

No. 74-1776

In the
Continental Congress of the United
States

PATRIOTS,

Petitioners,

v.

LOYALISTS,

Respondents.

BRIEF FOR PETITIONERS

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QUESTIONS PRESENTED

Should the United Colonies declare independence from Great Britain?

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SUMMARY OF ARGUMENT

The subjects of Great Britain residing in the United Colonies possess the same rights as subjects residing within Great Britain itself. These rights, including the rights to private property and representation, are protected by longstanding tradition, reason, and colonial charters, and have not been disputed until recently.

Parliament has imposed taxes for the purpose of raising revenue without colonial consent, which constitute seizures of private property. These abuses escalated through the Intolerable Acts, where Parliament severely violated colonial rights. When colonial assemblies asked for legislative power, Parliament refused to grant the Colonies representation and implicitly nullified colonial legislation, establishing a precedent of arbitrary authority directly against constitutional law. Repeated diplomatic and peaceful colonial efforts have been refuted by Parliament and the King.

Under Lockean theory of government, a sovereign that violates the rights it exists to protect places itself in a state of war with the people. Thus, the British government has forfeited its legitimacy and authority. Having exhausted all means of reconciliation, the United Colonies possess the legal right to dissolve their political ties with Great Britain and establish a new government.

Respondents' arguments fail because Parliament only possesses the right to regulate trade, not to tax for raising revenue. The idea of "virtual

representation” as a means of representation is insufficient to guarantee the rights of colonial subjects because the legislators in Parliament are neither elected nor answerable to the inhabitants of the United Colonies, meaning that they do not match their agendas.

In summary, the United Colonies’ right to independence for the purpose of protecting their inalienable rights must be exerted in order to break from oppressive, tyrannical British rule and establish a government that protects the liberties of its people.

ARGUMENT

- I. The subjects of Great Britain in the United Colonies possess the same rights as subjects in Great Britain**
 - A. British citizens living in the United Colonies have inherited their rights from their British ancestors**

When subjects of the British Crown settled various colonies on the eastern coast of the American continent throughout the 1600s and 1700s, they came as Englishmen, and retained their status as Englishmen until they died. Being Englishmen, they retained the rights and protections afforded them by their being subjects of the English Crown. They passed those rights onto their posterity, and their descendants in the United Colonies today possess the same rights that their ancestors brought to the American continent decades ago. Irrespective of whether the transmission of those rights is contingent upon ancestry, birthplace, or being a subject of the British Crown, the modern inhabitants of the United Colonies possess “all the rights, liberties, and immunities of free and natural-born subjects, within the realm of England.” *The Bill of Rights; a List of Grievances*, Founders Online (1774).

If rights are transmitted by ancestry, the denizens of the United Colonies very clearly possess all of the rights entitled to Englishmen. Assuming that one’s descent is determinant of their rights, then most inhabitants of the United Colonies are as much

entitled to the rights of Englishmen as someone born in London. Per the Continental Congress's Bill of Rights, colonists' "ancestors, who first settled these colonies, were, at the time of their emigration from the mother country, entitled to all the rights, liberties, and immunities of free and natural-born subjects, within the realm of England." *The Bill of Rights; a List of Grievances*, Founders Online (1774). Those ancestors were born in Great Britain and emigrated from Britain to what are now the United Colonies. Even if their rights were contingent upon having British ancestry, being born in Great Britain, being subjects of the British Crown, or all of those conditions, they still fulfilled whatever requirements there might have been to be given the rights of Englishmen. If, then, transmission of rights to the contemporary inhabitants of the United Colonies is based on ancestry, they clearly have the same rights as their ancestors who emigrated to the American continent did.

If rights are transmitted by birthplace, the modern inhabitants of the United Colonies still ought to have the same rights as all Englishmen, as they were born in lands that were part of British dominions. When the original settlers of the British colonies in America colonized the continent, they did so in the name of the Crown, and in many cases brought along with them a royal charter. Seeing as the United Colonies are lands belonging to Britain, it is reasonable that people born in the United Colonies, becoming citizens thereof, are entitled to the same rights granted to those born in England, or Scotland,

or any other place within the dominions of Great Britain.

If rights are secured by being subjects of the British government, then the residents of the United Colonies are still entitled to the same rights as Englishmen. Virtually every grievance, petition, or resolution passed by assemblies in the United Colonies takes pains to remind the British government of the colonists' status as "his majesty's subjects." *The Bill of Rights; a List of Grievances*, Founders Online (1774). The inhabitants of the United Colonies, by their choice to reside within the same, are subjects of Great Britain, and therefore have the same rights as Englishmen, if subjecthood is the condition on which rights are granted.

Even if rights are only granted to people who are of English descent, were born in the dominions of the British Empire, and are subjects of the British government, a substantial portion, if not a majority, of the population of the United Colonies meet these conditions and are therefore entitled to all of the rights that a London aristocrat would have. It is therefore all the more concerning that the British government is so willing and eager to dispense with those rights to serve its own ends.

B. The rights of British citizens in the United Colonies are protected by longstanding precedent and colonial charters

The rights of the denizens of the United Colonies are protected by the original charters of many

colonies, as well as longstanding precedent. The Virginia Resolves on the Stamp Act recall “the two royal Charters granted by King James the first the Colonists aforesaid are declared intituled to all the Privileges, Liberties & Immunities of Denizens and natural born Subjects to all Intents and Purposes as if they had been abiding and born within the Realm of England.” *Virginia Resolves on the Stamp Act*, Encyclopedia Virginia, (1765). The charters that were referred to were those of Virginia, in which King James I gave his assent to the founding of the first British colony on the American continent. Within the charters was language that explicitly designated all of the rights of natural-born Englishmen to the original inhabitants of the Virginia colony and their posterity.

