Efforts At Anglo-American Adjustment: 1763-1775

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EFFECTS AT ANGLO-AMERICAN ADJUSTMENT: 1763-1775

by

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of Loyola University in Partial Fulfillment of
the Requirements for the Degree of
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George Henry Holcal was born in Chicago, Illinois, May 6, 1933.

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PREFACE

An attempt has been made in the following pages to examine the many ideas and events which had an influence upon the efforts of Great Britain and her North American Colonies to reach an agreement concerning the nature of their relationship within the empire. This process of political accommodation, which was necessitated by the British policy of imperial reorganization that commenced after 1763, continued to occupy the attention of the British and Americans until 1775, when it became evident to them that war, not peaceful reconciliation, was the only solution.

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CHAPTER I

INTRODUCTION

The interval between the conclusion of the Seven Years' War in 1763 and the precipitation of the American Revolution in 1775 is the most critical period in the history of the relationship between Great Britain and her North American colonies. The result of the policies adopted by the mother country to strengthen her imperial position in the thirteen colonies after 1763 was that unexpected resentment was aroused on the part of the colonists. Consequently, various attempts at political accommodation were inspired. During the decade immediately preceding the outbreak of armed hostilities, the British and Americans endeavored to find a mutually acceptable basis for restoring harmony to their relations. The efforts made in this direction, however, were primarily hindered by the different opinions held by both sides concerning the fundamental principles animating the British Empire; differences which became increasingly magnified as the colonists demanded additional limitations on the power of Parliament to intervene in their local affairs.

This is not to imply that the eventual separation was caused by antagonistic political beliefs alone, although the concern of the Americans for their constitutional rights, as they conceived them, was a crucial factor.1

1John C. Miller, Origins of the American Revolution (Boston 1949), 25.
Economic grievances, as symbolized in the commercial and industrial restrictions imposed upon the colonies, also influenced the final outcome of the dispute. Notwithstanding the many diverse factors which tended to exacerbate the feeling of hostility between the Americans and British, such as the extension of admiralty court jurisdiction and the limits imposed upon the settlement of western lands, one factor soon commanded the most attention. It was the grievance against the Parliamentary taxation of the colonies. Upon this issue the conciliatory efforts focused, for it raised the salient constitutional question of the extent to which Parliament possessed the power to regulate the colonies, especially their internal governments.

To understand the efforts made towards conciliation, it is necessary to know some of the chief features of the British Empire as it existed in the eighteenth century—in other words, the old colonial system. The central feature of the old colonial system was its economic organization, as defined by a series of Parliamentary laws known as the Acts of Trade and Navigation, which for nearly two centuries regulated British international and inter-colonial trade. In accordance with the current economic theory of colonization of that period, the primary objective of the system was to give England, the mother country, the fullest benefits of her colonies. This meant that the colonies were supposed to foster the development of English naval power, commerce, and industry.²

The main advantages which accrued to the dependencies under the old

²George L. Beer, The Old Colonial System (New York, 1933), I, 106.
colonial system were commercial and military in character. The commercial laws encouraged the production of colonial commodities and provided a protected market for them. The frequent wars arising out of the commercial and dynastic rivalries of European powers, especially during the eighteenth century, created the need for protecting the relatively weak colonies in America. This task devolved principally upon the mother country which assumed the greater share of the cost of military and naval defense.  

The important political organs which were involved in the governing of the colonies consisted of Parliament; the king; and two committees, the Privy Council and the Board of Trade. A brief examination of the functions each of these performed in the area of colonial administration follows.

As the supreme legislative authority in Great Britain, Parliament formulated colonial policies and implemented them with the necessary legislation; hence, it was the sole target of American criticism until 1776 when allegiance to the king was renounced. Historically, the powerful voice of Parliament was the result of a steady process whereby the king's prerogative in the legislative field had been displaced. With the repudiation of absolute monarchy in England during the upheavals of the middle of the seventeenth century, the process reached its culmination with the coronations of William and Mary who swore to govern the kingdom "and the dominions thereunto belonging according to the statutes in Parliament agreed on."  

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3 Ibid., 127.

Although the king suffered a diminution of his prerogative, he continued
to discharge many imperial duties. His foremost responsibility was to appoint
numerous royal officers within the proprietary, charter, and crown colonies,
and thus make operative the commercial system created by Parliament.\(^5\)

The Privy Council and the Board of Trade were intimately concerned with
colonial affairs. The former, an executive body composed of the king's trusted
appointees, served to coordinate colonial administration by aiding the king in
making decisions relative to various colonial questions coming under his
prerogative.\(^6\) For example, the Privy Council recommended which laws enacted by
the colonial legislatures should receive the royal veto if they conflicted with
the legislation of Parliament.\(^7\) The latter, on the other hand, had no power to
make political decisions; instead, it investigated and then reported on
colonial problems, particularly those dealing with commercial affairs. In this
capacity the Board of Trade exerted considerable influence on the determination
of colonial policies.\(^8\)

The British plan of governmental control as it had evolved over the years,
however, proved inadequate to the actual conditions in America and finally
resulted in the breaking down of the established administrative routines.\(^9\)

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\(^5\)Beer, 225.

\(^6\)Ibid., 228.

\(^7\)Alpheus H. Snow, The Administration of the Dependencies (New York, 1902),
123.

\(^8\)Mary P. Clarke, "The Board of Trade at Work," American Historical Review,
XVII (October 1911), 42.

\(^9\)Charles M. Andrews, "The American Revolution: An Interpretation," AHR,
XXXI (January 1926), 228.
This development was directly traceable to the wide powers of self-government enjoyed by the colonies. Often the popularly-elected lower houses of the legislatures, through their control of local finances, were able to make the governors comply with their wishes. The consequence was that this unchecked colonial venture into self-government contributed to the decentralized character of the empire.

The relative looseness of the ties which bound the colonies to the mother country was largely due to the vigorous local governments and the general prosperity of the Americans. These two factors created a feeling of self-sufficiency with the result that by the middle of the eighteenth century, the colonies began to regard themselves toward Great Britain as substantially equal commonwealths in a federation. Conversely, the single most important factor under the old colonial system holding the colonies within the empire and delaying any inherent tendencies towards establishing their independence was the vital military protection furnished by the mother country. The course of English colonial history up to 1763 shows that the relative strength of the imperial connection fluctuated with the extent of military threat from Spain or France.

The removal of these foreign dangers to the colonies by the Treaty of

11 Andrew C. McLaughlin, Foundations of American Constitutionalism (New York, 1932), 139.
13 Beer, British Colonial Policy, 170.
Paris, 1763, thus weakened the political influence of Great Britain in America just at the time when Parliament began to reorganize the empire. The huge accretion to the British debt incurred as a result of the waging of the Seven Years' War and the difficulty experienced in enlisting the wholehearted cooperation of the colonies during that same struggle convinced Parliament of the exigency for the new program of reorganization. Such matters as the disposition of western lands and the control of Indians and the fur trade formed part of the plan. These considerations, however, were subsidiary to the main one of defraying the cost of imperial defense. The renovation of the imperial fiscal system, beginning with the Sugar Act of 1764, constituted the approach taken by Parliament towards this pressing need for additional revenues.

The decade after 1764 witnessed the well-known clashes between the policies of Parliament and the remonstrances of the Americans. The colonials, viewing the new imperial program as an encroachment upon their liberties, devised several major arguments to mitigate the effects of this danger. A good statement of the shifting positions taken by the colonists appeared in a promulgation of the First Continental Congress, wherein they based their rights on "the immutable laws of nature, the principles of the English constitution, and the several charters or compacts." However, the chronological order of actual insistence upon these claims, it will be seen,

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was the inverse of that in the declaration.

Of these three, the argument founded upon the colonial charters was the weakest defense against Parliamentary interference. Past experience had disclosed the charters' vulnerability to attack from the crown, the courts, and Parliament itself. As early as 1701, a bill had been introduced in Parliament to abolish all charter rights of the colonies and to bring them directly under the control of the central government. Although the bill had failed to pass, the colonists had no assurance that in the future such a measure might be enacted successfully.  

The reluctance of the Americans to rely exclusively upon the charters was sound, particularly in view of the British interpretation of charter rights made in 1766 by Lord Mansfield, the learned Lord Chief Justice of the King's Bench, during a debate in consequence of the Stamp Act imbroglio. He declared that the colonies such as Connecticut, Rhode Island, and Massachusetts were "all on the same footing as our great corporations in London."  


16 Furthermore, an argument based on charters would have limited applicability, since by 1752 all of the colonies except Maryland, Connecticut, Rhode Island, and Pennsylvania were governed as royal colonies.

Therefore, the argument based on charters formed only a transitory phase in American resistance. It occupied a minor place as early as 1765 when, as will be seen, the Stamp Act Congress by-passed the appeal to charter rights by adhering to the Whig doctrine of natural and fundamental law, which constituted the second facet of the colonial discussion of political rights.

In this second stage, the Americans sought British recognition of the theory that the English Constitution, founded on natural law, represented a free constitution guaranteeing to all of its subjects wherever they might happen to be the fundamental rights incident to a free government. By insisting that the law of nature was embedded in the constitution and that the constitution was superior to Parliament, the Americans were entertaining ideas at variance with British legislative tradition. The British considered these ideas as attacks upon the prestige and power of Parliament. Moreover, the colonial hints for a voice in Parliament, as part of the natural-law argument, met strong disapproval in Great Britain.

As relations with the mother country turned from bad to worse, the ineffectiveness of the natural-law plea became increasingly apparent to American leaders. Therefore, in their final quest for a satisfactory basis for maintaining the colonies as part of the empire, they began to develop the concept during the 1770's that the colonies were semi-autonomous states or dominions, retaining full control of their internal affairs and owing only allegiance to the king. The proponents of this view, however, recognized the authority of Parliament to administer the external concerns of the empire, such as the regulation of trade.

The challenge presented by the arguments of the Americans in their
opposition to the mother country's new policies was eagerly taken up by British spokesmen, both in and out of Parliament. The ensuing decade of discussion subsequent to 1765 failed to establish on either side a closer understanding of the others position. On the contrary, the debate served to strengthen the convictions of both Americans and British in the equity of their own claims, thus creating an unfavorable political climate wherein reconciliation had to take place. It is appropriate at this point to begin the study of the factors which conditioned reconciliation with an examination of the colonial protest as it unfolded in response to imperial reorganization.
The colonial discontent which emerged and grew increasingly grave during the years immediately following the Peace of Paris resulted from the new imperial policy put into effect by Parliament. This new policy was made necessary by changed conditions within the empire resulting from the war. It amounted to an attempt at imperial reorganization and an effort on the part of Parliament to exercise powers which theretofore had not been explicitly asserted. The question as to whether Parliament properly had such authority, or the degree to which it might have, was the issue about which the controversy revolved.

The old colonial policy under which Parliament had in the main confined its supervision to the regulation of colonial trade, while the colonies grew accustomed to running their internal affairs, was now superseded by new and more stringently enforced commercial regulations, along with measures to raise a substantial revenue from the colonies for the first time. The British reasonably thought that their plan to derive certain benefits from the colonies was not entirely without justification. Since the dependencies enjoyed various privileges as members of the British Empire, it was expected of them to comply with the laws established by Parliament, or as Prime Minister George Grenville said: "Protection and obedience are reciprocal. Great Britain protects
America; America is bound to yield obedience.  

So long as the colonies had been satisfied with their quasi-autonomous status under the old colonial system, there had been no occasion for them to inquire into the rights of the colonial legislatures vis-à-vis the rights of Parliament. Then the Sugar Act of 1764 and succeeding legislation provoked this inquiry. Consequently, the colonists were suddenly under the necessity of attempting to define their rights within the empire. They had to determine what constitutional barriers there were, if any, against Parliament's unlimited control over them. Their uncertainty concerning the degree of the authority of Parliament led to a searching examination of the nature of the British Constitution that engaged the attention of numerous Americans, and, in turn, of many Englishmen.

As the intention of Parliament to raise a revenue in America revealed itself with the passage of the Sugar Act, the colonials resorted to arguments based upon natural and fundamental English law, purporting to show that such taxation was illegal. The theory underlying the American position on this

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1Parliamentary History, XVI, 102.

2Primarily, the Sugar Act halved the duties on molasses, but for a change the British intended to enforce the law.

3Carl L. Becker, The Declaration of Independence (New York, 1922), 82.
matter was principally derived from Whig doctrine. One of its foremost
contemporary American exponents was James Otis, an influential Massachusetts
lawyer, who wrote an essay concerning the relation between natural law and
colonial taxation. Furthermore, in considering the constitutional problem, he
discussed the concept of natural law as an integral part of the English
Constitution, superior to and binding upon, Parliament.

While Otis accepted the authority of Parliament to make laws binding upon
the colonies, he believed that Americans were entitled to the same rights
enjoyed by Englishmen. Specifically, he maintained that the Sugar Act was
irreconcilable with the rights of the colonists as British subjects, for they
were being taxed without their consent. Otis wrote that this tax was unjust,
inasmuch as it constituted a violation of the natural-law principle that a
person may not be deprived of his property unless he willingly gives his
consent. What did Otis propose for the Americans to do in order that this
palpable wrong perpetrated by Parliament be corrected? Believing as he did in
the authority of that body, he counseled strict obedience to this law until
repealed.

In advising a program of non-resistance to the Sugar Act, Otis assumed
that Parliament, acting as its own judge, would declare the law void when

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1James Otis, The Rights of the British Colonies Asserted and Proved, 3rd
ed. (London, 1766), 49.

5Ibid., 58, 60.
informed of its error. Developing his ideas further, this New England lawyer asserted that Parliament could be absolute but never arbitrary, that it was limited by natural law, and that any laws in contradiction thereto should be repealed. These points were stressed by him in the following words:

To say the parliament is absolute and arbitrary, is a contradiction. The parliament cannot make 2 and 2 5: Omnipotency cannot do it. Parliaments are in all cases to declare what is for the good of the whole; but it is not the declaration of parliament that makes it so: There must be in every instance, a higher authority, viz. God. Should an act of parliament be against any of his natural laws, which are immutably true, their declaration would be contrary to eternal truth, equity and justice, and consequently void; and so it would be adjudged by the parliament itself, when convinced of their mistake.  

In short, America's freedom consisted for Otis in a reliance upon a Parliament which by definition was absolute but not arbitrary. The potential danger of this dependence is evident in Otis' belief that Parliament possessed the wisdom and inclination voluntarily to revise its legislative mistakes.

Some American lawyers, agreeing with Otis that a Parliament unlimited in power could oppress and inflict injustices upon the colonists, adopted his line of reasoning while others went beyond it. For example, John Adams held that "an act of Parliament against natural equity . . . would be void." As the new imperial policy came to be more clearly revealed through the passage of additional legislation, they resorted even more emphatically to the natural-law argument. This was especially true of Samuel Adams, who, in January of

6Ibid., 70-71.
7Charles F. Adams, ed., The Works of John Adams (Boston, 1850-56), II, 139.
1768, penned a series of letters in behalf of the Massachusetts House to members of the British Ministry protesting against the Townshend Acts. In these addresses Adams cogently expressed the conviction that Parliament could not pass laws contrary to fundamental law, a theory that later became basic in the American Constitution. In his letter to the Earl of Shelburne, a known friend of America and one of Pitt's followers, Adams laid down two important political principles: that the fundamental law is superior to the legislature and that it is not subject to legislative tampering. If this were true, Adams hoped to convince Shelburne and his fellow ministers that since Parliament obtained its powers from the constitution, it could not change this fundamental law without destroying its own foundation of legal existence. 8

It will be seen that his characteristic American notion of constitutional restraints on the powers of Parliament was not acceptable to most Englishmen. While Samuel Adams attempted to protect American rights with the theory that the British Constitution was fixed by "the law of God and nature," and was founded on unchanging principles of law and reason, the British clung just as tenaciously to their idea of a flexible and evolving constitution. 9 Although the natural-law argument ultimately failed to receive a favorable reception in Great Britain and consequently was no longer a basis for reconciliation, the important position which it occupied in the minds of the Americans at this time should be recognized.

9 William V. Wells, The Life and Public Services of Samuel Adams (Boston, 1865), I, 75.
While certain American lawyers busily engaged themselves with the study of the abstractions of natural law and their relation to contemporary political problems, the members of Parliament directed their attention to the task of finding the required revenues to pay the costs of the new imperial policies. Money, not a discussion of political rights, was the pressing need of the moment, and the Americans were expected to aid the mother country instead of concerning themselves with plans for determining the precise relationship between her and themselves. Nevertheless, with each attempt that Great Britain made to secure revenues from them in the years following 1763, the Americans countered with increasingly stronger arguments and even physical resistance.

Though the Sugar Act of 1764 initiated a ten-year period of debate over the problem of imperial relations, it was not until the following year that most Americans became aware of the necessity for investigating the nature of their rights and obligations. The colonial policies of the Grenville Ministry were responsible for this development. As First Lord of the Treasury, Grenville proposed, and Parliament approved, a series of resolutions for extending the British system of stamp taxes to the colonies.\(^\text{10}\) The Stamp Act of February, 1765 received an unexpected reception in America, for it galvanized colonial opinion and led to the first organized protest against the mother country, the Stamp Act Congress of October, 1765.

