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Forum

Free Trade, Sovereignty, and Slavery: Toward an Economic Interpretation of American Independence

Staughton Lynd and David Waldstreicher

WHAT kind of revolution was the American Revolution?¹ Four basic answers, all first suggested before 1800, continue to shape the scholarship. They can be denoted Answers A, B, C, and D.

Answer A was advanced by the Revolution's leaders and echoed by their friends in Great Britain, such as Edmund Burke: *The American Revolution was a struggle for constitutional rights*.

Answer B was that of the Revolution's opponents, again both in the American colonies and in Great Britain: *The American Revolution was a struggle for economic independence from the British Navigation Acts and other economic restrictions*.

Editor's note: The editors would like to thank M. Kathryn Burdette for copyediting this article.

Staughton Lynd is an independent scholar. David Waldstreicher is a professor of history at Temple University. The authors wish to thank Alfred F. Young. Besides being mentor and friend, somehow he saved a very rough first draft of this essay written by one of the authors in 1973 that the author had completely forgotten. They thank him for that, and for intuiting that the document might be of current interest to them both. Most of all they thank him for the workmanship that he shares with the artisans whose lives he has unearthed.

¹ We deal here with the *causes* of independence, not with the *consequences* of independence, among which socioeconomic upheavals were prominent. As Jack P. Greene and John M. Murrin emphasize, very little has been written about the causes of the Revolution since the late 1960s. See Greene, *The Constitutional Origins of the American Revolution* (New York, 2011), 2–3 (“[During the 1970s] few scholars had concerned themselves with the classic question of the causes of the American Revolution”), 16 (“[Between 1986 and 2006] few students of the American Revolution have revisited the question of the origins of the Revolution”); Murrin, “Self-Immolation: Schools of Historiography and the Coming of the American Revolution” (paper, Early American History Seminar, Catholic University of America, Washington, D.C., Dec. 3, 2008), 1 (“The coming of the American Revolution has almost ceased to interest professional American historians . . . Prior to 2007 only three book-length studies had appeared in the previous quarter-century”), 3 (“Early American historians . . . hardly even ask anymore why [the Revolution] occurred at all”), 4 (“Since around 1980, the origins of the Revolution have almost disappeared from historical scholarship”).

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Answers C and D were put forward in a second round of controversy during the 1790s, as Americans tried to determine their proper relationship to the French Revolution. Answer C was that of the Jeffersonians: *The American Revolution was a democratic movement essentially similar to the French Revolution*. Their Federalist opponents responded with Answer D: *The American Revolution was a colonial independence movement essentially different from the French Revolution*.

Subsequent scholars of the Revolution tend to fall into two groups. There have been A-D men and women, holding that the Revolution was an independence movement on behalf of constitutional rights. This position has been referred to as whig or, in its more recent variants, as neo-whig. And there have been B-C iconoclasts, who contend that the Revolution can be best explained by internal social conflict, usually economically motivated. This position is associated with the progressive historians and, more recently, with the neo-progressives.

There have been impressive attempts to meld these perspectives. Neo-progressive synthesizers such as Edward Countryman and Alfred F. Young suggest that constitutional rights mattered and motivated people but that they meant different things to different people in different places, so we should pay more attention to regional variations and to the ordinary people who made the Revolution possible.² T. H. Breen casts mobilization as a response to the experience of consumers, one aspect of economic activity. Barbara Clark Smith counters that patriot identity before 1780 drew from a “commitment to neighboring and popular jurisdiction.”³ Locally grounded conflicts with economic roots gave colonists the tools that made local resistance to empire both logical and possible. And scholars attuned to the themes of an earlier “imperial school” have at times utilized an international approach to incorporate struggles over both constitutions and property.⁴ Although illuminating, such discussions reflect an uneasy

² Edward Countryman, *The American Revolution*, rev. ed. (New York, 2003); Alfred F. Young, *Liberty Tree: Ordinary People and the American Revolution* (New York, 2006); Benjamin L. Carp, *Rebels Rising: Cities and the American Revolution* (New York, 2007).

³ Barbara Clark Smith, *The Freedoms We Lost: Consent and Resistance in Revolutionary America* (New York, 2010), 88 (quotation), 105–6; T. H. Breen, *The Marketplace of Revolution: How Consumer Politics Shaped American Independence* (New York, 2004).

⁴ Jack P. Greene, *Understanding the American Revolution: Issues and Actors* (Charlottesville, Va., 1995); Greene, “The American Revolution,” *American Historical Review* 105, no. 1 (February 2000): 93–102; Peter S. Onuf, *Jefferson’s Empire: The Language of American Nationhood* (Charlottesville, Va., 2000); Onuf, “Federalism, Democracy, and Liberty in the New American Nation,” in *Exclusionary Empire: English Liberty Overseas, 1600–1900*, ed. Greene (New York, 2009), 132–59; Benjamin L. Carp, *Defiance of the Patriots: The Boston Tea Party and the Making of America* (New Haven, Conn., 2010). For a provocative and well-grounded call to reconceptualize American political culture, beginning with the Revolution, in terms of “settler colonialism,” see Aziz Rana, *The Two Faces of American Freedom* (Cambridge, Mass., 2010), esp. 20–98.

compromise between the neo-whig and neo-progressive schools, where we hear about more places and more kinds of people, but their chroniclers, for the most part, tacitly agree to keep their hands off both causation and the motives of the Founding Fathers. The Revolution can have ideological, constitutional, imperial, religious, cultural, and perhaps broadly social causes, but not economic causes.⁵

We offer for further exploration what might be described as a B-D interpretation. That is, the American Revolution was basically a colonial independence movement and the reasons for it were fundamentally economic.⁶ Our interpretation of American independence confronts, rather than avoids, questions of leadership, of motivation, and of ideological rationale, including what political leaders believed and what they said. In reviving an economic interpretation, we have no desire to return to the “propaganda” school that dismisses all language as mere tools or masks for power. Indeed an economic interpretation can actually explain more of what the revolutionary leadership said as well as did, not least aspects of foundational documents concerning independence that have remained resistant to our understanding for too long.

Economic interpretation can be narrow or broad. The classic example of narrow economic interpretation is Charles A. Beard’s argument that many of the men who drafted the U.S. Constitution stood to benefit financially from its adoption. Economic interpretation can be more contextual and more subtle than this. George Bancroft is generally considered the very

⁵ T. H. Breen, *American Insurgents, American Patriots: The Revolution of the People* (New York, 2010). For the current standoff between “realist” and “idealist” perspectives exemplified by Gordon S. Wood and Gary B. Nash, respectively, and a call for a “new day” in the field, see Thomas P. Slaughter, “The Realistic Revolution Redeemed,” *Reviews in American History* 32, no. 1 (March 2004): 14–19; Slaughter, “Plus Ça Change . . .,” *Reviews in American History* 34, no. 3 (September 2006): 291–306. See also Marc Egnal, “Preface to the Updated Edition,” in *A Mighty Empire: The Origins of the American Revolution*, 2d ed. (Ithaca, N.Y., 2010), xi; Andrew M. Schocket, “The American Revolution: New Directions for a New Century,” *Reviews in American History* 38, no. 3 (September 2010): 576–86. For modern exceptions that do include specifically economic causes, especially those related to debt and money supply, see Margaret Ellen Newell, *From Dependency to Independence: Economic Revolution in Colonial New England* (Ithaca, N.Y., 1998), 237–98; Woody Holton, *Forced Founders: Indians, Debtors, Slaves, and the Making of the American Revolution in Virginia* (Chapel Hill, N.C., 1999), chaps. 1–3; Jon Butler, *Becoming America: The Revolution before 1776* (Cambridge, Mass., 2000), esp. 236–37; Sylvia Frey, “Causes of the American Revolutions,” in *A Companion to Colonial America*, ed. Daniel Vickers (Malden, Mass., 2003), 508–29, esp. 512–16, 518, 524–25; Terry Bouton, *Taming Democracy: “The People,” the Founders, and the Troubled Ending of the American Revolution* (New York, 2007), chaps. 1–2.

⁶ For earlier discussions of this theme, see Marc Egnal and Joseph A. Ernst, “An Economic Interpretation of the American Revolution,” *William and Mary Quarterly*, 3d ser., 29, no. 1 (April 1972): 3–32; Staughton Lynd, *Class Conflict, Slavery, and the United States Constitution*, new ed. (New York, 2009), 13–14, 25–77. For the revolution as led by economic (that is, commercial as well as territorial) “expansionists,” see Egnal, *Mighty Empire*.

prototype of filiopietistic whiggery. Yet Bancroft wrote, “American independence, like the great rivers of the country, had many sources; but the head-spring which colored all the stream was the Navigation Act.”⁷

If the American Revolution had fundamentally economic causes, it is not thereby demeaned. Post–World War II colonial independence movements should have taught us something about the many-sided meanings of economic sovereignty for developing nations. If not only merchants but also artisans, tenant farmers, cash-strapped yeomen, fishermen, and debt-ridden slave-owning planters can be shown to have had compelling economic reasons to favor independence, it should not seem narrow or conspiratorial to suggest that they acted on these reasons and sought to combine them with a language that spoke to principles as well as to the bottom line.⁸

⁷ George Bancroft, *History of the United States from the Discovery of the American Continent* (Boston, 1852), 5: 284–85 (quotation); Charles A. Beard, *An Economic Interpretation of the Constitution of the United States* (New York, 1913). British whig historians W. H. Lecky and George Otto Trevelyan expressed a similar attitude, as did Lorenzo Sabine, regarding the struggle for free trade as an honorable component of a broader freedom movement.

⁸ Older and more recent work supports this claim, though space considerations do not allow us to summarize this important scholarship. Important qualifications have been offered by those who have shown, for example, that tenant farmers supported whichever side opposed their landlords or that certain kinds of merchants supported colonial protest in their own ways at different times and did not necessarily always embrace radical agendas that tended toward rebellion. See Staughton Lynd, “After Forty Years: A New Preface,” in *Intellectual Origins of American Radicalism*, new ed. (New York, 2009), ix–xxiii, esp. ix–xiii. For merchants, see Arthur Meier Schlesinger, *The Colonial Merchants and the American Revolution, 1763–1776* (1917; repr., New York, 1968); Egnal and Ernst, *WMQ* 29: 3–32; Ronald Hoffman, *A Spirit of Dissension: Economics, Politics, and the Revolution in Maryland* (Baltimore, 1973), 28–44, 60–80; Thomas M. Doerflinger, *A Vigorous Spirit of Enterprise: Merchants and Economic Development in Revolutionary Philadelphia* (Chapel Hill, N.C., 1986); John W. Tyler, *Smugglers and Patriots: Boston Merchants and the Advent of the American Revolution* (Boston, 1986). For artisans, see Charles S. Olton, *Artisans for Independence: Philadelphia Mechanics and the American Revolution* (Syracuse, N.Y., 1975); Gary B. Nash, *The Urban Crucible: Social Change, Political Consciousness, and the Origins of the American Revolution* (Cambridge, Mass., 1979); Ronald Schultz, *The Republic of Labor: Philadelphia Artisans and the Politics of Class, 1720–1830* (New York, 1993); Young, *Liberty Tree*, chap. 1; Lynd, *Class Conflict, Slavery, and the Constitution*, chaps. 2, 4–5. For tenant farmers, see Lynd, *Class Conflict, Slavery, and the Constitution*, chap. 3; Edward Countryman, “‘Out of the Bounds of the Law’: Northern Land Rioters in the Eighteenth Century,” in *The American Revolution: Explorations in the History of American Radicalism*, ed. Alfred F. Young (DeKalb, Ill., 1976), 37–69. For fishermen, see Christopher P. Magra, *The Fisherman’s Cause: Atlantic Commerce and Maritime Dimensions of the American Revolution* (New York, 2009). For yeoman farmers, see Richard L. Bushman, “Massachusetts Farmers and the Revolution,” in *Society, Freedom, and Conscience: The American Revolution in Virginia, Massachusetts, and New York*, ed. Richard M. Jellison (New York, 1976), 118; Allan Kulikoff, *The Agrarian Origins of American Capitalism* (Charlottesville, Va., 1992); Bouton, *Taming Democracy*. For planters, see Joseph A. Ernst, “The Political Economy of the Chesapeake Colonies, 1760–1775: A Study in Comparative History,” in *The Economy of Early America: The Revolutionary Period*, ed. Hoffman et al. (Charlottes-

Argument in Great Britain

HOW MAY THE TRUTH or falsity of an economic interpretation of independence be tested? One obvious place to begin is with the furious polemics in Great Britain even before the Declaration of Independence. The imperial, progressive, and neo-whig schools have shown little interest in the arguments made publicly in England by supporters or critics of the administration. However, economic causes and constitutional claims were repeatedly juxtaposed in a debate that included both speeches in Parliament and pamphlets “out of doors.”