Promises of the rights of Englishmen for colonists were not limited to Virginia’s charter. Several of the thirteen colonies that now comprise the United Colonies contain such language in their charters. Indeed, they were founded on the very principle that the denizens of those colonies would be treated as Englishmen and have all the rights and privileges common to the same. The language in these charters, especially the designation of the rights of Englishmen to colonists, has been respected by the British government since the foundation of the United Colonies.

II. The British government has denied subjects of Great Britain in the United Colonies their rights

A. Parliament has taxed the United Colonies without their consent, violating their rights to representation

Parliament has repeatedly violated the United Colonies' rights to representation by levying a series of taxes without the consent of the colonies. On March 22, 1765, the British Parliament passed the Stamp Act, which levied a tax on paper, documents, newspapers, playing cards, pamphlets, and other related items. The United Colonies did not participate in the legislative process that produced this act, as they do not have representation in Parliament, nor have the United Colonies consented to the tax levied upon them.

Taxation of the United Colonies in this manner violates the United Colonies' right to have their representatives determine their own taxes. The Virginia Resolves on the Stamp Act correctly assert that "the Taxation of the People by themselves or by Persons chosen by themselves to represent them who can only know what Taxes the People are able to bear and the easiest Mode of raising them and are equally affected by such Taxes themselves is the distinguishing Characteristick of British Freedom." *Virginia Resolves on the Stamp Act*, Encyclopedia Virginia, (1765). The primacy of Parliament in the British system of government is founded on this very principle: that the king in London does not know what is best for the people of Edinburgh as well as

the people of Edinburgh know what is best for themselves; therefore, the people of Edinburgh, or any other constituency, are given the right to choose a representative who knows the needs of his constituents best. Parliament has imposed taxes on the United Colonies over the persistent objections of the colonies' legislatures, and because the United Colonies have no seats in Parliament, they have been taxed without being represented in the legislative process that determines that taxation. As such, the subjects of the British Crown who reside in the United Colonies have been denied this "distinguishing Characteristick of British Freedom" by Parliament, and their rights have been violated. *Virginia Resolves on the Stamp Act*, Encyclopedia Virginia, (1765).

The Continental Congress of 1765 affirms the primacy of this right to representation, resolving that it is "inseparably essential to the freedom of a people, and the undoubted right of Englishmen, that no taxes be imposed on them, but with their own consent, given personally, or by their representatives." *Stamp Act Congress*, Avalon Project, (1765). The Congress's insistence on this right is founded not only on reasonable governance or constitutional principles but also on history, as it noted that "no taxes ever have been" imposed on the inhabitants of the United Colonies "but by their respective legislatures." *Stamp Act Congress*, Avalon Project, (1765).

Parliament's effort to impose taxes on the citizens of the United Colonies betrays the British model of representative government, historical precedent, and the rights of the colonists themselves.

For these reasons, the Stamp Act was unconstitutional and unsanctionable. Parliament did repeal it, but only because its enforcement would “be attended with many inconveniences, and may be productive of consequences greatly detrimental to the commercial interests of these kingdoms.” *An Act Repealing the Stamp Act, Avalon Project*, (1776). The Stamp Act was repealed not due to a renunciation of the principle that denizens of the United Colonies can be taxed by a body in which they are not represented, but because of commercial concerns. The British government has consistently refused to renounce its unconstitutional and dangerous belief that representation is not necessary for taxation. Indeed, it proved its steadfast insistence on that idea when it passed the Townshend Acts, which imposed yet another series of duties and taxes on the United Colonies that currently persist. In short, the British Parliament has systematically denied British subjects living in the United Colonies their right to self-determination by taxing them without giving them the representation that is due to all Englishmen, establishing an unconstitutional and dangerous principle that Parliament and the Crown stubbornly and steadfastly insist upon.

B. Parliament’s taxation of subjects of Great Britain in the United Colonies has been for the explicit purpose of raising revenue, which violates their rights to private property

Parliament has violated the rights to private property of the subjects of Great Britain living in the United Colonies by imposing taxes for the express purpose of raising revenue. Such taxation is tantamount to the government seizing the contents of one's bank account to pay its own debts – in short, it is a highly unlawful and unconstitutional practice.

In *Letters from a Farmer in Pennsylvania*, John Dickinson correctly frames the question of whether taxation for the purpose of raising revenue is constitutional as one of “whether the parliament can legally impose duties to be paid by the people of these colonies only, for the sole purpose of raising a revenue, on commodities which she obliges us to take from her alone, or, in other words, whether the parliament can legally take money out of our pockets, without our consent.” *Letters from a Farmer in Pennsylvania*, Wikisource (1768). Setting aside the unconstitutionality of taxation without representation, it is very clear that the behaviour of Parliament is like that of a petty criminal. Parliament has effectively robbed the pocketbooks of the inhabitants of the United Colonies in order to fill its own coffers and pay off its own debts. The nature of trade between Great Britain and her American colonies makes the taxes levied by the Stamp and Townshend Acts unavoidable, as the United Colonies are forbidden to import glass, paper, and other taxed goods from anywhere other than Great Britain; meanwhile, the regulatory power of the British government, as well as the fact that the United Colonies have little manufacturing capacity for such wares themselves, stop the Colonies from avoiding

importation duties by producing manufactured goods domestically. Taken together, the United Colonies are required to pay a tax solely to fill the Crown's accounts, or to forgo the use of paper and glass, which is virtually impossible; now that Parliament has sent soldiers to enforce their taxation acts, what is the difference between the behaviour of the British government and that of a criminal robbing their victim at gunpoint? That difference, if there is one at all, is not a significant one.

