicals and the Development of American Opposition to Britain, 1765–1776* (New York, 1972), 200–1, 210–11; Ian R. Christie and Benjamin W. Labaree, *Empire or Independence, 1760–1776: A British-American Dialogue on the Coming of the American Revolution* (New York, 1976), 269–70; [Thomas Paine], *Common Sense, Addressed to the Inhabitants of America . . .* (Philadelphia, 1776), 57; *In Congress, July 4, 1776. A Declaration by the Representatives of the United States of America, in General Congress Assembled* (Philadelphia, 1776), n.p. I do not intend here to grapple with the vexed question of whether or in what sense the American Revolution was a democratic movement.

ministerial responsibility.² Yet certain common ground has emerged. George did try to “rise above” party, as in his preferment of John Stuart, third earl of Bute, and his conviction that it was his right and duty to call on new ministerial “tools” when the national interest required. But neither in intent nor effect did he seek to establish an arbitrary or absolutist government. Further, even if he took an unusually prominent part in English domestic politics, that does not necessarily establish his responsibility for policy toward America. In fact, his correspondence reveals that George III took very little direct interest in American affairs until the early 1770s. And nowhere is there evidence of his having taken the initiative in formulating colonial policy.³ George may have contributed to the instability of English politics during the 1760s, and he can fairly be blamed for prolonging the American War of Independence by his rigidity once it had begun, but he did not institute or concert the measures against which the colonists ultimately rebelled.

A better case has been made for the responsibility of successive English ministries during the crucial decade of the 1760s. In a manner akin to that of the historians who attributed the onset of the American Civil War to a “blundering generation” of leaders (although with the difference that here the onus ends up placed much more on one, the British, side than the other), recent writings have emphasized the confusions and factional rivalries that underlay the formulation of policy in London and its execution in America.⁴ The colonists who opposed this policy were perhaps overwrought in interpreting it as a consistent and deliberate attack on their liberties, but its reactionary character, and the high- and ham-handed manner in which it was implemented, rendered such suspicions understandable and even inevitable.

Such historical work has greatly advanced our knowledge of the day-to-day unfolding of events and attitudes on both sides of the Atlantic, and it is far from monolithic in its arguments and conclusions. In two respects, however, it still shares common ground with older views. First, its explanations still center on personalities and immediate exigencies—such as George Grenville’s rigidity, William Pitt’s duplicity or incapacity, ministerial infighting, and the need for revenue. Second, it continues to assume, for the most part, that England and its American colonies were already set on diverging constitutional courses. London’s measures precipitated and gave particular shape to the divorce of what had become in practice, and even

² Richard Pares, *King George III and the Politicians* (Oxford, 1953); E. A. Reitan, *George III: Tyrant or Constitutional Monarch?* (Boston, 1964); John Brewer, *Party Ideology and Popular Politics at the Accession of George III* (Cambridge, Eng., 1976), 26–31.

³ P. Langford, *The First Rockingham Administration, 1765–1766* (Oxford, 1973), 163–67; Lewis Namier, *Personalities and Powers: Selected Essays* (New York, 1965), 39–58; P. D. G. Thomas, “George III and the American Revolution,” *History*, 70 (Feb. 1985), 16–31.

⁴ As, for example, Edmund S. Morgan and Helen M. Morgan, *The Stamp Act Crisis: Prologue to Revolution* (Chapel Hill, 1953); Bernhard Knollenberg, *Origin of the American Revolution: 1759–1766* (New York, 1960); Lewis Namier and John Brooke, *Charles Townshend* (London, 1964); Franklin B. Wickwire, *British Subministers and Colonial America, 1763–1783* (Princeton, 1966); Langford, *First Rockingham Administration*; P. D. G. Thomas, *British Politics and the Stamp Act Crisis: The First Phase of the American Revolution, 1763–1767* (Oxford, 1975); Robert Middlekauff, *The Glorious Cause: The American Revolution, 1763–1789* (New York, 1982); John L. Bullion, *A Great and Necessary Measure: George Grenville and the Genesis of the Stamp Act, 1763–1765* (Columbia, Mo., 1982); Philip Lawson, *George Grenville, a Political Life* (Oxford, 1984).



"The Destruction of the Royal Statue in New York," July 9, 1776.
Slaves pull the ropes, in this German interpretation of the event.
Parts of the statue were recast into bullets for the revolutionary army.
Eno Collection.

*Miriam and Ira D. Wallach Division of Art, Prints & Photographs.
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in form, quite different political structures. So, indeed, they ultimately proved to be. Yet such differences were not so apparent to contemporaries as they now appear in the light of 1776 and 1787. In searching for the forces that turned grievance into insurrection, we would do better, I believe, to pay greater attention to the political frustration and ideological intensity sparked by patterns of markedly similar constitutional development.

In particular, the image of a vibrant America breaking away from a stagnant Europe has obscured the fact that far-reaching changes took place in both the theory and practice of English government during the century preceding the 1760s. The discretionary authority of the Crown diminished sharply, and the day-to-day work of government passed into the hands of ministers whose power derived less and less from their status as chosen instruments of the monarch and more and more from their ability to construct factional coalitions and thus to retain the support of a regularly convened legislature. This was not a struggle for sovereignty, as it has traditionally been viewed, so much as a shift in the terms of the debate over how authority was to be exercised: If the Crown now accepted that it could not dispense with Parliament, it had also learned how to build a working majority within Parliament with the aid of its prestige and patronage, the "influence" that opponents and non-recipients saw as corruption. The system worked — like the American federal Consti-

tution of today—because of the intermingling, rather than the reputed separation, of its elements. Even here, however, the monarchy was ultimately hoist by its own manipulations as ministers held responsible for the running of government demanded control of the disposition of offices necessary to sustain parliamentary support.

As in domestic, so in colonial affairs, although in more tardy and shadowy fashion; matters relating to America were increasingly debated and acted on within Parliament as they came to be interpreted as belonging within its proper sphere of authority. The tradition that the colonies were possessed—and hence ruled—by the Crown alone died hard: on several occasions during the early eighteenth century Parliament held back from legislation augmenting royal authority in America for fear that it would have the effect of strengthening prerogative rule.⁵ Crown officials, for their part, feared lest resort to Parliament might establish dangerous precedents. Yet there were already numerous enactments that, by custom or design, bore directly on the colonies: regulating commerce, defining citizenship, limiting emissions of paper money, and even promoting new settlement, as in Georgia. By midcentury, such legislation was becoming more frequent and purposeful as British interest groups reacted to the colonies' rapid economic development.⁶ Simultaneously, the steady transition from government by the Crown toward government in the name of the Crown drew even the prerogative mechanisms for colonial administration under the aegis of ministerial and, ultimately, parliamentary supervision. Thus the Board of Trade, created in 1696 to forestall parliamentary interference in colonial government, had by the 1760s lost almost all its former influence and initiative to officials more closely linked to the ministry in power. Even before thoughts turned to raising a revenue from America, concern that parliamentary action might in some way offend constitutional propriety had given way to the belief that parliamentary action was a necessary concomitant of England's dominion over her territories.

In retrospect, however, the decision to raise a revenue was the fateful step, not only because it provoked colonial reactions, but also because it engaged so directly the power and pride of Parliament itself. For centuries parliamentarians had struggled to ensure that they alone constituted the link between Crown and community in the levying of general taxation. In alliance with the Crown, they had established their *plena potestas*, the authority to make decisions binding on those they represented; simultaneously, they had opposed and limited the successive devices—forced loans, feudal dues, tonnage and poundage, and the sale of offices and monopolies—by which the Crown had at times attempted to evade the political

⁵ Charles M. Andrews, *The Colonial Period of American History* (4 vols., New Haven, 1934–1938), IV, 406–8; Leonard W. Labaree, *Royal Government in America: A Study of the British Colonial System before 1783* (New Haven, 1930), 33–35; Paul Langford, "Old Whigs, Old Tories, and the American Revolution," in *The British Atlantic Empire before the American Revolution*, ed. Peter Marshall and Glyn Williams (London, 1980), 117–18.

⁶ Alison Gilbert Olson, "Parliament, Empire, and Parliamentary Law, 1776," in *Three British Revolutions: 1641, 1688, 1776*, ed. J. G. A. Pocock (Princeton, 1980), 291–93; Michael Kammen, *Empire and Interest: The American Colonies and the Politics of Mercantilism* (Philadelphia, 1970), 45–94; Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States, 1607–1788* (Athens, Ga., 1986), 55–76.

cooperation the two houses of Lords and Commons demanded as the price of their growing fiscal authority. Within Parliament, by the late seventeenth century, the Commons had established their right to initiate money bills and were creating procedures for controlling how such revenue should be expended. No other powers were so jealously guarded by members or defended with such instinctive fervor.