\(^{10}\) This means of taxation required the use of stamps on all commercial and legal papers, newspapers, pamphlets, almanacs, cards and dice.
Throughout the length and breadth of America, colonial legislatures and individuals hastened to denounce the Stamp Act. In Virginia, the House of Burgesses resolved on May 30, 1765 that it alone was empowered to tax the people of that colony. In Massachusetts, John Adams made his entrance into the dispute when he drew up the protest of the town of Braintree toward the Stamp Act. According to this document, he maintained that the stamp taxes violated the common law and British Constitution since they were contrary to the principle of no taxation without representation.

One important effect of the Stamp Act was its influence upon American views concerning imperial relations. Certain colonial lawyers took the initiative in this field of speculation when they originated an argument which they felt would safeguard American property and would meet also with British approval. In order to attain these twin objectives, they decided not to oppose all Parliamentary taxation, but only to oppose one particular class of taxes. The two individuals who were pre-eminently responsible for making this argument the basis of American remonstrance against Parliament were Daniel Dulany and John Dickinson.

Daniel Dulany, an outstanding Maryland lawyer and politician, obtained his law education in England and political experience in the Maryland Assembly and the Governor's Council. Just eight months after the passage of the

11 Commager, 55-56.
12 Adams, III, 465.
Stamp Act, Dulany published a pamphlet dealing with the taxation controversy. With a lawyer-like regard for tradition and precedent, he endeavored to establish the constitutional bounds of Parliament's authority over the colonies without disputing their subordinate status to the mother country. It was obvious to him that the arguments based on the natural rights of man, which had already been offered by other colonial spokesmen, would not encounter the same willing acceptance in Great Britain as they had in America.14

Unlike James Otis, Dulany did not make a sweeping denial of Parliament's right to tax the colonies. Rather, in pamphlet form he wrote that the constitutionality of colonial taxes depended upon the type of tax involved, that is, external or internal. According to him external taxes, which were imposed for the regulation of trade, were permissible. Parliament might levy them without the consent of the colonies, since these duties facilitated the integration of the colonial economy with that of the mother country. Moreover, any revenue which might accrue from the operation of these regulatory duties would be legal.15 However, he denied the right of Parliament to impose internal taxes, which were levied directly upon the individual colonist for the single purpose of raising revenues.16 According to Dulany an internal tax, such as the stamp tax, could be levied only by representative bodies,

14Ibid., 83.

15Daniel Dulany, Considerations on the Propriety of Imposing Taxes on the British Colonies (New York, 1765), 33.

16Ibid., 34.
and the only representative bodies in America were the colonial assemblies. Consequently, an American could "give his Consent in no other Manner than in Assembly." 17

Dulany's analysis gained immediate acceptance among his countrymen from Georgia to New Hampshire. 18 His distinction between external and internal taxes became part of the line of protest which the colonists followed for the next few years. The convincing presentation of his opinions even influenced William Pitt, who later drew upon them in his speech for the repeal of the Stamp Act. 19

John Dickinson, a lawyer and country gentleman from Pennsylvania, opposed the Stamp Act on grounds similar to those of Dulany. Dickinson's adherence to a conservative defense of colonial rights may have stemmed from his admiration for the orderly processes of English legal procedure, which he had studied at the Inns of Court. 20 He was representative of the typical American Whig who drew his political beliefs from the tradition of English Whiggery, a tradition which held that the role of government should be the protection of property, and one which was largely responsible for the writing into the British Constitution of the principle of no taxation without representation. 21

17 Ibid., 29.
18 Morgan, 87.
19 Moses C. Tyler, The Literary History of the American Revolution (New York, 1897), I, 111.
20 Vernon L. Parrington, Main Currents in American Thought (New York, 1930), I, 220.
21 Ibid.
The Stamp Tax controversy provided Dickinson with an opportunity to publicize his views and to influence the course of American resistance. His conclusions are to be found in the drafts of resolutions which guided both the Pennsylvania Legislature and the Stamp Act Congress. In Pennsylvania, the resolutions adopted by the legislature on September 21, 1765 were based on Dickinson's report. As the resolutions indicate, the legislators distinguished between internal and external taxes and echoed Dickinson's original draft by asserting that "it is inseparably essential to a free Constitution of Government that all internal Taxes be levied upon the People with their consent." 22

The draft of resolutions which Dickinson submitted to the Stamp Act Congress formed the basis for the declaration made by the nine participating colonies "that the only representatives of the people of these colonies are persons chosen therein by themselves, and that no taxes ever have been, or can be constitutionally imposed on them, but by their respective legislatures." 23

Only the new internal taxes provided for in the Stamp Act were denounced by the Congress, for the external taxes relating to the trade laws had been acquiesced in by the colonies since the inception of the British mercantilist system over a century earlier. Inasmuch as the delegates also declared that


23 Commager, 58.
the colonies owed "all due subordination to that august body the Parliament of Great Britain," the resolutions seemingly indicated that the Americans, at this point, fully conceded to Parliament all legislative power over imperial functions, such as the regulation of trade. On the other hand, the levying of direct internal taxes was, in their opinion, exclusively reserved to the colonial legislatures. Moreover, they looked upon the Stamp Act as not only contrary to custom, but in violation of their constitutional rights.

Mere denials of Parliament's authority to tax the colonies internally, whether predicated on natural-law or constitutional arguments, seemed to some Americans as contributing little to the understanding and solution of the larger problem of imperial relations. Contemporaneously with the debate over the Stamp Act, however, Daniel Dulany and Stephen Hopkins individually proposed a system of imperial government that would, on the one hand, satisfy the colonies on the sensitive question of taxes, and on the other, reassure the mother country of their sincere loyalty to her.

Dulany outlined his system in the same pamphlet in which he detailed his objections to the Stamp Act. Accepting as a fundamental proposition the dependence of the colonies upon Great Britain, Dulany suggested that a line be established that would indicate what acts of Parliament were necessary to keep

24 Tid.
25 Becker, 91.
the colonies in their proper state of dependency, and what acts were unnecessary for that purpose. While recognizing the superiority of Parliament over the colonies in the form of a general superintending power, he also cautioned that it was not an absolute power which would enable Parliament to seize the property of the Americans. As a means of implementing his proposals, Dulany wished to see the adoption of a compact that would define the scope of Parliament's superintending powers and those retained by the colonies. Thus, Parliament would have the consent of the Americans to administer the empire and they would have their customary rights, including that of internal self-taxation, guaranteed by the mother country. Dulany optimistically believed that this agreement, after being acknowledged by Parliament, would obviate all future clashes between Great Britain and her colonies.

Stephen Hopkins, the popularly elected governor of Rhode Island supplemented the suggestions of Dulany in a pamphlet which he wrote in opposition to the Stamp Act. Hopkins maintained that each colonial legislature was competent to take care of its own interests and to provide for its internal government. However, he realized that there were many things of a general nature which needed to be regulated and governed by a body that would have a deeper understanding of imperial problems than the various provincial legislatures could possibly have. In fact, commerce and everything that "concerns the proper interest and fit government of the whole commonwealth, of keeping the peace, and subordination of all the parts towards the whole, and

26 Dulany, 14-15.
one among another," would fall under this general regulation. Hopkins assigned
this general regulatory function to Parliament; for "that grand and august
legislative body must from the nature of their authority and the necessity of
the thing, be justly vested with this power."27

The deliberations of James Otis, Samuel Adams, Daniel Dulany, and other
articulate Americans who gathered at the Stamp Act Congress, represented the
first, tentative steps taken in the effort to find an answer to the vexing
problem of imperial relations, especially as they existed after 1763. The
salient point which thus far emerged from the arguments against the British
policy of imperial reorganization was their cautious tone. The men who gave
their serious consideration to the matter were careful to affirm the dependency
of the colonies on Great Britain as they defined the extent of Parliamentary
supervision over them. They agreed that Parliament possessed a power of
general legislative jurisdiction throughout the empire. This idea served as the
common denominator for the Americans inasmuch as they differed among themselves
in the choice of arguments to protect their rights.

James Otis and Samuel Adams, for example, attempted to protect these rights
by having the British recognize the limiting factor of natural law on
Parliament's actions. Seeing their property jeopardized by the new imperial
policies, they argued that there is a natural right, lodged in the British

27 Stephen Hopkins, The Grievances of the American Colonies Candidly
Examined (London, 1766), 19-20.
Consutation and superior to Parliament, which protects a person from being dispossessed of his property, in this case through taxation, without his consent.

Daniel Dulany and John Dickinson placed decidedly less emphasis on the natural-law argument and instead advocated the reaching of a *modus vivendi* on the question of taxation. Therefore, they distinguished between two types of taxes in vigorously denying Parliament's right to impose internal taxes, and in admitting that the levying of external taxes for the regulation of trade was part of its imperial function.

Stephen Hopkins and Daniel Dulany endeavored to reach to the basis of the imperial problem by pointing out the need for a clarification of the respective roles of Parliament and the colonies. They maintained that the colonies should be permitted to administer their local affairs and that only those matters affecting the empire as a whole should be controlled by Parliament.

Though the shibboleth of the time was "no taxation without representation," it remained to be seen how ardently the Americans actually sought membership in Parliament. In the years that followed, there appeared upon the American political stage leaders who did not lose sight of the main constitutional problem of the British Empire, namely, the reaching of a compromise between the unlimited sovereignty of Parliament and the complete subjection of the colonies. It will be convenient at this point to continue the investigation and comparison of American solutions of this problem, reserving for later consideration the British proposals.
CHAPTER III

AMERICAN SOLUTIONS FOR THE IMPERIAL PROBLEM: 1764-1774

Inasmuch as the colonists had initiated the debate over the question of colonial rights versus imperial control, it was proper that they should be the first to propose solutions. The main point at issue about which the controversy resolved was Parliament's claim of the right to tax the colonies. The Americans had first argued, and some continued to argue that in so doing Parliament violated the natural rights of the colonials. It has already been seen that the Americans, under the leadership of Dickinson and Dulany during the Stamp Act quarrel, maintained that the Parliamentary imposition of internal taxes constituted a flagrant disregard of their natural rights, which were guaranteed to all Englishmen by the constitution. Consequently, it was their position that while the British legislative body had the authority to tax the colonies externally in the process of regulating imperial commerce, it could not tax them internally unless they were represented in Parliament.

This was the popularly held opinion which logically led the Americans to the first solution they proposed. Simply admit the colonials to representation in Parliament and then they would be able to share in all decisions affecting them and the empire as a whole. Until the introduction of Townshend's program with its unsettling aftermath, the prospect of taking part in the
deliberations of Parliament appeared to many Americans as a goal worth striving for. From the beginning of the controversy with the mother country, the colonials had placed great faith in Parliamentary representation and considered it as a panacea for all of their grievances. Some people thought, as did Samuel Hopkins, that if the Americans had already been represented, the Stamp Act would never have been passed. 1 James Otis believed that "a thousand advantages" would be obtained for America, because representation "would be the most effectual means of giving those of both countries a thorough knowledge of each others interests, as well as that of the whole, which are inseparable." He also maintained that an "equal representation" of the entire empire was essential for a perfect Parliament. 3

Along similar lines Francis Bernard, Governor of Massachusetts, saw the need for a more "refined" British policy towards the colonies and accordingly suggested representation as a step in the right direction. Feeling that the "patchwork" government in America would not last much longer, he privately outlined a plan to end the turmoil here. In November, 1765, he wrote Lord Barrington that since the Americans were justifying their disobedience to the recent enactments of Parliament on the plea of being unrepresented, he thought

1Hopkins, 21-23.
2Otis, 54.
3James Otis, A Vindication of the British Colonies (Boston, 1765), 4.
that they might be appeased if they were invited to send thirty members to Parliament. After the Americans had been seated, they should reach a settlement with the British members concerning the relations between Great Britain and the colonies. The completed work should be solemnized by an act of Parliament, and then, according to Bernard, "the American Representatives [might] be dismissed & left to attend their own legislatures, which [would] then know the Bounds of their own authority."\(^4\)

It is unlikely that the colonists would have accepted the temporary role outlined by the Governor, for Benjamin Franklin indicated that representation would be welcomed by the colonies only if "they had a reasonable number of permanent representatives" allotted to them.\(^5\) Despite the strong sentiment in favor of representation, the Americans did not mature any specific plans in this regard which they could submit to the mother country. For example, it is not known whether Otis, who was very active in popularizing the idea of representation in his essays and speeches before the Massachusetts House, ever drew up any concrete proposals to that end.\(^6\) It may be concluded, however, that there was initially considerable support in the colonies for the general idea of representation, and that only later, under the impact of subsequent events, did the Americans reverse their opinion on this subject.

The Declaratory Act of March, 1766 was passed after Parliament decided,

\(^4\) Edward Channing and Archiblad Coolidge, eds., Barrington-Bernard Correspondence (Cambridge, Mass., 1912), 97-98.

\(^5\) Albert H. Smyth, ed., The Writings of Benjamin Franklin (New York, 1905-07), III, 238-239.

\(^6\) Wells, I, 91.
under pressures at home and abroad, to repeal the Stamp Act. The colonists, being satisfied with their tactical victory, did not bother to remonstrate against this theoretical assertion of power over them made by Parliament. At this juncture, an extended respite in the controversy might have reduced tensions and improved relations between the mother country and her colonies, that is, if Charles Townshend had not unwittingly aroused the old antagonisms.

In May, 1767 Townshend, Chancellor of the Exchequer, laid before Parliament a three point program for the colonies that included: suspension of the New York legislature until it complied with the Mutiny Act; establishment of a board of commissioners of the customs; and a revenue act. In framing the last named measure, Townshend recognized the distinction between internal and external taxes to please the Americans by including in the preamble to the revenue act the fact that its purpose was commercial regulation. At the same time, a provision for the creation of a colonial civil list under this law, whereby governors and their administrations were rendered independent of the financial controls of the legislatures, was included. As a result, latent colonial suspicion of British policy was aroused. As an immediate consequence, the Americans found the distinction between internal and external taxation untenable and, under the direction of Dickinson again, even began to distinguish between external taxes for revenue and those for commercial regulation.

The revenue law of 1767 was ostensibly designed to regulate colonial trade through the imposition of duties on imported articles, and therefore, should
have been acceptable to the colonials who had opposed the Stamp Act. On the contrary, this latest effort to tax America inspired one of the most influential political writings of the period, Dickinson's *Letters of a Farmer in Pennsylvania*, which began to appear in Philadelphia newspapers early in December, 1767, and were reprinted throughout the colonies and England. In his articles, he introduced a new criterion for judging the legality of Parliamentary taxation:

> I have looked over every statute relating to these colonies, from their first settlement to this time; and I find every one of them founded on this principle till the Stamp Act administration. All before are calculated to regulate trade and preserve or promote a mutually beneficial course between the several constituent parts of the Empire; and though many of them imposed duties on trade, yet those duties were always imposed with design to restrain the commerce of one part, that was injurious to another, and thus to promote the general welfare. The raising of a revenue thereby was never intended.

In referring to the past, Dickinson described what had been the situation under the old colonial system. In view of this, he considered the Townshend Duties to be "a most dangerous innovation."

7 Commager, 63. This politically inept tax was a financial success for Townshend. Before 1767, American duties annually raised (in pounds) 2,000 at a cost of 9,000; from 1768 to 1774, the annual yield was 30,000 at a cost of 13,000.


9 *Writings of Dickinson*, XIV, 312.

10 Ibid., 316.
The main point of Dickinson's protest was his new distinction between taxes for commercial regulation and for revenue. In justification of his position, he maintained that the colonies were legally "bound to pay any general duties on these commodities relative to the regulation of trade" only. However, any taxes, including those levied for the purpose of commercial regulation, which were designed to raise a revenue over and above what would normally accrue under duties of this type, would be considered to be illegal taxes similar to the Stamp Act. In this manner, he called the Townshend Duties illegal taxes and his assertion was seconded by another non-importation agreement sponsored by the merchants.

Townshend's program demonstrated to the Americans the futility of drawing distinctions between taxes, and revealed to them the difficulty of trying to find a middle ground between the omnipotency of Parliament and the exercise of self-government in the colonies. The colonials realized, therefore, that they were caught on the horns of a dilemma. Either they must accept the unrestricted power of Parliament to interfere with their internal policy, which would be the outcome of their representation in that body, or they must reject it altogether. They gradually moved in the direction of the second alternative, and it was this decision which caused them to surrender any thought of representation and embrace the idea of dominion status.

11 Ibid., 317.
12 Miller, 252.
As early as January, 1766, Benjamin Franklin had noticed that Americans were becoming indifferent to gaining representation in Parliament and had predicted that the time was not too distant when they would reject it altogether. His observation proved to be correct. As a result of the Townshend Acts, the Massachusetts House of Representatives issued a circular letter in February, 1768 wherein the assemblies of the other colonies were informed of the action taken by it in regard to this legislation. Specifically, the House presented a number of reasons in opposition to the idea of colonial representation in the British legislature:

This House further are of Opinion, that their Constituents, considering their local Circumstances cannot by any possibility, be represented in the Parliament, & that it will forever be impracticable, that they should be equally represented there, & consequently not at all; being separated by an Ocean of a thousand leagues; and that his Majesty's Royal Predecessors, for this reason, were graciously pleased to form a subordinate Legislature here, that their subjects might enjoy the unalienable Right of a Representation: Also that considering the utter impracticability of their ever being fully & equally represented in parliament, & the great Expence that must unavoidably attend even a partial representation there, this House think that a taxation of their Constituents, even without their Consent, grievous as it is, would be preferable to any Representation that could be admitted for them there.