Philosopher John Locke holds in his *Second Treatise of Government* that the “legislative acts against the trust reposed in them, when they endeavour to invade the property of the subject, and to make themselves, or any part of the community, masters, or arbitrary disposers of the lives, liberties, or fortunes of the people.” *Second Treatise of Government*, Selected Excerpts (1690). Locke’s definition of a governmental violation of property rights includes the disposition of the people’s fortunes. The actions of the British government meet this definition, and it has therefore violated the rights of its subjects in the United Colonies. The government’s actions are arbitrary in that they are uninfluenced, uninformed, and unrestrained by the desires of the denizens of the United Colonies; Parliament has acted of its own accord and whim. Taxation for the purpose of raising revenue is very clearly a seizure of the people’s fortunes for Parliament’s own purposes. The British government has made itself the “arbitrary disposer” of its subjects’ fortunes, and has violated their rights to private property.

C. Parliament has imposed mercantile restrictions on the Colonies without their consent, violating their rights to representation

Parliament has further denied the rights of British subjects in the United Colonies by imposing mercantile restrictions without colonial consent, most notably through the Tea Act of 1773. Although Parliament attempted to justify the imposed duties as regulations of trade, the Tea Act represents an assertion of parliamentary authority over the colonies' commerce and taxation without consent and representation. By manipulating colonial markets and granting a monopoly to the East India Company, Parliament has violated the colonists' constitutional right to participate in creating the laws that govern their economic lives.

The Tea Act served a dual purpose: to help the financially struggling East India Company, and to reassert Parliament's right to tax the inhabitants of the United Colonies. Parliament was able to accomplish their goal by refunding duties paid by the Company upon the arrival of its tea in Britain, which drove down the price of the tea. The Act also permitted the Company to obtain licenses that allowed it to export tea directly to the colonies without selling it first to the merchants who would traditionally have shipped it across the Atlantic. In the United Colonies, the impact of the Tea Act was twofold: first, many colonial merchants who had previously shipped tea from Great Britain saw their business severely hindered; second, the price of tea in the United Colonies plummeted, and became cheaper

than the smuggled Dutch tea that colonists had been using to bypass the tax placed on tea by the Townshend Acts. While the suffering of colonial merchants was certainly a cause of anger, it was not nearly as inflammatory as the decrease in price of East India Company tea, which pushed most smuggled tea off of the market – it was much harder to turn a profit competing against the now-cheap East India Company tea. In this way, the structure of the Tea Act was designed to produce colonial acceptance of Parliament's claimed right to tax without consent; a colonist purchasing tea would be indirectly supporting Parliament's right to tax them. The act bypassed and ignored colonial legislatures entirely and imposed economic conditions unilaterally by Parliament, despite the fact that the effects fell only upon the colonists. Such interference constitutes regulation and restriction without representation and thus violates core principles of British constitutional governance.

The Philadelphia Resolutions explicitly condemn this parliamentary overreach. The first two clauses assert that Parliament's taxation without colonial consent is equivalent to the arbitrary seizure of private property, directly labelling it as a “claim of right to levy contributions on us at pleasure.” *The Philadelphia Resolutions*, Avalon Project, (1773). The sustained duty is not a legitimate regulation but closer to an overly formal extortion. The fifth clause further denounces Parliament's intervention on behalf of the East India Company as a “violent attack on the liberties of America,” recognizing that the Tea Act subordinated colonial freedom to parliamentary

favoritism and corporate interest. *The Philadelphia Resolutions*, Avalon Project, (1773). These resolutions reflect the widely held colonial understanding that Parliament has exceeded its lawful authority.

The creation of mercantile regulation, when imposed without consent, is equivalent to arbitrary power. Locke himself in his Second Treatise of Government labels subduing the people “to the arbitrary and irregular commands ... becomes tyranny.” *Second Treatise of Government*, Selected Excerpts, (1690). Parliament’s imposition of commercial restraints on the United Colonies treats the colonies not as equal communities of British subjects, but as sources of governmental revenue. The Tea Act, which the colonies did not comply with, caused colonial merchants and middlemen to suffer, who were unable to compete with the state-sanctioned monopoly. Parliament has undermined the economic self-determination of the United Colonies and violated their rights to representation and liberty. These actions demonstrate their willingness to sacrifice basic, inalienable principles in favor of profit, displaying their abandonment of their duty to govern for the benefit of the colonies. Such conduct cannot be reconciled with lawful parliamentary sovereignty and supports the claim that the rights of the subjects within the United Colonies have been fundamentally denied.