Their fervor reflected the simple fear—exemplified by their refusal to grant supply for more than a year or two at a time—that the Crown might dispense with Parliament's services unless kept in a state of fiscal malnutrition. It was also rooted in the belief that Parliament, in wielding its power of the purse, was upholding England's ancient constitution. The legislature's origins, it was generally held, lay back in Anglo-Saxon or even Roman times; the events of the twelfth and thirteenth centuries had but restored the liberties checked by the Norman Conquest. Indeed, those who viewed English common law and constitutional practice as the embodiment of ancient custom could confidently assert that Parliament and its privileges had existed since time immemorial. As to Parliament, declared Sir Edward Coke in a much-printed essay, "if you would look at its antiquity, it is most old, if at its dignity, it is most honorable, if at its jurisdiction, it is most broad" (*si antiquitatem spectes, est vetustissima, si dignitatem, est honoratissima, si jurisdictionem, est capacissima*). Plainly, such history married intellectual assumption to the hope of political advantage: Since antiquity was held to confer legitimacy, it was vital to seventeenth-century parliamentarians that popular liberties and their embodiment in the legislature should antedate the monarchy and its prerogative powers. If, to conflate the words of John Locke and John Selden, all the world had once been America, then kings might well have been set up for quietness' sake.⁷

However serviceable as politics, this was dangerously thin as history, and it did not pass unchallenged at the hands of scholars and royalists and a few who were both. Moreover, as John Pocock has pointed out, the concept of an immutable ancient constitution could be used to question the creation of "new law" by Parliament quite as much as by the Crown. There remained a tradition of belief in a fundamental law that placed limits on the exercise of arbitrary power by any branch of government, a tradition that was to find a receptive audience—and, eventually, a permanent home—in the American colonies. In England, however, political theory and reality moved in tandem toward a magnification of parliamentary power. The Glorious Revolution of 1688 confirmed Parliament's power as guardian and interpreter of the ancient constitution; that development in turn, fostered by the imaginative pieties of such Whig writers as William Petyt and the martyred Al-

⁷ Edward Coke, *The Fourth Part of the Institutes of the Laws of England: Concerning the Jurisdiction of Courts* (London, 1681), 36; E. Evans, "Of the Antiquity of Parliaments in England: Some Elizabethan and Early Stuart Opinions," *History*, 23 (Dec. 1938), 206–21; G. L. Harriss, "Medieval Doctrines in the Debates on Supply, 1610–1629," in *Faction and Parliament: Essays on Early Stuart History*, ed. Kevin Sharpe (Oxford, 1978), 73–103; J. G. A. Pocock, *The Ancient Constitution and the Feudal Law: A Study of English Historical Thought in the Seventeenth Century* (Cambridge, Eng., 1957), 30–55; Corinne Comstock Weston and Janelle Renfrow Greenberg, *Subjects and Sovereigns: The Grand Controversy over Legal Sovereignty in Stuart England* (Cambridge, Eng., 1981), 182–221.

gerson Sidney, led inexorably toward an acceptance of *de facto* and, in the minds of many, *de jure* parliamentary sovereignty. Building on a sense of corporate identity so keen as to border on self-deification, the two houses perfected a body of parliamentary privilege that assured to themselves such rights as free speech, control of their own procedures, immunity from arrest, and the power to call to account those who questioned their constitutional status, whether in the political arena or by publishing inconveniently accurate works of scholarship.⁸

History could be a double-edged weapon: during Sir Robert Walpole's ascendancy opposition accusations that the Whig establishment was subverting the constitution's primitive purity spurred Whig writers to rediscover some of the arguments of those who had doubted whether the House of Commons had indeed originated in Anglo-Saxon times. If it had not, then how could it now be condemned as corrupted? So dangerously political in its implications became the study of English medieval history as to stunt its development for more than a century.⁹ There remained a convenient ambiguity whereby Parliament was defined as meaning both the legislature in session and the aggregate body of King, Lords, and Commons. Yet on the issue of the growing primacy of the legislature within government there was no real disagreement between those who viewed it as a restoration of ancient "Gothick" liberties and others who hailed it as the apotheosis of the events of 1688. To criticize the political management of the Lords and Commons was not to dispute their supremacy within the state. The qualifications with which Locke had hedged his dictum that "in all cases, whilst the government subsists, the legislative is the supreme power" were all but forgotten, and parliamentarians and the English political nation at large embraced the uncompromising dogma expressed in the year of the Stamp Act crisis by Sir William Blackstone, that Parliament's legislative authority was "sovereign and uncontrollable." "Sovereignty and Legislature," he declared in opposing the act's repeal, are "inseparable."¹⁰

The result, Parliament's insistence upon its legislative supremacy over the American colonies and hence its right to tax them, is an old and familiar theme in the

⁸ Pocock, *Ancient Constitution*, 229–35; Carl Wittke, *The History of English Parliamentary Privilege* (Columbus, Ohio, 1921), 9–126. The cautious straddling this imposed upon historians is evident in the remark of one anonymous author that "Parliaments are, without all Doubt, of very antient Extraction: but to fix the Time of their Beginning, in this Kingdom, is a Matter attended with so many Difficulties, that it may be called Folly or Madness in any Writer to attempt it." *Parliamentary or Constitutional History of England* (24 vols., London, 1761–1763), I, 1.

⁹ Pocock, *Ancient Constitution*, 49–53; David C. Douglas, *English Scholars, 1660–1730* (London, 1951), 273–80; Isaac Kramnick, "Augustan Politics and English Historiography: The Debate on the English Past, 1730–35," *History and Theory*, 6 (no. 1, 1967), 33–56; Quentin Skinner, "History and Ideology in the English Revolution," *Historical Journal*, 7 (no. 2, 1965), 151–78; H. T. Dickinson, "The Eighteenth-Century Debate on the Sovereignty of Parliament," *Transactions of the Royal Historical Society*, 26 (1976), 189–210.

¹⁰ John Locke, *Two Treatises of Government*, ed. Peter Laslett (New York, 1965), 401–9, 413–14; William Blackstone, *Commentaries on the Laws of England* (4 vols., London, 1765–1769), I, 156; R. C. Simmons and P. D. G. Thomas, eds., *Proceedings and Debates of the British Parliaments respecting North America* (5 vols., Millwood, N.Y., 1982–1986), II, 148. Earlier in his *Commentaries*, Blackstone made passing reference to a supreme natural law, but neither he nor his readers seem to have interpreted this as amounting to any practical limitation on Parliament. For a plausible association of this concern for the full enforcement of Parliament's authority with the rise of a "new legalism" during these years, see Olson, "Parliament, Empire, and Parliamentary Law, 1776," 301–16.



The House of Commons, 1742.

Reproduced from an engraving by Benjamin Cole, after John Pine, 1749.

debate on the origins of the Revolution. Much scholarly ink has been expended arguing whether such claims were justified and, by extension, whether the colonists were “right” to rebel.¹¹ From our analysis of the historical antecedents of Parliament’s position, however, comes a conclusion more attuned to contemporary debate: Parliament’s claims—however novel and oppressive in practice—were bound up in its profound belief that any challenge to its authority was not only a kind of heresy, a breach with a revered tradition, but also a real threat to the cause of English constitutionalism and the liberties it enshrined. In the words of a group of peers protesting the repeal of the Stamp Act, Parliament had “ancient unalienable Rights of Supreme Jurisdiction”: to surrender them was to compromise “the fundamental Principles of our Constitution.”¹²

¹¹ McIlwain, *American Revolution*; Robert L. Schuyler, *Parliament and the British Empire: Some Constitutional Controversies concerning Imperial Legislative Jurisdiction* (New York, 1929), 1–39; Harvey Wheeler, “Calvin’s Case (1608) and the McIlwain-Schuyler Debate,” *American Historical Review*, 61 (April 1956), 587–97; Barbara A. Black, “The Constitution of Empire: The Case for the Colonists,” *University of Pennsylvania Law Review*, 124 (May 1976), 1157–1211; Jack P. Greene, “From the Perspective of Law: Context and Legitimacy in the Origins of the American Revolution,” *South Atlantic Quarterly*, 85 (Winter 1986), 56–77.