The circular letter elicited favorable responses from several colonies, especially from Virginia, where the legislature was dissolved for receiving it. This growing American opposition to Parliamentary representation indicated that the colonists strove for more than participation in Commons; they aspired

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12 Smyth, IV, 400.
11 Corner, 66.
towards home rule.\footnote{Miller, 227.}

The years following the colonial outburst against Townshend's policies were filled with a relative calm until 1773, when the "Boston Tea Party" started a chain of events which led directly to the passing of the Coercive Acts and the calling of the First Continental Congress. One significant event of this period, however, which had a great influence upon future developments, occurred in January, 1770, when Lord North succeeded the Duke of Grafton as First Lord of the Treasury. This cabinet change represented a personal triumph for George III, for he was now able to govern as well as to reign.

Between 1770 and 1773, colonial affairs were mainly conducted through royal orders. This change increased American resentment towards British meddling and furnished polemical topics for the rapidly forming committees of correspondence.\footnote{George E. Howard, Preliminaries of the Revolution: 1763-1775, Vol. VIII of The American Nation: A History, ed. Albert Bushnell Hart, 28 vols. (New York, 1909-13), 256-257.} In Massachusetts, for example, the legislature was scheduled to meet as usual in Boston on January 10, 1770. Governor Hutchinson called the meeting in Cambridge for March 15, in response to instructions from the Secretary of State who announced the king's pleasure in this matter. The lower house thereupon vehemently protested against this royal order, declaring that "the people and their representatives have a right to withstand the
abusive exercise of a legal and constitutional prerogative of the crown."\(^{17}\)

American theories concerning imperial relations were under revision during the early 1770's, and gradually the colonists began to favor the concept of a dominion system—a distribution of powers between governments. A galaxy of Americans, including Thomas Jefferson, James Wilson, and John Adams, believed that Parliament could only exercise general powers over the colonies, but could not rightfully direct their internal affairs.

The roots of American thought concerning a dominion or federal empire go back to 1754, when Benjamin Franklin had proposed a new governmental arrangement in the rejected Albany Plan of Union. Franklin's later statements indicated that he continued to view the political relationships of the colonies to the mother country on a broad basis. In his examination before the House of Commons in 1766, he had asserted that "the colonies are not supposed to be within the realm; they have assemblies of their own, which are their parliaments, and they are, in that respect, in the same situation with Ireland."\(^{18}\) In the following years of debate, he reviewed the various arguments set forth by the Americans dealing with the rights and powers of Parliament and the colonial legislatures, and admitted his inability to follow

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\(^{17}\) Alden Bradford, ed.,* Speeches of the Governors of Massachusetts, from 1765 to 1775*, and the *Answers of the House of Representatives to the Same* (Boston, 1818), 246.

\(^{18}\) Parliamentary History, XVI, 156.
the reasoning contained in many of them. Specifically, he did not understand what the Bostonians meant when they acknowledged their subordination to Parliament, and then continued to deny its authority to make laws for them. Furthermore, he recognized the weakness of Dickinson's latest distinction between taxes for revenue purposes and for the regulation of trade, namely, the difficulty of attempting to identify the two in practice.19

By 1768, then, Franklin was convinced that the American arguments were politically inadequate and foresaw no intelligible via media between the extreme positions that Parliament could or could not legislate for the colonies. The establishment of a dominion system as the only alternative was inherent in his clear analysis of the situation:

Something might be made of either of the extremes; that Parliament has a power to make all laws for us, or that it has a power to make no laws for us; and I think the arguments for the latter more numerous and weighty, than those for the former. Supposing that doctrine established, the colonies would then be so many separate states, only subject to the same king, as England and Scotland were before the union.20

Franklin did not hesitate to insist that such a relationship as he described would be to the best interests of Great Britain and America. While he saw that the advantages of such a union would outweigh the disadvantages, he anticipated the unlikelihood of its adoption in view of the misunderstandings between the

19 Smyth, V, 114.

20 Ibid., 115.
British and Americans. 21

Despite his pessimism, however, Franklin aided in redirecting American thought on this problem. He suggested to his countrymen that it was unnecessary to ask for Parliamentary representation or exemption from taxation since the colonies were or should be self-governing political entities under the nominal headship of the king. From this point on Franklin acted upon the assumption that the empire was composed of individual states all subject to the king, but each with its own legislature lying outside of the jurisdiction of Parliament. Writing from London in 1768, he indicated to his son, William, that he took this position for granted and thought that it should no longer be argued:

That the colonies originally were constituted distinct States, and intended to be such, is clear to me from a thorough consideration of their original Charters, and the whole conduct of the Crown and nation towards them until the Restoration. Since that Period, the Parliament here has usurped [sic] an Authority of making Laws for them, which before it had not. We have for some time submitted to that Usurpation, partly through Ignorance and Inattention, and partly from our Weakness and Inability to contend: I hope, when our Rights are better understood here, we shall, by prudent and proper Conduct, be able to obtain from the Equity of this Nation a Restoration of them. And in the meantime, I could wish, that such expressions as the Supreme Authority of Parliament; the Subordinancy of our Assemblies to the Parliament, and the like . . . were no more seen in our publick [sic] Pieces. They are too strong for Compliment, and tend to confirm a Claim of Subjects in one Part of the King's Dominions to be Sovereigns over their Fellow Subjects in another Part of his Dominions, when in truth they have no such Right, and their Claim is founded only in Usurpation, the several States having equal Rights and Liberties, and being only connected, as England and Scotland were before the Union, by having one common Sovereign, the King. 22

21 Ibid.
22 Ibid., 260.
Franklin's historical study of the colonies led him to conclude that Parliament had never exercised a voice in the management of them until it was in a position to do so after the Restoration.

Opinions similar to those of Franklin were eventually shared by other colonial leaders. The debate between Governor Thomas Hutchinson of Massachusetts and his legislature revealed the progress in American thinking relative to imperial relations, particularly with reference to a dominion system. Hutchinson presented the thesis of Parliamentary supremacy in an address to the assembly in January, 1773. He alleged that the province was in a "disturbed and disordered state" and as the cause thereof he cited the recent resolves of the towns denying "the supreme authority of Parliament" and tendency "to alienate the affections of the people from their Sovereign." Believing in a unitary empire, he announced that he knew of no line "that can be drawn between the supreme authority of Parliament and the total independence of the colonies." 23

His challenge was eagerly accepted by the House of Representatives, which presented a defense of the new American theory of dominion status. In rebuttal to Hutchinson's concept of a unitary empire with supreme authority emanating from the seat of the central government to the outlying imperial territories, the Massachusetts House asserted, in essence, that the British Empire was federal in character. It pointed out that there were actually a number of independent legislatures in the empire; and moreover, "if they interfere not

with each other, what hinders, but that, being united in one head and common Sovereign, they may live happily in that connection and mutually support and protect each other?" Furthermore, the House maintained that if there be no line between the "supreme authority of Parliament and total independence of the colonies," as implied by the governor, then they must be "totally independent." Then, continuing in words that actually presaged colonial action, the legislators said that the drawing of such a line would be "an arduous undertaking, and of very great importance to all the other colonies; and therefore, could we conceive of such a line, we should be unwilling to propose it, without their consent in Congress." 24

In the few years remaining before Congress made that irrevocable decision, certain American leaders revealed a deepening interest in the dominion theory of empire as a basis for reconciliation. One of these men was James Wilson, who was born in Scotland and settled in America where he won prominence as a leading member of the Pennsylvania bar. He thoroughly examined the dominion theory in an essay written in 1770 entitled: Considerations of the Nature and Extent of the Legislative Authority of the British Parliament. Exhibiting in it "great learning and acumen," Wilson did not publish his essay until 1774, when at that time he endeavored to influence the policy of the approaching meeting of the First Continental Congress. 25

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24 Ibid., 363-364.
25 Tyler, I, 273.
In addressing himself to the constitutional problem of the dependency of the American colonies upon the British legislature, Wilson only unexpectedly arrived at the conclusion, as he stated in the introduction to his argument, that Parliament had no authority over them whatsoever. He initially based this denial upon considerations of natural law and English history. In repudiating the conception of British sovereignty over the colonies, he resorted to the natural-law theory to explain the ultimate end of all government:

All men are, by nature, equal and free; no one has a right to any authority over another without his consent: all lawful government is founded in the consent of those who are subject to it; such consent was given with a view to ensure and to increase the happiness of the governed, above what they would enjoy in an independent and unconnected state of nature. The consequence is, that the happiness of the society is the first law of every government.  

He contrasted this ultimate end of government with the pretensions of Parliament for "an absolute and unlimited power" over the colonies by posing a series of questions, the impartial answers to which, he believed, would show the illegality of such a claim:

Have they a natural right to make laws, by which we may be deprived of our properties, or liberties, of our lives? By what title do they claim to be our masters? What act of ours has rendered us subject to those, to whom we were formerly equal? Is British freedom denominated from the soil or from the people of Britain? If from the latter, do they lose it by quitting the soil? Do those who embark freemen in Great Britain, disembark slaves in America?

27 Ibid., 508.
28 Ibid., 523.
Wilson's own responses to these questions led him to reject Parliament's claim of supremacy; for "reason, as well as the unanimous voice of the Americans, teaches us to disown it." Moreover, in shifting his argument to historical grounds, Wilson maintained that an inferior status of the colonies vis a vis Parliament was "never thought of by those who left Britain, in order to settle in America, nor by their sovereigns, who gave them commissions for that purpose." He concluded that it was only as a result of the fortuitous circumstances of the civil war period in England that Parliament had originally been enabled to supersede the king in the field of colonial affairs. 29

Having thus demolished the idea of the subordinancy of the colonies to Parliament to his satisfaction, Wilson proceeded to describe the limited degree of dependency which he believed they retained with respect to the mother country, as members of a loosely federated empire:

They are fellow-subjects; they are under allegiance to the same prince; and this union of allegiance naturally produces a union of hearts. It is also productive of a union of measures through the whole British dominions. To the king is intrusted the direction and management of the great machine of government . . . . He makes war: he concludes peace: he forms alliances: he regulates domestic trade by his prerogative, and directs foreign commerce by his treaties with those nations, with whom it is carried on. He names the officers of government; so that he can check every jarring movement in the administration. He has a negative on the different legislatures throughout his dominions, so that he can prevent any repugnancy in their different laws. 30

29Ibid., 536, 538.
30Ibid., 541-542.
The firm convictions which moved Wilson to select the king, instead of Parliament, as the great cohesive force of the empire are stated in the following:

The connection and harmony between Great Britain and us, which it is her interest and ours mutually to cultivate, and on which her prosperity, as well as ours, so materially depends, will be better preserved by the operation of the legal prerogatives of the crown, than by the exertion of an unlimited authority by parliament.\(^{31}\)

In holding that the various members of the British Empire were separate states, fully independent of each other, and only united to the extent of a common allegiance to the crown, Wilson asserted that it would be perfectly consistent with this arrangement for the crown to regulate their trade relations. This was actually a modest concession since he insisted most emphatically that the crown's prerogative must never extend to the laying of impositions on trade.\(^{32}\)

The views of this Pennsylvanian lawyer represented a bold departure in the study of the relationship between the colonies and the mother country. He and Franklin recognized the need for a federal or dominion type of association with Great Britain, that is, one which would enable the colonies to control their internal government. These ideas continued to gain acceptance in America. By 1774 such men as John Adams and Thomas Jefferson also embraced the main characteristics of dominion status and selected it as a better alternative for America than colonial representation in Parliament.

John Adams presented one of the most complete expositions of the dominion theory of empire in his \textit{Novanglus} articles, written between January and April

\(^{31}\text{Ibid.}\)

\(^{32}\text{Ibid., 542-543.}\)
of 1775. With his usual perspicacity, Adams saw the logic of showing whether the colonies had ever acquiesced in the laws of Parliament. He thought that the colonies had never acknowledged the authority of Parliament, and in substantiation he cited a number of protests against it in America. He held that while the Americans had made concessions in imperial matters, they had never conceded their exclusive control over internal affairs. According to him, no duties had been imposed for revenue before 1764, and those of that year had been immediately protested as infringements upon colonial rights. Furthermore, such laws as the Hat Act of 1732 and the Iron Act of 1750, both designed to impede the development of colonial industry, had never been enforced.

In attempting to explain the significance of the many restrictions which Parliament had applied to colonial trade, Adams held that the exercise of this function was not founded upon common or statute law nor upon the principle that Parliament was superior to the colonial legislatures, but rested upon the “compact and consent of the colonies.” Agreeing with the British position that two supreme powers could not exist within the same jurisdiction, he contended, therefore, that only the provincial assemblies were supreme in the colonies. By this view, he did not mean to imply a complete repudiation of all imperial ties, for in developing his ideas further, Adams arrived at the following conclusion:

33 Adams, IV, 47-49.

34 Ibid., 49-50.

35 Ibid., 105.
Distinct states may be united under one king. And those states may be further cemented and united together by a treaty of commerce. This is the case. We have, by our own express consent, contracted to observe the Navigation Act, and by our implied consent, by long usage and uninterrupted acquiescence, have submitted to the other acts of trade, however grievous some of them may be. This may be compared to a treaty of commerce, by which those distinct states are cemented together, in perpetual league and amity. 36

In recognizing an existing residual allegiance which the colonies owed the king, Adams made a distinction between the crown and the king. An allegiance to a crown involving a House of Lords and a House of Commons was denied, while an obedience exclusively to the person of King George III was admitted. 37

It was made clear by Adams that dominion status within the British Empire was the minimum concession that Great Britain would have to grant to the colonies in order to retain their loyalty. The Americans would never acknowledge the authority of Parliament over the colonies, either with or without representation in it. If dominion status could not be obtained from Great Britain, then, according to him, the Americans would be satisfied with a return to those conditions characteristic of the old colonial system. Under this system they had fared well for over a hundred and fifty years by allowing Parliament to supervise their trade, while the colonial legislatures had regulated all other matters. 38

Thomas Jefferson also analyzed the problem of imperial relations in an article published in 1774 entitled: A Summary View of the Rights of British America. In reminding the mother country that the colonists had emigrated to

36 Ibid., 114.
37 Ibid.
38 Ibid., 116.
America as a free people with the right to make their own laws, Jefferson stated that the only connection which the Americans continued to have with Great Britain was through the king, who was the "central link" binding together the various parts of the empire. Since it was neither the wish nor to the interest of the colonies to break away from Great Britain, he called upon the British to propose a "generous plan" of union to restore imperial tranquility. However, under this plan the mother country would have to abandon the mercantilist system as it applied to the colonies, relinquish the right to interfere in their internal affairs, and renounce the power to tax them. In essence, Jefferson was advocating the establishment of a dominion system.

It has been observed in the preceding examination of colonial thought that Americans became increasingly aware of the advantages inherent in the dominion system of government. Instead of a closer union based upon colonial representation in Parliament, as had first been advocated, the colonials, after the Townshend Acts, turned toward the idea of a decentralized empire with home rule for themselves. Theoretically speaking, the American conception of a federal empire was an achievement in itself. In 1765 such an astute lawyer as James Otis had been unable to envision powerful colonial legislatures operating within the framework of the British Empire. By 1774 the Americans were confident that they had solved this conundrum of *imperium in imperio*; Parliament was the supreme law-making body for Great Britain alone, while the

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colonial legislatures were supreme in their respective colonies or dominions. Although Great Britain waited until the nineteenth century before she applied the dominion system, or a variation of it, to her overseas dependencies, the First Continental Congress adopted this concept as a *sine qua non* for reconciliation with the mother country.

British thought was not standing still while these theories were being evolved and proposed by the colonials. Englishmen also had their opinions on such subjects as colonial representation, taxation, and the ultimate question of Parliament's authority over the colonies. They, like the Americans, were ardent pamphleteers and produced many arguments in answer to those advanced by their fellow-subjects across the Atlantic. Naturally, Parliament was the center of the discussion, and numerous debates, sometimes more heated than enlightened, took place in its chambers over the American question. Therefore, it is now appropriate to turn to this subject and discover what England's answers and counter-proposals were, and to consider the actual policies pursued down to and including the year of 1774.
CHAPTER IV

BRITISH OPINION OF THE AMERICAN PROBLEM: 1765-1774

The controversy between the colonies and mother country assumed the character of a great debate, with Great Britain supporting the concept of the supremacy of Parliament over the colonies and America opposing this doctrine. Since the American problem affected important interests, the method of solving it became a political issue in Great Britain and led to a temporary lack of unanimity that was reflected in the inconsistent policies of the several ministries of this period. This confusion was due to the political maneuverings of three conflicting interests: merchants, country gentlemen, and the crown, each of which hoped to gain something from the colonies. Each of these groups evaluated American policies in terms of the probable effect they would have on commerce, the tax on land, and the power of the state.¹ Consequently, a general adherence to a particular policy did not occur until 1774, when supporters of the government and those who thought their interests were endangered by America agreed upon a policy of coercion.