The theme of economic interest comes out clearly in *British Pamphlets on the American Revolution*, recently compiled by Harry T. Dickinson in a long-overdue answer to Bernard Bailyn’s never-finished yet influential *Pamphlets of the American Revolution*. If the ultimate issue was sovereignty, the constitutional contest came to that point because of problems connected to property—and slavery.⁹

The author of *The Justice and Necessity of Taxing the American Colonies, Demonstrated* (1766) told Americans, “Excessive prosperity has rendered your heads giddy.” A catalog of antirepublican stereotypes followed: the colonists were “as sober, temperate, upright, humane and virtuous, as the posterity of independents and anabaptists, presbyterians and quakers, convicts and felons, savages and negro-whippers, can be,” but even this name calling could not change the fact that, for this author, the origins of the conflict lay in the colonies’ prosperity and their obligation to pay more taxes.¹⁰ The ultimate attack on American slave drivers, indeed, allowed a return to the economic theme, presenting an image of profits that derived from license rather than from colonists’ own hard work and linking the colonists’ vaunted confessional identities to baser motives and hypocrisy. The English

ville, Va., 1988), 196–243; Russell R. Menard, “Slavery, Economic Growth, and Revolutionary Ideology in the South Carolina Lowcountry,” *ibid.*, 244–74; Holton, *Forced Founders*; Robert Olwell, *Masters, Slaves, and Subjects: The Culture of Power in the South Carolina Low Country, 1740–1790* (Ithaca, N.Y., 1998).

⁹ Harry T. Dickinson, ed., *British Pamphlets on the American Revolution, 1763–1785*, 8 vols. (London, 2007); Bernard Bailyn, ed., *Pamphlets of the American Revolution, 1750–1776*, vol. 1 (Cambridge, Mass., 1965). This first volume, the only one ever published, covering to 1765, appeared with the monograph-length introduction that later became Bailyn, *Ideological Origins of the American Revolution* (Cambridge, Mass., 1967). H. T. Dickinson has lucidly summarized the theme of sovereignty in Dickinson, “Britain’s Imperial Sovereignty: The Ideological Case against the American Colonists,” in *Britain and the American Revolution*, ed. Dickinson (London, 1998), 64–96. For sovereignty and constitutional conflict, see 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).

¹⁰ *The Justice and Necessity of Taxing the American Colonies, Demonstrated* (London, 1766), 23, 25, in Dickinson, *British Pamphlets*, 1: 253 (quotations), 255.

were sinking under the colonial burden, but colonial hypocrites wanted more home country taxes instead.

That same year, English supporters of colonial whigs agreed that economic motives had caused the constitutional standoff over taxation. The author of *The Crisis, or a Full Defence of the Colonies* equated virtual representation with slavery because colonists' property could be taken away without their consent. The dangers were more than theoretical as the colonists had experienced them: "The Stamp Act was passed at a time when the restrictions on the North American trade had universally soured the dispositions of the people: smarting under the severity of a commercial prohibition."¹¹ Similarly, when sympathetic imperial officer Thomas Pownall cataloged colonial grievances for a metropolitan audience, he argued that, even though some hothouse theories denying parliamentary sovereignty had arisen, taxation without representation was only one of the seven real issues, five of which were economic: the fear of the economic effect of enforcement of trade laws, the paper money problem, the loss of specie to import and Stamp Act payments, the high rates of the Sugar Act, and hurtful rates of exchange.¹² Nicholas Ray also argued that parliamentary legislation was perceived as, and would in fact become, ruinous to the colonists.¹³

Critics of the colonists blasted away at the distinction between taxation and economic regulation (and not just that between internal and external taxes). To surrender authority over taxation would lead directly to colonial complaints about commercial measures. Ardent supporters of administration policies continued to depict the colonists as greedy hypocrites motivated by their economic interests. One writer described the Stamp Act as no different from the Navigation Act or restraints on exports out of the empire. And didn't the Sugar Act have specifically "local" implications?¹⁴ Similarly, the author of *The Right of Parliament Vindicated* (1766) asked how the "new doctrine" of no taxation without direct representation in Parliament could be squared with the "laws of trade and navigation." Where whig writers began to stress how colonists came to America with charter liberties, this writer described Britons who left England "upon a prospect of great advantages to themselves and their posterity."¹⁵ A lengthier review of the controversy published two years later blamed colonial "prosperity" and "ambition" for their plain "grasp at national and

¹¹ *The Crisis, or a Full Defence of the Colonies* . . . (London, 1766), 27, *ibid.*, 1: 297.

¹² [Thomas Pownall], *Consideration on the Points lately brought into Question as to the Parliament's Right of Taxing the Colonies* . . . (London, 1766), 34–36, *ibid.*, 1: 338–40.

¹³ [Nicholas Ray], *The Importance of the Colonies of North America, and the Interest of Great Britain with regard to them, Considered* (London, 1766), 1–16, *ibid.*, 1: 361–76.

¹⁴ J. M., *The Legislative Authority of the British Parliament, With respect to North America* . . . (London, 1766), 13–14, 17, *ibid.*, 2: 15–16 (quotation, 2: 16), 19.

¹⁵ *The Right of Parliament Vindicated, on the Occasion of the Stamp-Act* (London, 1766), 10, 13, 15, *ibid.*, 2: 34 ("new doctrine"), 37 ("laws of trade"), 39 ("upon a prospect").

independent legislation and government.” The real problem was that “prosperity and adversity” of Britain and her colonies could not be equated, even though the colonies’ prosperity was key to the British national interest. In a complete reversal of colonists’ arguments about internal taxes versus commercial regulations, this writer argued that the administration would have more wisely taxed colonists’ property, not their trade. In that manner poor colonists would never have felt, or feared, the impact of the taxes, and there would have been no mobs protesting the Stamp Act. If any rights were really in danger, it was those of the British nation: “It is said, that taxing the colonies makes them, *ipso facto*, slaves. What a profanation of language! Has not every nation a right to colonize?”¹⁶

Economic causes recede somewhat in post-1768 pamphlets, no doubt in response to both the multiplicity of constitutional arguments made by colonists and their allies and the general easing of the imperial crisis. Yet writers seeking compromise with the colonies, defending some of their rights but insisting on parliamentary supremacy, also presumed the primacy of economic motives while seeking a middle path on economic measures such as duties and taxes. Some sought a free trade answer: do away with mercantilist logics, they argued in anticipation of Adam Smith’s *Wealth of Nations*, and everyone would benefit, especially the home country.¹⁷

The striking exception to economic interpretation in the British pamphlets, revealingly, is in pamphlets that most closely defended the colonists and adopted their arguments. Here we see a focus on British rights and constitutional arguments, to the near exclusion of economic discussions, with the exception of occasional accusations that British measures had impoverished or would impoverish the colonists. By 1774 these pro-American writers had fully taken on the whigs’ insistence, stated in the Stamp Act debate by William Pitt, Lord Camden (Charles Pratt, 1st Earl Camden), and Isaac Barré, that parliamentary taxation equaled slavery. In their contemporary outrage at the comparison between political rights and chattel slavery or denial that eighteenth-century people could have really seen any relationship between Africans and constitutional liberties, scholars have often missed the essential dynamic of this debate. What made taxation slavery to the whigs and their defenders, as they said again and again, was that it took away their property without their consent and, in so doing, deprived them of liberty. This logic would culminate with Patrick Henry’s putting his wrists together to simulate manacles while describing the already forged “chains” of “slavery” that could be heard “clanking” all the way from Boston to Williamsburg,

¹⁶ *The Constitutional Right of the Legislature of Great Britain, to Tax the British Colonies in America, Impartially Stated* (London, 1768), 3, 9, 20, 36, *ibid.*, 2: 87 (“prosperity”), 120 (“prosperity and adversity”), 93 (“It is said”), 104.

¹⁷ [Joseph Cawthorne], *A Plan to Reconcile Great Britain and Her Colonies* (London, 1774), 12–13, 17, 27, *ibid.*, 3: 30–31, 35, 45.

obliging him and the Second Virginia Convention to choose between liberty or death.¹⁸ He meant that he had no voice in the decision to tax his property.

In other words “slavery” talk had, among other things, the happy effect of subsuming the economic argument and making the colonists seem less greedy and less like slaveholders. This seemed worth the risk that critics would point out the hypocrisy with respect to chattel slaves.¹⁹ Proadministration writers zeroed in on the implications, especially when the controversy heated up again in 1774. William Knox, who had earlier lambasted Benjamin Franklin for saying that taxation turned white Pennsylvanians into “Negroes,” cited the tendency of southerners to evade bounties and keep their land and slaves shielded from debt collectors.²⁰ By the time Franklin’s onetime friend William Allen arrived in London to stay that year, pro-British critics were far ahead of our “anachronistic” twenty-first-century speculations about patriot hypocrisy. “No People,” thundered Allen in *The American Crisis*, “ever so cruelly enslaved their Fellow-Creatures as the Americans; and even the Savages use not their captive Enemies with more Barbarity.” Former Lord Mayor of London William Beckford, the Jamaica planter, was Exhibit A: he regularly impregnated his slaves. What especially galled Allen, himself a longtime smuggler and slave trader, was that it was really all about interests: “A great Part of the *American* Disturbances have been raised and carried on by the smuggling Class of Traders, whose Profits in a regular Commerce must be greatly diminished.” As a result of their measures, things had been turned upside down: “Fair Trader . . . must now sell his Goods dearer than the Smuggler and be stiled an Enemy to his Country for paying the Duty. So that a Tradesman must pay dear for his Loyalty.”²¹

¹⁸ Patrick Henry, “Liberty or Death” speech, May 23, 1775, in Moses Coit Tyler, *Patrick Henry* (Boston, 1898), 145 (quotations); Kevin J. Hayes, *The Mind of a Patriot: Patrick Henry and the World of Ideas* (Charlottesville, Va., 2008), 74–75.

¹⁹ The author of *Resistance No Rebellion. In Which The Right of a British Parliament to Tax the American Colonies, is fully considered, and found Unconstitutional . . .* (London, 1775), 62, in Dickinson, *British Pamphlets*, 4: 66, wrote about the Stamp Act: “Had they resolved that it would be just and proper for that House to turn all the white people in America into blacks, it would not have been more ridiculous. For God’s sake, whence did they derive the right of giving the property of the people of America?” For the metaphor of slavery, see David Waldstreicher, *Runaway America: Benjamin Franklin, Slavery, and the American Revolution* (New York, 2004), chap. 7; Peter A. Dorsey, *Common Bondage: Slavery as Metaphor in Revolutionary America* (Knoxville, Tenn., 2009). For slavery and property rights, see James L. Huston, *Calculating the Value of the Union: Slavery, Property Rights, and the Economic Origins of the Civil War* (Chapel Hill, N.C., 2003), 7–9; Onuf, “Federalism, Democracy, and Liberty,” 154–56.

