



AMERICAN CONSTITUTIONALISM
 VOLUME I: STRUCTURES OF GOVERNMENT
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Supplementary Material

Chapter 2: The Colonial Era – Powers of the National Government

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Massachusetts Circular Letter (February 11, 1768)

In 1766, Parliament repealed the Stamp Act while passing the Declaratory Act that reasserted Parliament's right to legislate for and tax the colonies. Attempting to avoid the political opposition to internal taxes in the colonies, it passed the Townshend Revenue Act in 1767, which imposed additional tariff duties on imports into the colonies and strengthened the effort to collect the customs. Although this was an "external" tax deriving from the regulation of trade rather than an "internal" tax like those imposed by the Stamp Act, the colonists quickly objected that these, too, exceeded Parliament's authority and were unconstitutional infringements on the rights of the local assemblies because their purpose was to raise revenue. Among the most visible protests was this letter, primarily drafted by Samuel Adams, adopted by the House of Representatives of Massachusetts and directed to the popular assemblies of the other colonies. This letter is notable in part for its appeal to "natural rights" that did not depend for their existence on the text of any charter or any particular British precedent, as well as for its strong assertion of a constitution as both source and limit of government authority. It was part of an extended series of exchanges of speeches, public letters, pamphlets, and protests between Massachusetts Governor Thomas Hutchinson, members of the colonial legislature, and the general public.

Sir,

....

The House have humbly represented to the ministry, their own sentiments that His Majesty's high Court of Parliament is the supreme legislative power over the whole empire: That in all free states the constitution is fixed; & as the supreme legislative derives its power & authority from the constitution, it cannot overleap the bounds of it without destroying its own foundation: that the constitution ascertains & limits both sovereignty & allegiance, & therefore, his majesty's American subjects who acknowledge themselves bound by the ties of allegiance, have an equitable claim to the full enjoyment of the fundamental rules of the British constitution. That it is an essential unalterable right in nature, engrafted to the British constitution, as a fundamental law & ever held sacred & irrevocable by the subjects within the realm, that what a man has honestly acquired is absolutely his own, which he may freely give, but cannot be taken from him without his consent: That the American subjects may therefore exclusive of any consideration of charter rights, with a decent firmness adapted to the character of free men & subjects assert this natural and constitutional right.

It is moreover their humble opinion, which they express with the greatest deference to the wisdom of the Parliament that the acts made there imposing duties of the people of this province with the sole & express purpose of raising a revenue, are infringements of their natural & constitutional rights because as they are not represented in the British Parliament, His Majesty's Commons in Britain, by those acts, grant their property without their consent.

The House further are of the 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. . . .