¹² Simmons and Thomas, eds., *Proceedings and Debates*, II, 331, 353. In similar fashion, the Privy Council

A closer analysis of Westminster's arguments and actions during the 1760s sustains this line of argument. At first glance, the spirited debates in and out of Parliament over colonial issues, with the swings in policy resulting from a rapid succession of ministries, suggest division and irresolution concerning English authority over America. Throughout, however, there existed a broad consensus that Parliament's authority over what were deemed subordinate legislatures must be maintained. The sentiments of those who were always hard-liners, such as Grenville, William Knox, William Murray, first earl of Mansfield, and Robert Henley, first earl of Northampton, are well known. But even those who were seen—and who saw themselves—as sympathetic to America held firm views about Parliament's supremacy. Pitt, though he denied that Parliament could levy internal taxes upon colonists not represented there, declared repeatedly—to the confusion of his audience—that Parliament's powers over those same colonists were sovereign and supreme in all matters whatsoever. His ally, William Petty, second earl of Shelburne, proposed in 1767 a statute making it high treason for Americans to refuse to obey or to execute an act of Parliament.¹³ The liberal Rockingham administration coupled repeal of the Stamp Act with a Declaratory Act ordaining that the king in Parliament had the right to legislate for the colonies "in all cases whatsoever." Edmund Burke, who became the Rockinghamites' principal parliamentary spokesman and ideologist, made his first major speech in support of the act and continued, until the opening of hostilities, to endorse both the act and Parliament's ultimate right to tax America. Thomas Pownall, a leading advocate of compromise and the man John Adams of Massachusetts called "a friend of liberty . . . the most constitutional Governor, in my opinion, who ever represented the crown in this province," was on this issue equally rigid. Even Isaac Barré, the most ardent defender of the colonial position in Parliament during the 1760s, ultimately voted for the coercive Boston Port Act in 1774.¹⁴

A few—a very few—parliamentarians drew back from the implications of unchecked parliamentary sovereignty: Temple Luttrell and Charles Pratt, Lord Chief Justice and first earl of Camden, cited the colonists' charters and natural rights as

endorsed the verdict of the Board of Trade that the Virginia legislature's resolves of May 1765 were "a daring attack upon the Constitution of this Country" and must hence be referred to Parliament as being "of too high a Nature" for the Council to decide. W. L. Grant and James Munro, eds., *Acts of the Privy Council of England, Colonial Series* (5 vols., London, 1908–1912), IV, 732–33.

¹³ *Cobbett's Parliamentary History of England from the Norman Conquest to the Year 1803* (36 vols., London, 1806–1820), XVIII, cols. 198–99; Simmons and Thomas, eds., *Proceedings and Debates*, II, 82, 85, 89; Charles R. Ritcheson, *British Politics and the American Revolution* (Norman, 1954), 85, 91; Ian R. Christie, "The Earl of Chatham and American Taxation, 1774–1775," *The Eighteenth Century*, 20 (Autumn 1979), 246–59.

¹⁴ Edmund Burke, "Speech on American Taxation, April 19, 1774," *The Writings and Speeches of the Right Honorable Edmund Burke* (12 vols., Boston, 1901), II, 75–79; John Shy, "Thomas Pownall, Henry Ellis, and the Spectrum of Possibilities, 1763–1775," in *Anglo-American Political Relations, 1675–1775*, ed. Alison Gilbert Olson and Richard Maxwell Brown (New Brunswick, 1970), 162, 169–70; Paul Langford, "The Rockingham Whigs and America, 1767–1773," in *Statesmen, Scholars and Merchants: Essays in Eighteenth-Century English History Presented to Dame Lucy Sutherland*, ed. Anne Whiteman, J. S. Bromley, and P. G. M. Dickson (Oxford, 1973), 135–52; Ian R. Christie, "British Politics and the American Revolution," *Albion*, 9 (Fall 1977), 213–21.

establishing certain things that even Parliament could not do.¹⁵ Others upheld the principle of parliamentary sovereignty but questioned either the wisdom of imposing it on America or the particular policies and means of imposing it. Yet all too often those who, like the Rockingham group, urged caution while in opposition stood on principle while in office. And support within both houses for measures specifically justified as imposing Parliament's authority on America was remarkably strong and consistent. The Stamp Act passed the Commons by a five-to-one margin in 1765; nine years later the punitive measures altering the government of Massachusetts won an even stronger majority, while the act closing the port of Boston passed both houses without even the necessity of a division. Throughout the decade, as Charles Garth, member of Parliament and agent for South Carolina, reported in 1765, "the power of Parliament was asserted and so universally agreed to, that no petition disputing it will be received." Even a speaker of Pitt's intimidating caliber was on occasion forced to back down and profess acceptance of Parliament's right to tax America by the hostile reception his views received in the Commons.¹⁶

In part, this consensus rested on a nationalism that transcended domestic factional divisions. In the wake of the great war with France, Whig merchant and Tory squire alike agreed that the continued prosperity of England and her colonies required all to accept the "universality of the legislative power" as "the vital principle of the whole Empire."¹⁷ The empire must draw together or decay. Yet the debates of the 1760s also reveal how much of the fervor and rigidity that infused the issue of legislative sovereignty derived from the manner in which arguments and attitudes had been honed during several generations of domestic political rivalry: If the politicians, to paraphrase William Hazlitt's famous metaphor on the coming of reform, had arrived at the same destination, they had nonetheless ridden rival stagecoaches and splashed each other with mud on the way. Politicians of a more authoritarian Tory and Court Whig persuasion were no doubt inclined by temperament to uphold a principle so closely aligned with the cause of orderly government, particularly since the king's firm endorsement of his legislature's position spared his "Friends" from any embarrassing conflict of loyalties. But the extent to which others of more radical and libertarian views could likewise join in coercing America demonstrates how instinctively all identified the power of Parliament not just with legitimate authority, but also with the "good old cause" of liberty and constitutional progress. Hesitation to do so, indeed, might be pilloried as apostasy. As Paul Langford has pointed out, government spokesmen were quick to argue that those who defended colonial resistance on the ground that the colonies were subject to the Crown alone

¹⁵ *Cobbett's Parliamentary History*, XVI, cols. 168–69, XVIII, cols. 164–65; Simmons and Thomas, eds., *Proceedings and Debates*, II, 321–23; "Debates of a Political Society," *London Magazine*, 44 (Nov. 1775), 559.

¹⁶ Charles Garth to Committee of Correspondence of South Carolina, Feb. 8, 1765, in L. B. Namier, "Charles Garth, Agent for South Carolina," *English Historical Review*, 54 (Oct. 1939), 650; Langford, *First Rockingham Administration*, 154–55, 161. Opposition to the government's American measures in 1774–1775 never rose above 64 votes in a house that had 558 members when fully assembled. Bernard Donoghue, *British Politics and the American Revolution: The Path to War, 1773–75* (London, 1964), 289.

¹⁷ Simmons and Thomas, eds., *Proceedings and Debates*, II, 137.

were advocating a reactionary revival of the monarch's personal power. Frederick Lord North could accuse Charles James Fox of fomenting Toryism, and loyal addresses responding to the colonists' appeals for George III to intervene in 1775 could express their gratitude that the king "has not been tempted to endanger the Constitution of Great Britain, by accepting the alluring Offers of an unconstitutional Increase of your Prerogative."¹⁸

Such accusations were good political strategy. Yet there is strong evidence that the sentiments behind them were sincerely felt, even by those holding office from the Crown. Thus, in 1766, cabinet minister Charles Yorke explained the need for the Declaratory Act by reference to Parliament's progressive limitation of the Crown's authority and its possession of powers exceeding those of the monarchy. To allow the colonists exclusive power to tax themselves, others argued, would be to surrender Parliament's authority to "subordinate Provincial Legislatures established by Prerogative." In similar vein, Lord Frederick Campbell voiced his support for parliamentary taxation of America because the alternative method of royal requisition would perpetuate prerogative power. Were such requisitions to continue, warned Grenville, the Crown might stand outside the authority of Parliament. By appealing to the king directly against the Townshend duties, declared Wills Hill, first earl of Hillsborough, in 1768, the colonists were not only affronting Parliament, but also subverting constitutional procedures. "It is essential to the constitution," he informed Connecticut agent William Samuel Johnson, "to preserve the supremacy of Parliament inviolate; and tell your friends in America . . . that it is as much their interest to support the constitution and preserve the supremacy of Parliament as it is ours."¹⁹ From that perspective, the coercion of America actually furthered the Whig ideal of ordered liberty by simultaneously strengthening the authority of government and reasserting Parliament's proper constitutional role as a check on arbitrary power. To accept the colonists' arguments was to invite anarchy and an erosion of English freedoms on both sides of the Atlantic.