D. The Intolerable Acts infringe upon the rights of British subjects residing in the United Colonies

Following the Boston Tea Party, in which colonists incensed by the Tea Act destroyed substantial quantities of tea, the British Parliament issued a response in the form of a series of laws that have become known as the Intolerable Acts, passed in the spring of 1774. The Boston Tea Party was undeniably a destructive affair which warranted punishment for the offenders in order to bring justice. The Intolerable Acts make it very clear that the intent of the Parliament was not justice. There was likely an appropriate way to respond to the Boston Tea Party, but Parliament opted instead to pursue a ridiculously overbearing campaign of retribution that is a manifest violation of the rights of British subjects living in the United Colonies. It has done this with three separate acts, each representing perhaps the most severe violation of colonial rights to date in their respective areas: the Quartering Act, which violates the express protection against quartering soldiers in peacetime contained in the 1689 Bill of Rights; the Massachusetts Government Act, which violates the right to representation; and the Boston Port Act, which also violates the right to representation by imposing commercial restrictions without the consent of the colonists.

The Quartering Act forced colonists to house British soldiers in private buildings, contrary to explicit prohibitions of such quartering during peacetimes contained in the 1689 Bill of Rights. The Bill of Rights of 1689 states that “raising or keeping a

standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law.” *English Bill of Rights*, Avalon Project, (1689). Although the Quartering Act is an act of Parliament, it still violates the provisions of the Bill of Rights. In the above clause, Parliament is used as a proxy as the representative body of the people. If the clause had stipulated that consent had to be obtained from the people for quartering to be lawful, the function would have been effectively the same. Here, though, Parliament does not represent the people of the United Colonies; in fact, it has passed the Massachusetts Government Act to stop them from being represented. Importantly, all of the Intolerable Acts, as well as prior laws such as the Tea Act and Stamp Act, clearly indicate that Parliament does not represent the people of the United Colonies and has consistently taken actions that run directly contrary to their will. Seeing as that is the case, it is clear that the people of the United Colonies did not give their consent to the quartering of soldiers in their homes during peacetime, and therefore the Quartering Act is unconstitutional and an overt violation of the rights that the colonists enjoy and are entitled to as Englishmen.

The Boston Port Act has imposed on the City of Boston the most severe mercantile restriction passed by Parliament to date. The Act effectively closes down the entire Boston Harbor to trade, decreeing that “it shall not be lawful for any person or persons whatsoever to lade put, or cause or procure to be laden or put, off or from any quay, wharf, or other place, within the said town of Boston.” *The Boston*

Port Act, Avalon Project, (1774). The Act was clearly a violation of the inhabitants of the United Colonies' rights to representation, as a severe commercial restriction was imposed upon them without their consent. The 1774 Bill of Rights does acknowledge, however, that the colonies would "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." *The Bill of Rights; a List of Grievances*, Founders Online, (1774). The Boston Port Act did not meet the conditions of colonial assent, as although it did regulate external commerce, it did not do so for the "commercial advantage" of the "respective members" of the empire – it was instead very clearly meant to create a commercial disadvantage for the people of Boston, and owing to the importance of Boston as a major colonial port city, to create a commercial disadvantage for all inhabitants of the United Colonies. Thus, the Boston Port Act was created in such a way that it would require the consent of the colonists to be constitutional, which it did not have and therefore constitutes a violation of the inhabitants of the United Colonies' rights to representation.

With the Massachusetts Government Act, Parliament effectively abolished representative self-government in the Massachusetts Bay Colony by placing colonial offices under the control of the Crown. This elimination of representative

government violates a core principle of British liberty: laws derive legitimacy from the consent of the governed, given through their elected institutions. Directly responding to the act, the Suffolk Resolves state that the Act “for altering the established form of government in this colony... are gross infractions of those rights to which we are justly entitled by the laws of nature, the British Constitution, and the charter of the province.” *Suffolk Resolves*, Dr. Joseph Warren, (1774). The Massachusetts Government Act was a flagrant violation of the right to representation, protected by longstanding British tradition and the charter of the Massachusetts Bay Colony.

Even now, the Intolerable Acts are still in effect, and as long as they stand they violate the rights of the residents of the United Colonies. They are manifest violations of longstanding rights and protections outlined in English common law, tradition, and documents such as the 1689 Bill of Rights. It is the willingness of the British government to create and enforce such laws as the Intolerable Acts that makes independence critically important for the protection of the rights of the denizens of the United Colonies.

E. Parliament refuses to grant the inhabitants of the United Colonies full representation and continues to claim the power to dispense with colonists' right to representation

Parliament’s continued refusal to grant the United Colonies representation constitutes a denial of

the rights of British subjects. The right to representation is a principle rooted within British constitutional history and colonial practice. The United Colonies have continually asserted that the laws binding them must arise either from their own legislatures or representatives; however, Parliament consistently rejects this principle not only by acting unilaterally, but by taking measures that are increasingly hostile to the fundamental principles of British liberties.

The inhabitants of the United Colonies have repeatedly beseeched Parliament to restore their rights to representation in full. The Stamp Act Congress clearly resolved that “it is inseparably essential to the freedom of a people, and the undoubted right of Englishmen, that no taxes be imposed on them, but with their own consent, given personally, or by their representatives.” *Stamp Act Congress*, Avalon Project, (1765). This was one of the earlier requests that Parliament restore the colonists’ rights to representation by repealing any taxes, created for the purpose of raising revenue, that were imposed on the colonists without their consent, and by renouncing the right to tax colonists without their consent or representation. Parliament’s consistent refusal to acknowledge or address these petitions demonstrates its unwillingness to treat the colonists as equal subjects under the Crown and is a manifest violation of colonists’ rights to representation.