²⁰ [William Knox], *The Claim of the Colonies to an Exemption from Internal Taxes Imposed by Authority of Parliament, Examined . . .* (London, 1765), 5–6 (quotation, 6), 2; [Knox], *The Interest of the Merchants and Manufacturers of Great Britain, in the Present Contest with the Colonies, Stated and Considered* (London, 1774), 37, in Dickinson, *British Pamphlets*, 3: 169; Waldstreicher, *Runaway America*, 186–92.

²¹ William Allen, *The American Crisis . . .* (London, 1774), 13–14, in Dickinson, *British Pamphlets*, 2: 365 (“No People”), 366 (“great Part”). Harry T. Dickinson believes

A Case of Historiographical Amnesia

A FUNDAMENTAL RESPONSE to the economic interpretations of the pamphleteers was articulated by Edmund Burke in March 1775. In his House of Commons speech on conciliation, he maintained, "One fact is clear and indisputable. The public and avowed origin of this quarrel was on taxation. This quarrel has indeed brought on new disputes on new questions; but certainly the least bitter and the fewest of all, on the trade laws. To judge which of the two be the real radical cause of the quarrel we have to see whether the commercial dispute did, in order of time, precede the dispute over taxation. There is not a shadow of evidence for it."²² Burke had admirable motives for minimizing the causes of the "quarrel," in addition to being a paid agent of New York, but he was demonstrably wrong.

The commercial dispute began during the Seven Years' War, when the question of taxing the colonies had not yet been raised. During these years colony legislatures resisted attempts by British military commanders to requisition specific, and substantial, contributions to the war effort—a kind of indirect taxation, insofar as the funds would have to be raised by the colonial assemblies. But this controversy eased after the recall of Lord Loudon (John Campbell, 4th Earl of Loudoun). The British government, however, started to use its navy to suppress illegal trade between North American colonies and the French West Indies. The stated intention was military: to deprive the French of "Provisions, and other Necessities whereby they are, principally, if not alone, enabled to sustain, and protract, this long and expensive War."²³ The new British policy flew in the face of New England

that the usual attribution to Pennsylvania's William Allen is incorrect and that the author of this pamphlet was a William Allen who served in the ministry. But the author's evident concern with Franklin ("Dr. *Duplicity*, of electrical Memory") and his on-the-colonial-ground merchant perspective suggest that the traditional attribution is correct (ibid., 2: 347). On Allen, see Craig Horle, "William Allen," in Horle et al., *Lawmaking and Legislators in Pennsylvania: A Biographical Dictionary* (Philadelphia, 2005), 3: 231–80; Jefferson Berry, "The Scheme of Public Parties: William Allen, Benjamin Franklin, and the College of Philadelphia, 1756" (master's thesis, Temple University, 2011).

Gordon S. Wood called consideration of slavery in relation to the Revolution or the Constitution "anachronistic" in 1969 and presentist in 2008. See Wood, *The Creation of the American Republic, 1776–1787* (Chapel Hill, N.C., 1969), 626 (quotation); Wood, *The Purpose of the Past: Reflections on the Uses of History* (New York, 2008), 293–94, 309.

²² Edmund Burke, quoted in Oliver M. Dickerson, *The Navigation Acts and the American Revolution* (1951; repr., New York, 1963), 284–85 (quotation, 285). Burke was an agent for New York and MP for Bristol; his political opponents accused him of being compromised with respect to the American controversy. He also famously said that he owed his constituents his best judgment. See Michael G. Kammen, *A Rope of Sand: The Colonial Agents, British Politics, and the American Revolution* (1968; repr., New York, 1974), 140–41.

²³ Prime Minister William Pitt to the governors of the American colonies, Aug. 23, 1760, quoted in Lawrence Henry Gipson, *The Coming of the Revolution, 1763–1775* (New York, 1954), 33.

merchants' contention that their economic survival required the export of fish and other produce to the foreign as well as British West Indies and the import of molasses from the foreign West Indies duty-free, or very nearly so. They considered the sixpence-per-gallon import duty imposed by the Molasses Act of 1733 to be prohibitive. If they could not evade this duty by smuggling, they would fight it.²⁴

This was the background of two legal actions brought by James Otis on behalf of Boston merchants and directed against enforcement of the Molasses Act. The first sought to claim from customs officers, for the Massachusetts legislature, a portion of sums forfeited under the act that these officers had illegally retained. The practice had enabled the officers to offer larger sums to informers than the law allowed. The second legal action was the celebrated protest against general search warrants (writs of assistance). The writs were necessary to the British because, as Thomas Hutchinson explained, "A writ, or warrant, to be issued only in cases where special information was given under oath, would rarely, if ever, be applied for, as no informer would expose himself to the rage of the people."²⁵ It was, of course, during this pleading that Otis declared that an act of Parliament against the constitution and natural equity was void, thus adopting the ultimate natural law argument against British authority before taxation was an issue at all.

When war with France ended in 1763, rigorous enforcement of the trade laws continued. The French government, responding to the fact that the cession of Canada to Britain deprived the French West Indies of supplies from within the French Empire, issued an order in April 1763 to the governors of all French colonies in the Americas to permit foreign vessels to import horses, mules, lumber of all kinds, bricks, furniture, and a wide variety of foodstuffs in exchange for molasses.²⁶ Reciprocally, the British government issued orders from its customhouses of the northern colonies in December 1763 to enforce the Molasses Act "in all its parts"—that is, all molasses from the French West Indies had to pay the full sixpence-per-gallon

²⁴ See also Lawrence Henry Gipson, "The American Revolution as an Aftermath of the Great War for the Empire, 1754–1763," *Political Science Quarterly* 65, no. 1 (March 1950): 86–104, esp. 100–101; Gipson, "Aspects of the Beginning of the American Revolution in Massachusetts Bay, 1760–1762," *Proceedings of the American Antiquarian Society* 67 (1957): 11–31; 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), 29; Fred Anderson, *Crucible of War: The Seven Years' War and the Fate of Empire in British North America, 1754–1766* (New York, 2000), pts. 6–7; Thomas M. Truxes, *Defying Empire: Trading with the Enemy in Colonial New York* (New Haven, Conn., 2008).

²⁵ Thomas Hutchinson, *The History of the Colony and Province of Massachusetts-Bay*, ed. Lawrence Shaw Mayo (Cambridge, Mass., 1936), 3: 68.

²⁶ Dorothy Burne Goebel, "The 'New England Trade' and the French West Indies, 1763–1774: A Study in Trade Policies," *WMQ* 20, no. 3 (July 1963): 331–72.

duty. According to Governor Francis Bernard, the publication of these orders “caused a greater alarm in this country than the taking of Fort William Henry did in 1757,” an observation later confirmed by John Adams.²⁷

North Americans had the more reason to be distressed in 1763 because of the postwar depression. An influx of goods from England caused specie to drain to the mother country, which in turn produced a general inability to pay debts, both foreign and domestic. This situation was then exacerbated by the Currency Act of 1764.²⁸ These circumstances provided new economic reasons for opposing a policy that had initially been opposed largely on economic grounds, even if constitutional and natural rights arguments were beginning to be developed and voiced. No doubt the British, after 1763, enforced the trade laws primarily to raise a revenue. But American motivation in resisting that enforcement was overwhelmingly economic, at least until the passage of the American Duties Act (Sugar Act) of 1764.

The Molasses Act was due to expire in 1764, and during 1763 and 1764, while the British government tightly enforced the old law, merchants in Massachusetts, Rhode Island, Connecticut, and New York petitioned Parliament through their respective legislatures against its reenactment. Their statements emphasized the colonies’ economic distress. The action was ineffective, not least because the Sugar Act passed Parliament before the colonial remonstrances arrived. But this “first intercolonial movement of the pre-Revolutionary period designed to exert political pressure in England” set a precedent that could readily be resurrected when, with the passage of the Sugar Act, the right to tax became an issue.²⁹

In their influential accounts of the evolution of colonial protest, Bernard Bailyn and Edmund S. Morgan and Helen M. Morgan agree that, until the spring of 1764, public protest against British policy ran along economic lines. But those who believe that constitutional controversy became the heart of the matter consider the economic arguments of 1763 and 1764 to be a kind of prelude. After the passage of the Stamp Act, they say or imply, debate settled into a constitutional pattern. Until very recently, perhaps, this has been the standard interpretation.³⁰

²⁷ Schlesinger, *Colonial Merchants and the American Revolution*, 48 (quotations).

²⁸ Joseph Albert Ernst, *Money and Politics in America, 1755–1775: A Study of the Currency Act of 1764 and the Political Economy of Revolution* (Chapel Hill, N.C., 1973); Bouton, *Taming Democracy*.

²⁹ Bernhard Knollenberg, *Origin of the American Revolution: 1759–1766* (New York, 1960), 148 (quotation); Anderson, *Crucible of War*, 560–603. The many names for the Sugar Act (American Duties Act, Plantation Act, Revenue Act) suggest its sheer length and multiple dimensions; Ian R. Christie and Benjamin W. Labaree describe it as a catchall that fit well with the tradition of trade and navigation acts. See Christie and Labaree, *Empire or Independence*, 34–36.

³⁰ Edmund S. Morgan and Helen M. Morgan, *The Stamp Act Crisis: Prologue to Revolution*, rev. ed. (New York, 1962), 51; Bailyn, *Pamphlets of the American Revolution*, 1: 358–59. Compare Claire Priest, in a recent synthesis, who states that both acts “constituted

The difficulty with this reasoning is that it has to be used too often. Subsequent to 1764, again and again, the first protests against new measures were economic. When Parliament repealed the Stamp Act, it also lowered the duty on foreign molasses from threepence to one penny per gallon, a burden New England merchants appear to have felt they could live with. And when Parliament imposed new import duties in the Townshend Acts of 1767, the initial agitation against this legislation, too, was primarily economic. The nonimportation agreements entered into by Boston merchants on August 1, 1768, began by reciting the difficulties of trade, scarcity of money, trade acts, new duties, taxes for the late war, a bad corn crop, and poor prospects for the whale fisheries, "by which our principal sources of Remittances are like to be greatly diminished, and we thereby rendered unable to pay the debts we owe the Merchants in Great Britain and to continue the importation of goods from thence."³¹

This is equally the case for the third such crisis, occasioned by the Tea Act of 1773. Constitutional scruples notwithstanding, Boston merchants imported large quantities of dutied tea in the years immediately preceding the Tea Act. The average imports at Boston actually increased from £110,471 a year in the five-year period before the adoption of the Townshend Acts to £179,169 per year from 1768 to 1772.³²

What changed in 1773? No new duty was laid, no new enforcement procedures were elaborated, no new inflammatory assertion of right was insisted on by Parliament. What was new was the bestowal on the East India Company of a monopoly of one of the colonies' most lucrative

taxes that depleted the colonies' monetary wealth . . . Colonial citizens viewed themselves as having their wealth drained from them as consumers and debtors in a monopolized market." See Priest, "Law and Commerce, 1580–1815," in *The Cambridge History of Law in America, Volume 1: Early America, 1580–1815*, ed. Michael Grossberg and Christopher Tomlins (New York, 2008), 428. Bernard Bailyn's formulation sharply separates economic and constitutional arguments. A good example of the way constitutional arguments grew out of economic protests is the instructions of the town of Boston to its representatives in the legislature, written by Samuel Adams and others in May 1764. After a lengthy admonition "to support our Commerce in all its just Rights," the document more briefly but quite intensely poses the danger of taxation without representation. See Henry Alonzo Cushing, ed., *The Writings of Samuel Adams* (New York, 1904), 1: 3–5. Stephen E. Lucas distinguishes between short-term economic arguments, which Philadelphians avoided, and long-term ones, which they embraced. See Lucas, *Portents of Rebellion: Rhetoric and Revolution in Philadelphia, 1765–76* (Philadelphia, 1976), 32–59. See also Cathy D. Matson and Peter S. Onuf, *A Union of Interests: Political and Economic Thought in Revolutionary America* (Lawrence, Kans., 1990), 11.

