A CALL TO LIBERTY: RHETORIC
AND REALITY IN THE AMERICAN REVOLUTION

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CHAPTER I

INTRODUCTION

The American Revolution might easily be called one of the most analyzed events in history. One of the first demonstrations of the modernizing impulse brought about by the Enlightenment, the Revolution necessarily becomes a point of analysis and contention. Some historians interpret it with emphasis on the political analysis, while others prefer to analyze the social changes the Revolution brought about. However, ideological interpretations are one of the most hotly contested points of historical analysis. Ideologically, many of those articulating the ideals of the Revolution used liberty to justify their actions; in the English legal tradition, that meant that those who had property (especially land) were free to dispense with it as they wished. Some see this as unsatisfactory to explain verbiage such as “All men are created equal”.¹ They argue that the ideological basis of the Revolution was decidedly un-English by the time of the Revolution’s outbreak in 1775. The impulse, at this time, extended to more than just the propertied men of the colonies.²

Others, however, point out that language differed from reality. Many segments of the population were denied such rights, and this denial of liberty often followed class

divisions. Some also point out that promises made early on of societal changes to gender divisions and racial inequities of colonial society were proved false. These statements are irrefutable, and often come as part of economic or social treatments of the Revolution. Some historians such as John Reid clearly see a transition between an English and American ideal of liberty. Regardless of whether or not non-English liberty was the initial objective, the Revolution’s results failed to meet their rhetorical goals. The reality of the Revolution is that ideology and policy did not equate. Those who crafted state policy did not often make equality its standard.

Based on historical source work, I concur with those who believe in an evolving definition of liberty, and one that can be traced through the Revolution’s course, beginning with the Sons of Liberty. Though known for their populism and lower-class membership, the Sons of Liberty formed in response to the Stamp Act of 1765, which they believed to be a violation of the right to property. This act required that certain goods coming into the colonies be taxed and stamped to certify that the tax had been paid. Even if those without property lacked a right to vote, they were still entitled to certain other rights in English common law. However, the British had historically thought of the colonies as subservient, and only recently had the colonies begun to chafe because

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of their part in the relationship.⁶ The conflict between the British and the colonies led to the realization of a very un-English definition of liberty.

Such redefinition comes as a natural outpouring of differences between American and English societies. Patricia Bonomi’s *Under the Cope of Heaven* reveals that the American religious way of life drew from a long and powerful dissenting tradition.⁷ This dissent struck English emigres to the New World as uncouth and improper. Many Europeans felt the same way about the whole of American society, labelling it in many cases impious and given to indulgence. This dissenting tradition bled over into politics, since a dearth of trained ministers led to the rise of lay preachers.⁸ These men helped also to shape colonial rhetoric, and many such lay preachers acted as pamphleteers and articulators of the ideals of Revolution. Many English also noted societal differences among the colonials, noting practices that seemed outlandish to the sensibilities of the British and yet served some function in the New World. Aside from religious difference, American society allowed for mobility between classes and an aristocratic elite based on wealth instead of on one’s birth. Further, a strong Calvinistic tradition (a byproduct of the dissenting preachers’ messages) placed great emphasis on the actions of the individual. The individual determined his own salvation and (at least implicitly) his own place in

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⁸ See also Nash, *Unknown*, pp. 30-35.
society. Such stark differences from England would, naturally, lead to a starkly different society in the New World. Notably, both sides of the Atlantic recognized that the colonies had developed a different culture from the continent, but its differences were not borne out until new legislation by the British government following the Seven Years’ War brought them into conflict.

The Seven Years’ War did cost the British Empire, but there were also practical reasons why the conflict spelled the end for the “Era of Benign Neglect.” The British troops in the New World helped to make the Empire aware of the increased wealth of the colonies, some of which had clearly been procured by less than legal means. The British therefore moved to a twofold approach, enforcing existing customs law more strictly (i.e. The Navigation Acts of 1696) and passing new tax laws (i.e. The Revenue Act of 1764 and the Stamp Act of 1765). These laws quite directly menaced the colonial purse and galvanized those it touched to action.

The colonial redefinition of liberty was a radical take on the already liberal British concept. The Americans first asserted that the right to English liberty (the extension of the vote to any at or above the relatively small freeholding requirement) was theirs by virtue of the royal charters they had been issued. That right would give them the ability to dispense with their property as they saw fit; the English and later American definitions of

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liberty were both essentially tied to property. The king, the colonials argued, had assured them that they would enjoy the same rights that he extended to his own citizens. Parliament, however, was of a different opinion. They argued that the colonies’ historical position as subordinate to the empire would not change.\textsuperscript{12} The Empire’s dealings with the colonies had changed nonetheless; many in England felt that neglect of the colonies and the resources they could afford the empire had led the colonies to believe themselves to be semi-autonomous when they in fact were not. Therefore, British power had to be reasserted.