As members of a politically and economically powerful class, the British merchants who were involved in the American trade exhibited a strong sense of

¹Dora M. Clark, British Opinion and the American Revolution (New Haven, 1930), 14.
self interest in regard to the controversy between the mother country and her American dependencies. Since profitable business was their paramount concern, the reactions of the traders to America's opposition to imperial reorganization was governed by expediency. Thus, while they urged the repeal of legislation harmful to commerce, the merchants generally withheld support from the claims of colonial spokesman for less Parliamentary control, realizing from past experience that many advantages were to be derived from Parliament, such as protection from colonial paper money and aid in collecting debts.2

The manner in which the British merchants responded to the Stamp Act and Townshend Duties confirmed their preoccupation with economic matters instead of with the fine points of constitutional questions. The Stamp Act undoubtedly hurt them, for their American customers adopted a non-importation agreement capable of ruining all commerce. It was not long before petitions flowed into Parliament from the cities requesting the repeal of this unwise law. A typical petition, drawn up and presented by a group of London merchants to the House of Commons in January, 1766, mentioned the deleterious effects of American non-importation on commerce and industry and demanded revocation of the Stamp Act to avert the threat of wide-spread bankruptcy.3 On February 22, the House voted on the resolution for repeal. Members of the merchant class responded solidly to the pleas of the commercial cities. Fifty-one of the eighty representatives

2Ibid., 48.

3Parliamentary History, XVI, 133-134.
of the counties, chiefly country gentlemen, voted for repeal. And a large number of independents, including Pitt's friends, insured a majority for the resolution. The great feeling of relief which engulfed the mercantile class was described by Lord Rockingham, the Prime Minister, in a note sent to George III on that momentous day: "The Joy in the Lobby of the House of Commons which was full of Considerable Merchants both of London & from different Manufacturing Parts of this Country, was extreme." The success of the merchants indicated that they and their friends in Parliament were strong enough at this time to force a reversal in imperial policy.

In 1767, the passage of the Townshend Duties inspired renewed political activity in British mercantile circles. The American importers, expecting the British merchants to influence Parliament in their behalf, again established a non-importation policy in order to hasten these efforts. While most of the merchants in England urged Parliament to repeal the latest taxes as a matter of expediency, only a few of them went a step farther to agree with the Americans that the duties were unconstitutional. The British trading class generally failed to be persuaded by colonial arguments that resistance to the laws of Parliament could be justified on constitutional grounds. Since many Americans continued to base their claims on such legal grounds, they estranged

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6 Clark, 53.
7 Ibid., 56.
many of their former friends in England and created dissension there among the merchants. Thus weakened, the advocates of repeal were only partly successful, for on April 12, 1770, the duties were removed with the exception of the tea tax.8

The influence which the English merchants had on the course of the dispute with America rapidly declined in the years following the partial repeal of the Townshend Duties. Their main reason for taking an interest in the controversy had disappeared when the colonials, in disregard of their non-importation agreement, resumed trade with the mother country. The adoption of coercive measures by the government in 1774 signalized the political eclipse of the merchants, for although they favored peace with America and made attempts at reconciliation, the country gentlemen successfully nullified these efforts by supporting the ministerial policy.9

Colonial policy was an unavoidable area of conflict between merchants and country gentlemen, a conflict that arose out of their divergent economic interests. While the merchants sought to derive commercial benefits from the colonies and opposed taxes that would obstruct trade and reduce colonial purchasing power, the gentry valued the colonies chiefly as sources of revenue to relieve the tax on land. The costs of maintaining the colonies during the Seven Years' War, and particularly after 1763 under the policy of imperial reorganization, made the gentry anxious to gain some advantage from them.10

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8Ibid., 65.
9Ibid., 74-76.
10Ibid., 126-127.
Therefore, they welcomed Grenville's proposal for imposing a stamp tax upon America.

The furor created by this measure in America disrupted trade and divided the English gentry and merchants into two opposing factions. Since the landed interests controlled the House of Commons, it took the most persuasive arguments of the merchants to convince them that the Stamp Act was equally detrimental to their welfare. The gentry were finally induced to support the repeal of the tax when it was explained to them that American non-importation would cause a rise in the poor rates, which were paid by landowners, in order that the resulting unemployed might be fed. However, the gentry continued to cherish the idea that Great Britain should raise revenues in the colonies.

In 1767, the gentry made it imperative for Great Britain to tax America. Under the leadership of William Dowdeswell, formerly Chancellor of the Exchequer in the Rockingham Ministry, they forced through Parliament a reduction in the land tax. Confronted with a large decline in revenue, the succeeding Chancellor of the Exchequer, Charles Townshend, turned to the colonies for help. His new duties prompted the Americans to attempt to force the repeal of these taxes with the same methods which had proved effective in 1766, but the gentry remained steadfast. Not until 1770 were the merchants able to remove the duties, except the one on tea, which was supposed to keep alive the

11 Ibid., 129.
12 Parliamentary History, XVI, 363-364.
13 Clark, 130-131.
right of Parliament to tax the colonies. The gentry, however, continued to resent the American evasion of a greater share of the tax burden, and when the government resorted to the use of force in the colonies, they supported the ministry.

While merchants and country gentlemen sought to shape colonial policies in harmony with their respective economic interests, another group, notably after the close of the Seven Years' War, promoted an imperialistic view of colonial affairs and relegated economic considerations to a secondary position. Their credo was thus summarized by the supporters of the Peace of Paris of 1763, which made Great Britain the foremost colonial power: "Neither ought the value of any country be solely tried on its commercial advantages; extent of territory and the number of subjects are matters of as much consideration to a state attentive to the sources of real grandeur as the mere advantages of traffic."\(^1\) The advocacy of this imperialistic viewpoint was closely associated with the effort of the crown to increase its influence in British domestic politics.

In attempting to take the running of the government out of the control of political parties, George III created his own, the King's Friends, which eventually aided him in acquiring complete domination over domestic and colonial policies. It was relatively easy for him to gain a loyal following, since the men who became King's Friends usually were without private fortunes and all longed for permanent offices. Under the leadership of North and Bute,

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\(^1\) *Parliamentary History*, XV, 1271-1272.
this group accepted patronage from the king in return for supporting his measures in Parliament.\textsuperscript{15} Although George III did not assume full control until Lord North became Prime Minister in 1770, he nevertheless had wished to see his earlier administrations strengthen the power of the state. During the Stamp Act crisis, he had stood for amendment instead of repeal, since retention of part of the law "ascertained the Right of the Mother Country to tax its Colonies."\textsuperscript{16}

Throughout the entire controversy with America, the king and his party advocated a stiff policy towards the colonies that finally led to the use of force. Before the king was able to secure a compliant ministry, however, a series of administrations were formed under the auspices of various parties: the Grenville Ministry of the Grenville-Bedford alliance, the Rockingham Ministry of the Old Whigs, and the Pitt-Grafton Ministry of the Pittites and several factions. The first government, which inaugurated the policy of imperial reorganization and upheld the principle of Parliamentary supremacy, fell as a result of a dispute between Grenville and the king over patronage. The short Rockingham Ministry shattered Grenville's plan for an American revenue and was itself destroyed when the merchants withdrew their support soon after the repeal of the Stamp Act. The succeeding Pitt-Grafton Ministry began with good intentions, but as a result of its inherent weaknesses the King's

\textsuperscript{15}Ritcheson, 68-69.

\textsuperscript{16}Fortescue, I, 269.
Friends absorbed it under Lord North.

Frequent cabinet changes led to an inconsistent colonial policy which fluctuated in accordance with the predilections of the government officials directly concerned with the colonies, such as the Prime Minister and the Secretary of State for the Southern Department. An examination of the principles that guided the several ministries will reveal this lack of direction which prevailed until a coercive policy was carried out by Lord North.

George Grenville, Prime Minister between April, 1763 and July, 1765, based his program of imperial reorganization upon direct colonial taxation, holding that the colonies were under the authority of Parliament and legally obligated to contribute funds, in the form of taxes, to defray the costs of protection. Moreover, in rebuttal of the American arguments protesting the Stamp Act, he asserted that the British Constitution did not recognize a distinction between internal and external taxes, and he attempted to disprove this specious

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17 At this time there were two principal secretaryships, divided between the Northern and Southern Departments. The Secretary of State for the Northern Department dealt with the affairs of Protestant states while the Secretary of State for the Southern Department was concerned with relations with Catholic states and business with the mother country's colonies. In 1768, a third secretaryship was instituted to take charge of colonial business. (See page 57.) In 1782 this style was changed to the Home and Foreign Departments; the third secretaryship was abolished and the charge of the colonies was transferred to the Home Secretary.
dichotomy by citing the internal tax that had been previously collected in the colonies incident to the establishment of the post office. When it became apparent that his policy was incapable of being applied in the colonies, however, it was reversed by Parliament and repudiated even by the imperialistic-minded king. George III later complained to the Duke of Grafton that Grenville's conduct had been full of absurdities, for by restraining trade he first deprived the Americans of the means of acquiring wealth and then attempted to tax them. Nevertheless, after he was succeeded by the Marquis of Rockingham, Grenville confidently defended his record in the debate of January, 1766, concerning the Stamp Act crisis in America. His chief antagonist was William Pitt, who took this opportunity to make known his concept of imperial relations.

Although Pitt held in this speech that the authority of Great Britain over the colonies is "sovereign and supreme in every circumstance of government and legislation whatsoever," he qualified this concept of supremacy with three main points. Firstly, the Americans, as subjects of Great Britain, were entitled to the privileges of all Englishmen, including equal participation in the constitution. Secondly, the colonies were not truly represented in Parliament according to the theory of virtual representation. "The idea of a virtual representation of America in this House is," said Pitt, "the most contemptible idea that ever entered into the head of man; it does not deserve a serious


19 Fortescue, I, 452.
refutation." Thirdly, and most importantly, Pitt held that there was a
distinction between legislation and taxation, for if taxes were a voluntary
grant of the Commons, the property of Americans might not be granted by the
Commons since they were not the proprietors of it. 20

In emphasizing his disapproval of the Stamp Act, Pitt asked for under-
standing among his colleagues in the following peroration:

The Commons of America, represented in their several assemblies, have ever been in possession of the exercise of this, their
constitutional right, of giving and granting their own money. They
would have been slaves if they had not enjoyed it. At the same time,
this kingdom, as the supreme governing and legislative power, has
always bound the colonies by her laws, by her regulations, and
restrictions in trade, in navigation, in manufactures—in every thing,
except that of taking their money out of their pockets without their
consent. Here I would draw the line . . . . 21

Although Grenville maintained in his reply to Pitt that the power of taxation
was part of Parliament's legislative authority over the colonies, a majority
decided to repeal the Stamp Act for various reasons, preferring to assert the
supremacy of Parliament in the Declaratory Act of March, 1766. 22

The coalition which repealed the Stamp Act proved to be ephemeral, for
shortly after the passage of the Declaratory Act the Rockingham Ministry was
out of power. Thus, in July, 1766, Pitt formed a government with the Duke of
Grafton cooperating. The ministry consisted of his own followers, the King's
Friends, and the Old Whigs. This was a weak beginning for a ministry faced

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21 Ibid., 367.
22 Parliamentary History, XVI, 102.
by three dissatisfied factions: those of Bedford, Grenville and Temple, and Bute. 23

Furthermore, when Pitt was created Earl of Chatham in August, 1766 and took a seat in the House of Lords, he lost his influence in Commons at an inopportune time. 24 Shortly thereafter, he was incapacitated by illness with the result that the less-able Grafton assumed the duties of Prime Minister. 25 During the time that Chatham was active in his ministry the Americans could expect to be treated with moderation, since he was prepared to defer to their

23 Ritcheson, 71.

24 To the reader familiar with the operation of modern British government, it may appear somewhat incongruous to him that a peer, such as Lord Chatham, could have become Prime Minister; however an understanding of the facts associated with the historical growth of that office will disclose that the incumbency of Chatham was in accordance with tradition. Originally, all of the king's chief administrators were co-equal in prestige and superior within their respective fields, but between 1721 and 1742 Horace Walpole, First Lord of the Treasury, developed the concept of a leading or prime minister. The office did not receive recognition until 1905, when the Prime Minister became known to the law merely as one who had precedence next after the Archbishop of York. The Prime Minister receives no special salary, he draws only the emoluments of whatever office he may happen to hold, which is generally the First Lord of the Treasury, although Chatham was Lord Privy Seal. In the 18th Century, when cabinets were almost exclusively composed of peers, the leading minister often came from Commons; in the 19th century, when commoners held most of the cabinet positions, the Prime Minister was usually a peer. There were no legal reasons for this curious development. However, with the expansion of the franchise and the reduction in the powers of the House of Lords, notably by the Parliament Act of 1911, it became increasingly difficult for a peer to exercise the premiership effectively. No peer was Prime Minister after Lord Salisbury (1895-1902), and when Lord Curzon was passed over for the premiership in favor of Stanley Baldwin in 1922 this was generally regarded as a decisive demonstration of the need for a Prime Minister to belong to the House of Commons.

25 Clark, 195.
position on taxation in return for their recognition of the theoretical supremacy of Parliament in other fields.

Chatham's attempt to reorganize his cabinet with the intention of replacing the Old Whigs, whom he detested for their factionalism, with Bedfordites led to the eclipse of the Prime Minister and his principles. The demands of the Bedfordites for patronage were too excessive for Chatham, and consequently he had to fill the vacancies made by the resignations of the Old Whigs with King's Friends. The accession of the King's Friends into the cabinet, although the posts were subministerial, provided the basis of the later administration of Lord North. 26 The government now represented the most diverse views with respect to American affairs. Chatham, Camden, and Shelburne had fought for the repeal of the Stamp Act and against the Declaratory Act. Grafton and Conway had approved both measures, the former having declared "that the Americans were as liable to be taxed as any man in Great Britain." 27 The indecisive Townshend had been for both adoption and repeal of the Stamp Act, while Lords Barrington, Granby, and Northington had opposed repeal and supported the Declaratory Act. 28 When illness forced Chatham into temporary retirement as a result of his complete collapse in March, 1767, there was no successor capable of holding those various men in line to carry out an American policy in his same magnanimous spirit.

One person in the ministry who best represented Chatham's views was the

26 Ritcheson, 77-78.

27 Parliamentary History, XVI, 165.

28 Ritcheson, 83-84.
Earl of Shelburne, Secretary of State for the Southern Department. However, he was unable to restrain his colleagues from pursuing a destructive colonial policy and was finally eliminated by them from his office. Shelburne, refusing to adopt the imperialistic outlook, preferred to stress the commercial value of colonies. Earlier, when he had spoken in favor of repealing the Stamp Act, he had expressed the wish to avoid the introduction of constitutional points of British supremacy into the debate.29 His hope that the spirit of compromise would prevail in the solving of colonial problems was expressed in a letter written to Governor Bernard in October, 1766: "Though the Legislature will certainly on all just occasions exercise and enforce its Legislative power over the Colonies, yet it cannot be doubted but it will exert it with a due regard to the nature of their connection with the mother country."30

Without Chatham's leadership, the government was brought to the verge of dissolution; the controversy with America was reopened and the king's influence in the cabinet grew stronger. Townshend won support from the country gentlemen for his plan, in the words of Burke, "by playing before their eyes the image of a revenue to be raised in America."31 His death in September, 1767, brought Frederick North, Earl of Guilford, to the office of Chancellor of the Exchequer. Meanwhile, Grafton, who succeeded Chatham as Prime Minister,

29 Parliamentary History, XVI, 155.


31 Parliamentary History, XVII, 1238.
completed negotiations with the Bedford faction, a step which hastened the consolidation in office of the element hostile towards America. William Knox, Undersecretary of State, thought that he had detected this tendency as early as September, 1768. According to Knox, all of the ministers, with the exception of Shelburne, were "agreed upon coercive measures" and North was "wholly and absolutely of that opinion."32

By this time, however, Shelburne's position had been undermined by Grafton at the instigation of the Bedfordites, who demanded the removal of this remaining Pittite as a sine qua non for their entry into the ministry. To humiliate Shelburne in order that he would resign, Grafton decided to transfer the duties of the Secretary of State for the Southern Department to a new office called the Secretary of State for the Colonies, and to assign this post to the Earl of Hillsborough. The king, Grafton, and the Bedfordites were greatly disappointed when Shelburne, out of his loyalty to Chatham, accepted this insult and chose to remain a while longer as Southern Secretary, although he was without any influence in the cabinet.33

Hillsborough was one of the King's Friends who had acquired a minor office earlier when Chatham evicted the Old Whigs from the government. As a result of Grafton's reorganization of the cabinet, direction of colonial affairs was taken from the friendly Shelburne and given to a man ready to institute an imperialistic policy. "The colonies are our subjects," said the new Colonial

32 Fitzmaurice, I, 386.
33 Ritcheson, 107-108.
Secretary; "as such they are bound by our laws; and I trust we shall never use the language of supplication, to beg that our subjects will condescendingly yield obedience to our inherent pre-eminence." Lacking a spirit of conciliation, he materially contributed to strengthening the government's imperialistic program before he was succeeded by Lord Dartmouth in August, 1772.