Furthermore, Parliament, by rejecting representation, has implicitly shown its power to nullify laws passed by colonial legislatures. In Letters from A Farmer in Pennsylvania, Dickinson laments a

recent Parliamentary act “for suspending the legislation of New-York.” *Letters from a Farmer in Pennsylvania*, Wikisource (1768). New York’s colonial legislature passed an act that stipulated, according to Dickinson, that in compliance with Parliament’s earlier act, British troops in America were to be furnished with all necessary articles “except the articles of salt, pepper and vinegar.” Parliament, evidently displeased, passed another act that nullified New York’s law. That act set a dangerous precedent: that Parliament could nullify any law passed by a colonial legislature. Despite the fact that New York’s law was in compliance with the British government in almost every respect, Parliament nullified it regardless. That Parliament even bothered to nullify the law in the first place was less likely because of their passion for salt, pepper, and vinegar, but as a display of force and as a deliberate encroachment on the rights of the colonists. Parliament, in suspending even one colonial law, claimed such power universally. If it had the authority to nullify New York’s law, why could it not suspend any law passed by a colonial legislature? The nullification of laws, of course, is a violation of the colonists’ rights to representation. To nullify a law is to deny the will of the people who, with their power vested in their representatives, passed that law in the first place, and to deny their right to representation.

Parliament’s most flagrant violation of the residents of the United Colonies’ rights to representation came in the form of the Massachusetts Government Act, passed in Parliament on May 20,

1774. The Act ordered that every clause of the charter of the Massachusetts Bay Colony “which relates to the time and manner of electing the assistants or counsellors for the said province, be... made void and of none effect.” *The Massachusetts Government Act*, Avalon Project, (1774). The Massachusetts Government Act unilaterally ended the practice of representative government in the Massachusetts Bay Colony and could not have constituted a more overt denial of the rights of the residents of the same. If the British government had decided to replace the representatives of Bristol with royally appointed deputies, there would be national outrage over the government’s shameless denial of its subjects rights to representation. Parliament has done exactly that to the Massachusetts Bay Colony, and seeing as those colonists still enjoy and are entitled to the same rights as residents of Bristol, Parliament’s denial of hundreds of thousands of people their rights is properly condemned as brazen overreach.

The British government’s individual actions make up, on the whole, a deeply concerning pattern of escalating encroachment on the rights of the residents of the United Colonies. Initially, Parliament claimed the power to impose taxes that the denizens of the United Colonies had no say in, bypassing colonial legislatures to do so. Then, Parliament claimed the power to nullify laws passed by colonial legislatures, as evident from their suspension of New York’s law. Finally, Parliament claimed the authority to completely terminate the system of representative government of an entire colony. Each escalation was met with more and more fervent petitions for

Parliament to desist and restore to the colonists their rights; each petition was rebuffed, with only token gestures granted. Since the passage of the Stamp Act in 1765, Parliament has refused to renounce its claims of power over any of the rights that its subjects in the United Colonies are entitled to as Englishmen. The British government could not have been clearer in its message: it has firmly believed for eleven years that it truly possesses the power to dispense with colonial rights at will. It has set a dangerous precedent that necessitates remediation if the colonists do not wish to lose their rights. Such a remediation, the British government has shown, can now only come when the colonists are colonists no longer – to protect their rights, they must dissolve their ties with Great Britain, and become citizens of a new, independent nation.

III. The United Colonies' only recourse to protect their citizens rights is to declare independence

A. Parliament has rejected the United Colonies' petitions for reconciliation

The United Colonies view and have viewed independence as a last resort, and have attempted multiple times to reconcile peacefully and diplomatically with Great Britain; all such petitions have been rejected by the British government. It is very difficult to justify remaining a colony of a mother country that has shown far less interest, as of late, in maintaining peaceful relations with its colonists.

It was only very recently that discussion and advocacy of full independence from Great Britain became mainstream; until late last year, colonial voices have been almost universally opposed to it, and in favor of remaining a colony of Great Britain. John Dickinson, the author of Letters from a Farmer in Pennsylvania, which criticized British policy, also wrote Arguments against the Independence of these Colonies on July 1, 1776. Dickinson laid out his fears quite clearly, arguing that declaring independence would be imprudent “When our Enemies are pressing Us so vigorously, When We are in so wretched a State of Preparation, When the Sentiments & Designs of our expected Friends are so unknown to Us.” *Arguments Against the Independence of These Colonies*, Teaching American History, (1776). Even now, many in the colonies still advocate for reconciliation with Britain. It is Great Britain’s continued rejection of those conciliatory voices and petitions that has forced the United Colonies into their present situation, wherein, faced with the obstinance of Parliament and the Crown, the only remaining course of action is to declare independence.