The colonials responded in a variety of ways. Many took to newspapers to vent their discomfort with British actions, but others took to the streets.\textsuperscript{13} Those gathering in public to protest the British Stamp Act did so under the mantle of the Sons of Liberty.\textsuperscript{14} Though they gained much publicity for their unorthodox tactics, the Sons failed to convince the British as they intended to do. Though the British did repeal the Stamp Act and later the Townshend Acts as the colonials wanted, they made sure that the colonials realized that it was because they wanted to, not because the colonies had asked them to do so.\textsuperscript{15} The ultimate flashpoint between Britain and the colonies was the Boston Tea Party, in which the colonists destroyed British property in protest of it being shipped to the New World. After this, increased militarization on both sides escalated the tensions

\textsuperscript{12} See Wood, \textit{Radicalism}, 104-106.
\textsuperscript{13} See Nash, \textit{Unknown}, 83-87.
\textsuperscript{14} Ibid.
that broke on Lexington Green in 1775. With the outbreak of the Revolution, many expressed dissatisfaction with the old colonial governments. This discontent, and a helpful push from Thomas Paine and John Adams, led to the crafting of new governments. Despite the fact that states like Virginia refused to expand the franchise to their citizens, each state constitution was liberal in its own right. Massachusetts, after a long and grueling political battle, established suffrage for European citizens of all stripes. Pennsylvania created a document unparalleled in the religious freedom it permitted. Virginia, despite its undeniable conservatism, established a bicameral state government, a structure usually reserved for national government in the English political tradition.

Given that these documents clearly fell short of their promises of liberty, one might ask how an ideological interpretation of the Revolution can be reconciled with reality. For the answer, one must return to English legal theory. Liberty, the right to dispense with one’s property as one saw fit (and only to be relieved of it by the representatives one chose), made clear that the concept was necessarily tied to social class and economics. More than that, Liberty was a concept essentially governed by law.16 Certain uses of one’s power and property were seen as immoral, despite how permissive English society was. Even something that was not immoral could be so if it threatened the stability of society. Expansion of liberty and the establishment of social equality could only progress so far as stability would allow. Comedic though it might seem, many legitimately believed that bringing about complete equality at the time of the

Revolution could lead to societal collapse. However, the colonial ideal of liberty was elastic; just because policy did not reflect it at the time did not mean that it might not later.\textsuperscript{17} The amendment procedures for the state constitutions and admissions by John Adams that liberalism could increase over time demonstrate that the Revolution did not necessarily have to stop. However, its expansion would have to wait until such a time as society was ready for it. The denial of rights was thought to be a temporary state, hopefully to be remedied later. However, the state of society at the time left required that the political reality come short of promised liberty.

This interpretation is not the only existing school of thought on the American Revolution or on liberty. Historians like Merrill Jensen and Richard Morris discuss the Revolution in economic terms, and Gary Nash’s \textit{Class and Society in Early America} provides factual evidence to support Jensen and Morris.\textsuperscript{18} However, they see economic motivations as the primary driving factors behind the Revolution. Nash’s \textit{The Unknown American Revolution} treats all manner of causes, not merely economic motivations. He also deals with a variety of perspectives, not just those of the wealthy. Ideological treatments of the Revolution vary from Robert Webking’s \textit{The American Revolution and the Politics of Liberty} to Arthur Schlesinger’s “The American Revolution Reconsidered.” Michal Jan Rozbicki’s treatment of the Revolution in \textit{Culture and Liberty in the Age of \textsuperscript{17} Historian Michal Rozbicki’s work on liberty, though flawed in several respects, correctly captures the ideal of liberty, even if he applies it incorrectly to governments in his political interpretations of the Revolution. See Michal Jan Rozbicki, \textit{Culture and Liberty in the Age of the Revolution} (Charlottesville: University of Virginia Press, 2013)
\textsuperscript{18} See Jensen, “People,” 5-6. See also Morris, “Struggle,” 7-9. See also Nash, \textit{Class}, 56-60
the American Revolution obviates class as a cause, stating that it remained on the periphery. Ideology, according to Rozbicki, reigned supreme. This paper attempts to balance the economic forces set out by Morris and Jensen with the ideology described by Nash.

The colonists, in keeping with their pre-1765 tradition of difference from their European cousins, protested laws that Englishmen would not have questioned. This questioning was publicly expressed in the form of the Sons of Liberty, whose rhetoric echoed that of English Enlightenment thinkers such as Blackstone and Locke.19 Land rioters prior to 1765 had employed Locke almost verbatim, and the Sons made a similar case. However, their protests did not have the desired result.