In consequence, all too many of the attempts made by liberal opponents of the ministry to brand government measures as tyrannical foundered on the rock of the liberals' own veneration for the constitutional supremacy of Parliament. Thus Camden, sympathetic to American resistance and convinced of the folly of the Declaratory Act and Townshend duties, finally concluded that the cause of Parliament overrode all others: the duties must be enforced.²⁰ Hence also the reluctant

¹⁸ *London Gazette*, no. 11613, Nov. 11–14, 1775; Langford, "Old Whigs, Old Tories," 109–13; Lewis Namier, *England in the Age of the American Revolution* (London, 1961), 37.

¹⁹ Charles Garth to the Committee of Correspondence of the South Carolina Commons House, Feb. 9, 1766, in Joseph W. Barnwell, "Hon. Charles Garth, M.P., the Last Colonial Agent of South Carolina in England, and Some of his Work," *South Carolina Historical and Genealogical Magazine*, 26 (April 1925), 80; Simmons and Thomas, eds., *Proceedings and Debates*, II, 137–38, 331, 144, 145; William Samuel Johnson to William Pitkin, Oct. 20, 1768, *Massachusetts Historical Society Collections*, 9 (1885), 296. In Charles Townshend's epigram, the first colonist had fled from the tyranny of the prerogative to hope for the shelter of Parliament, but those of the present generation were defying Parliament in hope of shelter under the prerogative. Simmons and Thomas, eds., *Proceedings and Debates*, II, 466.

²⁰ Camden to the Duke of Grafton, Oct. 4, 1768, in William Anson, ed., *Autobiography and Political Correspondence of Augustus Henry, Third Duke of Grafton*, K.G. (London, 1898), 216–17.

acquiescence of men like Burke and Barré in coercive measures. On at least one occasion, liberals stranded themselves in the position of attacking ministerial attempts at compromise as unwarranted executive usurpation of powers belonging to the legislature, thereby shunting matters back into the very arena, Parliament, where the issue of sovereignty made open negotiation almost impossible.²¹ In retrospect, such self-impalement seems the natural consequence of Parliament's paradoxical roles, as both the newly dominant partner in government and yet still the "Grand Inquest of the Nation" charged with curbing the excesses of authority—roles it played with equally blinkered conviction. Even as it did so, forces were gathering beyond Westminster to challenge its claim to represent the nation, forces that swelled a powerful campaign for parliamentary reform as the costs and consequences of Parliament's American policies became apparent. In the decade before 1775, however, Parliament remained convinced of its manifest destiny to be both ruler and protector of Englishmen on both sides of the Atlantic. "The apprehension of endangering the supremacy of Parliament," concluded Johnson, "of which they have formed the most exalted ideas, seems to have absorbed all other considerations." At the last, "the honor of Parliament" was at stake, it could not with dignity retreat, and policies launched with at least a veneer of practical intent were swept up in a tide of mythologized history and corporate self-righteousness, which it was scarcely possible—and was literally impolitic—to question.²²

The mixture was volatile. It became explosive when it encountered across the Atlantic legislative bodies only slightly less convinced of their autonomous authority and even more recently invigorated by the heady work of "reclaiming" their rights and privileges from the executive. Within a decade of their first settlement in New England, in the Caribbean, and around the Chesapeake, emigrants from England had created their own representative assemblies to share or, in some colonies, to direct the work of government. The extension of direct royal authority to America in the late seventeenth century brought attempts to circumscribe or even abolish that representative element. By 1700, however, London had accepted it as a necessary and proper component of colonial administration. Thenceforward, all laws brought forward for enactment in a typical royal colony had to pass the bicameral scrutiny of both an elected assembly and a governor's council appointed by the Crown, in clear parallel with English legislative procedure. The councils, despite an administrative omnicompetence, never accumulated the independent prestige and position

²¹ Langford, "Old Whigs, Old Tories," 112. This current of opinion, coupled with the ministry's own doubts concerning action taken without parliamentary legislation, shaped the measures taken by the North ministry after the Boston Tea Party. See Donoghue, *British Politics*, 50–72.

²² Johnson to Jonathan Trumbull, Dec. 5, 1769, *Massachusetts Historical Society, Collections*, 9 (1885), 383. For his comment on "the honor of Parliament," see Johnson to William Pitkin, Oct. 20, 1768, *ibid.*, 297; letter of the London North American merchants, Feb. 28, 1766, *Massachusetts Historical Society Proceedings*, 55 (Feb. 1922), 216; Benjamin Franklin to Thomas Cushing, Feb. 5, 1771, Leonard W. Labaree et al., eds., *The Papers of Benjamin Franklin* (24 vols., New Haven, 1937–1984), XVIII, 26; *The Constitutional Right of the Legislature of Great Britain to Tax the British Colonies in America* (London, [1768]), 24. For the presentation of the conflict in terms of "a point of honour" and an "insult . . . to the dignity of the House," see Simmons and Thomas, eds., *Proceedings and Debates*, II, 84 (Nugent), 85 (Pitt), and 94 (Harris).

necessary to make them colonial counterparts to a House of Lords, but throughout the early eighteenth century, the assemblies grew in power and self-confidence.²³ Like the House of Commons, they claimed the right to frame all revenue measures, and they fought tenaciously against any form of taxation—quitrents, high fees, or permanent salaries—that might render the colonial executive less dependent on their largess and hence themselves less indispensable. Like the Commons, too, and with greater success, they denounced as corruption attempts by royal governors to build up coteries of “king’s Friends” within their ranks. Coupled with the more formalized political structure maintained by London’s written orders and instructions, that curb on executive patronage inhibited the informal intermingling of governmental personnel and function that was becoming common in England. Simultaneously, it gave the assemblies greater freedom and independence of purpose in sustaining their own autonomous role in the work of government. By the mid-eighteenth century, many assemblies had accumulated extensive authority in policy making and day-to-day administration, even to the point—one never attained by an English Parliament—of naming administrative officers, such as the province treasurer. These powers they exercised through standing committees whose members constituted a political elite thoroughly versed in the workings of all branches of government. Royal and proprietary governors had reason to echo the complaint of Samuel Shute of Massachusetts in 1723 that his lower house was “in a manner the whole Legislative and in a Good measure the Executive Power of the Province.”²⁴

Equally striking was the extent to which the assemblies drew on the model of Parliament and its procedures to develop their own sacred canon of privilege and constitutional legitimacy. They chose their own officers and followed Westminster’s methods of passing bills through successive stages of committee study and readings by the whole house. The Massachusetts General Court, for example, had its own body of precedent established during the colony’s years of virtual self-government in the seventeenth century, but it too, by the 1690s, sought to “use and exersize

²³ Labaree, *Royal Government in America*, 172–217; Charles M. Andrews, *The Colonial Background of the American Revolution: Four Essays in American Colonial History* (New Haven, 1931), 35–41; Jack P. Greene, *The Quest for Power: The Lower Houses of Assembly in the Southern Royal Colonies, 1689–1776* (Chapel Hill, 1963), esp. 357–64, and Jack P. Greene, “The Role of the Lower Houses of Assembly in Eighteenth-Century Politics” in *The Reinterpretation of the American Revolution, 1763–1789*, ed. Jack P. Greene (London, 1968), 86–109; Michael Kammen, *Deputies & Liberties: The Origins of Representative Government in Colonial America* (New York, 1969), 62–64; J. R. Pole, *Political Representation in England and the Origins of the American Republic* (London, 1971), 29–165.