The legal officials of the British government, Attorney General Edward Thurlow and Solicitor General Alexander Wedderburn, were also critical of American aspirations towards home rule. Thurlow, a member of the Bedford party, voiced the ministry's position on colonial taxation in the following words:

To say that we have a right to tax America, and never to exercise that right, is ridiculous; and a man must abuse his understanding very much, not to allow that right. To procure the tax by requisition is a most ridiculous absurdity, while the sovereignty remains in this country; and the right of taxing was never in the least given up to the Americans. Their charter is more a legislative power; and whoever looks into it, will see that no power whatever was meant to be given them so as to control the right of taxation from Great Britain.

His associate, Wedderburn, a former Grenvillite, recognized that interests of more importance than commerce and manufactures were at stake in the American dispute, for the future of the mother country's power in the colonies was involved.

Events subsequent to Grafton's resignation in January, 1770, indicated that the government, after years of administrative chaos, had at last gained stability and a sense of direction. Without any overturn in the cabinet, North

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34 *Parliamentary History*, XVI, 1019.
succeeded to the office of Prime Minister, thereby signalizing the triumph of
the king and his party. The determination with which the government initiated
measures in response to the colonists' dramatic protest against taxes, the
"Boston Tea Party" of December 16, 1773, revealed that for the first time since
the controversy began the king, ministry, and such agencies dealing with
colonial affairs as the Board of Trade and Privy Council were agreed upon a
specific American policy, namely, the enforcement of obedience to the mother
country through the application of punitive legislation. The keynote of the
new regime was sounded by George III, when in referring to the colonies, he
said: "I do not want to drive them to despair but to Submission." Watching
this steadily growing influence of the crown under Grafton and then North,
Chatham grew embittered and eventually found himself in a common cause with
Edmund Burke, the main driving force behind Old Whig opposition, in attempting
to obstruct the government's coercive policy. So thoroughly the king had come
to dominate politics that their combined opposition amounted to little more
than futile gestures.

In marked contrast to the prevailing sentiment in Parliament, the opinions
of these two leaders represented the approach of enlightened Britons towards
colonial relations. It was Burke, the avid spokesman for mercantile interests,
who appealed to his colleagues in the House to concede the point of American
taxation in practice and be satisfied with control over colonial trade.

37 Clark, 204.

38 Fortescue, III, 156.
In his "Speech on American Taxation" of April 19, 1774, Burke held that Britain's policy towards the colonies should be only commercial regulation, not the newly exercised policy of raising colonial revenues for which he criticized both Grenville and Townshend. Since the latter had tacitly adhered to the American distinction between internal and external taxes in 1767, he asked the North Ministry to make a concession in the interest of compromise, namely, to adopt, at least in practice, the colonial distinction between taxes for the regulation of trade and those for revenue. Burke was convinced that if Great Britain made this belated concession, the Americans would be undoubtedly satisfied. 39

Essentially, Burke asked for a return to the peaceful colonial system that prevailed before 1763:

Again, and again, revert to your old principles—seek peace and ensure it—leave America, if she has taxable matter in her, to tax herself. I am not here going into the distinctions of rights, nor attempting to mark their boundaries. I do not enter into these metaphysical distinctions; I hate the very sound of them. Leave the Americans as they anciantly stood, and these distinctions, born of our unhappy contest, will die along with it. They, and we, and their and our ancestors, have been happy under that system. Let the memory of all actions, in contradiction to that good old mode, on both sides, be extinguished for ever. Be content to bind America by laws of trade; you have always done it. Do not burthen them by taxes; you were not used to do so from the beginning. Let this be your reason for not taxing. 40

39 Parliamentary History, XVII, 1263.

40 Ibid., 1264-1265.
Burke identified two specific roles for Parliament: one was its local legislative role, the other was its broad imperial role. Under its imperial function, he declared that Parliament "superintends all the several inferior legislatures, and guides, and controls them all without annihilating any." Furthermore, as he expressed it, Parliament had a supreme power held in reserve to keep the empire united; for example, in case some colony refused to grant money during a war, Parliament might compel it to do so. This use of the taxing power was considered by him "as an instrument of empire, and not as a means of supply." He believed that under this conception of an imperial constitution "subordination and liberty might be sufficiently reconciled" to the equal benefit of the mother country and colonies.  

Chatham went further than did Burke when he unconditionally denied the right of Parliament to tax America. Speaking in January, 1775 in support of a motion to withdraw General Gage's troops from Boston, he announced that the colonies owed obedience to Great Britain only to a "limited degree," meaning that they were only legally obligated to conform with the laws of trade and navigation. Any possible colonial objections to this responsibility were pronounced "futile, frivolous, and groundless" by him. He conceded that it necessary for Parliament to control commercial intercourse because the complexity of trade "require[d] the superintending wisdom and energy of the
supreme power in the empire." He maintained, however, that this supreme power was not absolute: "Let this distinction then remain for ever ascertained; taxation is theirs, commercial regulation is ours." In the hope of putting an end to the controversy, he urged the Americans to recognize the right of Parliament to regulate commerce and the British to accept the Americans' "unalienable right in their property; a right which they are justified in the defence of to the last extremity." #3

Despite the eloquence of Burke and Chatham in their effort to avert a definite rift between America and Great Britain, the train of events initiated by the "Boston Tea Party" overwhelmed them. The final crisis had come. After years of debate and indecision, both sides were committed now to doctrines which had to be upheld at all costs. There was to be no yielding at this critical turning point in Anglo-American relations. Parliament was finally induced by the North Ministry to devote its energies to a comprehensive treatment of the American problem. As a preparatory step in this direction, the imperialists attempted to create a receptive climate of opinion for their views by circulating specially written articles and loyal addresses; and in Parliament, government spokesmen, using appeals to self-interest, enlisted support from merchants and gentry for a coercive policy. #4

The financial loss sustained by the East India Company in consequence of the dumping of its tea in Boston harbor by American "patriots" was repeatedly expounded upon, and the incident itself was immediately labeled by ministerial

#3 Ibid., 154.
#4 Clark, 228.
supporters an outrageous example of American contumacy necessitating the imposition of harsh retaliatory measures. During the debate over a bill for the altering of the government of Massachusetts, William Meredith sought to win the assistance of the merchants by asserting that he had never approved of taxing America. However, he continued, now "that the Americans had not only resisted the act of parliament, but laid violent hands on the merchants' property, it was high time to regulate the course of justice, so that our merchants might trade thither with security." In view of this statement and similar ones, the government was able to gain support from the commercial class for its program by taking the position that a policy of maintaining British hegemony in America would be more beneficial to merchants than one of yielding to colonial demands.

Since the influential group of country gentlemen in Parliament continually attempted to minimize their tax burden, the government knew that they would be inclined to support a coercive American policy if it promised colonial revenues. This promise was dangled before the eyes of the gentry in pamphlets subsidized by the government. Earlier, it had been observed that the interests of the gentry and of the merchants who traded with the colonies were in conflict. The ministry now won the loyalty of both by emphasizing the advantages which would accrue to each group under its coercive program, that is,

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45 *Parliamentary History*, XVII, 1302.
46 Clark, 227-228.
of lower taxes and of the protection of commerce.

An accumulation of discontent and resentment against the colonies, evident in both the cabinet and in Parliament, found release in punishment of the Americans. Within the ministry, the Bedfordites and King's Friends were solidly in favor of stringent measures and proceeded to frame the necessary legislation.\(^47\) Parliament concurred by passing the Coercive Acts in the early part of 1774.\(^48\) The impact of the aforesaid American conduct on Parliamentary opinion was so great that even friends of the colonies, such as Isaac Barre and General Conway, voted for the Boston Port Act. Lord North probably assessed the feelings of the legislators correctly when he wrote the king: "The disposition of the house independent of any ministerial connection is to maintain the authority of Great Britain over America."\(^49\)

\(^{47}\)Ritcheson, 158.

\(^{48}\)The so-called Coercive Acts included: The Boston Port Act, which provided for the closing of the port after June 1; the Massachusetts Government Act, through which this colony's charter rights were annulled and the governor's powers enlarged; the Administration of Justice Act, which facilitated the trial of royal officers accused of capital offenses to be held outside of the legal jurisdiction in which the crimes had occurred; the Quartering Act, which stipulated certain colonial duties concerning the housing and supplying of British troops; and the Quebec Act, which stated that the southern boundary of this province was the Ohio River and conferred certain civil and religious privileges upon the French-Canadians. The latter was not intended to be a punitive measure by the British, but since it was so regarded by the Americans it is usually grouped with the other laws.

\(^{49}\)Fortescue, III, 178.
Government spokesmen in Parliament intensified the tension existing between the mother country and the colonies through their suggestions for drastic solutions for the ending of the dispute. For example, a certain Charles Van offered the proposal and observation that the "town of Boston ought to be knocked about their ears, and destroyed; you will never meet with that proper obedience to the laws of this country, until you have destroyed that nest of locusts." This rash advice was given in March, 1774, in support of the Boston Port Bill. In the same month, considerations of class interest moved Lord George Germain, who became Colonial Secretary in October of the following year, to favor the Massachusetts Government Act. He exclaimed: "Put an end to their town-meetings, I would not have men of a mercantile cast every day collecting themselves together and debating about political matters; I would have them follow their occupations as merchants, and not consider themselves as ministers of that country."51

Although the debate over the Coercive Acts consisted largely of attacks upon America, the opposition did manage to interject some words of warning. The law closing the harbor of Boston according to Rose Fuller, a spokesman for the interest of West Indian planters, could never be implemented without resorting to the use of military force. This possibility, however, did not dismay the imperialists, for Lord North said that he would not "hesitate a

50 Parliamentary History, XVII, 1178.
51 Ibid., 1195.
moment" to use military means to obtain compliance with the laws of Great Britain.\footnote{Ibid., 1170, 1172.}

The preceding examination of British political developments which affected the colonies has disclosed the manner in which the imperialists formulated and executed a harsh colonial policy. Although some facets of British theories concerning the relationship of the parent state to the colonies have been explored already, it would be advantageous at this point to survey this important area systematically.

In consideration of the constitutional issue involved in the dispute with America, that is, the extent to which the colonies were under the control of Parliament, British opinion ranged from belief in the absolute omnipotency of Parliament to the idea that its power over the colonies was limited, or that Americans should be given representation in it. The largest group of influential Englishmen, those who enacted North's program, adhered to the former view, holding that Parliament was the supreme legislature in the British Empire unrestricted by any rights claimed by Americans.\footnote{Bernard H. Holland, Imperium et Libertas (London, 1901), 38.} Moreover, the authoritative legal doctrines of the jurist, William Blackstone, confirmed this view, being implied in his aphorism that "what the parliament doth, no authority upon earth can undo."\footnote{St. George Tucker, ed., Blackstone's Commentaries (Philadelphia, 1803), II, 161.} Inasmuch as English opinion varied, the position
assumed earlier by Samuel Adams in his letter to Shelburne that the British Constitution was fixed and immutable was inconsistent with contemporary English thought and practice. On the contrary, the eminent jurist, Lord Mansfield, asserted that "the constitution of this country has always been in a moving state, either gaining or losing something," and that "there are things even in Magna Charta which are not constitutional now."55

In defending the authority of Parliament over the colonies, the British wished to temper the arbitrariness of their position by reminding the Americans that they enjoyed virtual representation. Soame Jenyns, a commissioner of the Board of Trade, had made this the theme of his argument against the complaint of the Americans that they had no voice in Parliament. Jenyns considered their assertions unfounded since Parliament represented all Englishmen as a whole. His own words interestingly describe the ramifications of virtual representation and its divergence from the colonial idea of geographical representation:

Why does not this imaginary Representation extend to America as well as over the whole Island of Great Britain? If it can travel three hundred Miles, why not three thousand? If it can jump over Rivers and Mountains, why cannot it sail over the Ocean? If the Towns of Manchester and Birmingham, sending no Representatives to Parliament, are notwithstanding there represented, why are not the Cities of Albany and Boston equally represented in that Assembly? Are they not alike British subjects? are they not Englishmen? or are they only Englishmen when they sollicit [sic.] for protection, but not

55Parliamentary History, XVI, 178.
Englishmen when Taxes are required to enable this Country to protect them?  

Also, Joshua Steele, an English pamphleteer, had written in 1766 that the proposal of admitting colonial representatives to Parliament "would go so much against the stomachs of some of our countrymen, that it could never be got down; nay, would disgust them to that degree, that I think they would not suffer any plan to be brought before them that savoured of such a doctrine."  

American pleas for exemption from certain taxes levied by Parliament had made the same progress in Great Britain as their request for a real voice in that body. Specifically, Grenville had refused to recognize any validity in the American contention that there existed a legal distinction between internal and external taxes, and similar treatment had been accorded by a British theorist to the colonial argument based on a difference between taxes for revenue and those for regulation of trade. In 1769 William Knox, a former colonial agent for Georgia and confidant of Grenville, wrote a pamphlet in which he criticized the latter American doctrine.  

In considering the position taken by Dickinson in his Farmer's Letters, Knox had maintained that the admission by the colonies of an unconditional power of Parliament to regulate their trade was a far more serious matter for them than was an admission that parliament had the right to tax them, since it followed that Dickinson's argument that Parliament would be conceded the right to levy a large tax as long as it was for the regulation of  

57 Joshua Steele, An Account of a Late Conference on the Occurrences in America (London, 1766), 23.
trade, while the colonies would consider a light tax illegal if its stated purpose was the raising of a revenue. This position struck Knox as a most "curious" line of reasoning.58

Knox had thought that if this line of reasoning were to be followed consistently, then the colonies would have to admit that the Stamp Act might have been considered to be a regulation, for it was intended to prevent or detect the forgery of deeds and wills, to discourage, by a high duty, the granting of large amounts of land, and had other similar regulatory purposes. In concluding his argument on this point, Knox had written the following:

This boasted distinction between taxes for the regulation of trade, and taxes for the purpose of revenue, we therefore see is without a difference and will in no sort serve to protect the Colonies from parliamentary internal and external taxation, however it may serve for a pretence, under which to strip Parliament of all jurisdiction over the Colonies.59

Knox also had pointed out the political implication of Dickinson's theory that Parliament had only the power to regulate trade, but no power to tax that trade for revenue purposes. This would necessarily imply that the jurisdiction of Parliament in the colonies was narrower than in Great Britain, and that the instant this was admitted, it was also admitted ipso facto that the colonies were not of the same community as Great Britain, that is, were dependent states, and that no one consequently would be able to tell what the power of Parliament over them was, or whether it had any power over them at all.

He had clearly stressed this important point in the following:

59Ibid., 42-43.
But whatever impeaches the jurisdiction of parliament over the colonies, however insignificant in itself, becomes of importance from its consequences; for if the authority of the legislative be not in one instance equally supreme over the Colonies as it is over the people of England, then are not the Colonies of the same community with the people of England. All distinctions destroy this union; and if it can be shown in any particular to be dissolved, it must be so in all instances whatever.60

Therefore, it had seemed to Knox that Great Britain and the colonies either constituted a unitary state of which Parliament was the supreme legislature, or that Great Britain was a state foreign to the colonies, in which case the latter were "in a state of nature."61

The all-or-nothing thesis propounded by Knox was indicative of the reluctance of the British to recognize an intermediate position similar to that proposed by the Americans in their dominion theories. There were some Britons, however, who were inclined to reach a compromise of this sort. One group of them thought that Parliament had authority to direct America in the areas of trade and general imperial affairs, but no constitutional power to tax the colonies. Chatham, the leader of this group, had held that the "distinction between external and internal control is sacred and insurmountable; it is involved in the abstract nature of things."62 Another group contended that Parliament had the necessary authority to bind the colonies in all things, taxation and legislation, but as Burke had said, it was not expedient to tax America.63

60Ibid., 50.
61Ibid., 50-51.
62Parliamentary History, XVIII, 154.
63Holland, 39-40.
Finally, in hope of ending the conflict with America, some Englishmen wished to see the mother country re-order the empire and offer the colonies a place commensurate with their growing importance through the admission of colonials into Parliament. This solution, for example, was proposed by Francis Maserees, a mathematician concerned with the political problems of his day. Realizing that it must be "degrading" to the Americans to have taxes and laws imposed upon them without their consent, he had suggested that the colonials be raised to a "level with their fellow-subjects in Great Britain" by permitting them to send members to Parliament. According to his plan, the members sent by each colony would be elected yearly, each bearing the title, Commissioner of the Colonies of America; and the number of commissioners would be determined by the size, wealth, population, and contribution to the treasury of each colony. In return, America would have to obey the laws of Parliament. Local government would remain under the supervision of the provincial assemblies.

It may be concluded from this examination of British political activity and thought relative to the American problem that the mother country and colonies had come to occupy conflicting constitutional positions. While the Americans moved in the direction of a looser imperial relationship, beginning with a limitation on taxation and ending with a concept of dominion status,

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64 Francis Maserees, Considerations on the Expediency of Admitting Representatives from the American Colonies into the British House of Commons (London, 1770), 8-9.

65 Ibid., 10-14.
the British traveled in the opposite direction with an insistence on the supremacy of Parliament that culminated in a coercive policy. One noteworthy exception to the strict constitutionalism represented by Grenville was Chatham's vision of an empire in which subordinate political units could possess a sphere of autonomy not subject to invasion by the supreme authority of Parliament. This concept was premature, since a necessary requirement for a "federalized" empire would be the development of a British party system, similar to the present one, and an impartial, politically uncommitted king in whom the components of the empire might find a common head.