³¹ Charles M. Andrews, "The Boston Merchants and the Non-Importation Movement," *Publications of the Colonial Society of Massachusetts* 19 (1917): 159–259 (quotation, 205); Andrews, *The Colonial Period of American History* (New Haven, Conn., 1938), 4: 427; Carl Lotus Becker, *The History of Political Parties in the Province of New York, 1760–1776* (1909; repr., Madison, Wis., 1960), 61 n. 43; Schlesinger, *Colonial Merchants and the American Revolution*, 106–7.

³² Dickerson, *Navigation Acts*, 89.

imports. Contemporaries on both sides of the revolutionary conflict, such as Hutchinson and David Ramsay, agreed that the merchants were once more the first to act, and once more for economic reasons. Again base economic metal was transformed into constitutional gold, and by mid-October—when mass meetings began to call on consignees to resign—it was undoubtedly true, as Benjamin Woods Labaree stated, that “the decisive opposition was based on the issue of the Townshend duty.”³³ But, as Arthur Meier Schlesinger had previously argued, “These meetings, however, were the flowerings, not the roots.”³⁴ The commercial dispute preceded the constitutional, not just once but again and again in these years. It is important that colonists melded economic and constitutional arguments under the category of sovereignty—but not so important that we should ignore the originating nature of economic factors.

Reading back into the neo-whig accounts of the path to independence written during the postwar decades, it is apparent that they were written against the earlier accounts by both the progressive and the imperial schools—accounts by Charles M. Andrews, Carl Lotus Becker, and Arthur Meier Schlesinger among others—that stressed economic motives. More recently, the earlier interpretation has been forgotten, and some historians write as if the economic interpretation of the coming of the Revolution never existed.³⁵ Treatments of the Revolution have lost the healthy tension regarding economic factors and constitutional arguments that earlier generations of historians recognized.

The First Continental Congress

AN ECONOMIC INTERPRETATION of the Declaration of Independence must stand or fall on an assessment of the conduct of the delegates to the Continental Congress. It was they who, in dialogue with their constituents, developed the arguments of the Declaration, drafted it, approved it, and offered it to “a candid World.”³⁶

³³ Benjamin Woods Labaree, *The Boston Tea Party* (New York, 1964), 96 (quotation); Hutchinson, *History*, 3: 303; David Ramsay, *The History of the American Revolution* (Lexington, Ky., 1815), 1: 122. In his recent study, Benjamin L. Carp emphasizes the coexistence of motives for resistance to the Tea Act: taxation without consent, the corruption issue (salaries of royal governors to be paid out of the tax), and monopoly privileges. See Carp, *Defiance of the Patriots*, 17–21, 163.

³⁴ Arthur Meier Schlesinger, “The Uprising against the East India Company,” *Political Science Quarterly* 32, no. 1 (March 1917): 60–79 (quotation, 79).

³⁵ Gwenda Morgan gives only cursory attention to progressive interpretations of the Revolution; Charles A. Beard’s interpretation of the Constitution receives separate and longer treatment. See Morgan, *The Debate on the American Revolution* (Manchester, Eng., 2007); see also Alan Gibson, *Interpreting the Founding: Guide to the Enduring Debates over the Origins and Foundations of the American Republic* (Lawrence, Kans., 2006), 7–12.

³⁶ Julian P. Boyd, *The Declaration of Independence: The Evolution of the Text*, rev. ed., ed. Gerard W. Gawalt (Washington, D.C., 1999), 98.

The diaries, drafts, and letters of the delegates, the proceedings of the First and Second Congresses, and the public papers delegates and Congress produced are of course utterly familiar materials. This is all the more reason for using them. A common objection to an economic interpretation of independence is, if its authors were so concerned about economic problems, why did they not say so? The short answer is, they did. They talked about economics in the public pronouncements of the Continental Congress and of their various regional assemblies, and in their private discourse most of all.

The final text of the Declaration was anything but a transparent ranking of all the real reasons for independence. It targeted an individual (the British king) whom the delegates knew not to be the principal source of their difficulties, deleted from Jefferson's draft his effort to deal with an evil institution at the heart of the American economy, and alluded in only a single sentence to the action of the king and "others" in "cutting off our Trade with all Parts of the World."³⁷ In both their revealing private discussions and public silences, the delegates acted much as would the draftsmen of the U.S. Constitution concerning the difficult and inseparable issues of economic regulation and chattel slavery.³⁸ Jack N. Rakove stated that the Declaration was an "empirical explanation of how the revolution it proclaimed had actually come about," but Carl L. Becker more accurately characterized it as "an argument in support of an action" and observed correctly that the causes "which the Declaration sets forth are not quite the same as those which a careful student of history, seeking the antecedents of the Revolution, would set forth," concluding that in the Declaration of Independence its framers "presented their case."³⁹

At the First Continental Congress, in the fall of 1774, the single most contentious issue was whether Parliament had the right to regulate the American economy through the Navigation Acts and the acts prohibiting colonial manufactures. Congress's decision to appear to acquiesce in these restrictions by no means reflected the time devoted to discussing them or the delegates' continuing concern. At the Second Continental Congress, the revolutionary leaders struggled with the consequences of their previous decision to begin nonexportation in the fall of 1775. Finding that they could not live with this decision because of the economic hardship and loss of political support it would entail, they opened the ports of America to the world, declaring their de facto independence.

³⁷ Ibid.

³⁸ David Waldstreicher, *Slavery's Constitution: From Revolution to Ratification* (New York, 2009).

³⁹ Jack N. Rakove, *The Beginnings of National Politics: An Interpretive History of the Continental Congress* (New York, 1979), 108 ("empirical explanation"); Carl L. Becker, *The Declaration of Independence: A Study in the History of Political Ideas* (1922; repr., New York, 1969), ix ("argument"), 6 ("which the Declaration"), 16 ("presented their case").

Whether Parliament had the authority to regulate the external trade of its colonies in North America became the main issue, or, as delegate James Duane put it, “the great point,” of the debates at the First Continental Congress.⁴⁰ Delegates from New England and the South spoke out most forcefully against Parliament’s regulation of the exports and imports of its British colonies. They pointed to the prohibition of trade with the French and Dutch West Indies or to the fact that the Navigation Acts required all rice and tobacco exported by the colonies to be sent to Great Britain, where British merchants paid colonists less than full value before reshipping the products to the European continent and selling them at a higher price. About four-fifths of the tobacco and rice exported in the forty-five years before the Revolution was transhipped in this manner.⁴¹

The South was itself divided. The Virginia Convention instructed its delegates to acquiesce in the Navigation Acts. At least some of the Virginia delegates were uncomfortable with this restriction. Richard Henry Lee stated, to a committee appointed by the Congress to draw up a declaration of rights, that the Navigation Acts constituted “a Capital Violation.” But he also opposed any condemnation of the Navigation Acts because, as he put it to John Adams, “To strike at the Navigation Acts would unite every Man in Britain against us.” In a similar troubled spirit, Patrick Henry told the Congress, “Before We are obliged to pay Taxes as they [the inhabitants of Great Britain] do, let us be as free as they. Let us have our Trade open with all the World.”⁴²

Virginia’s ambivalence left the more militant South Carolina delegates out on a limb. Christopher Gadsden of South Carolina was “violent against allowing to Parliament any Power of regulating Trade.” Thomas Lynch

⁴⁰ “James Duane’s Notes for a Speech in Congress,” in Paul H. Smith, ed., *Letters of Delegates to Congress, 1774–1789* (Washington, D.C., 1976), 1: 189.

⁴¹ Jerrilyn Greene Marston, *King and Congress: The Transfer of Political Legitimacy, 1774–1776* (Princeton, N.J., 1987), 95. For a New England delegate’s view of why Great Britain “ought not to be allowed the Regulation of our Trade,” see “Samuel Ward’s Notes for a Speech in Congress,” in Smith, *Letters of Delegates*, 1: 184–89. Marc Egnal presents the percentages of tobacco and rice exported by the colonies that were reexported to the European continent during (roughly) the years 1730–75. See Egnal, *New World Economies: The Growth of the Thirteen Colonies and Early Canada* (New York, 1998), 86, 105.

⁴² “John Adams’ Notes of Debates,” in Smith, *Letters of Delegates*, 1: 46 (“Capital Violation”); “John Adams’ Diary,” *ibid.*, 1: 8 (“To strike”); “John Adams’ Notes of Debates,” *ibid.*, 1: 111 (“Before We”). Woody Holton has comprehensively examined the evidence of Virginia’s discontents. Explicating Richard Henry Lee’s comments, he states: “The reluctance of Virginia writers to demand the repeal of the Navigation Acts has led historians of the origins of the American Revolution into an important error. Scholars have assumed that, because the Virginians did not demand that Parliament abandon its mercantilist policies, they must not have felt injured by them.” The evidence presented by Holton “indicates that free Virginians *did* resent the Navigation Acts, and that the taxes Parliament adopted in the 1760s were only the straw that broke the camel’s back.” Holton, *Forced Founders*, 56 n. 24.

declared: "In my Idea Parliament has no Power to regulate Trade." After Congress adjourned, the South Carolina delegates sought to explain to their constituents why it had failed to adopt these sentiments and take a stand against the Navigation Acts.

Why, did they limit their researches to the year 1763; and not trace back, as could easily have been done, the many aggressions which had been committed by Great Britain upon her infant Colonies; in the jealousies, monopolies, and prohibitions, with which she was so prodigal towards them; for the express purpose of depressing their population—confining their trade—and crippling their attempts, at even the most domestic and necessary manufactures? To this it was answered, that our [South Carolina] Delegates were willing to have stated all the grievances, as were the greater part of the other Delegates; but the people of Virginia would not retrospect farther back, than 1763, being limited in their powers.

The Virginia delegates, as Gadsden put it, were "tied up" by their instructions.⁴³

At the other extreme was a group of delegates from the middle colonies who wanted to concede explicitly the right to regulate trade. Samuel Chase of Maryland affirmed, "I am one of those who hold the Position, that Parliament has a Right . . . to regulate the Trade." Joseph Galloway of Pennsylvania insisted that someone would have to regulate trade. Unless colonists were prepared to do it themselves through a national legislature, Galloway argued, they should let Great Britain do it. In a speech on September 28, he stated: "Is it not necessary that the Trade of the Empire should be regulated by some Power or other? Can the Empire hold together, without it. No. Who shall regulate it? Shall the Legislature of Nova Scotia, or Georgia, regulate it? Mass. or Virginia? Pennsylvania or N. York. It cant be pretended. Our Legislative Powers extend no farther than the Limits of our Governments. Where then shall it be placed. There is a Necessity that an American Legislature should be set up, or else that We

⁴³ "John Adams' Diary," in Smith, *Letters of Delegates*, 1: 68 ("violent against"); "John Adams' Notes of Debates," *ibid.*, 152 ("In my Idea"); "South Carolina Delegates' Report to the South Carolina Provincial Congress," *ibid.*, 292–93 ("Why, did they?"); "John Adams' Notes of Debates," *ibid.*, 104 ("tied up"). It appears from the credentials tendered by the delegates from the various colonies that only those of the South Carolina delegates referred to "the several acts of parliament that . . . lay unnecessary restraints and burdens on Trade." See Worthington Chauncey Ford, ed., *Journals of the Continental Congress, 1774–1789* (Washington, D.C., 1904), 1: 24. The credentials of the Delaware delegates listed first among that colony's grievances the "acts of the British parliament, for restraining manufactures" (*ibid.*, 1: 21). On its second day of business, Sept. 6, 1774, the Congress created a committee "to examine & report the several Statutes, which affect the trade and Manufactures of the colonies" (*ibid.*, 1: 26).

should give the Power to Parliament or King.” Duane of New York agreed. “The Right of regulating Trade,” he said, “from the local Circumstances of the Colonies, and their Disconnection with each other, cannot be exercised by the Colonies . . . I think Justice requires that we should expressly cede to Parliament the Right of regulating Trade.”⁴⁴

The delegates who opposed British regulation of the American colonies’ trade were also those who wanted to talk about natural rights. It is easy to see why. Many of the delegates on both sides of the controversy about regulating trade were lawyers. A lawyer will naturally rely on precedent—either particular court decisions or the texts of laws—whenever possible. In arguing for the right of self-government within a single colony, Americans could rely on English common law and the texts of the charters granted by Great Britain to the various colonial governments. These precedents were not conclusive, but at least they were there. But in arguing for the conclusive right of the colonists to govern the relationships among the colonies and between them and other countries, airtight precedents were lacking. There were only what Jack P. Greene calls “negotiated authorities.”⁴⁵ To assert this right, one could only turn to the principles of justice itself. This was what the eighteenth century meant by natural law.⁴⁶

Therefore the colonies most harassed by the Navigation Acts, in New England and the South, were also the colonies throughout the revolutionary years where there was most talk about the law of nature. Therefore, too, at the First Continental Congress, Duane considered the law of nature “a feeble Support,” whereas men such as Adams, Henry, Lee, and John Sullivan were its champions.⁴⁷

In his autobiography Adams left an account of the interconnected debates on the law of nature and the regulation of trade.