²⁴ Memorial of Samuel Shute to the King, [1723], William S. Perry, ed., *Historical Collections relating to the American Colonial Church* (4 vols., Hartford, 1870–1878), III, 121. For similar sentiments, see Gov. Robert Hunter of New York to Secretary St. John, Sept. 12, 1711, Edmund B. O’Callaghan and Berthold Fernow, eds., *Documents Relative to the Colonial History of the State of New York* (15 vols., Albany, 1853–1887), V, 255–56; Gov. James Glen of South Carolina to Board of Trade, Oct. 10, 1748, Jack P. Greene, ed., *Great Britain and the American Colonies, 1606–1763* (New York, 1970), 261–67; Charles Townshend to the Duke of Newcastle, Sept. 13, 1754, quoted in James A. Henretta, “Salutary Neglect”: *Colonial Administration under the Duke of Newcastle* (Princeton, 1972), 339–40; Thomas Pownall, *The Administration of the Colonies* (London, 1768), 79. Not all the assemblies adopted the practice of using standing committees, but that does not seem to have impeded the strength and continuity of their leadership. Robert Zemsky, *Merchants, Farmers, and River Gods: An Essay on Eighteenth-Century American Politics* (Boston, 1971), 10–38, 287–308.

such Powers & Privileges here as the house of comons in England may & have usually done there." Others followed, demanding, as did the speaker of the Maryland House of Delegates in 1728, "the same rights and privileges which the Parliament of England and former assemblies of this colony have enjoyed time out of mind."²⁵ In exercising what they termed their "undoubted Rights" and "undeniable Privileges"—phrases that customarily presaged a novel claim—the assemblies proved no less intolerant of opposition than their English counterpart, imprisoning, fining, and even flogging those who distracted their proceedings or questioned their status. Printers were especially vulnerable, and while there was growing freedom to criticize royal governors, it did not extend to those who impugned the people's representatives.²⁶ Like Parliament, the assemblies justified their claims by reference to "[Glorious] Revolution principles" and to a semimythic interpretation of the past that, for example, traced the parliamentary right to control the executive's expenditures back to the reign of Henry III in the thirteenth century. They were not, they insisted, the creation of the Crown and thereby dependent on its grace and favor. On the contrary, their separate constitutional standing was as deeply rooted in law and custom as that of their parent—or was it sister?—body in England. "This house," declared the Massachusetts assembly in 1770, "has the same inherent rights in this province, as the house of commons in Great Britain."²⁷

Much of this pride and privilege grew out of friction between the assemblies and the colonial governors. Their relations were not wholly one-sided or adversarial, for the executive retained a modicum of prestige and influence that skilled hands could turn to political advantage. Nor had all the assemblies asserted their powers to the same extent—in the relatively youthful colony of North Carolina, for example, the lower house was still subordinate to the rule of governor and council up until the 1750s. External enemies and the measures required to combat them dictated a measure of political cooperation. Overall, however, the colonial executives found—or, perhaps more importantly, became convinced—that their powers were in retreat. Thus the assemblies, pressing forward their claims under a skillfully varied covering fire of charter privileges, analogies with Parliament, invocations of the rights of Englishmen, and inventive uses of the past, had by the mid-eighteenth century achieved a significant constitutional momentum. By then too, principles and proce-

²⁵ Richard R. Johnson, *Adjustment to Empire: The New England Colonies, 1675–1715* (New Brunswick, 1981), 286; Mary Patterson Clarke, *Parliamentary Privilege in the American Colonies* (New Haven, 1943), 80; Jack P. Greene, "Political Mimesis: A Consideration of the Historical and Cultural Roots of Legislative Behavior in the British Colonies in the Eighteenth Century," *American Historical Review*, 75 (Dec. 1969), 345–46.

²⁶ Clarke, *Parliamentary Privilege*, 102–31; Leonard W. Levy, *Freedom of Speech and Press in Early American History: Legacy of Suppression* (New York, 1963), 20–21, 39–87. Among the more unusual offenses punished as a breach of privilege was the dropping of a cat on a member of the North Carolina Lower House. See Clark, *Parliamentary Privilege*, 111–12.

²⁷ Johnson, *Adjustment to Empire*, 398. Colonial opinions on the existence of Parliament in Anglo-Saxon times are summarized in H. Trevor Colbourn, *The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution* (Chapel Hill, 1965), 21–39; and Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass., 1967), 80–83. Thomas Hutchinson, *The History of the Colony and Province of Massachusetts-Bay*, ed. Lawrence Shaw Mayo (3 vols., Cambridge, Mass., 1936), III, 392. For a similar claim in South Carolina, see Greene, *Quest for Power*, 56.

dures adopted in a spirit of unquestioning admiration for the mother country's political culture were being employed for distinctively colonial ends. Yet as long as any political conflict that occurred pitted assemblies against the prerogative in Whitehall, the potential of a clash with Westminster was obscured. So immersed was the Massachusetts assembly in its contest with the executive and so great was its confidence in the essential benignity of legislatures that it once appealed to Parliament to take a larger role in colonial affairs.²⁸

As the measures of the 1760s unfolded, however, colonial leaders quickly perceived that Parliament's actual intervention struck at the root of the assemblies' powers. From London came news of the prediction by Connecticut's agent Richard Jackson that, were Parliament to succeed in taxing America, "The Assembl[i]es in the Colonys would be subverted—that the Governors would have no Occasion, as for any Ends of their own or of the Crown, to call 'Em." Equally threatening were Parliament's attempts to legislate over the heads of the assemblies (as by restricting the issuance of paper currency in 1764), to force individual assemblies to provide money for certain purposes (as for quartering British troops in New York), and to use revenues raised in America to pay salaries to colonial officials—thereby depriving the assemblies of their most effective means of bringing pressure to bear on members of the executive branch.²⁹ Fittingly, it was from within the assemblies and in defense of their powers that the first organized protest came. Even before the passage of the Stamp Act into law, most had passed resolutions insisting upon what the North Carolina Lower House termed "our Inherent right, and Exclusive privilege of Imposing our own Taxes." Later, Patrick Henry's widely publicized Virginia resolves made the same point in more inflammatory language: Taxation without the consent of the House of Burgesses was a threat to British and American freedom, and those who maintained to the contrary should be deemed enemies to the colony. Five months later, the more conservative delegates to the congress that met in New York in October 1765, all of them members of colonial assemblies, declared that "no Taxes ever have been, or can be Constitutionally imposed on them, but by their respective Legislature."³⁰

The lines of battle were drawn, and at the forefront of the American cause stood those trained in the committees that formed the standing armies of the colonial assemblies, leaders such as Henry, Christopher Gadsden, Richard Bland, George

²⁸ Gov. Jonathan Belcher to Board of Trade, Dec. 23, 1732, *Massachusetts Historical Society Collections*, 6 (1893), 226; *Journal of the House of Representatives of Massachusetts* (52 vols., Boston, 1919–1986), IX, 142, 143, 190–91. During and immediately after the Glorious Revolution, several colonies had looked to Parliament to restore their vacated charters. Johnson, *Adjustment to Empire*, 160–69.

²⁹ Jared Ingersoll to Gov. Thomas Fitch, Feb. 11, 1765, *Connecticut Historical Society Collections*, 18 (1920), 324–25. This point was also made in the House of Commons by Sir William Meredith. See Simmons and Thomas, eds., *Proceedings and Debates*, II, 13. For a powerful and widely read statement of the threat from Parliamentary legislation, see [John Dickinson], *Letters from a Farmer in Pennsylvania, to the Inhabitants of the British Colonies* (Philadelphia, 1768), Letter IX, where Dickinson speaks of the need to vindicate "the honor of the assemblies on this continent."

³⁰ William L. Saunders, ed., *The Colonial Records of North Carolina* (10 vols., Goldsboro, N.C., 1886–1890), VI, 1261; Morgan and Morgan, *Stamp Act Crisis*, 53–58; Edmund S. Morgan, ed., *Prologue to Revolution: Sources and Documents on the Stamp Act Crisis, 1764–1766* (Chapel Hill, 1959), 48–63.

Mason, Henry Laurens, Daniel Dulany, John Dickinson, Benjamin Franklin, James Otis, and “the brace of Adamses,” John and Samuel. To judge by their writings, few of these men yet thought of severing the ties with England. Most looked to reestablish their rights as Englishmen within a constitution wherein Parliament, “that August Body,” was rightfully predominant. Yet the very reverence for representative institutions that sustained their own leadership made it all the more essential (if also the more difficult) to rebut the assault of a fellow legislature, especially one long taken as a model. Hence much of the voluminous debate that followed consisted of a prolonged dissection of the nature and limits of legislative power, as Americans sought ways to mediate between the authority they had become accustomed to exercising at the local level and the sudden hardening of London’s claim to sovereignty. From the first, they essayed some delicate distinctions. Parliament, most initially conceded, could regulate such matters as the colonists’ trade for the welfare of the empire as a whole. But it could not tax them for the exclusive purpose of raising a revenue since only the consent of the governed, through representation such as they enjoyed within their own legislatures, conferred that right. History, too, set limits—broader ones—on London’s authority: the colonists, argued writers such as Bland and John Adams, had migrated out of the realm of England, beyond Parliament’s rightful jurisdiction, and hence owed allegiance only to the Crown. Further, the first settlers had forged a compact of government in peopling America by their own efforts, a compact sealed by their charters and now unalterable without their consent. And besides, even if Parliament could tax America, was not its failure to do so at an earlier date now fixed in law by customary usage? By the early 1770s, from pens as varied as those of Adams, Dickinson, James Wilson, and Thomas Jefferson, a coherent colonial argument had emerged. It was buttressed by much the same mixture of assertion, precedent, and usable history as the assemblies had employed to advance their claims earlier in the century. It put into blunt prose what was already inherent in those earlier claims, that the assemblies were the coequals and not the subordinates of Parliament and possessed their own sphere of authority—a virtual sovereignty—under a sincere, but essentially nominal, allegiance owed to the Crown.³¹