On July 8, 1775, the Continental Congress approved the Olive Branch Petition, which was entirely conciliatory and had as its central theme that the colonists “most ardently desire the former harmony between her and these colonies may be restored.” *Olive Branch Petition*, Founders Online, (1775). Filled with humble entreaties to the king, the Petition was sent to England and the king. It received a response about a month later, on August 23, 1775: the Proclamation for Suppressing Rebellion and

Sedition. The Proclamation declared that the United Colonies have “proceeded to an open and avowed Rebellion, by arraying themselves in hostile Manner to withstand the Execution of the Law, and traitorously preparing, ordering, and levying War against Us.” *By the King, A Proclamation, For Suppressing Rebellion and Sedition*, Encyclopedia Virginia, (1775). King George III could not have offered a clearer indication that the British government was entirely uninterested in reconciling with the United Colonies, and instead he gave orders to prepare for war against them. If the Crown’s response to the United Colonies’ most conciliatory and desperate petition until that point was effectively a declaration of war against its own subjects, then it is clear that reconciliation is no longer possible. Now that armed hostilities are well underway, there is no conceivable way for the United Colonies to reconcile with Great Britain, the government having already rejected all of their pleas. If the United Colonies fail in their struggle, they will be subjugated to a tyrannical power that cares not for their rights, and the status quo cannot persist forever. The only course of action left to take is for the United Colonies to declare independence from Great Britain.

For a decade, the inhabitants of the United Colonies have repeatedly asked for one thing: that the British government respect the rights to which they are entitled as Englishmen. Unfortunately, Parliament and the Crown have done anything but that, systematically undermining colonists’ rights, especially those to representation, private property, trial by jury, and protections against quartering. With

Great Britain's continued obstinance and unwillingness to reconcile with its colonies on full display, a return to the old order cannot be achieved through diplomatic measures. The only remaining path that the inhabitants of the United Colonies can possibly take to protect their rights is to declare independence from Great Britain.

B. The United Colonies have the right to declare independence if their citizens' rights are violated

The United Colonies possess the right to declare independence from Great Britain if the British government fails to protect their rights. In Section 222 of his *Second Treatise of Government*, John Locke contends that the reason that people create governments is “the preservation of their property.” *Second Treatise of Government*, Selected Excerpts, (1690). By “property,” Locke means not only private property but also the rights and liberties of the people. When a government fails to protect the rights, liberties, and property of its people, it has failed in its task, but when a government actively attacks the rights, liberties, and property of the people, it has lost any pretense that it has a right to rule. Indeed, Locke writes, “whenever the legislators endeavour to take away, and destroy the property of the people, or to reduce them to slavery under arbitrary power, they put themselves into a state of war with the people, who are thereupon absolved from any farther obedience.” *Second Treatise of Government*, Selected Excerpts, (1690). Because the

British government has done precisely that – working for years to assert their arbitrary power to take away and destroy the rights, liberties, and property of its subjects in the United Colonies – it has put itself into a state of war with the United Colonies. This reality is neither obfuscated nor theoretical – armed conflict between British forces and colonists resisting their oppression has been taking place for over a year. The advent of conflict has finally brought on the violation of colonists' final right that had previously remained intact: their right to life. Now that Britain is using force instead of law to govern the United Colonies and killing its own subjects, colonists are no longer obligated to obey and have the right to reclaim their liberties by declaring independence from Great Britain and establishing a new government. Furthermore, it is clear that Parliament has become tyrannical, as by the definition given by Locke in Section 199, "tyranny is the exercise of power beyond right, which no body can have a right to." *Second Treatise of Government*, Selected Excerpts, (1690). Parliament's actions satisfy this definition, as it has exercised legislative power far beyond its constitutional right to do so. It has imposed taxes, unfair mercantile regulations, quartering requirements, and governmental restrictions on the inhabitants of the United Colonies without their consent, all while systematically destroying their right to give that consent by demolishing representative government in the United Colonies. Because the British government has continually attacked the rights of the denizens of the United Colonies and refused to reconcile with them, it has put itself into a state of war with its subjects and as a

result the residents of the United Colonies have the right to declare independence from Britain and form a new government to protect their rights.

C. The Declaration of Independence must be immediately adopted

Because various rights of the inhabitants of the United Colonies have been clearly, consistently, and systematically violated; because the British government which has violated those rights has firmly and clearly decided to resort to violence instead of reconciliation in the face of colonial resistance to the trampling of their liberties; and because the United Colonies possess the right to dissolve all political ties between themselves and a government that has betrayed the people for whom it was founded to protect, the Declaration of Independence should be immediately adopted by the Continental Congress, as it firmly and effectively articulates why the United Colonies must declare independence to protect their rights.

The Declaration of Independence describes well the long list of grievances that the United Colonies have against the British government. It makes lucidly clear that the actions of the British government have provided ample justification for independence and correctly asserts that at the hands of the British government, the United Colonies have suffered a long “history of unremitting injuries and usurpations.” *Original Rough Draught of the Declaration of Independence*, Founders Online, (1776). The type, character, and extent of British

violations of colonial rights are properly laid out within the Declaration.

Additionally, the Declaration of Independence clearly articulates the driving philosophy behind the United Colonies' right and duty to declare independence from Great Britain in order to better protect their own rights. The Declaration explains the purpose of government as ensuring the "preservation of life, & liberty, & the pursuit of happiness" and that governments derive their powers "from the consent of the governed." *Original Rough Draught of the Declaration of Independence*, Founders Online, (1776). The Declaration also clearly explicates that "when a long train of abuses & usurpations, begun at a distinguished period, & pursuing invariably the same object, evinces a design to subject them to arbitrary power, it is their right, it is their duty, to throw off such government & to provide new guards for their future security." *Original Rough Draught of the Declaration of Independence*, Founders Online, (1776).