The period of debate had ended and the time had arrived when decisive action would have to be taken to preserve the British Empire. After the demise of the Grenville Ministry in April, 1765, subsequent events, such as the "Boston Massacre," the organization of American Committees of Correspondence, and finally the Coercive Acts, only added fuel to the raging flames of animosity on both sides of the Atlantic. Now, after four cabinet changes, Lord North was Prime Minister, enjoying the confidence of George III and strong support in Parliament. With the issue in balance, it remained to be seen in what spirit the imperialistically-orientated government, controlled by the king, would receive American overtures for averting the impending dissolution of the British Empire.
CHAPTER V

FINAL EFFORTS AT ADJUSTMENT 1774-1775

In obtaining passage of the Coercive Acts to secure Great Britain's imperialistic control over America, the North government was responsible for providing the immediate cause for the straining of relations between the two countries to the breaking point. The resulting tension, which threatened to grow more serious by the moment, made it absolutely imperative that a mutual understanding be reached as a means of removing the existing impasse. As a consequence of the recent American provocations and the unprecedented British reactions to them, the decade-old controversy had assumed a different character, transcending the narrow issue of taxation and becoming one concerning the fundamental constitutional arrangement of the British Empire. The colonials, through action taken by the Continental Congresses of 1774 and 1775, requested the home government to grant them what amounted to dominion status as a requisite first step toward reconciliation. Since the British were not prepared to meet such a demand involving limited colonial association with the parent state and exemption from the authority of Parliament, it constituted one of the main obstacles militating against the successful conclusion of the various official and unofficial conciliatory attempts. Within the interval of one crucial year, the pacificatory efforts represented by the Dartmouth-Franklin negotiations, the first petition to the king, and the abortive solutions proposed by Chatham and Burke were to fail to achieve their
objectives. The denouement of this complex situation came in the summer of 1775, when Congress rejected North's conciliatory plan and the king declined the second petition.

British political feeling in the latter half of 1774 was not conducive to the development of moderate policies. With the prorogation of Parliament on June 22, the Americans hoped that the ensuing general election for the third Parliament of George III would result in the overthrow of North and his program. Critical as the American problem was at this time, however, it was not an issue in the election and North received a safe majority.¹ The administration felt that the dispute with the colonies should be pursued to a decision, even if force were necessary. Lord Barrington, Secretary of War, wrote to Dartmouth on November 12, 1774, that Massachusetts' misbehavior warranted military action, such as a naval blockade, in order to win a "point of honor."² It was this concern for principle, this insistence on the vindication of the supremacy of Parliament over the colonies, which rested as a burden upon English imperial thinking. "The New England Governments are in a State of Rebellion," concluded George III in November after reading the latest dispatches, and "blows must decide whether they are to be subject to this Country or independent."³

¹Ritcheson, 170.
²Channing and Coolidge, x-xi.
³Fortescue, III, 153.
One important exception to this prevailing attitude of hostility towards the colonies was the friendliness of Dartmouth, Colonial Secretary and North's half brother. Since his colleagues disagreed with his American views, he sought to reach an accommodation with the colonies outside of the cabinet.\textsuperscript{4}

When news of the Continental Congress reached England, Dartmouth wanted to send a royal commission to America to investigate conditions and find a solution.\textsuperscript{5} The king opposed this idea, holding that the colonies would interpret the mission as a sign of the government's weakness.\textsuperscript{6}

Undiscouraged by this setback, the Colonial Secretary continued his quest for peace by communicating with Benjamin Franklin, who was in London, during November, 1774. With the co-operation of two intermediaries, David Barclay, an Old Whig, and Dr. John Fothergill, a well-known philanthropist, both Quakers and friends of Franklin, Dartmouth indirectly conducted negotiations relative to a plan of conciliation. Throughout these talks, Franklin had no official powers from the colonies for bargaining and Dartmouth never revealed his immediate connection with the matter.\textsuperscript{7} Responding to a question concerning the bases upon which a settlement might be attained, Franklin produced his proposals in a list of "Hints."

Franklin's suggestions should be mentioned in detail because they are a good indication of the concessions which the colonists wanted from Great

\textsuperscript{4}Ritcheson, 149-150.
\textsuperscript{5}Ibid., 178.
\textsuperscript{6}Fortescue, III, 156.
\textsuperscript{7}Jared Sparks, ed., The Works of Benjamin Franklin (London, 1882), V, 10-11.
Britain. He asked: that all trade laws be reconsidered and then be put into effect only after being approved by the colonial legislatures; that America be permitted to maintain her own military establishment with no requisitions being made upon her during time of peace; that no British troops be stationed in any colony, nor any royal forts be built in one without the consent of its legislature; that the Tea Duty, the Coercive Acts, and the Quebec Act be repealed; that judges and royal governors be paid by the assemblies; and most important of all, that Parliament renounce its claim to legislate internally for the colonies. In return for these concessions, Franklin was willing to agree to reimbursement for the East India Company's losses at the hands of the Bostonians, and to guarantee the British trade monopoly. 8

It is patent that the acceptance of these points by the British would have meant their abdication of effective control over the colonies and would have led essentially to the establishment of the dominion system. Though it is not expressly stated, it is possible that Franklin had this concept in mind when he advanced these propositions.

Such demands must have staggered both Dartmouth and North, who were receiving daily reports of the conversations from Barclay and Fothergill, for the talks were allowed to lapse. Not until February, 1775, were the conversations resumed. Meeting with Franklin again, the agents presented him with a list of counter-proposals which had come from Dartmouth and North. These contained a refusal to permit the colonial assemblies to re-enact the

8Ibid., 12-14.
trade laws to make them valid, though it was allowed that the revenue arising from them might remain in the colonies. The "Hint" concerning the troops and forts was deemed inadmissible. However, the repeal of the Boston Port Act and the reduction of the Canadian boundaries to their former limits by the amending of the Quebec Act were agreed to. The other Coercive Acts, including the one whereby the charter of Massachusetts was suspended, would remain in force, so it was asserted, as "a standing example of the power of Parliament." For Parliament to renounce its right of internal legislation over the colonies was declared unthinkable. 

Franklin found these counterproposals so unsatisfactory that he abruptly ended the conversations, declaring that "while the Parliament claimed and exercised a power of altering our constitutions at pleasure, there could be no agreement." Thus Dartmouth was disappointed in his search for a peaceful settlement, and both parties continued to rush headlong towards war.

Two months prior to the initiation of the Dartmouth-Franklin negotiations, the Americans had summoned the First Continental Congress, a step taken to ameliorate the worsening state of relations between them and the British. The summoning of the Congress came about in this way. The attempted isolation of Massachusetts provided for in the Coercive Acts had demonstrated to the colonials a power more dangerous to their liberty than taxation by Parliament, and soon twelve colonies rallied to the aid of that beleaguered province.

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9 Ibid., 55-56.
10 Ibid.
Virginia was the first to take definite action, the House of Burgesses having resolved on May 24, 1774 to set aside June 1, the date on which the Port Bill was to become effective, "as a day of fasting, humiliation, and prayer." Moreover, the members implored the Divine interposition that they be given "one heart and one mind firmly to oppose, by all just and proper means, every injury to American rights." Governor Dunmore considered this resolve as an affront to the dignity of Great Britain and reprimanded the House by dissolving it. On May 27 a rump assembly, meeting in Raleigh Tavern at Williamsburg, Virginia, issued a call for a congress of all the American colonies "to deliberate on those general measures which the united interests of America may from time to time require."  

From this call there materialized the famous First Continental Congress which commenced work on September 5, 1774 in Carpenter's Hall at Philadelphia. This unauthorized assembly, which resembled a convention of delegates of distinct communities finding it necessary and advisable to adopt a plan of united action in response to a crisis in their common relations, consisted, when complete, of fifty-five members from twelve colonies. The business of the Congress was complicated by the internal divisions within it. There were three contending groups: the radicals of New England, South Carolina, and Virginia, who impatiently confused the sincere plans of conciliation proposed by their

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12 Ibid., 350-351, 416.
colleagues with acts of appeasement, and would have none of either; the extreme conservatives of New York and Pennsylvania, led by Joseph Galloway, who wished for a speedy termination of the dispute, even if it meant closer ties with Great Britain; and the moderates, led by John Dickinson, who originated the conciliatory measures which won support from all sections of America.\textsuperscript{13}

Notwithstanding these diverse attitudes on the part of the delegates, one reason had brought them together. This was to effect a rapprochement between the colonies and Great Britain, as evidenced by the instructions to the delegates. New Hampshire had directed its representatives to end the present troubles and "to restore that peace, harmony, & mutual confidence which once happily subsisted between the parent country and her Colonies." The delegates from Maryland had been instructed "to effect one general plan of conduct . . . for the relief of Boston, and preservation of American liberty." Those from South Carolina had been directed to consider such "legal measures" as would most efficaciously remove the Parliamentary legislation and royal instructions which make "invidious distinction" between British and Americans. Even the Massachusetts delegates had been pledged to aid in the "restoration of union & harmony between Great Britain and the Colonies, most ardently desired by all good men."\textsuperscript{14} These statements, and others of the same type, indicated that there was an intention among the colonies, at least on paper,

\textsuperscript{13}Weldon A. Brown, Empire or Independence, a Study in the Failure of Reconciliation 1776-1783 (Louisiana University, 1941), 11-12.

\textsuperscript{14}Ford and Hunt, I, 15-16, 23-24.
to reach a peaceful settlement with Great Britain.

From the outset of its proceedings, Congress faced a disturbing dilemma. On the one hand, it had to appear so united in purpose that the British government would make the necessary concessions, and on the other, it had to avoid any precipitate action that would result in the repudiation of such action by the colonials. Indeed, this quandary persisted until the conciliatory efforts of Congress were cut short by the force of circumstances in the spring of 1775 and by the triumph of the radicals in the internal political conflict within that body. Only after these developments was a way opened up for a single course of action. In regard to the triumph of the radicals, it was through the skillful timing of Samuel Adams that they succeeded in winning the first battle in this struggle. This occurred when he placed before Congress the revolutionary resolves of Suffolk County, Massachusetts, in which nullification of the Coercive Acts was exhorted. As a consequence, the delegates were presented with the difficult choice of approving the resolutions and thus further antagonizing Great Britain, or of ignoring the sufferings of their countrymen in Massachusetts and thereby losing the support of this important area. They made the only decision possible and upheld the principle of nullification, resolving on September 18 "that they most thoroughly approve the wisdom and fortitude, with which opposition to these wicked ministerial measures has hitherto been conducted." Congress ordered

15 Howard, 292.
16 Ford and Hunt, I, 39.
this endorsement and the Suffolk Resolves printed, and called for continued aid "for supplying the necessities, and alleviating the distresses of our brethren at Boston."\(^{17}\)

Congress had no sooner taken this provocative stand, committing itself to the support of the illegal activities of Massachusetts, than the leader of the extreme conservatives, Joseph Galloway of Pennsylvania, introduced his conciliatory proposal on September 28. Disliking North's policies with an intensity equal to that of the radicals, he held that the prevailing deadlock was the result of the inadequate constitutional organization of the empire, especially as it applied to the relationship of the colonies to the mother country. Therefore, he submitted a plan providing for a constitutional framework under which, according to him, all disagreements with Great Britain could be resolved.\(^{18}\)

Galloway wished the colonies to make secure their rights through an orderly arrangement such as his rather than through the sort of action towards which Congress had recently shown a leaning. He manifested no sympathy for those Americans who attempted to deduce their rights from natural law or from newly discovered guarantees in the British Constitution. He maintained that the distinctions which some colonists had made between internal and external taxes, and between those for the regulation of trade and for the purpose of revenue "never existed, but in the wild imaginations of the authors of them."\(^{19}\)

\(^{17}\) Ibid., 40.

\(^{18}\) Tyler, I, 371-372.

\(^{19}\) Joseph Galloway, A Candid Examination of the Mutual Claims of Great Britain and the Colonies (New York, 1775), 111.
He condemned also the dominion theory, since it was an "absurdity" for Americans to contend that they owed loyalty to the king alone, when in fact the supreme authority of Great Britain was shared by the crown and the two Houses of Parliament. 20

Galloway's recommendation was for a constitutional union between the colonies and the parent state. Asserting that the colonies by reason of their local circumstances could not be represented in Parliament, he proposed that a legislature, called the Grand Council, be established in America. The purpose of this institution would be that of conducting the administration of the "general affairs" of the colonies, and it would be composed of representatives, chosen triennially by the provincial legislatures, who would meet at least once every three years, oftener if necessary. The chief executive would be a President General, appointed by the king and given the authority of affirming and enforcing the laws passed by the Grand Council. Although the legislative power of this body would extend to any general business of the colonies including civil, criminal, and commercial matters, in which all or one of them and Great Britain were concerned, each colony would continue to govern its internal affairs under its present form of government. In its assigned area of legislation, the Grand Council would actually be a third house of Parliament, since bills initiated and passed by either it or the parent body would have to be approved by the other to be valid. He made an exception in the case of appropriations to the crown in time of war; in this

20 Ibid., 14.
case, only the approval of the Grand Council and of the President General would be required. 21

Galloway admitted that he had introduced his plan for the purpose of averting a possible movement for independence. When the plan was read to the delegates, it was "warmly seconded by several gentlemen ... (and ... after a long debate, was so far approved as to be thought worthy of further consideration, and referred under a rule for that purpose, by a majority of the Colonies." During the debate, Galloway strongly urged the delegates to acknowledge the supreme authority of Parliament over the colonies and to seek a closer union with the mother country. 22 However, the radicals were violently opposed to any settlement on such grounds, and Patrick Henry, a delegate from Virginia, asserted that the adoption of Galloway's plan would "liberate our constituents from a corrupt House of Commons, but throw them into the arms of an American Legislature, that might be bribed by that nation which avows in the face of the world, that bribery is a part of her system of government." 23

Despite the opposition of the radicals, Galloway believed that his plan had an excellent chance of adoption, and in order not to alienate the radicals further, he reluctantly signed the tentative commercial non-intercourse agreement shortly formalized in the "Association." His optimism was unfounded, however, for after the vote was taken, Galloway realized that he had been

21Ford and Hunt, I, 49-50.
22Galloway, 62-64.
23Adams, II, 390.
unable to induce a majority of the colonies to approve his plan. He consequently concluded that Congress preferred measures of "independence and sedition" to those of "harmony and liberty." The proposal and the minutes of the debate concerning it were ordered expunged from the records, although Galloway suspected that the radicals, who were attacking him for having submitted his plan, had "copies of it in their pockets, industriously concealing it from the people." After suffering this defeat, Galloway continued to advocate his ideas, with the result that he eliminated himself as an influence for conciliation in America. The plan was a noble effort to resolve the conflict, and it is significant that the proposal was defeated by a majority of one in a vote of eleven colonies. It had among its supporters such respectable individuals as James Duane and John Jay of New York, and Edward Rutledge of South Carolina. Rutledge considered it to be "almost a perfect plan." On the other hand, John Adams confided to his diary: "Among all the difficulties in the way of effective and united action in 1774 ... no more alarming one happened than the plan of a proposed union between Great Britain and the Colonies, presented on the 28th of September, by Mr. Joseph Galloway." It seemed to him that Galloway "accepted a seat in Congress rather for the purpose of sitting on the skirts of the American advocates than of

24 Galloway, ch.

25 Ibid.


Defeat of this plan led Congress to more forthright action for protecting American liberty, and it proceeded to a series of retaliatory measures against the Coercive Acts. The idea of imposing economic sanctions on Great Britain in the form of boycott had been approved on September 27, and a committee was now appointed to prepare a plan for instituting the resolution. The committee's suggestion, whereby there was set up an organization known as the "Association," was adopted on October 18 and signed two days later. In accordance with the recommendation, the colonies agreed to a suspension of trade with the mother country until such time as Parliament might repeal all duties imposed upon commodities since 1763 and the entire program of North, as embodied in the Coercive Acts. Further, to insure compliance with its non-importation, non-consumption, and non-exportation provisions, it was directed that committees, to "be chosen in every county, city, and town," have the joint responsibility of enforcement with existing committees of correspondence. An exemption, under this agreement, for the continued exportation of rice was included at the insistence of South Carolina whose economy depended upon this product. These procedures of concerted inter-colonial co-operation and enforcement, provided for in the "Association," were a step towards the establishment of an American government.  