It was a solution, as scholars have noted, that the second British Empire-Commonwealth found plausible and useful. Within the feverish context of the decade after 1765, however, it proved no more than a way station along the road to

³¹ Novanglus [John Adams] in Charles Francis Adams, ed., *The Works of John Adams* (10 vols., Boston, 1850–1856), IV, 151–77; Common Sense [Richard Bland], *The Colonel Dismounted: Or the Rector Vindicated in a Letter Addressed to His Reverence: Containing a Dissertation on the Constitution of the Colony* (Williamsburg, 1764), 21–25; Richard Bland, *An Inquiry into the Rights of the British Colonies* (Williamsburg, 1766), 7–11; John Dickinson, *An Essay on the Constitutional Power of Great-Britain over the Colonies in America* (Philadelphia, 1774), 95–127; [James Wilson], *Considerations on the Nature and the Extent of the Legislative Authority of the British Parliament* (Philadelphia, 1774), 25–33; [Thomas Jefferson], *A Summary View of the Rights of British America* (Williamsburg, 1774), 3–10; Resolution of the Continental Congress, Oct. 14, 1774, Worthington C. Ford et al., eds., *Journals of the Continental Congress* (34 vols., Washington, D.C., 1904–1937), I, 68–69. For Benjamin Franklin’s views, see the series of letters in Labaree et al., eds., *Papers of Benjamin Franklin*, XVII, 161–65, 307–9, 310–13.

secession and war. As with some ideological Pandora's box, all too many of the issues released led on to broader ones beyond the original framework of debate—the matter of representation to questions of the origins of legislative authority and the overall purpose of government, the rejection of Parliament's power to tax to a denial that it could regulate any aspect of the colonists' "internal polity," and the reassessment of the imperial constitution to a final questioning of all ties with England. Even to refurbish the history of the colonies' founding and seventeenth-century development was to forge a new tradition of legitimacy and continuity subversive of the bond with Britain. Reverence for Parliament and the British constitution gave way to attacks on their modern corruption; George III's support of Parliament's coercive measures became proof of his and his ministry's sinister mastery of the uses of place and influence. What had begun as a search for legitimate means of opposition became a crisis of legitimacy.

The result was to bring to center stage the more radical line of thought that looked back, as did Camden in England, to the seventeenth-century tradition of a fundamental law and inalienable human rights that set bounds on the exercise of arbitrary power by any branch of government. To Otis in Massachusetts, the tradition offered a way to reconcile his blazing denunciation of Parliament's taxation of America with his no less honest but politically embarrassing acceptance of that body's "uncontrollable" sovereignty; Americans, he was driven to conclude, must hope that Parliament would reverse its policy once it had been brought to realize that it had acted unconstitutionally. Others less optimistic about Westminster's repentance, such as his fellow Bostonian Sam Adams, moved toward the (in every sense) higher ground of a constitution, be it Anglo-Saxon or based upon natural law, from which any legislative body derived its power and which placed limits on what that body could properly do.³² The way was prepared for what was to follow Lexington and Concord: the written constitutions and bills of rights, buttressed by such concepts as popular sovereignty, that decisively discouraged the doctrine of legislative sovereignty from taking permanent root in the new nation.

Yet this is to pass too abruptly from resistance to republicanism, and our knowledge of the outcome should not blind us to the importance and significance of the prolonged debate over legislative power. Well into the 1770s, as in the famous controversies between Gov. Thomas Hutchinson and the Massachusetts General Court and between Daniel Leonard and John Adams, the constitution of the empire and the overlapping spheres of authority within it claimed by Parliament and the assemblies remained the central topic of debate. By then, however, even those most passionately involved realized that the two sides were no nearer a solution than they had been in the previous decade.³³ There existed no middle ground between the

³² James Otis, *The Rights of the British Colonies Asserted and Proved* (Boston, 1764), 39, 38; Randolph G. Adams, *Political Ideas of the American Revolution: Britannic-American Contributions to the Problem of Imperial Organization, 1765 to 1775* (New York, 1958), 136–144; Bailyn, *Ideological Origins*, 176–84.

³³ John Phillip Reid, ed., *The Briefs of the American Revolution: Constitutional Arguments between Thomas Hutchinson, Governor of Massachusetts Bay, and James Bowdoin for the Council and John Adams for the House of Representatives* (New York, 1981); Bernard Mason, ed., *The American Colonial Crisis: The Daniel Leonard–John*



Thomas Hutchinson pictured as “the wicked Statesman, or the Traitor to his Country, at the Hour of DEATH[H],” by Paul Revere in an almanac of the 1770s.
Courtesy American Antiquarian Society.

legislative authority each claimed, and this impasse above all others, I would argue, crystallized the suspicions of political leaders in both Britain and America into the conviction that the opposition now encountered was so threatening in its denial of constitutional propriety and yet so engrained within existing political arrangements as to require not compromise, but wholesale reform.

Adams Letters to the Press, 1774–1775 (New York, 1972). For further evidence of this impasse, see the letters exchanged between William Legge, second earl of Dartmouth, and Thomas Cushing, June–Aug. 1773, reproduced in Benjamin F. Stevens, comp., *B. F. Stevens’s Facsimiles of Manuscripts in European Archives Relating to America, 1773–1783* (25 vols., London, 1889–1898), XXIV, 2025, 2028; and Josiah Tucker, *The Respective Pleas and Arguments of the Mother Country, and of the Colonies, Distinctly Set Forth; and the Impossibility of a Compromise of Differences . . . Plainly Demonstrated* (Gloucester, Eng., 1775).

Undoubtedly, too, as Bernard Bailyn has demonstrated, the impact of this transition was heightened by a growing belief that Americans confronted policies not merely foolish and unconstitutional, but also malevolently designed to deprive Englishmen everywhere of their rightful liberties. This belief, and the political remedies it evoked, played a crucial part in turning the colonial insurrection of the early 1770s into the channels of revolutionary republicanism. But such a resort to conspiratorial modes of explanation, we now know, had roots far back in Anglo-American political culture and often came to the fore in times of crisis.³⁴ It remains essential, therefore, to discover what made the crisis of the 1760s seem so uniquely intractable and menacing to contemporaries that it became capable of elevating a persistent, but minor-key, mode of interpreting events into a broadly compelling motive for radical political protest. What issues, too, appeared so subversive of the existing order as to provoke established political leaders and not just disgruntled oppositionists into calling for resistance? Such conspiratorial modes of explanation, I suggest, become more potent and appealing at moments when beliefs considered incontrovertible and essential to a society's political well-being are suddenly brought under challenge. It was just such an atmosphere—of angry, incomprehending, self-righteous frustration—that the clash of legislatures (and hence of legislators) engendered. Each side remained convinced of its progressive stance and constitutional rectitude; each would be glad to compromise once the other had conceded its astonishing errors. “We know not how to advance,” Burke acknowledged in 1769, “they know not how to retreat”—yet even what he presented as explanation was still couched in terms of the expectation of American withdrawal.³⁵

In London, meanwhile, by the early 1770s, attempts to divert colonial policy away from Westminster and into the more private and flexible channels of executive action were frustrated by doubts as to the wisdom of relying on prerogative power and by the widespread anger aroused by news of the Boston Tea Party. The ministry turned to Parliament, and Parliament, Lord North told Governor Hutchinson, “would not—could not—concede.” In America, too, attitudes hardened as the colonial legislators who still dominated the patriot cause met together in continental congress to restate their rights—restatements that still centered on Parliament's encroachments on the assemblies' sphere of authority. Ultimately, therefore, it was the centrality of the conflict over the disposition of legislative power and what proved to be the impossibility of resolving it that impelled the shift to a new comprehension of events, precipitating coercion by Parliament and prompting colonial theorists in their turn to leave the familiar harbor offered by English constitutionalism

³⁴ Bailyn, *Ideological Origins*, 94–159. For the prevalence of such views among English policy makers and during the period as a whole, see Ira D. Gruber, “The American Revolution as a Conspiracy: The British View,” *William and Mary Quarterly*, 26 (July 1969), 360–72; and Gordon S. Wood, “Conspiracy and the Paranoid Style: Causality and Deceit in the Eighteenth Century,” *ibid.*, 39 (July 1982), 401–41; for their significance in earlier English political crises, see Lacey Baldwin Smith, *Treason in Tudor England: Politics and Paranoia* (London, 1986); Anthony Fletcher, *The Outbreak of the English Civil War* (London, 1981); Caroline M. Hibbard, *Charles I and the Popish Plot* (Chapel Hill, 1983); John Miller, *Popery and Politics in England, 1660–1688* (Cambridge, Eng., 1973); and J. P. Kenyon, *The Popish Plot* (London, 1972).