The Declaration of Independence meets the moment that the circumstances of the past years have brought before the Continental Congress. In the face of a warlike and hostile power that has already renounced any obligation to its subjects, there can be no further hesitation. The Declaration of Independence must be adopted, and the United Colonies must sever their political bonds with Great Britain that have kept them a slave to her tyranny. The Colonies must continue fighting for liberty and independence under the banner of the United States of America.

IV. Respondents' arguments are not sound

A. Taxation for the purposes of raising revenue is not the same as taxation for the purposes of regulating trade

Respondents may argue that Parliament has the right to tax the colonies for the purpose of regulating trade, a right that it has historically exercised without resistance. The distinction that this argument fails to make is that of the purpose of this taxation. John Dickinson directly addresses this issue in *Letters from a Farmer in Pennsylvania*. He states that Parliament possesses the power to regulate trade because that power is a “necessary good” to maintain the proper function of the empire. *Letters from a Farmer in Pennsylvania*, Wikisource, (1768). However, he asserts that Parliament has no right to impose internal taxes for raising revenue since it destroys colonial political autonomy. Simultaneously, it is clear that taxation for the purpose of raising revenue is a violation of the right to private property when such taxation is imposed without the consent of the taxed.

Another important distinction is that of the manner of trade regulation. The Boston Port Act could be accurately described as a trade regulation, which Parliament would presumably have the authority to impose on the colonies, even without their consent. Critically, though, Parliament's authority to regulate trade is only valid insofar as the regulations are created, per the 1774 Bill of Rights, “for the purpose of securing the commercial

advantages of the whole empire to the mother country, and the commercial benefits of its respective members.” *The Bill of Rights; a List of Grievances*, Founders Online, (1774). The Boston Port Act was certainly not to the benefit of the United Colonies, and was probably damaging to the trade of the British empire as a whole; thus, it does not work to secure the commercial benefits of its respective members, and is beyond Parliamentary authority.

The Townshend Acts exemplify this abuse. Parliament openly acknowledged that the duties were imposed to generate revenue, not to regulate trade. The fact that the taxes are levied as import duties at ports does not alter its constitutionality (or lack thereof). King Charles I, who was found guilty of treason by Parliament, had levied a tax on coastal towns in a similar manner last century; Parliament had condemned his actions as violating the rights of Englishmen.

Colonial resolutions rejected Parliament’s reasoning: the Stamp Act Congress and future Continental Congresses recognized that permitting revenue-raising duties under the pretext of regulation would establish a dangerous precedent. If any tax connected to commerce could be justified, then Parliament’s sovereignty becomes unlimited, allowing it to impose any burden while avoiding the necessity of consent. The risk of sanctioning further unconstitutional action from Parliament, even inadvertently, has made the refutation of Parliament’s various claims to immense authority in the realm of taxation all the more necessary for the

United Colonies, lest their rights continue to be infringed upon.

In substance and intent, Parliament's taxation was designed to raise revenue, not regulate trade. To accept such an argument, were it to be put forth by respondents, would be to concede that constitutional limitations and the rights of British subjects can be altered or nullified by tinkering with semantics. British liberty does not bend under formalism. Taxation without consent, whether direct or indirect, internal or external, remains a violation of the rights of the subjects upon whom it is imposed.

B. Virtual representation is insufficient to secure the rights of the United Colonies

Respondents may argue that virtual representation is sufficient to secure the colonists' right to representation in government. In his loyalist pamphlet, *Taxation no Tyranny*, Samuel Johnson insists on Parliament's absolute sovereignty over the colonies by explaining that Americans had the "same virtual representation" as most Englishmen, meaning that Parliament represented all British subjects – even if they did not directly elect their representatives. *Taxation no Tyranny*, Wikisource, (1775). Virtual representation is not enough to secure colonial rights; only direct representation is. Aristocrats and legislators living within mainland Britain cannot understand the issues and problems occurring within the United Colonies, only the chosen representatives of the colonists can; there are several reasons for this.

Firstly, those representatives within Great Britain are necessarily preoccupied with their own districts that they are supposed to represent. To immerse themselves in the concerns of both Bristol and Boston is untenable.

Secondly, it takes several weeks for information to be transmitted between the United Colonies and mainland Britain, making true representation extremely difficult and cumbersome, especially in cases wherein Parliament needs to make a quick and informed decision. In such events, waiting two months or more for the colonists to learn of and give their opinions on the matter at hand can be impractical or even dangerous.

Thirdly, it has always been the case within Great Britain itself that each distinct constituency receives its own representation. It would be a ridiculous premise to do away with the representation of Liverpool and tell the incensed residents of the city that the representatives of Manchester would suffice because of “virtual representation.” If the colonists possess the same rights as the residents of British cities, why is it that the latter’s representation is not dispensed with, but the United Colonies’ is?

Finally, arguing that Parliament represents the interests of the United Colonies is a ridiculous claim when one actually considers Parliament’s track record on that matter. Representing the interests of the colonists clearly does not constitute committing manifest violations of their various rights, imposing burdensome taxation on them that they constantly

protest, and employing punitive measures to bring them into line with the will of the Parliament. Under a closer level of scrutiny, clearly, virtual representation holds no water.

Because colonists cannot reasonably receive representation in the British Parliament, it is and has been best practice for them to create their own local legislatures to represent their interests in government. Unfortunately, Parliament has not suffered these representative governments in the United Colonies, a practice that it has apparently come to perceive as unfavorable despite being a representative body itself. Irrespective of Parliament's somewhat contradictory stance on colonial representation, the fact remains that it has violated the colonists' right to have representation in government – virtual representation evidently does not suffice – and therefore the United Colonies must declare independence from Great Britain in order to rid themselves of Parliament's tyrannical restrictions and secure their rights for themselves.