⁴⁴ “John Adams’ Notes of Debates,” in Smith, *Letters of Delegates*, 1: 151 (“I am one”), 110–12 (“Is it not necessary,” 111–12, “Right of regulating Trade,” 110–11). See also Samuel Chase to James Duane, *ibid.*, 1: 305: “I still retain my Opinion, that the Right of Parliamt, to regulate our Trade ought to be acknowledged in the most precise and explicit Terms.”

⁴⁵ Jack P. Greene, *Negotiated Authorities: Essays in Colonial Political and Constitutional History* (Charlottesville, Va., 1994).

⁴⁶ Stephen A. Conrad, “Putting Rights Talk in Its Place: The *Summary View* Revisited,” in *Jeffersonian Legacies*, ed. Peter S. Onuf (Charlottesville, Va., 1993), 254–80; Lynd, *Intellectual Origins of American Radicalism*, 25.

⁴⁷ “John Adams’ Notes of Debates,” in Smith, *Letters of Delegates*, 1: 47 (quotation); John Phillip Reid, *Constitutional History of the American Revolution*, vol. 4, *The Authority of Law* (Madison, Wis., 1993), 154–55 (Sullivan and Henry). Daniel T. Rodgers observes the particular presence of “natural right” among Massachusetts and Virginia patriots in Rodgers, *Contested Truths: Keywords in American Politics since Independence* (New York, 1987), 52–56. Reid denigrates the significance of natural law without explaining why it appears when and where it does. See Reid, *Constitutional History of the American Revolution*, abr. ed. (Madison, Wis., 1995), 13–15.

The two Points which laboured the most were 1. Whether We should recur to the Law of Nature, as well as to the British Constitution and our American Charters and Grants. Mr. Galloway and Mr. Duane were for excluding the Law of Nature. I was very strenuous for retaining and insisting on it, as a Resource to which We might be driven, by Parliament much sooner than We were aware. The other great question was what Authority We should concede to Parliament: whether We should deny the Authority of Parliament in all Cases: whether We should allow any Authority to it in our internal Affairs: or whether We should allow it, to regulate the Trade of the Empire, with or without any restrictions.⁴⁸

A first trial of strength between the contending views about the Navigation Acts came on September 24. On that day Congress resolved “that the congress do confine themselves, at present, to the consideration of such rights only as have been infringed by acts of the British parliament since the year 1763, postponing the further consideration of the general state of American rights to a future day.”⁴⁹

Everybody knew what this meant. “Before 1763” was an indirect way of saying “the Navigation Acts and the laws restraining colonial manufactures.” The first Navigation Acts were passed in the 1660s. The principal laws restricting manufactures were those prohibiting the export of woolens (1699), the export of hats (1732), and the setting up of iron mills (1750). By restricting its own work to the period after 1763, Congress was deciding “at present” to protest political, but not economic, oppression.

One vote did not settle the question. It continued to be debated in subcommittee and in the Congress as a whole. Adams recorded in his diary on October 13,

From 10 O Clock untill half after four, We were debating, about the Parliamentary Power of regulating Trade. 5 Colonies were for allowing it, 5 against it, and two divided among themselves, i.e. Mass. and Rhode Island.

Mr. Duane has had his Heart sett upon asserting in our Bill of Rights, the Authority of Parliament to Regulate the Trade of the Colonies. He is for grounding it on Compact, Acquiescence, Necessity, Protection, not merely on our Consent.⁵⁰

Deadlocked, Congress sought a formulation that would neither allow nor deny the authority of Great Britain to regulate colonial trade. Adams later

⁴⁸ L. H. Butterfield et al., eds., *Diary and Autobiography of John Adams* (Cambridge, Mass., 1961), 3: 309.

⁴⁹ Ford, *Journals of the Continental Congress*, 1: 42.

⁵⁰ “John Adams’ Diary,” in Smith, *Letters of Delegates*, 1: 189.

claimed he drafted the compromise language. The fourth article of the Declaration of Rights, adopted on October 14, stated:

From the necessity of the case, and a regard to the mutual interest of both countries, we cheerfully consent to the operation of such acts of the British parliament, as are bona fide, restrained to the regulation of our external commerce, for the purpose of securing the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members; excluding every idea of taxation, internal or external, for raising a revenue on the subjects in America, without their consent.⁵¹

This text could mean all things to all men, which of course is exactly why it was adopted. Did it give Great Britain the right to regulate trade? No, because it based itself on “the necessity of the case” and mutual interest. Did it compromise the principle of self-government? No, because it said that the colonists “consent[ed]” to the Navigation Acts, a consent that they could arguably withdraw. Did it approve any particular regulation of trade? No, because any particular regulation was open to the objection that it was not “bona fide”—meaning that it was actually a tax because its real purpose was to raise revenue—or did not benefit the “whole empire.” The general sense of the members, Adams wrote, “was that the Article demanded as little as could be demanded, and conceded as much as could be conceded with Safety, and certainly as little as would be accepted by Great Britain: and that the Country must take its fate, in consequence of it.”⁵²

On the surface, what the Congress said about the right of Great Britain to regulate the colonists’ trade was moderate. But the issue of economic sovereignty had not been resolved. Galloway was right when he said that, in the long run, either the British government or an American national legislature would have to regulate commerce. The First Continental Congress chose not to choose. Unready to face the consequences of conceding the right to Great Britain or of asserting it for themselves, Congress hoped that nonimportation would be successful and that the issue would go away.

Mr. Jefferson’s Declarations

THOMAS JEFFERSON WAS not a delegate to the First Continental Congress because of illness. He drafted instructions for the Virginia delegates that were not adopted but were printed as *A Summary View of the Rights of British America*. That pamphlet elaborated principles set forth in

⁵¹ Ford, *Journals of the Continental Congress*, 1: 68–69.

⁵² Butterfield, *Diary and Autobiography of John Adams*, 3: 310 (“was that the Article”).

“Resolutions of the Freeholders of Albemarle County,” drafted by Jefferson and adopted by a meeting on July 26, 1774. These resolutions asserted that the inhabitants of British America are subject only to “the laws which they adopted at their first settlement, and to such others as have been since made by their respective legislatures, duly constituted and appointed with their own consent; that no other legislature whatever may rightfully exercise authority over them”; and that nonimportation from Great Britain should immediately be effected and continued until the British authorities repealed various statutes, including “the acts prohibiting or restraining internal manufactures in America . . . and . . . the acts laying restrictions on the American trade.”⁵³

In *A Summary View*, Jefferson called free trade a “natural right” and set forth with passion some of Virginians’ specific grievances against the British economic statutes. “These acts prohibit us from carrying in quest of other purchasers the surplus of our tobaccos remaining after the consumption of Great Britain is supplied: so that we must leave them with the British merchant for whatever he will please to allow us, to be by him reshipped to foreign markets, where he will reap the benefits of making sale of them for full value.” The Hat Act is described by Jefferson as “an instance of despotism to which no parallel can be produced in the most arbitrary ages of British history” and the Iron Act as a ridiculous waste of tonnage (in shipping it to Britain to be manufactured). Concluding, Jefferson made it clear that the objection to such regulations was not so much that they were burdensome. Rather, parliamentary actions restricting “the exercise of a free trade with all parts of the world” were beyond the jurisdiction of the British Parliament. “The true ground on which we declare these acts void is that the British parliament has no right to exercise authority over us.”⁵⁴

The instructions in fact given to Virginia’s delegates to the First Continental Congress fell well short of this rejection of all British regulation of trade. Adopted during the first week of August 1774, they declared, “Wanting the Protection of Britain, we have long acquiesced in their Acts of Navigation restrictive of our Commerce, which we consider as an ample Recompense for such Protection.” Jefferson was not happy with these instructions. He considered that “we have left undone those things which we ought to have done. And we have done those things which we ought not to have done.”⁵⁵

⁵³ “Resolutions of the Freeholders of Albemarle County,” in Julian P. Boyd, ed., *The Papers of Thomas Jefferson* (Princeton, N.J., 1950), 1: 117–19 (“laws which they adopted,” 1: 117, “acts prohibiting,” 1: 118).

⁵⁴ “Draft of Instructions to the Virginia Delegates in the Continental Congress (MS Text of *A Summary View*, Etc.),” *ibid.*, 1: 121–37 (“natural right,” “exercise,” 1: 123, “These acts prohibit,” 1: 124, “instance of despotism,” “true ground,” 1: 125).

⁵⁵ “Instructions by the Virginia Convention to Their Delegates in Congress, 1774,” *ibid.*, 1: 142 (“Wanting the Protection”); “Observations by Jefferson on the Foregoing [Instructions],” *ibid.*, 1: 143 (“we have left undone”).

The next year, in June 1775, just before finally taking his seat in the Second Continental Congress, Jefferson drafted and the Virginia House of Burgesses approved “Resolutions on Lord North’s Conciliatory Proposal.” British acts prohibiting the colonies from trading “with all parts of the world except the Islands of *Great Britain, Ireland, and the West Indies*” were declared to be “the exercise of [a] usurped Power over us.” One of the reasons Virginians could not accept Lord North’s (Frederick North, 2d Earl of Guilford’s) proposal was because “on our agreeing to contribute our proportion towards the common defence, they do not propose to lay open to us a free trade with all the world.” More specifically, the burgesses demanded that the British “either be content with the monopoly of our trade, which brings greater loss to us and benefit to them than the amount of our proportional contributions to the common defence, or, if the latter be preferred, relinquish the former, and do not propose, by holding both, to exact from us double contributions.”⁵⁶ Jefferson and his colleagues made clear their belief that the Navigation Acts and acts prohibiting American manufactures constituted an unreasonably burdensome tax and, as Jefferson had said in 1774, that Parliament had no authority whatever to interfere with the economic sovereignty of Great Britain’s American colonies.⁵⁷

In all these dress rehearsals for drafting the Declaration of Independence, Jefferson’s argument was essentially jurisdictional. He believed that British mercantilism was enormously burdensome, but he did not rest his case on economic hardship. He considered parliamentary actions to be “unconstitutional” in the uniquely British sense that they departed from settled previous practice, but even this was not his ultimate claim. Rather he asserted that Parliament lacked fundamental authority—sovereignty—to micromanage the economies of its distant British American colonies.

These themes were replicated in Jefferson’s draft of the Declaration of Independence, written about a year after he penned the “Resolutions on Lord North’s Conciliatory Proposal.”