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28 Ibid., 387.
29 Ford and Hunt, I, 43.
30 Ibid., 79-80.
To make known the reasons for its actions to the people of Great Britain and of the colonies, Congress issued a "Declaration of Rights and Grievances." And, as a concession to the moderate members, a petition to the king was approved also by Congress. In the "Declaration," passed on October 24, a long list of grievances pertaining to every phase of the controversy of the preceding ten years was set forth. Moreover, thirteen acts of Parliament were enumerated as being "infringements and violations of the rights of the colonists" the repeal of which was "essentially necessary in order to restore harmony" between America and Great Britain. The five punitive laws, passed in the last session of Parliament, were condemned as being "impolitic, unjust, and cruel, as well as unconstitutional, and most dangerous and destructive of American rights."32

The "Declaration" was more than a recapitulation of the wrongs, real or imagined, which the colonists thought had been committed against them, for it contained the first official statement of the fundamental constitutional position finally assumed by the American colonies, namely, that of the dominion theory of empire. This statement, adopted as article four of the "Declaration," was approved only after the bitter opposition of the conservatives, led by Galloway, had been overcome by the radicals.33 This

32 Ford and Hunt, I, 66, 71.
33 McIlwain, 114-115.
That the foundation of English liberty, and of all free government, is a right in the people to participate in their legislative council; and as the English colonists are not represented, and from their local and other circumstances, cannot properly be represented in the British parliament, they are entitled to a free and exclusive power of legislation in their several provincial legislatures, where their right of representation can alone be preserved, in all cases of taxation and internal polity, subject only to the negative of their sovereign, in such manner as has been heretofore used and accustomed. But, 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. 34

This was an explicit statement of the American claim for dominion status. It contained an acceptance of the royal prerogative in the traditional sense of a negative upon such colonial legislation as was contrary to the best interests of the empire. However, it provided for a rejection of the presumption of Parliament to legislate for the American dominions, except in the case of general imperial trade. This exception was a voluntary concession beneficial to both countries, so it was claimed, not a legal obligation. In effect, the delegates stated, therefore, that Parliament essentially did not possess the power of legislation over the colonies, but practically, might exercise the power of imperial control over commerce with American consent, always stopping short of matters relating to "internal polity."

34 Ford and Hunt, I, 68-69.
With reference to the petition to the king, which was drafted by Dickinson and approved by Congress on October 26, the delegates sought royal intercession to obtain relief from statutes passed since 1763. Removal of this legislation, they asserted, would immediately restore harmony between the colonies and Great Britain. In order that their protests might not be construed as manifestations of disloyalty to George III, the delegates avowed in the petition that they "wish[d] not a diminution of the prerogative."35 They only opposed the unconstitutional interference of Parliament with their internal affairs, so they declared. The petition was ineffective. It was received by the king and referred to the House of Commons, where it was inserted into a bundle labeled "American Papers" and forgotten.36 Lord Shelburne, who saw the petition, said in his evaluation of it that it ignored the Declaratory Act in order that the Old Whigs under Rockingham might be conciliated, and acknowledged that trade might be regulated by Parliament, in order that the support of Chatham might be enlisted.37

In assessing the work of the First Continental Congress, it may be said that the various papers written by the members during these deliberations were powerful and dignified assertions in defense of American rights. When these documents were laid before Parliament in January, 1775, Chatham remarked of their authors that for "solidity of reason, force of sagacity, and wisdom of

35 Ibid., 119-120.
36 Brown, 20.
37 Fitzmaurice, I, 476.
conclusion under a complication of difficult circumstances, no nation or body of men, could stand in preference to the general Congress at Philadelphia. More significantly, the growing strength of the radicals in Congress was revealed by these pronouncements. However, the radicals had gone as far as colonial sentiment would permit at this time in adopting the "Association," explaining their position in the "Declaration," and seeking relief from the king with the petition. Conciliation was still the desire of the majority of the people. Indeed, in discussing with Chatham the state of colonial opinion in the preceding month of August, Franklin assured him that having more than once travelled almost from one end of the Continent to the other... he had never heard in any conversation, from any person, drunk or sober, the least expression of a wish for a separation, or a hint that such a thing would be advantageous to America. Anticipating the possibility of failure in its efforts, however, Congress resolved on October 22 that unless redress were obtained before May 10, 1775, a second assembly should meet in Philadelphia at that time.

Soon after these initial American efforts to ameliorate relations between the two countries were made, comparable British action was taken in the first quarter of 1775. The trend of political developments in this direction was watched with concern by British merchants engaged in American trade. Going a

38 Parliamentary History, XVIII, 155.
39 Sparks, I, 278.
40 Ford and Hunt, I, 102.
step farther, they endeavored to influence the outcome of the conciliatory process by petitioning Parliament to consider their economic interest in the controversy. For example, a petition drafted by a group of London merchants and presented to the House of Commons on January 23 typified the nature of this influence. In it, the importance of trade with America and the existence of a debt of 2,000,000 pounds sterling owed by the colonists to the merchants was alluded to. These valuable considerations, so it was maintained, were in danger of being lost unless the Coercive Acts were repealed. In support of this contention, the precedent of revocation in the case of the Stamp and Townshend Acts was mentioned.41

The merchants were primarily seeking to safeguard their own interests, not to act in behalf of the colonies. Oblivious to the political and constitutional implications of the crisis, and aware only of the precarious state of their financial commitments, the traders merely asked the House to make "a full and immediate examination of that system of commercial policy, which was formerly adopted, and uniformly maintained . . . and [to] apply such healing remedies as [could] alone restore and establish the commerce between Great Britain and her colonies on a permanent foundation."42

When the records of the proceedings of Congress reached the mother country, Dartmouth presented them to the House on January 19, 1775. By this move there was initiated an extended period of debate concerning various means

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41Parliamentary History, XVIII, 168-170.
42Ibid., 171.
whereby political adjustment with the disaffected colonies might be achieved.
The formulation of three specific conciliatory plans, sponsored by Chatham, North, and Burke, respectively, resulted. All three of these were presented within a two month period. On January 20, Chatham commenced his preliminary peace-making efforts with the introduction of a measure providing for the withdrawal of General Gage's troops from Boston as a precaution against an armed clash, since the presence of these troops was bringing that city to the verge of rebellion. While speaking, he repeated his belief that Parliament had the right of commercial regulation but not that of taxation over the colonies, thereby emphasizing, at the time of a critical state of affairs, the basic difference between himself and the Old Whigs.\(^3\) Consequently, the opposition was disunited and Chatham and Burke thereafter failed to co-operate, each preferring to depend upon his own party strength in carrying a conciliatory proposal through Parliament.\(^4\) Undeterred by the defeat of his first moderate bill, Chatham introduced a more comprehensive one on February 1, his plan "for settling the Troubles in America, and for asserting the Supreme Legislative authority and superintending power of Great Britain over the colonies."

According to this second proposal, Chatham recommended the following: that Parliament confine its control over the colonies to those matters "touching the general weal of the whole dominion of the imperial crown of Great Britain;" that the colonies be guaranteed that the troops there, though

\(^3\) Ibid., 150-151.

\(^4\) Ritchie, 182.
legally posted, would never violate their rights; that no tax for revenue (he would retain taxes for the regulation of trade as an imperial function) ever be levied on a colony but by the consent of its own assembly; that the powers of the admiralty courts be retracted to their traditional limits; that the colonial charters be declared inviolable; and that judges, though appointed and paid by the crown, serve only during good behavior. So that there might be a valid body to which these proposals might be transmitted, Chatham urged Parliament to recognize the legality of the Congress scheduled to meet the following month of May. Such recognition, he continued, would facilitate the next phase of his plan whereby Congress, in behalf of the colonies, would be obligated to make certain concessions, beginning with a declaration that it acknowledged the supreme power of Parliament. An additional quid pro quo which Chatham expected from America was that Congress would make a "free grant" of a perpetual revenue to the king, subject to the disposition of Parliament. In connection with the grant, Congress would be authorized to assign portions of the total sum to the various colonies. Moreover, the free grant would be considered, according to Chatham, as an act of "affection" for the mother country. And finally, this measure included provisions for further concessions to the colonies. Dating from the time of Congress' acceptance of the supremacy of Parliament, all of the measures which it had enumerated as destructive of imperial harmony, including the Sugar, Coercive, and Quebec Acts, were to stand repealed, and in the meantime they would be suspended.45

45 *Parliamentary History*, XVIII, 198-203.
The lords found important reasons for opposing Chatham's plan in connection with its provisions whereby the theoretical right of Parliament was renounced and the powers of the admiralty courts were restricted. That the tendency of the latter proviso would be to weaken the entire economic system was evident to Lord Leveson-Gower, Marquis of Stafford, who maintained "that the Act of Navigation would be of no avail, would be no more than a dead letter, if the laws for establishing admiralty courts were repealed." Consequently, Chatham's conciliatory proposal was rejected by a vote of sixty-one to thirty-two. However, the bill was important since it demonstrated the fact that a great British statesman understood the need for a new imperial structure. Unfortunately, the powers which were to be granted to the colonies as a result of the adoption of this measure were too extensive to be approved of in Great Britain.

The day after Chatham had proposed his plan, the North Ministry took steps to regain the initiative from the opposition. On February 2, North induced Parliament to approve an address to the throne wherein it was declared that since New England was in a state of rebellion, the king should speedily reduce that area to obedience. Thus far, North, who had once asserted that he would never "run after America in search of conciliation," was conducting

46 Ibid., 208.
47 Ibid., 215.
48 Ibid., 297.
his administration in accordance with his coercive policy. However, on February 20, it appeared as if he were about to revise his treatment of America, for on that day he was to present to the House an abortive plan of his own for reaching an agreement with the colonies. The North plan of February 20, which consisted of a series of propositions, had been formulated in a cabinet meeting held on January 21 in response to Dartmouth's unrelenting effort to avert the tragedy of civil war. Furthermore, George III had remained doubtful of the efficacy of this intended action to mollify the colonies. Writing to North on February 15, the king indicated that while he was "a thorough friend to holding out the Olive Branch," he entertained not the "smallest doubt" that "vigorous measures" were "the only means left of bringing the Americans to a due Submission to the Mother Country." And again, in a letter of February 19, a day before the plan of February 20 was to be presented to the House Committee on American Papers, the king disclosed the insincerity of the entire purpose of the North measure by giving his endorsement to it with the wish that "an end to Congresses" might thereby be effected.51

It was asserted in North's "Propositions for Conciliating the Differences with America," upon which action was taken, that since revenues were required from America, a pre-arranged proportion of this money should be made the responsibility of each colony, to be raised in whatever way its legislature decided, although Parliament would reserve the right to determine the use of

50 Ritcheson, 186.
51 Fortescue, III, 175, 177.
these taxes. In addition to this obligatory financial contribution being required, it was stipulated that the colonial legislatures must assume the costs of American defense and civil government and that the funds allocated for these functions must be approved by the king and Parliament before becoming final. If the colonies faithfully met these conditions, it was provided that the British government would desist from taxing them. However, it was declared that Parliament would continue to impose duties for the regulation of commerce, although the net income from these taxes would be credited to the account of the colony from which it was derived.52 Thus, it is seen, the plan advanced by North, whereby Parliament would retain the powers of taxation and commercial regulation, was still at variance with American thinking and demands.

In defending his proposal, North asserted that he had offered his resolutions in order to define the bases upon which conciliation with the colonies would have to be made, and that he would be happy to "open the door even to rebels" in Massachusetts if they were prepared to negotiate according to his terms.53 His plan was approved by the Committee concerned on the same day upon which it was introduced, although North informed the king that it did encounter some opposition from those members who considered it "too great a concession."54 Since the plan gave up no right, George III regarded the favorable action taken by the Committee as an example of "the seal of the House

52 Parliamentary History, XVIII, 320.
53 Ibid., 320-321.
54 Fortescue, III, 178.
of Commons in Support of the just Superiority of the Mother Country over its Colonies."

After the proposal was approved by the Committee, it was brought to the floor of the House, where it was debated and finally acted upon.

In defending his measure, North said that it "mark [ed] the ground on which negotiation [might] take place" and that if the Americans were true to their principles, they would accept it. However, in view of the provisions in the resolution whereby the colonies were given merely the authority of raising revenues while Parliament was given control over the spending of these funds in addition to the power of regulating colonial trade, North was accused by his Parliamentary opponents of duplicity for attempting to create the impression that he was making concessions when actually he was steadfastly upholding the imperial position. For example, in evaluating North's motives Charles Fox, an eminent Old Whig, said: "To the Americans, and to those who are unwilling to proceed in the extremes of violence against them, he holds out negotiation and reconciliation. To those who have engaged with him on condition that he will support the supremacy of this country unimpaired, the proposition hold out a persuasion that he never will relax on that point."

Colonel Isaac Barré, a consistent friend of America, attacked North's defense, holding that it was "founded on that wretched, low, shameful, abominable maxim

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55 Ibid., 179.
56 Parliamentary History, XVIII, 320-322.
57 Ibid., 330.
which had predominated in every measure of our late minister, *divide et impera.*" Burke considered the measure to be "the most ridiculous that had ever been known in parliament" since the administration attempted to prove to one side of the House that it was a concession and to the other side that it was a strong assertion of authority. Specifically, Burke held that the proposal was "oppressive," since "it was never the complaint of the Americans that the mode of taxation was not left to themselves; but that neither the amount and quantum of the grant, nor the application, was in their free choice." Therefore, Burke concluded that if "extorting revenue" from the colonies were made the condition, instead of the consequence of peace, North would obtain "neither peace nor revenue." Despite these cogent arguments, the House carried the measure with a vote of 274 to eighty-eight.

Although this vote indicated that the North Ministry controlled three times as many seats in the House as did the entire opposition, the Old Whigs were determined to present a proposal of their own for ending the dispute with America. Accordingly, on March 22, Burke introduced the Old Whig plan of conciliation into the House with the plea that since the adoption of North's plan was, in effect, an admission that conciliation might precede colonial submission, a proposal for peace should emanate from Great Britain. The

principle underlying his recommendation for restoring tranquility to imperial relations was less imaginative than that of Chatham, or even of North. Burke advocated simply a return to conditions as they had existed prior to 1763, and in so advocating, he was underestimating the importance of the rapid political and economic maturation of America since that time. The archaistic orientation of his thinking relative to the immediate problem was disclosed by him when he said: "I put my foot in the tracks of our forefathers; where I can neither wander nor stumble." 61

According to his plan, Burke proposed that Parliament should agree to recognize the procedure whereby American financial contributions to the mother country would be raised through the action of colonial assemblies, since this system was held by him to be "more beneficial and conducive to the public service, than the mode of giving and granting aids and subsidies in parliament to be raised and paid in the said colonies." In thus rejecting North's idea of giving Parliament a voice in colonial taxation amounting to more than that of a theoretical right to expect taxes from this source, Burke recommended the return to the principle of American self taxation for the aid of the empire, which was proved to be unfeasible during the preceding war against France. Furthermore, it was suggested in this measure that Parliament acknowledge the legal competence of the colonial assemblies to support their respective governments and that it consider the propriety of repealing the Coercive Acts.

61 Ibid., 518.
and restricting the powers of the admiralty courts. 62

Burke avoided discussing the question of whether or not Parliament could force the colonies to pay taxes, the implication being that the necessary funds would be forthcoming through the voluntary grants of the colonies. This omission indicated that he was reluctant to grapple with the substance of the dispute, that is, the question of right. The ministerial side of the House was quick to detect this oversight. North's supporters maintained that the colonial legislatures had never had, at any time, the legal power of granting a revenue to the crown, since this was a privilege of Parliament which could not be shared by any other body. 63 After further debate, the House disposed of the Old Whig peace effort with the decisive vote of 270 to seventy-eight. 64

Since the efforts of Chatham and Burke had failed, the prospects for conciliation were contingent upon the reaction of the Continental Congress to the North plan. However, the possible attractiveness of this proposition was reduced even further in the estimation of the Americans as a result of the measures which accompanied it through Parliament. These were the address to the king, whereby Massachusetts was declared to be in a state of rebellion, and the New England Restraining Act, Passed on February 10, whereby that area's foreign commerce was placed under interdiction. 65

Approximately two months after the House had rejected Burke's plan, the

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62 Ibid., 537-538.
63 Ibid., 538-539.
64 Ibid., 546.
65 Ibid., 297-299.
Second Continental Congress convened on May 10, as originally scheduled. It was composed mainly of the same people who had attended the preceding Congress, with the following important additions: John Hancock of Massachusetts, who was chosen president; Benjamin Franklin and James Wilson of Pennsylvania; and Thomas Jefferson of Virginia. For America, this Congress played the decisive role in the attempted conciliatory process. It transmitted a second petition, the "Olive Branch," to the king, and it considered and then declined the terms of settlement offered by North. The decisive factor in the outcome of these proceedings was the radical domination of Congress which was strengthened by the critical situation existing in Massachusetts. This colony had been in a state near to armed rebellion since the fall of 1774, and the crisis finally reached its climax in the Lexington-Concord raid of April 19, 1775. This clash made possible the triumph of the radicals' demand for war preparations, and moved Congress to adopt the "Declaration of the Causes and Necessity of Taking Up Arms" and to create an army under George Washington.

The approach to conciliation taken by the Second Continental Congress was outlined in four resolutions which were passed on May 26. In these, Congress resolved that the colonies had been "reduced to a dangerous and critical situation," and decided that "these colonies be immediately put into a state of defense." The conciliatory resolutions contained the expression of an ardent wish "for a restoration of the harmony formerly subsisting between our Mother country and these colonies" and the decision that "to the promotion of this most desirable reconciliation, an humble and dutiful petition be presented to his Majesty." And finally, there was expressed a resolve that
negotiations to this end be entered into. Collectively, these points amounted to a policy of strength and entreaty. The dual nature of this policy was especially evident in the provision it contained for a petition to the king. The impatience with which this suggestion was received by the radicals was disclosed in a letter sent by John Adams to James Warren, a leader of the Boston dissenters. Under the heading, "Secret and Confidential," Adams wrote to him the following on July 6:

You will see a Strange Oscillation between love and hatred, between War and Peace—Preparations for War and Negotiations for Peace. We must have a Petition to the King and a delicate Proposal of Negotiation, etc. This Negotiation I dread like Death: But it must be proposed. We can't avoid it. Discord and total Disunion would be the effect of a resolute Refusal to petition and negotiate. My Hopes are that Ministry will be afraid of Negotiation as well as We and therefore refuse it.