C. Parliament's conciliatory offer was insufficient and would only draw out conflict

Respondents may argue that Parliament offered to cease its taxation of the United Colonies for the purposes of gaining revenue, and therefore it would be imprudent to declare independence when the Colonies' problems can be resolved by negotiation with the British Parliament. This argument fails,

however, because it ignores the fact that Parliament's offer is very limited in scope and is in fact only a token gesture without many real implications.

Parliament proposed to the United Colonies that so long as they "make provision, according to the condition, circumstance, or situation of such province or colony, for contributing their proportion to the common defence (such proportion to be raised under the authority of the General Court, or General Assembly of such province or colony, and disposable by Parliament) and shall engage to make provision also, for the support of the civil government, and the Administration of justice in such province or colony, it will be proper if such proposal shall be approved by his Majesty and the two Houses of Parliament; and for so long as such provision shall be made accordingly, to forbear in respect of such province or colony, to lay any duty, tax, or assessment, or to impose any further duty, tax or assessment, except only such duties as it may be expedient to continue to levy or impose, for the regulation of commerce, the net produce of the duties last mentioned, to be carried to the account of such province or colony respectively." *RESOLUTION, FOUNDERS ONLINE, (1775)*. There are several issues with this proposal that, under closer examination, are revealed to be glaring deficiencies.

Firstly, Parliament does not renounce its right to tax the colonies without their consent for the

purposes of raising revenue. Such a renunciation is critical to any reconciliation between Parliament and the United Colonies, as it is the root cause of the conflict. Additionally, without an explicit renunciation of that right, there is no guarantee that conflict will not flare up again in the future, if a future Parliament should decide to exercise what it perceives as its prerogative to tax the United Colonies as it pleases. Indeed, Parliament only agrees to rescind existing taxes, and that is conditional: such a rescission is predicated on the United Colonies paying to Parliament a tax that it deems acceptable. Presumably, if Parliament does not approve of the Colonies' contribution, it may impose more taxes on the Colonies until they pay Parliament whatever contribution it demands of them.

Secondly, Parliament's proposal is effectively replacing one revenue-raising tax with another. While Parliament attempts to adopt a disguise of conciliatoriness and benevolence, it is in fact offering to remove one revenue-raising tax on the condition that the United Colonies simply pay another. Parliament admits as much when it outlines that the purpose of the tax is to raise a revenue for various governmental functions, which was also the purpose of previous revenue-raising taxes to which the United Colonies so vehemently objected. Furthermore, although the amount of the colonies' contribution is decided by themselves, it is subject to Parliament's

approval. There is absolutely no barrier to Parliament arbitrarily deciding that it would like more money from the United Colonies and refusing to approve any contribution that does not levy its desired sum. Indeed, it is perhaps more dangerous than prior taxation acts because it does not designate the amount of tax to be paid, unlike the Stamp Act or Townshend Acts, which allows Parliament to increase the required contribution without so much as the passage of an act. In short, Parliament has made it easier, as opposed to harder, for itself to levy revenue-raising taxes on the United Colonies.

Thirdly, Parliament has not addressed other violations of colonial rights, such as the Intolerable Acts or nullification of colonial laws, in its offer. Suppose that the United Colonies were to agree to Parliament's offer and grant the body its requested contribution and Parliament upholds its end of the agreement. There is absolutely no guarantee that it will rescind the Intolerable Acts because they do not fall under the purview of taxation. Nor is there a reason to believe that Parliament would discontinue its blocking of the laws passed by colonial legislatures. In fact, it would be consistent with Parliament's recent behavior to leave the Intolerable Acts in place as a means by which it might demonstrate its authority over the colonies, which over more than a decade it has repeatedly gone to great lengths to assert. That course of action, of

course, would be viewed as incredibly deceptive in the United Colonies and probably make the conflict worse than it already is, ignoring the fact that it would be a continuation of Parliament's violation of the colonists' rights.

Parliament's offer to cease its taxation of the United Colonies for the purposes of raising revenue in exchange for their raising their own contributions is not benevolent or conciliatory, as it appears, but closer to a deception designed to further Parliament's assertion of authority over the United Colonies.

There is a manifest risk that accepting this offer would lead to further violations of colonial rights. The Continental Congress, fortunately, rejected it.

However, any claims that respondents may make along this line of argumentation do not hold water: Parliament's proposal, under closer examination, indicates that Parliament remains as committed as ever to undermining the rights of the residents of the United Colonies; ultimately, that Parliament was willing to advance such a proposal and brand it as a legitimate effort at reconciliation makes declaring independence from a clearly malicious government all the more pressing.

CONCLUSION

The inhabitants of the United Colonies possess the same rights as subjects of the British government in Great Britain itself, which makes the British government's consistent violation of those rights all the more concerning. To respond to the government's repeated violations of the colonists' rights, among them the rights to representation and private property, the United Colonies have the right to declare independence, as the government has not acted in accordance with its purpose of protecting the rights of its subjects. Because the British government will not reconcile with the United Colonies, the United Colonies must declare their independence to protect the lives and liberties of their people.

Therefore, we humbly pray that this Congress will declare independence from Great Britain.

Respectfully submitted,

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