The Declaration restates Jefferson’s fundamental argument that Parliament lacked sovereignty to direct the colonial economy and that only Americans had the right to make these decisions. It contains two lists of acts of misconduct by George III. Embedded within the overall indictment is a minilist of wrongful actions preceded by the words “He has combined with others to subject us to a jurisdiction foreign to our constitutions & unacknoleged by our laws, giving his assent to their acts of pretended legislation.” Then follow eight actions claimed to be not merely wrong, or unconstitutional, but outside the jurisdiction of the British government.

⁵⁶ “Virginia Resolutions on Lord North’s Conciliatory Proposal,” *ibid.*, 1: 172.

⁵⁷ Woody Holton demonstrates that there was a widespread perception that the Navigation Acts imposed a tax (Holton, *Forced Founders*, 52–53).

Among the eight, immediately preceding “imposing taxes on us without our consent” (and so arguably considered at least as important), was “cutting off our trade with all parts of the world.”⁵⁸

In his famous deleted paragraph on slavery, Jefferson articulated his vision of a pacific free-trade utopia. He intended a synergy between the warlike act of cutting off colonists’ trade and the warfare inherent to the slave trade. The draft declared that “the Christian king of Great Britain” had “waged cruel war against human nature itself” by capturing Africans and “carrying them into slavery in another hemisphere,” thereafter “prostitut[ing] his negative” by “suppressing every legislative attempt to prohibit or to restrain” the trade. Describing slaving as “piratical warfare” that stripped away natural rights reinforced the contrast between a war-making mercantilist economy that had placed Americans “beyond the line” and a peaceful (and, by implication, antislavery) republic.⁵⁹ We have been so outraged by Jefferson’s hypocrisy in blaming the king for slavery on top of everything else, and by his resolute focus on the slave trade rather than domestic slavery, that we have missed his definition of the slave trade as an “execrable commerce” supported by policy and force.⁶⁰ This selectively antislavery turn was meant to serve the larger argument about economic sovereignty as well as deflect antislavery critiques of the Americans in English pamphlets.

Jefferson himself had particularly strong reasons to be sensitive to slavery as trade and as a source of galling dependency as well as wealth. He was, after all, one of “the one hundred” richest Virginians yet burdened throughout his adult life by debts that derived directly from his father-in-law’s participation in the slave trade.⁶¹ If Jefferson’s interest in natural rights and in antislavery peaked in the mid-1770s, it may be because he appreciated viscerally the links among war, mercantilism, and slavery as trade that Adam Smith and others were beginning to speculate about during the same years. The Declaration of Independence then becomes,

⁵⁸ “Notes of Proceedings in the Continental Congress,” in Boyd, *Papers of Thomas Jefferson*, 1: 315–19 (quotations, 1: 317).

⁵⁹ *Ibid.*, 1: 318 (“Christian king,” “carrying them”), 317 (“waged cruel war,” “piratical warfare”); Eliga H. Gould, “Zones of Law, Zones of Violence: The Legal Geography of the British Atlantic, circa 1772,” *WMQ* 60, no. 3 (July 2003): 471–510 (“beyond the line,” 474); David Armitage, *The Declaration of Independence: A Global History* (Cambridge, Mass., 2007), 56–57.

⁶⁰ “Notes of Proceedings in the Continental Congress,” in Boyd, *Papers of Thomas Jefferson*, 1: 317.

⁶¹ Jackson T. Main, “The One Hundred,” *WMQ* 11, no. 3 (June 1954): 354–84, esp. 377. For Jefferson’s plantation wealth, slaves, and debt, see Dumas Malone, *Jefferson the Virginian* (Charlottesville, Va., 1948), 162; Lucia C. Stanton, “‘Those Who Labor for My Happiness’: Thomas Jefferson and His Slaves,” in Onuf, *Jeffersonian Legacies*, 148; Herbert E. Sloan, *Principle and Interest: Thomas Jefferson and the Problem of Debt* (New York, 1995), 14–23.

for Jefferson and a few friends (including John Adams), not a declaration of war by settlers seeking to keep hold of their slaves but rather a peacemaking commercial treaty, like the Model Treaty being written at that time.⁶²

Jefferson tried to combine a vision of peaceful free trade that would exclude trade in slaves with condemnation of George III for “prostituting his negative” when he vetoed protectionist legislation for curbing the import of slaves into Virginia. This is where he ran into two potential contradictions that nevertheless reveal the extent of his effort as the Congress’s draftsman to make constitutional and slavery arguments square with economic sovereignty.

Jefferson’s draft paragraph self-evidently condemns the slave trade, not slavery as it already existed in British America. He cites the many attempts to limit or altogether stop the importation of slaves by colonial legislatures—a telling example of the sovereignty problem he had already addressed directly in *A Summary View*, where the natural rights argument against trade regulation culminated in the assertion that the king had prevented colonists from legislating against the slave trade. In his description of efforts to prevent slave importation and his general effort in this paragraph to associate the British rather than the Americans with slavery (defensively, in the wake of antislavery criticisms and the November 1775 proclamation of John Murray, 4th Earl of Dunmore), Jefferson turned a blind eye to the growing practice whereby large plantation owners sold slaves to smaller planters in the interior.⁶³ Jefferson sought to abandon free trade

⁶² John Wayles to Thomas Jefferson, Oct. 20, 1772, in Boyd, *Papers of Thomas Jefferson*, 1: 95–96; “Notice of Sale of Wayles Properties,” [July 15, 1773], *ibid.*, 1: 100; Peter S. Onuf with Ari Helo, “Jefferson, Morality, and the Problem of Slavery,” in Onuf, *The Mind of Thomas Jefferson* (Charlottesville, Va., 2007), 236–70, esp. 239–43; Leonard J. Sadosky, *Revolutionary Negotiations: Indians, Empires, and Diplomats in the Founding of America* (Charlottesville, Va., 2009), 83–84. On war, commerce, colonies, and slavery during this era, see Anthony Pagden, *Lords of All the World: Ideologies of Empire in Spain, Britain, and France, c. 1500–c. 1800* (New Haven, Conn., 1995); Sankar Muthu, *Enlightenment against Empire* (Princeton, N.J., 2003); Emma Rothschild, “Global Commerce and the Question of Sovereignty in the Eighteenth-Century Provinces,” *Modern Intellectual History* 1, no. 1 (April 2004): 3–25; Christopher Leslie Brown, *Moral Capital: Foundations of British Abolitionism* (Chapel Hill, N.C., 2006), chaps. 3–4; Nicholas Onuf and Peter Onuf, *Nations, Markets, and War: Modern History and the American Civil War* (Charlottesville, Va., 2006). Better known for championing free trade against mercantilism, Adam Smith (not coincidentally) in 1776 equated commercial regulation of the colonies with slavery, claimed that slave labor was inefficient, and argued against Britain’s holding colonies such as America. He was probably influenced by Benjamin Franklin but by 1776 could not acknowledge him. For a review of the literature, see David Waldstreicher, “Capitalism, Slavery, and Benjamin Franklin’s American Revolution,” in *The Economy of Early America: Historical Perspectives and New Directions*, ed. Cathy Matson (University Park, Pa., 2006), 183–84. In addition to the works cited there, see James Oakes, “The Peculiar Fate of the Bourgeois Critique of Slavery,” in *Slavery and the American South*, ed. Winthrop D. Jordan (Jackson, Miss., 2003), 30–34.

⁶³ “Jefferson’s ‘original Rough draught of the Declaration of Independence,’” in Boyd, *Papers of Thomas Jefferson*, 1: 426. Woody Holton concludes that “numerous

when it took the form of slave importation unwelcome to large plantation owners of the South. Thus economic sovereignty was a higher priority of revolutionary Americans than free trade.⁶⁴ Like artisans in 1787 and 1788 who were prepared to abandon traditional class hostilities when they needed a national tariff, southern delegates were concerned to protect their livelihoods and expectations by any means necessary, including, where it seemed appropriate, protectionism.

The Second Continental Congress

THE SO-CALLED SUFFOLK RESOLVES, forwarded to the First Continental Congress from Boston, proposed “that until our rights are fully restored to us,” Americans should “withhold all commercial intercourse with Great-Britain, Ireland, and the West-Indies, and abstain from the consumption of British merchandise and manufactures.” The Congress decided to pursue the withholding of commercial intercourse in discrete stages. Nonimportation would come first. It was resolved on September 22, 1774, that Congress would “request the Merchants and others in the several colonies, not to send to Great Britain, any orders for goods, and to direct the execution of all orders already sent, to be delayed or suspended, until the sense of the Congress, on the means to be taken for the preservation of the liberties of America, is made public.” Five days later, on the motion of Richard Henry Lee, the Congress further resolved “that from and after the first day of December next, there be no importation into British America from Great Britain or Ireland, of any goods, wares or merchandizes whatsoever, or from any other place, of any such goods, wares or merchandizes . . . and that no such goods, wares or merchandizes . . . [shall] be used or purchased.”⁶⁵

Nonimportation commanded ready assent. The colonists had done it before and, on the whole, it had worked, politically speaking, at least

motives, mostly economic” prompted tidewater planters to seek to decrease the importation of Africans. These included reducing the number of laborers to keep the size of the crop down and tobacco prices up and to diminish “foreign competition” in the sale of slaves. Holton concludes that, with regard to African slaves as well as Indian land, “gentlemen tried to prevent smallholders from obtaining crucial elements in tobacco production . . . without paying a member of the gentry for them.” See Holton, *Forced Founders*, 66–67 (“numerous motives,” 67), 72–73 (“gentlemen tried”), 70.

⁶⁴ For compatible analyses stressing the contingency of free trade arguments, see Matson and Onuf, *Union of Interests*, 21–30; John E. Crowley, *The Privileges of Independence: Neomercantilism and the American Revolution* (Baltimore, 1993), 3–50.

⁶⁵ Ford, *Journals of the Continental Congress*, 1: 35 (“until our rights”), 41 (“request the Merchants”), 43 (“from and after”). On nonimportation generally and in 1774, see David Ammerman, *In the Common Cause: American Response to the Coercive Acts of 1774* (1974; repr., New York, 1975); Holton, *Forced Founders*, 77–105; Breen, *Marketplace of Revolution*.

as a short-run strategy. Moreover nonimportation benefited most colonists. Artisans supported nonimportation for the same reason that they would enthusiastically support a new national constitution in 1787 and 1788: it protected their livelihoods from the importation of competing British manufactures.⁶⁶ Some merchants supported nonimportation, at least for a time, because it helped them to sell accumulated inventory. In July 1775, after nonimportation was in effect and a year before the Declaration of Independence, Benjamin Franklin wrote to a correspondent, "As we have or may have within ourselves every thing necessary to the Comfort of Life, & generally import only Luxuries and Superfluities, her [Great Britain's] preventing our doing that, will in some respects contribute to our Prosperity. By the present Stoppage of our Trade we save between four and five Millions per Annum which will do something towards the Expense of the War."⁶⁷

However, the First Continental Congress also embraced nonexportation. The Association adopted by the delegates on October 18 and signed on October 20, 1774, endorsed a strategy of "non-importation, non-consumption, and non-exportation."⁶⁸ Nonexportation was the keystone in a comprehensive plan that mandated the following measures:

1. Nonimportation after December 1, along the lines of the resolution already adopted by the Congress, was to proceed.
2. There would specifically be nonimportation of slaves also beginning December 1, "after which time, we will wholly discontinue the slave trade, and will neither be concerned in it ourselves, nor will we hire our vessels, nor sell our commodities or manufactures to those who are concerned in it."⁶⁹
3. After December 1 there would be nonconsumption of tea imported by the British East India Company or on which a duty had been or was to be paid and, after March 1, 1775, no consumption of "East-India tea whatever."⁷⁰
4. Because of an "earnest desire . . . not to injure our fellow-subjects" in Great Britain, Ireland, and the West Indies, nonexportation would be postponed until September 10, 1775, whereafter, if the enumerated actions of the British parliament had not been repealed, "we will not, directly or indirectly, export any merchandise or commodity whatsoever" to Great Britain, Ireland, or the West Indies, "except rice to Europe."⁷¹

⁶⁶ Lynd, "After Forty Years," xxi–xxii n. 2–3.