³⁵ Simmons and Thomas, eds., *Proceedings and Debates*, III, 151.



Lord North forces America, the Indian woman, to drink from a teapot. Lords Mansfield and Sandwich hold her down and the Earl of Bute, holding a sword, supervises. In the background Britannia despairs while France and Spain, the courtier and the don, look on. Reproduced from the *London Magazine*, 43 (April 1774).

and to venture beyond recall into the uncharted waters of the rights of man. "I know of no Line," Hutchinson had told his General Court in 1773, "that can be drawn between the supreme Authority of Parliament and the total independence of the Colonies: It is impossible there should be two independent Legislatures in one and the same State." Three years later, with the governor a refugee in England, his prophecy stood fulfilled: Parliament had won its supreme authority but over a state diminished by America's secession.³⁶

The pattern of argument presented here does not by itself explain why the American Revolution took place—why, for example, England decided to tighten up its government of America, why some colonists carried their resistance to the point of rebellion and others (as in the West Indies) did not, and whether there were significant economic and social preconditions for political upheaval. It neglects the nullification of imperial authority by organized violence that accompanied the war of words. Equally, it takes no account of forces, personal or impersonal, that could have forestalled the Revolution or radically altered the manner in which it came. Yet it does focus on the substantive issues that contemporaries themselves set at the center of their debates, and it reminds us that, as Arthur Bestor has observed in his incisive analysis of a later American political crisis, constitutional issues can "exert a powerful shaping effect upon the course that events will in actuality take," both by defining certain questions as important and by sanctifying particular arguments and actions as legitimate or necessary.³⁷ In this instance, indeed, one may go further and note the powerful configurative influence exerted by certain *institutions* of the constitutional system—the legislatures—on the formulation and development of issues. And even when, as in the mid-1770s, circumstances and the full implications of the colonists' arguments combined to transform their conceptions of the nature of political association, what resulted was still deeply marked both by the positions they had assumed a decade earlier and by the institutional structures they had occupied during those years.

From our discussion of the part played by the clash of legislatures in the coming of the Revolution, moreover, emerge some more precise conclusions about the character and even the causes of what occurred. In particular, we may gain fresh insight into the perennial question of why the conflict erupted when it did. Contemporaries saw a timeless battle over immutable principles; their Victorian descendants saw an inevitable divergence of a progressive America from a static England. To accept the argument presented here, however, is to recognize that English and American political institutions were caught up in similar constitutional developments that leaders on both sides of the Atlantic interpreted as defining what must henceforth be preserved if English liberties were to survive. Before the mid-

³⁶ Donoghue, *British Politics*, 51–52, 65–66; Peter O. Hutchinson, ed., *The Diary and Letters of His Excellency Thomas Hutchinson, Esq.* (2 vols., London, 1883–1886), I, 293; Ford et al., eds., *Journals of Continental Congress*, I, 68–69. For Hutchinson's comment, see Reid, ed., *Briefs of the American Revolution*, 20. The same point was made by William Murray, first earl of Mansfield. *Cobbett's Parliamentary History*, XVIII, cols. 269–271.

³⁷ Arthur Bestor, "The American Civil War as a Constitutional Crisis," *American Historical Review*, 69 (Jan. 1964), 329.

eighteenth century, Parliament and the assemblies directed most of their "restorative" efforts against the executive and those royal officers whose ill counsel was leading the Crown astray. Their very success in such endeavors, by encroaching on the executive's functions or, in England, bringing the Crown's principal advisers to sit within, and hence answer to, Parliament, steadily pushed aside what had hitherto served as a kind of executive buffer—or in some cases, punching bag—in the way of a direct legislative confrontation. London embarked on a reform of imperial government for reasons as diverse as military success, political anxiety, and commercial jealousy. But what accelerated the friction of earlier years into mortal conflict, what turned push into shove, was the collision of legislative bodies each at the peak of its game and convinced that it could not—must not—retreat. Once that collision had occurred, moreover, neither side could draw on any serviceable precedents for its resolution since neither was accustomed to speaking in terms that might question the principle of the legislature's sovereignty or its primacy in government. In sum, we can only comprehend the sudden intensity and venom that suffused England's relations with America if we see it in the context of the simultaneous development and eventual confrontation of Parliament and the colonial assemblies.

Such an argument may seem to exaggerate both the roles played by the legislative bodies and the similarities between them, and it flies in the face of the venerable tradition that the American Revolution was first and foremost an assertion of individual human rights. From our modern perspective, certainly, Parliament's narrow political base and subservience to place and interest make it conspicuously less representative of the will of those it helped govern than, say, the Massachusetts General Court or the Virginia House of Burgesses.³⁸ American legislators could justifiably proclaim that they were protecting the rights of all (white) colonists, even all Englishmen, and they proved far more capable of interpreting and accommodating to the changing needs of their societies in the years that lay ahead. Whether or not Englishmen should have stayed loyal to Parliament, however, the fact remains that they did. Once we refrain from reading back into the coming of the Revolution the Whig-Tory dichotomy of the subsequent civil war within America, we can see—as analysis of the positions taken in the 1760s has suggested—that the intellectual perspectives and political goals (as distinct from the circumstances in which they were deployed and the uses to which they were put) of the English and American leadership were remarkably similar until the early 1770s. All revered the same historical traditions, cherished the same calendar of political saints and holy days, and worshipped within the same constitutional structure. From this perspective, the American Revolution did indeed originate as, in Pocock's phrase, "a schism in the Whig political culture," and one impelled, it would seem, more by circumstances of physical separation and political exigency than by preexisting ideological divergence.³⁹

³⁸ It is worth remembering, however, that there were more local protests and uprisings against the unrepresentative character of the colonial assemblies before 1776 than against that of Parliament.

³⁹ Robert L. Kelley, *The Cultural Pattern in American Politics: The First Century* (New York, 1979), 296n4; J. G. A. Pocock, "Introduction," in *Three British Revolutions*, ed. Pocock, 17. Our desire to escape "Whig history," therefore, should not divert us from further study of the history of Whiggism.

From that schism emerged political societies in America that established a new and fruitful setting for the expression of individual human rights. Yet our analysis suggests the extent to which, prior to 1776, such aspirations were expressed through existing political institutions and especially through those incorporated bodies that had made themselves the spokesmen for their political communities. The point would seem obvious were it made with regard to continental Europe, for the existence and constant interplay of privileged bodies as various in size and composition as estates, diets, assemblies, free cities, trading companies, and craft associations have long been recognized as crucial to European political development in the early modern period. Even in the less favorable circumstances of the eighteenth century, they still played a part in national politics, for example, through the rivalry between provincial *parlements* and the assemblies planned by reforming ministries that helped precipitate revolution in France.⁴⁰

Eighteenth-century Anglo-American society was more fluid and less encrusted with such complexities of status. In comparison with the estates of continental Europe, Parliament and the American assemblies enjoyed much greater prestige and popular support, a strength that helps explain why a confrontation between them led so rapidly to the clash of armies. Here lay the beginnings of that alliance of representative bodies and their nation's wills, each reinforcing the other's ardor, that would make nineteenth- and twentieth-century conflicts between self-consciously democratic societies so terrible and total. Yet the parallel with the institutions of the ancien régime remains appropriate. Parliament in the late eighteenth century was still in essence, as in origin, a privileged body representing other privileged bodies—the chartered boroughs and the county communities, the peerage and the episcopate—and even the more broadly based colonial assemblies were in practice dominated by the landed and professional elite. Few elections were contested, and a core of long-serving leaders, often drawn from a small number of families, controlled committee work and assignments. Those corporate characteristics, we may now perceive, colored and exacerbated the collision of the 1760s. For legislatures composed of property holders who represented property to surrender the exclusive authority to tax was to relinquish not only an important property right, but one that also underpinned the security of all other property, be it land, office, or, in America, one's fellow human beings. Its loss threatened the foundations of freehold power. Moreover, much of the legislatures' esprit de corps, their keen sense of group solidarity, their proud self-confidence, and their sensitivity to real and imagined slights—what one contemporary summed up as their “Parliamentary egotisms”—