Adams believed that such conciliatory efforts would be nugatory and would serve no useful purpose except perhaps to "gain Time and Powder and Arms."

Two days after Adams had denounced the petition in his letter to Warren, the "Olive Branch" was signed by the delegates. In it, Congress stated that Anglo-American relations had been weakened by ministerial policies and the system of statutes and regulations put into effect since 1763. Also, the delegates traced the history of the colonies from their founding, listed various colonial grievances, advocated a return to the policies of the period prior to 1763 whereby there had been less Parliamentary interference with their affairs, and beseeched the king to redress their grievances and to direct some

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66 Ford and Hunt, II, 64-66.

mode of conciliation. This document constituted the last formal request by America for the achievement of a political adjustment with Great Britain while both countries were still technically at peace. Dickinson, the author of the petition, knew that it was a tremendous gamble. On July 7, in a letter to Arthur Lee, a Virginian who was in London as the agent of Massachusetts, he predicted that its rejection by the king would "confirm the minds of our countrymen to endure all the misfortunes that may attend the contest." 

The impact of the petition upon Congress was that its members divided into two hostile groups. New England was enraged, and the party of Dickinson was permanently alienated from that of John Adams. The line separating the men of reconciliation from the men of independence had been drawn. In this biography, however, Jefferson recalled that: "Congress gave a signal proof of their indulgence to Mr. Dickinson, and of their great desire not to go too fast for any respectable part of our body, in permitting him to draw their second petition to the King according to his own ideas, and passing it with scarcely any amendment." To Dickinson, then, the petition was a sincere appeal. Before long, the radicals were to use it for political maneuvering, presuming that if the petition were rejected or ignored by the king, the

68 Ford and Hunt, II, 158-162.
69 Lincoln, 201.
70 Brown, 28-30.
71 Ford, Writings of Jefferson, I, 17.
moderates might be willing to declare for independence.\(^2\)

Meanwhile, there existed in America a situation tantamount to a state of war. The Battle of Bunker Hill had occurred on June 17, shortly before the arrival in Massachusetts of George Washington, who had been appointed Commander-in-Chief by Congress. In view of these politico-military developments, it was deemed expedient by the delegates to issue a statement wherein the position of the colonies would be explained. Their efforts culminated in the adoption of the "Declaration of the Causes and Necessity of Taking Up Arms" on July 6. In re-emphasizing the constitutional bases of American resistance to Great Britain, Congress maintained in the "Declaration" that its opposition was not directed against the lawful monarch, George III, but against Parliament, which was "stimulated by an inordinate passion for power," and against the North Ministry, which was bent on "subduing England's faithful friends." It was further asserted by the delegates that from the "fatal moment" when the king released Pitt as director of Great Britain's war effort near the end of the Seven Years' War "the affairs of the British empire had begun to fall into confusion," with the result that the colonists were now "reduced to the alternative of choosing an unconditional submission to the tyranny of irritated ministers, or resistance by force." The delegates had chosen, so it was maintained, the latter alternative since they would have found nothing so

dreadful as "voluntary slavery." However, it was not their intention, it was continued, to dissolve the union and establish independent states, but to fight to protect their liberty and property. In this regard, they would lay down their arms when the danger was removed, not before. The delegates concluded their assertions with the expression of the hope that "reconciliation on reasonable terms" might be reached, thereby relieving "the empire from the calamities of civil war."\textsuperscript{73}

Although Congress had assumed conduct of the armed resistance to the mother country and had promulgated its reasons for so doing, the radicals were dissatisfied. They believed that further action should have been taken. In a letter dated July 24, John Adams revealed to his friend, James Warren, the type of program the radicals had in mind:

I am determined to write freely to you this time. A certain great Fortune and piddling Genius, whose Fame has been trumpeted so loudly, has given a silly Cast to our whole Doings. We are between Hawk and Buzzard. We ought to have had in our Hands a month ago the whole Legislative, executive and judicial of the whole Continent, and have completely modeled a Constitution; to have raised a naval Power; and opened our Ports wide; to have arrested every Friend to Government on the Continent and held them as Hostages for the poor Victims in Boston, and then opened the Door as wide as possible for Peace and Reconciliation.\textsuperscript{74}

This incriminatory letter fell into the hands of Americans who were loyal to the British regime and was published. The news of it reached England at about the

\textsuperscript{73}Ford and Hunt, II, 141, 143, 153, 155-157.

\textsuperscript{74}Warren-Adams Letters, I, 88-89.
same time as did the "Olive Branch," with the result that the plans of the
independence men in Congress and Adams' contempt for Dickinson, the "piddling
Genius," were exposed and all of the obsequious language in the petition was
effectively nullified. 75

The "Olive Branch" received an unfavorable reception in Great Britain,
principally because it contained the request that the king annul the work of
his ministers. Moreover, the reception of the news of other events
transpiring at the same time caused the utility of the petition to be further
minimized. There was, for example, the report of the Battle of Bunker Hill,
which had a decisive impact upon the policy of the British government. When
informed of it, North notified the king, in a letter dated July 26, that it was
now necessary to treat the rebellion as a foreign war. 76 Preparations were
made to declare Richard Penn, the former Lieutenant Governor of Pennsylvania
who had carried the petition across the Atlantic, and his countrymen traitors.
A "Proclamation of Rebellion" was prepared. Placing his hope in the fact that
Congress had been conciliatory in the preparation of the "Olive Branch,"
Dartmouth tried to delay the proclamation's publication. The Congressional
petition did not reach him until August 24, one day after the king had
promulgated his ban against the Americans. 77 In the proclamation, the king

75 Wickersham and Montague, 37.
76 Fortescue, III, 234.
77 Ritcheson, 195.
held that, contrary to the statements made by Congress, American disobedience and resistance were as much directed towards himself as towards the Ministry and Parliament, and he charged the colonists with "traitorously preparing, ordering and levying war" against the crown. Of course, the petition had arrived too late to be of any effect. After Richard Penn, with the assistance of Arthur Lee, attempted to persuade Dartmouth to present it to the king officially, the two agents wrote Congress on September 2: "We thought it our duty to press his Lordship to obtain an Answer; but we were told, that as his Majesty did not receive it on the throne, no Answer would be given."  

The Ministers thought the American professions were false, and George III induced a majority of them to reject all conciliatory propositions. The opinion that Americans were attempting to achieve independence was also held in Parliament. In the Commons, John Acland said that he was not alone in thinking "that the Americans [had] been long contending for independence," and in the upper chamber, Lord Mansfield more precisely asserted "that ever since the Peace of Paris the northern colonies [had been] meditating a state of independency on this country."  

In the meantime the radicals, under the astute leadership of Samuel Adams and others, had won control of Congress and stifled all additional sincere

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78 Force, III, 240.
79 Wickersham and Montague, 30.
80 Fitzmaurice, I, 476-477.
81 Parliamentary History, XVIII, 731, 1101.
peace efforts. Before Congress officially answered North's proposition, which had been temporarily tabled on May 26 in order to permit the members to devote attention to their own conciliatory proposals, it had given a foretaste of its reply to North in the "Declaration of the Causes and Necessity of Taking Up Arms." In this manifesto, referring to North's plan, Congress had called it "an insidious manoeuvre" to divide America and to establish a perpetual "auction of taxations" so that colony would bid against colony, "all of them uninformed what ransom would redeem their lives." Furthermore, the delegates had held in the "Declaration" that North's requirement for colonial taxes was an attempt to extort from them "at the point of the bayonet, the unknown sums that should be sufficient to gratify, if possible to gratify, ministerial capacity, with the miserable indulgence left to us of raising, in our own mode, the prescribed tribute."

After Congress had deliberately delayed, as a supposed means of protecting its dignity, it considered the North proposal. On July 22, Franklin, Jefferson, John Adams, and Richard Henry Lee were appointed to a committee for the study of the plan and the formulation of a reply to North. The committee's report, written by Jefferson, was examined on July 31, debated paragraph by paragraph, and finally accepted with but few changes by Congress. In the reply as approved, Congress asserted that the colonies retained the privilege of granting their own money and denied the right of any extraneous body, such as

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82 Brown, 33.

83 Ford and Hunt, II, 149.

84 Ibid., 202, 224.
Parliament, to appropriate their funds. The delegates were not willing to concede that "the colonies should be required to oblige themselves to other contributions, while Great Britain possesses a monopoly of their trade." Furthermore, they protested "that the British parliament has no right to intermeddle with their provisions for the support of civil government, or administration of justice." Moreover, the delegates held that North's plan was unsatisfactory because it provided only for "a suspension of the mode, not a renunciation of the pretended right to tax them." And finally, they declared that "all this prove unequivocally, they mean not to relinquish the exercise of indiscriminate legislation over them."\(^{85}\)

Obviously, a stalemate had materialized. Each of the two sides had arrived at a position from which it was unwilling or unable to retreat. The differences were apparently irreconcilable. It is now appropriate to consider the immediate consequences resulting from the rejection by the colonists of the North plan and from the refusal by the British to receive the second petition to the king, and to analyze the factors responsible for the failure of those final endeavors at reconciliation.

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\(^{85}\) Ibid., 225-232.
CHAPTER VI

CONCLUSION

The uncomprising stand taken by the Americans and the equally unyielding position assumed by the British made reconciliation impossible, since each side demanded prior concessions.¹ To some people it seemed as if the break were inevitable. Josiah Tucker, Dean of Gloucester, wrote in 1775 that there could be no grounds for compromise unless one side gave up its position, for Great Britain and the colonies held nothing in common.² The meager grants of colonial autonomy which the North Ministry was prepared to concede were rejected by Congress. Upon being asked if Congress would consider the refusal of the "Olive Branch" by the king as a "bar to all reconcilement," Richard Penn replied to the examining members of the House of Lords on November 10, 1775 that Congress would adopt that view.³ Therefore, after over a decade of attempts at readjusting imperial relationships, the mother country and colonies

¹Charles F. Mullet, Fundamental Law and the American Revolution (New York, 1933), 196.


³Parliamentary History, XVIII, 913.
admitted, in effect, with the collapse of conciliatory efforts in the summer of 1775, that a mutually satisfactory solution was unattainable. Eventually, the Americans turned to the solution suggested by Thomas Paine in his pamphlet *Common Sense*. Paine brushed aside all proposals designed to reserve some superintending power to Parliament, and instead, he advocated complete independence from Great Britain as a natural right of the Americans. However, the adoption of this course of action by the colonists represented a development not within the purview of the present consideration. It only emphasized what had become apparent with the failure of the "Olive Branch," namely, the end of seeking a peaceful and constitutional settlement of imperial problems.

The rejection of the North plan by Congress represented the end of an historical process, which had begun with Great Britain's policy of imperial reorganization after the Seven Years' War. In pursuing a policy which adversely affected the colonies, the British had raised a series of constitutional questions concerning the relationship between the mother country and colonies. Such questions as the extent of Parliament's legislative authority over colonial trade, taxes, and internal affairs, that is, matters which had never been fully explored before 1763, came under discussion on both sides of the Atlantic after that time. Due to the uncertainty surrounding the answers to these questions, a series of political problems was created.

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¹ Mullet, 196.
Although it was necessary that an over-all solution to these outstanding problems be found in order that stability be restored to the British Empire, the state of British opinion and political development were not conducive to the attainment of this objective. Prime Minister George Grenville, who believed that his Stamp Act was valid since the colonies were supposed to be under the supreme authority of Parliament, had driven the first wedge between Great Britain and the colonies. While the colonials raised a tremendous furor over the Stamp Act, passed resolutions, and invoked non-importation agreements, it was not out of fear of these actions that Parliament soon repealed this law. On the contrary, the Old Whigs under Rockingham made this seeming retreat in order to placate the British merchants, and lest the Americans misconstrue the significance of the repeal, a Declaratory Act was promptly passed wherein the theoretical legislative supremacy of Parliament over the colonies was clearly affirmed. Thus, Grenville had not been overruled in principle.

With the installation of the Chatham Ministry following that of the Old Whigs, there appeared to be a possibility that colonial policy would be conducted along more modern lines, for Chatham's views were in accord with the actual political situation. In his ideas, recognition was given to the fact that the colonies had been enjoying, though not legally, quasi-autonomous status for many years prior to 1763. He was willing to permit the colonies to continue in this direction of self-government and self-taxation. However, before he was able to establish this idea as a principle of British colonial policy, leadership passed from his hands at a critical juncture and disastrous consequences ensued. The government vacillated under his successor, Grafton, and then became dominated by the King's Friends. The eagerness of the country
gentlemen to shift part of their tax burden to the colonies drove Chancellor of
the Exchequer Townshend into imposing a new series of duties on American trade,
the revenues from which would be used to create a colonial civil list. The
fact that Townshend called these duties "external taxes" did not make them any
more palatable to the Americans.

By 1770, when North became Prime Minister, the time had already passed
when the colonists would have been satisfied with the relatively small abridge-
ment of Parliamentary supremacy originally envisioned by Chatham. Having
denied the validity of the Townshend Duties, the Americans soon found themselves
denying Parliamentary supremacy itself. It was on December 16, 1773, that the
turning point in the debate occurred for both Americans and British. The
unfortunate effects of the "Boston Tea Party" were manifested in several
developments which militated against conciliation. As a result of this action,
the conflict reached a new height of intensity, the Americans pursued more
violent measures, public opinion was inflamed in England, and the imperialists
in the North Ministry and Parliament were strengthened. Most important of all,
the central problem of colonial home rule was thrown into bold relief by the
passage of the Coercive Acts. Thus, after having considered the problem of
imperial organization for over a decade, the British government indicated that
it had no solution but coercion.

By February, 1775, when North obtained Parliamentary approval of his plan
for conciliation, it was evident to the British that the Americans intended to
secure a substantial degree of self-government for themselves. Yet the North
plan contained no provision for this colonial objective. No effort was made to
remove the outstanding differences between parent state and colonies. In
drafting his plan, North did not concede anything on the point of taxation, and in refusing to meet the issue of closing a port and altering a colony's government, he failed to address himself to the basic conflict between colonial aspirations for internal control and Parliamentary interference.

In attempting to assess the responsibility of Great Britain for the failure of reconciliation, consideration must be given to domestic British political developments. During the conflict with America, the king had been actively constructing his own political party. Ironically, he was aided in this endeavor by colonial unrest, since the conservatives were frightened by it and consequently rallied around the king. The formation of this party was inimical to the only permanent solution to the problem of Anglo-American relations, which was the dominion system. The acceptance of this solution was hindered by the role of the king in the state. So long as the king wished to lead a party and identify his interests with it, it would be impossible for him to assume a position above domestic affairs as a common symbol of union for all of the members of the British Empire.

Throughout the controversy, the Americans had exhibited ability in devising arguments to use against the British policy of imperial reorganisation. The argument based on rights which were presumably protected by colonial charters was short-lived, for the Americans realized that it was weak and unconvincing. From this argument, the colonials proceeded to the natural-law

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5 Ritcheson, 285.
6 Ibid., 286.
7 Tucker, Tract V., 39-40.
position from which they drew distinctions between various types of taxes, demanded Parliamentary representation, and inferred that the British Constitution was superior to Parliament. The final position assumed by the Americans, the dominion theory, was a development of prime importance. While it was not consistent with English legal theory, the dominion concept reflected the actual decentralized character of the British Empire.

Specifically, the American assumption that the empire was not a single state made up of a mother country and her inferior dependencies, but rather a group of states equal in status, with co-ordinate legislatures and a common king, seemed to the British to be inconsistent with imperial order. After examining the pronouncements of Congress in support of this novel idea of empire, the British concluded that "the question was no longer confined to any particular exercise of the authority of Great Britain, but extended to the very being of the sovereignty itself." This was the heart of the problem of conciliation, for by denying the validity of the various acts of Parliament, the Americans gradually adopted the view that the colonies were entitled to self-government. It was this wide divergence between the conceptions of the two countries concerning the extent of Parliament's power over the colonists which militated against the attainment of a good understanding.

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9 Annual Register For the Year 1776 (London, 1777), XIX, 61.

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This source provides many useful documents conveniently arranged with informative annotations.


This collection is helpful in the study of the immediate events leading to the calling of the First Continental Congress.


Jefferson's *Summary View* indicates that even this great idealist foresaw that, short of a complete separation from the mother country, the only other acceptable position for the colonies was as self-governing dominions within the empire.


This set is extremely helpful for examining the collective American efforts to find a solution for the imperial problem and reaction to the North plan of conciliation.


The king's attitudes, actions, and direction of Lord North with reference to the controversy with the colonies are significantly disclosed in his letters.

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APPROVAL SHEET

The thesis submitted by George Henry Holczt has been read and approved by three members of the Department of History.

The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the Degree of Master of Arts.

[Signature]
Date: 1-15-8