⁶⁷ Benjamin Franklin to Jonathan Shipley, July 7, 1775, in Smith, *Letters of Delegates*, 1: 605–6.

⁶⁸ Ford, *Journals of the Continental Congress*, 1: 76.

⁶⁹ *Ibid.*, 1: 77.

⁷⁰ *Ibid.*

⁷¹ *Ibid.* For the exemption on rice in deference to South Carolina interests, see Holton, *Forced Founders*, 121–24.

5. Merchants were to give orders to their factors, agents, and correspondents, and any “unworthy conduct [in violation of the Association] being well attested” should be made public and cause “any commercial connexion with such merchant” to cease.⁷²
6. The owners of vessels were to give similar orders to their captains, violation of which should lead to “immediate dismissal from their service.”⁷³
7. The colonists would increase the number and quality of their sheep, and “those of us, who are or may become overstocked with, or can conveniently spare any sheep, will dispose of them to our neighbours, especially to the poorer sort, on moderate terms.”⁷⁴
8. “In our several stations,” adherents to the Association were to practice frugality and promote domestic manufactures, “especially that of wool,” and likewise “discountenance and discourage every species of extravagance and dissipation,” including the production of plays and excessive expenditure on mourning dress and gift giving at funerals.⁷⁵
9. Vendors were to sell their goods at prices to which buyers had been “accustomed” during the past twelve months and American manufactures were to be “sold at reasonable prices.”⁷⁶
10. Goods imported between December 1 and February 1, 1775, were to be reshipped or delivered to a local committee to be stored or sold at the discretion of the committee, any profit from the transaction “to be applied towards relieving and employing such poor inhabitants of the town of Boston, as are immediate sufferers by the Boston port-bill.”⁷⁷
11. A committee was to be chosen “in every county, city, and town, by those who are qualified to vote for representatives in the legislature, whose business it” would be to monitor implementation of the Association and, in the case of people found by a committee majority to have violated it, the committee would see to it that “we . . . will break off all dealings with him or her.”⁷⁸
12. The Association was to be directed not only at Great Britain but also at any of the thirteen colonies that failed to agree to it, with which the

⁷² Ford, *Journals of the Continental Congress*, 1: 77 (“unworthy conduct”), 78 (“any commercial connexion”).

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ *Ibid.* For the thinking and practices behind these sumptuary politics, see Edmund S. Morgan, “The Puritan Ethic and the American Revolution,” *WMQ* 24, no. 1 (January 1967): 3–43; Ann Fairfax Withington, *Toward a More Perfect Union: Virtue and the Formation of American Republics* (New York, 1991).

⁷⁶ Ford, *Journals of the Continental Congress*, 1: 78 (“accustomed”), 79 (“sold at reasonable prices”).

⁷⁷ *Ibid.*, 1: 79.

⁷⁸ *Ibid.*

delegates signing the Association declared that they would have “no trade, commerce, dealings or intercourse whatsoever.”⁷⁹

The Association’s ambitious economic game plan was challenged by many delegates, including some of those who ultimately signed it, as altogether impractical. It was argued that, after nonexportation went into effect in September 1775, the British American colonies would suffer widespread economic deprivation. Nonexportation threatened the livelihoods of all those who gathered, raised, made, or transported products for sale abroad.⁸⁰ It was contended as well that nonexportation would amount to a declaration of functional economic independence inconsistent with membership in the British Empire. If people were unable to send their lumber, fish, flour, rice, and tobacco to British markets, before long they would press to export to other markets, regardless of the Navigation Acts. Therefore, according to some delegates, nonexportation should be delayed as long as possible and, if attempted, should be only temporary.⁸¹

The Second Continental Congress convened in May 1775, a few weeks after fighting began at Lexington and Concord. It found itself improvising arrangements to fight a war while at the same time, consistent with its previous decisions, preparing to launch the untried and possibly widely unpopular plan of nonexportation. It also appeared to some otherwise sympathetic delegates that nonexportation would make it impossible for

⁷⁹ Ibid.

⁸⁰ One can certainly argue for the economic impracticality of the political economy envisioned and put into effect by the revolutionaries, but not without admitting the importance of the economic issues to the Revolution or the ways in which the Congress envisioned local authorities, especially committees, extending their purview into economic activities. For the centrality of price controls and rules of trade during the Revolutionary War years, see Richard Buel Jr., “The Committee Movement of 1779 and the Formation of Public Authority in Revolutionary America,” in *The Transformation of Early American History: Society, Authority, and Ideology*, ed. James A. Henretta, Michael Kammen, and Stanley N. Katz (New York, 1991), 151–69; Barbara Clark Smith, “Food Rioters and the American Revolution,” *WMQ* 51, no. 1 (January 1994): 3–38. For committees, see Breen, *Marketplace of Revolution*, chap. 7; Breen, *American Insurgents, American Patriots*; Smith, *Freedoms We Lost*.

⁸¹ Delegates from the middle colonies had expressed these concerns in the Congress at the end of September 1774. Samuel Chase declared, “Non Exportation [is] of vastly more importance than a Non Importation—it affects the Merchants as well as Manufacturers, the Trade as well as the Revenue.” At least, he concluded, it should be put off to “a more distant Day than the first of November.” Joseph Galloway painted a more dramatic picture: “It is impossible America can exist, under a total Non Exportation. We in this Province [Pennsylvania] should have tens of Thousands of People thrown upon the cold Hand of Charity. Our Ships would lie by the Walls, our Seamen would be thrown out of Bread, our Shipwrights &c. out of Employ and it would affect the landed Interest.” See “John Adams’ Notes of Debates,” in Smith, *Letters of Delegates*, 1: 103 (“Non Exportation”), 104 (“more distant Day”), 109 (“It is impossible”).

the new confederation to raise an army and, if need be, defend itself. A week after appointing George Washington as general of their new army, the Congress decided to emit two million dollars in paper currency “for the defence of America.”⁸² If Congress went through with its decision to stop exporting to the British Empire on September 10, if the British navy cut off trade with countries outside the empire, and if, as a result, no hard money flowed into the country, then how could Congress prevent its new paper money from becoming worthless? A worried North Carolina delegate wrote home:

When a large extensive Country Loses its Trade, when its Ports are all Shutt up and all exportation ceases, will their be Virtue enough found in that Country to bear heavy Taxes with patience. Suppose a Country, no matter where, should be under such circumstances, and Necessity should oblige the inhabitants to raise a large Army for their defence, how is it to be paid? Suppose the exigencies of that country should demand *one million Sterlg. per Annum*, how is it to be raised? how made? how sunk? I will not trouble you farther with imaginary Countries, but beg leave to call attention to your Own.

Writing to Josiah Quincy several weeks later, John Adams put the matter in a sentence: “Necessity will force open our ports.”⁸³

How could gunpowder be obtained for the new army without exporting to pay for it? On July 15, 1775, Franklin carried a motion providing “that for the better furnishing these colonies with the necessary means of defending their rights, every vessel importing Gun powder, Salt petre, Sulphur, provided they bring with the sulphur four times as much salt petre, brass field-pieces, or good muskets fitted with Bayonets, within nine Months from the date of this resolution, shall be permitted to load and export the produce of these colonies, to the value of such powder and stores aforesd, the non-exportation agreement notwithstanding.”⁸⁴ This opened a gap in the pending nonexportation through which an enterprising merchant could sail many ships.

Some delegates, among them apparently Franklin and Lee, pressed Congress to resolve that if by January 20, 1776, the offending acts of Parliament had still not been repealed, America would open its ports to the world. Indeed Adams would have liked to do it right away. On July 6, 1775,

⁸² Ford, *Journals of the Continental Congress*, 2: 103 (quotation), 91.

⁸³ Joseph Hewes to Samuel Johnston, June 5, 1775, in Smith, *Letters of Delegates*, 1: 446 (“large extensive Country”); John Adams to Josiah Quincy, July 29, 1775, *ibid.*, 1: 677 (“Necessity”).

⁸⁴ Ford, *Journals of the Continental Congress*, 2: 184–85.

he wrote a “Secret and confidential” postscript to a letter to his friend James Warren: “We ought immediately to . . . open our Ports to all Nations.” And on July 23 he wrote, again to Warren: “We have had in Contemplation a Resolution to invite all Nations to bring their Commodities to Market here, and like Fools have lost it for the present.” The simple fact was that the new nation could not obtain what it required to survive without explicitly abandoning its connection to Great Britain and seeking new allies. As Franklin put it to his friend Jonathan Shipley, “We have however as yet ask’d no foreign Power to assist us, nor made any offer of our Commerce to other Nations for their Friendship.”⁸⁵ Nonexportation forced consideration of this option.

When the Congress reconvened in September 1775 after an August adjournment, nonexportation had already gone into effect. Delegates now plunged into intense debate about what to do next. It was possible to suspend importation from Great Britain, Ireland, and the British West Indies while importing as usual from other sources. But when it came to exports, Adams wrote to his friend Warren, “a more intricate and complicated Subject never came into any Mans thoughts.”⁸⁶ He explored it in letter after letter in the fall and winter of 1775.

Suppose all thirteen colonies effectually ceased trade with the whole world—“what would be the Consequence? In what manner, and to what degree, and how Soon, would it affect, the other Parts of the World?” It would certainly “distress Multitudes in these Countries.” But “does it therefore follow that it would induce any foreign Court to offer Us Assistance, and to ask us for our Trade or any Part of it?” Foreign states might hesitate to venture upon such steps that would perhaps violate peace treaties and certainly light up a war in Europe. Smugglers would come to the colonies, but would they be obstructed by their own customhouse officers and captured by their own men-of-war, be liable to attack by the British navy, and be vulnerable while at unfortified harbors in America? “In their Return to their own Country would they not have the Same Gauntlet to run[?]” All this was uncertain. Suppose then America were to “assume an intrepid Countenance” and send ambassadors to foreign courts—“What Nation shall We court?” The likely result would be referral to the “Courtezans in keeping of the Statesmen in France.” America could offer itself as a colony to France or Spain, “but We should Suffer any Thing before We shd offer this.” What could America offer? An alliance, a treaty of commerce? “What Security could they have that We should keep it[?]”

⁸⁵ John Adams to James Warren, June [July] 6, 1775, in Smith, *Letters of Delegates*, 1: 589–90 (“Secret,” 1: 589, “We ought,” 1: 589–90); Adams to Warren, July 23, 1775, *ibid.*, 1: 652 (“We have had”); Benjamin Franklin to Jonathan Shipley, July 7, 1775, *ibid.*, 1: 607 (“We have however”).

⁸⁶ John Adams to James Warren, Oct. 7, 1775, *ibid.*, 2: 135.

America might declare independence, but the result might be that Britain would make peace with others “and leave Us in the Lurch.”⁸⁷

What was to be done? Like his erstwhile opponent in the Congress, Joseph Galloway, Adams queried: “Can our own People bear a total Cessation of Commerce? Will not Such Numbers be thrown out of Employment, and deprived of their Bread, as to make a large discontented Party? Will not the Burthen of supporting these Numbers, be too heavy upon the other Part of the Community? Shall We be able to maintain the War, wholly without Trade? Can We support the Credit of our Currency, without it?” “If We must have Trade how Shall We obtain it?” Adams concluded. Repeating the same concerns in a letter written twelve days later, he ended: “This vast object is never out of my Mind. Help me to grapple it.”⁸⁸

At the end of October 1775, Adams wrote again to the same correspondent, posing the problem of a captain who promised to go to one place and then, when out of sight of land, sailed to another port, where the price was higher.