⁴⁰ Thus É. Lousse, *La société d'ancien régime: Organisation et représentation corporatives* (Louvain, 1943); François Olivier-Martin, *L'organisation corporative de la France d'ancien régime* (Paris, 1938); Georges De Lagarde, “Individualisme et corporatisme au moyen âge,” in *L'organisation corporative du moyen âge à la fin de l'ancien régime*, ed. A. Coville (Louvain, 1937), 1–59; and, focusing more directly on legislative bodies, Dietrich Gerhard, “Assemblies of Estates and the Corporate Order,” in *Liber Memorialis Georges De Lagarde* (Louvain, 1970), 283–308; A. R. Myers, *Parliaments and Estates in Europe to 1789* (London, 1975); Robert R. Palmer, *The Age of the Democratic Revolution: A Political History of Europe and America, 1760–1800* (2 vols., Princeton, 1959–1964), I, 27–52; and Bailey Stone, *The French Parlements and the Crisis of the Old Regime* (Chapel Hill, 1986), 259–61.

mirrored the genteel ethic of their leadership.⁴¹ The clash of legislatures engaged their "honor"; they had made what William Byrd once characterized as "all the submission that was fit for a gentleman to make"; having committed themselves to a duel, an affair of honor, they could not back down without an exchange of fire. "As an English gentleman," wrote one young parliamentarian, "I could not bear to see a dismemberment of the Empire without running every hazard to prevent it." Social imperatives compounded those instilled by corporate identity; there is more than a touch here of what one scholar has called in another context "aristocratic constitutionalism," although one now exercised against rival parliamentary bodies instead of other branches of its own government. This is not to deny or disparage the legislators' sincerity in identifying the defense of their privileges with the larger cause: the preservation of liberties (in the medieval sense of the word) did open the way to more universal liberty. The transition was momentous, yet we slight its full significance if we overlook these less altruistic and more particular origins.⁴²

In this light, George III's insistence that he was but fighting "the Battle of the Legislature" and Lord North's claim that "it was the war of parliament" and he its humble instrument become less evasions of responsibility than expressions of a real, if unavailing, truth.⁴³ Americans, for their part, marched into battle in the name of principles broader than the rights of their assemblies: Ethan Allen claimed Fort Ticonderoga in the name of the Great Jehovah as well as the Continental Congress. Amid the talk of balanced politics and the rights of man, however, it is worth remembering that, in keeping with their prewar leadership, the American legislatures remained the dominant branch of revolutionary government. Not only did they run—and win—the war; they also triumphed in the construction of new governments. Of the first wave of revolutionary constitutions drawn up during 1776 and 1777, all except one were drafted by legislative bodies without popular consultation and ratification. In all those save that of New York, the legislature chose the executive, usually for a one-year term, and only in New York and South Carolina did the executive have any form of veto. In the great majority, assembly membership

⁴¹ Simmons and Thomas, eds., *Proceedings and Debates*, II, 283. For suggestive comments on the propertied interests of eighteenth-century Anglo-American legislatures, see Douglas Hay, "Property, Authority, and the Criminal Law," in *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, ed. Douglas Hay et al. (London, 1975), 17–63; Zernsky, *Merchants, Farmers, and River Gods*; Rhys Isaac, *The Transformation of Virginia, 1740–1790* (Chapel Hill, 1982); and Bruce C. Daniels, ed., *Power and Status: Officeholding in Colonial America* (Middletown, 1986). For the stability and social composition of the colonial assemblies, see Jack P. Greene, "Legislative Turnover in British America, 1696 to 1775: A Quantitative Analysis," *William and Mary Quarterly*, 38 (July 1981), 442–63; and Jackson Turner Main, "Government by the People: The American Revolution and the Democratization of the Legislatures," in *Reinterpretation of the American Revolution*, ed. Greene, 322–28.

⁴² Louis B. Wright and Marion Tinling, eds., *The Secret Diary of William Byrd of Westover, 1709–1712* (Richmond, 1941), 3; Member of Parliament William Eden, as cited by Richard W. Van Alstyne, "Parliamentary Supremacy versus Independence: Notes and Documents," *Huntington Library Quarterly*, 26 (May 1963), 204. See also Dickinson, *Letters from a Farmer in Pennsylvania*, Letter IX; and note 22, above. On aristocratic constitutionalism, see Michael Roberts, *Essays in Swedish History* (London, 1967), 14–53. As late as 1729, an English law dictionary defined "liberty" as "a privilege held by grant or prescription, by which men may enjoy some benefit beyond the ordinary subject," although it also noted that the word was coming to be used in the sense of the freedom to do as one thinks fit unless restrained by law. See Giles Jacob, *A New Law-Dictionary* (London, 1729), s.v. "liberty."

⁴³ George III to Lord North, Sept. 10, 1775, John Fortescue, ed., *The Correspondence of King George the Third from 1760 to December 1783* (6 vols., London, 1927–1928), III, 256; *Cobbett's Parliamentary History*, XXIII, col. 849.

was hedged about with property qualifications higher than those required of voters, in some cases higher than those required before 1776. By the 1780s, the content and manner of creation of constitutions had begun to change as Whig political culture became infused — some said, adulterated — with a belief in popular, rather than legislative, sovereignty. Leaders such as James Madison, alienated by what they saw as injustices inflicted by unrestrained state assemblies, worked to ensure that neither at the state nor at the federal level should the legislative branch be permitted “to absorb all power into its vortex.”⁴⁴ The political theory deployed to counter Parliament’s claims now served to blunt the excesses of domestic legislative sovereignty. Right into the new century, however, leadership remained in the hands of those who had served their political apprenticeship in the colonial and revolutionary legislatures, a continuity that helps to explain why political upheaval never opened the way to indiscriminate civil disruption and the possibility of a Terror. In England, meanwhile, the loss of America accelerated the revival of party government and led to a century of constitutional reform. On both sides of the Atlantic, the American Revolution inaugurated a period in which the legislative branch of government dominated the executive.

Glancing into the new century, moreover, we can see an ironical continuity of themes, as territorial expansion and the creation of a more powerful federal government began to confront the new republic with some of the same problems of imperial control as had impelled its secession from England. Were there absolute limits on federal authority in its relations with the states? Where did sovereignty lie? Curiously, the central issue—slavery—was precisely the one that was simultaneously drawing Parliament into confrontation with a second group of American legislatures, those of the English Caribbean. In the event, and thereby qualifying the verdict of 1783, the two central governments managed to curb these second American Rebellions, though thirty years apart and, for the United States, at far greater cost. British parliamentarians such as George Canning were keenly aware of the historical reenactment involved, and Southern secessionists in 1861 bitterly likened federal denial of their claims to England’s tyranny of three-quarters of a century before.⁴⁵ By then, however, the interlinked advance of the sacred causes of nationalism and representative government had rendered such a comparison both unavailing and essentially ahistorical. For in final testimony to the legislative assertiveness that had helped precipitate the Revolution, a testimony that completed the task begun by Jefferson in the Declaration of Independence and brings our analysis back to its beginning, historians of the Revolution on both sides of the Atlantic had already chosen King George and his executive as the scapegoats for events.

⁴⁴ Max Farrand, ed., *The Records of the Federal Convention of 1787* (4 vols., New Haven, 1937), II, 74; Jacob E. Cooke, ed., *The Federalist* (Middletown, 1961), 333 (No. 48); Thomas Jefferson to James Madison, March 15, 1789, Julian Boyd, ed., *The Papers of Thomas Jefferson* (22 vols., Princeton, 1950–1986), XIV, 661; Gordon S. Wood, *The Creation of the American Republic, 1776–1787* (Chapel Hill, 1969), 403–13. Similar criticism of unrestrained parliamentarianism underlay the revolution that overthrew the power of Sweden’s Diet in 1772.

⁴⁵ D. J. Murray, *The West Indies and the Development of Colonial Government, 1801–1834* (Oxford, 1965), 146–210; Schuyler, *Parliament and the British Empire*, 117–93; *Hansard’s Parliamentary Debates*, vol. X (London, 1824), 1106. By 1870, in the aftermath of this clash, almost every British Caribbean legislature had in effect committed suicide by surrendering its power and independence to direct Crown rule.