We have agreed not to export to B., I. and the W. Indies. Parliament has made an Act that We Shall not export to any other Place, So that Trade is entirely stopped. But will not a Smuggling Trade be opened? That is will not Adventurers push out Vessells against the Act of Parliament! If they do, when the Vessells are once at Sea, will they not go to the Place where a Famine price is to be had. The Spirit of Commerce is mercenary and avaricious, and Merchants will go where the Scarcity is greatest, the Demand quickest and the Price highest.⁸⁹

A partial nonexportation to Great Britain and its colonies alone, as Congress had initially proposed and had implemented in September, was impossible to police and make effective. There were two obvious alternatives. One was to prohibit all exports. The other was to open the ports of America to all the world.⁹⁰

Through most of October 1775 and again, after an adjournment, during the second half of February and March 1776, the Congress struggled with this choice. There were weighty arguments on each side. Stopping all exports would put maximum pressure on Parliament to reconsider its policies. But it would also put heavy pressure on merchants, sailors, and

⁸⁷ *Ibid.*, 2: 135–36 (“what would be,” 135, “does it therefore follow,” 135–36, “In their Return,” 136).

⁸⁸ *Ibid.*, 2: 137 (“Can our own People”); Adams to Warren, Oct. 19, 1775, *ibid.*, 2: 207 (“This vast object”).

⁸⁹ John Adams to James Warren, Oct. 28? 1775, *ibid.*, 2: 273.

⁹⁰ “John Adams’ Notes of Debates,” Oct. 4, 1775, *ibid.*, 2: 107. See also Robert R. Livingston Jr.’s notes for an elaborate speech opposing nonexportation, “Robert R. Livingston, Jr.’s Notes for a Speech in Congress,” [Oct. 27, 1775], *ibid.*, 2: 263–71.

shipwrights, as well as farmers who produced for export, all deprived of their accustomed means of livelihood. What will disunite us, asked Robert R. Livingston of New York, more than the decay of all business? "The People will feel, and will say that Congress tax them and oppress them worse than Parliament."⁹¹

Opening the ports was criticized for two different reasons. First, of course, it would mean defiance of the Navigation Acts and a dramatic step toward independence. Samuel Chase of Maryland observed: "When you once offer your Trade to foreign Nations, away with all Hopes of Reconciliation." Second, if the ports were opened, who would carry the produce abroad, American ships, or French and Spanish ones? It made little difference to delegates who represented farmers. Lee of Virginia believed it to be "the Interest of Americans to open our Ports to foreign Nations, that they should become our Carriers, and protect their own Vessels."⁹² Delegates from seacoast cities protested. In the end, as so often before, the Congress tried to buy time. On November 1, 1775, it was resolved "that no produce of the United Colonies be exported . . . before the first day of March next . . . provided, that nothing herein contained shall be construed to vacate the resolutions of Congress for the importation of arms, ammunition, &c."⁹³ The thinking behind this resolution was summed up by Samuel Adams: "We shall by the Spring know the full Effect of our Nonexportation Agreement in the West Indies. Perhaps Alliances may then be formed with foreign Powers, and Trade opened to all the World Great Britain excepted."⁹⁴

Debate resumed in February 1776 as to what would happen after March 1.⁹⁵ Logically, it might seem that the colonists would have to, first, decide to declare their independence; second, seek alliances with other nations; and, only third, open the ports of America to the world. In reality Congress's reasoning was almost the reverse. Total nonexportation could not be long continued lest it create so much distress that the people would cry out against the Congress itself. Partial nonexportation was unenforceable. But if, instead, American ports were opened to all nations, commerce could be protected from the British navy only by the navies of other nations, since

⁹¹ "John Adams' Notes of Debates," *ibid.*, 2: 109.

⁹² *Ibid.*, 2: 107–9 ("When you once," 2: 109, "Interest of Americans," 2: 107).

⁹³ Ford, *Journals of the Continental Congress*, 3: 314.

⁹⁴ Samuel Adams to James Warren, Nov. 4, 1775, in Smith, *Letters of Delegates*, 2: 298.

⁹⁵ Congress did not receive "full information" about the December 1775 American Prohibitory Act, which banned all commerce with the colonies, until "the end of February, 1776." See Curtis P. Nettels, *The Emergence of a National Economy, 1775–1815* (New York, 1962), 3 (quotations); see also Lawrence Henry Gipson, *The British Empire before the American Revolution* (New York, 1965), 12: 358; Merrill Jensen, *The Founding of a Nation: A History of the American Revolution, 1763–1776* (New York, 1968), 649–50, 655–56, 659; Neil Thomas Storch, "Congressional Politics and Diplomacy, 1775–1783" (Ph.D. diss., University of Wisconsin, 1969), 11–13.

America had no navy at all. Therefore, opening the ports required foreign alliances, especially with Great Britain's rival, France. But France, the delegates considered, would not commit itself to an alliance and a possible war with Great Britain unless it was first assured that America really meant to be independent. Hence opening the ports required foreign alliances, and foreign alliances required a declaration of independence.

This is exactly how the delegates spelled it out. Congress met on February 16 "in a committee of the whole to 'take into consideration the propriety of opening the ports.'" A delegate unidentified in John Adams's notes said, "Open your Ports to Foreigners. Your Trade will become of so much Consequence, that Foreigners will protect you." Roger Sherman of Connecticut echoed, "We cant carry on a beneficial Trade, as our Enemies will take our Ships. A Treaty with a foreign Power is necessary, before We open our Trade, to protect it." Thomas Jefferson's mentor in the law, George Wythe, pushed the logic further: protection by a foreign navy would require a prior declaration of independence. "The Ports will be open the 1st. March. The Q. is whether We shall shutt em up . . . It is said our Trade will be of no Advantage to Us, because our Vessells will be taken, our Enemies will be supplied, the W.I. will be supplied at our Expense. This is too true, unless We can provide a Remedy. Our Virginia Convention have resolved, that our Ports be opened to all Nations that will trade with us, except G.B., I. and W.I." One way to protect American commerce, Wythe continued, would be by "authorizing Adventurers to Arm themselves." Another way would be

inviting foreign Powers to make Treaties of Commerce with us.

But other Things are to be considered, before such a Measure is adopted. In what Character shall We treat, as subjects of G.B.—as Rebels? Why should we be so fond of calling ourselves dutifull Subjects[?]

If We should offer our Trade to the Court of France, would they take Notice of it, any more than if Bristol or Liverpool should offer theirs, while We profess to be Subjects[?] No. We must declare ourselves a free People.⁹⁶

On March 23, 1776, the Congress took the first of the two steps Wythe had suggested, resolving "that the inhabitants of these colonies be permitted to fit out armed vessels to cruize on the enemies of these United Colonies."⁹⁷

⁹⁶ "John Adams' Notes of Debates," Feb. 16, 1776, in Smith, *Letters of Delegates*, 3: 260–61 n. 1 ("committee of the whole," 1: 261 n. 1, "Open your Ports," 1: 260, "We cant carry," 1: 261).

⁹⁷ Ford, *Journals of the Continental Congress*, 4: 230. *Ibid.*, 4: 159 n. 1, for John Adams's comment in his autobiography that the measure to open the ports caused

Then, on April 6, 1776, the Congress went most of the way toward effectuating Wythe's second proposal, in effect repealing the Navigation Acts. It resolved "that any goods, wares, and merchandise, [with minor exceptions] may be exported from the thirteen United Colonies, by the inhabitants thereof, and by the people of all such countries as are not subject to the King of Great Britain, to any parts of the world which are not under the dominion of the said King" and that "any goods, wares, and merchandise, except such as are of the growth, production, or manufacture of, or brought from any country under the dominion of the King of Great Britain, and except East India Tea, may be imported from any other parts of the world to the thirteen United Colonies." These same resolutions also included the Association's provision that "no slaves be imported into any of the thirteen United Colonies."⁹⁸

This was the substance of independence. Samuel Adams was exultant. Writing to Congress delegate Joseph Hawley, he asserted that the need to declare independence resided not just in war, in government, or even in hearts and minds—the things often used to say, then and now, that independence had already occurred. It had also to reside in the economy.

I am perfectly satisfied with the Reasons you offer to show the Necessity of a publick & explicit Declaration of Independency. I cannot conceive what good Reason can be assignd against it. Will it widen the Breach? This would be a strange Question after we have raised Armies and fought Battles with the British Troops, set up an American Navy, permitted the Inhabitants of these Colonies to fit out armed Vessels to cruize on all Ships &c belonging to any of the Inhabitants of Great Britain, declaring them the Enemies of the united Colonies, and torn into Shivers their Acts of Trade, by allowing Commerce subject to Regulation to be made by *ourselves* with the People of all Countries but such as are subjects of the British King.

And John Adams wrote to his wife, Abigail: "As to Declarations of Independency, be patient. Read our Privateering Laws [the March 23 resolution], and our Commercial Laws [the resolution of April 6]. What signifies a Word[?]"⁹⁹

much controversy because it was "considered as a bold step to independence" and that he advocated it for that very reason. According to this passage, many motions that were made and debates that took place were not reflected in the journals.

⁹⁸ Ford, *Journals of the Continental Congress*, 4: 257 ("may be exported"), 258 ("may be imported").

⁹⁹ Samuel Adams to Joseph Hawley, Apr. 15, 1776, in Smith, *Letters of Delegates*, 3: 528 ("I am perfectly satisfied"); John Adams to Abigail Adams, Apr. 14, 1776, *ibid.*, 3: 520 ("Declarations of Independency").

Conclusion

NEITHER RESISTANCE NOR RHETORIC would have amounted to independence absent the underlying growth of the colonial economy. It was this that prompted the colonists to break free from the restrictions of the Navigation Acts and the laws prohibiting colonial manufactures. Thomas Paine elaborated on the common metaphor of an infant grown to adulthood to express “the ripeness or fitness of the continent for independence.” To argue that America must continue as a colony was like asserting “that because a child has thrived upon milk, that it is never to have meat, or that the first twenty years of our lives is to become a precedent for the next twenty.”¹⁰⁰ America had grown from infancy to young adulthood and could function as an independent actor on the world stage.¹⁰¹

One of the goals of economic interpretations of the Revolution has always been to curb the excesses of national self-congratulation regarding our seemingly exceptional, benign revolution. Americans should find their own transition from colonies to neo-colony reflected in the experience of the developing world in the years since World War II. The Founding Fathers did some things breathtakingly well. In others, as in their partial and selective criticisms of slavery and their failure to take the difficult steps to end it, their divisions (at best) or economic interests (at worst) led to the kind of “constitutional failure” and civil war we rather perversely tend to associate with the third world rather than with what might be called the first American republic.¹⁰² In the current climate of opinion, in which American revolutionaries are said to have simply rebelled against big government in favor of personal liberties, a renewed appreciation of the economic dimensions of independence can help call into question self-serving definitions of American political ideals that sever political history from political economy, including slavery.¹⁰³ Americans are not a chosen people, and America is not a singular city on the hill or a light to the nations. It is one among many experiments in national self-determination, with much to teach and also much to learn.

¹⁰⁰ “Common Sense,” in Philip S. Foner, ed., *The Complete Writings of Thomas Paine* (New York, 1945), 1: 31 (“ripeness”), 18 (“because a child”)

¹⁰¹ Edmund Cody Burnett, *The Continental Congress* (New York, 1941), 3. The fear that this might be true had haunted English commentators on the colonial controversy. See Theodore Draper, *A Struggle for Power: The American Revolution* (New York, 1996). Curiously, Jack N. Rakove cites awareness of “an ever-expanding, ever more prosperous America” only as evidence on which some colonists relied in projecting an eventual or inevitable “pacific” separation from Great Britain (Rakove, *Beginnings of National Politics*, 8–9).

¹⁰² Mark E. Brandon, *Free in the World: American Slavery and Constitutional Failure* (Princeton, N.J., 1999).

¹⁰³ For an especially useful critique, see Jill Lepore, *The Whites of Their Eyes: The Tea Party’s Revolution and the Battle over American History* (Princeton, N.J., 2010).