In studying the Revolution, I examine the Sons of Liberty in 1765 in my first chapter during the Stamp Act Protests, their activities after the Boston Massacre, and the formation of the state constitutions. I believe that the Sons’ activities demonstrate a transition from a British ideal of liberty pertaining specifically to a wealthy and landed class to a definition of liberty that might include non-landed individuals. This ideal would become clearly articulated after 1770, as I explore in chapter two, when the Boston Massacre re-inflamed tensions between the colonists and the British. I use my third chapter to explore the state constitutions and the curbing of the Revolutionary impulse they represented. Though more idealistic men among them spoke out against this “taming,” the revolutionary impulse failed to deliver on the lofty promises it had made to

the common people. However, I believe that the amendment clauses of the Constitution demonstrate a forward-thinking mindset on the part of the drafters, even for their conservatism. I believe that they were conscious of the fact that the state constitutions were inadequate as they stood, but fears of instability and loss of primacy motivated them to leave old English societal structure and practice intact.
CHAPTER II
THE SONS OF LIBERTY: STAMPS AND RIOTS

The Sons of Liberty, the starting point of the Revolution, display the first colonial consciousness of liberty. They formed of a smattering of classes in urban areas (Boston and Philadelphia especially), and did so in response to the Stamp Act. Their protests, whether violent or peaceful, sought to bring about representation for the colonies or, at the very least, secure the repeal of British tax law. Their actions betrayed a clear difference between colonial and English society, and a desire to act on that difference. However, the objective of that different action was to be English, not to remain different.

The Sons of Liberty, though led by men clearly of an elite class, were anything but upper-class. Economic analysis especially creates a stark divide between the rich and the poor, and rightly so; many of the Stamp Agents who the Sons harassed came from a higher class than the members of the Sons that harried them. However, any economic analysis of the Revolution must be predicated on the knowledge that class relations in the New World. Unlike the Old World, it was possible for the lower classes to

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move in between levels of society and vice versa if a man of fortune were to fall on hard times.\textsuperscript{22} Some historians attempt to obviate economic analyses of the Revolution; however, English society was, at the least, conscious of economic distinctions.\textsuperscript{23} In fact, historian Arthur Schlesinger notes that most of the members of the Sons of Liberty belonged to the artisan or working class, and most of these pertained to guilds or workers’ organizations that could be considered proto-trade unions.\textsuperscript{24} That this ‘lower sort’ of men would protest in response to the Stamp Act seems rather contradictory, since the primary argument against the law was that it violated freedom of property.\textsuperscript{25} Freedom of property only represented a serious threat to men of means and property, which English law called “freeholders.” For the “lower sort” of colonial society to have any serious stake in a debate on property is unthinkable. As Gary Nash explains in his \textit{Class and Society in Early America}, they had virtually no property to speak of, and what few of

\textsuperscript{24} Schlesinger’s article abundantly counters Rozbicki’s thesis against class consciousness and divergent views of liberty in conflict. Since conflict already existed between classes, for yet another point of contention to emerge in the definition of liberty would logically force them farther apart. Instead, liberty seems to have brought unity to classes that were previously in conflict. Schlesinger, “Mobs,” 4. See also Nash, \textit{Unknown}, 15-20. See also Wood, \textit{Radicalism}, 30-39.
these men did have anything at all had next to nothing in comparison to the truly wealthy.\textsuperscript{26}

Why, then should they protest the right to property, and in the context of liberty? Perhaps they aspired to be men of property themselves? Firstly, liberty was essentially related to property. Those without enough property to vote were powerless to elect the representatives who had the legal right to take it from them. An Englishman possessed of the vote could only be relieved of his property in such cases as the public safety required it. The judges of when public safety required the taking of property were elected representatives. Not all could vote for those representatives, however; if one was below the English freeholding requirement for taxable property (not a great sum, but sufficient that many urban poor could not vote), one did not have the right to cast a ballot. This concept of virtual representation, though adequate for the poorer sort of England (or at least not so offensive as to spark mass protests), was no longer acceptable to the colonists. However, some men of property participated with the Sons, acting as financiers and leaders. For the wealthy to mingle with the lower sort in a political organization shocked British sensibilities. The fluidity of relations between the upper and lower classes of the New World facilitated these relations. Nash notes that observers in the time saw quite clearly that social class in the colonies was based on wealth instead of inheritance.\textsuperscript{27} Even if these men had no chance of ever owning more than they had at the time, the potential existed to change their


\textsuperscript{27} See Nash, \textit{Unknown}, 31-35, also note Wood, \textit{Radicalism}, 78-81. Also note Page Smith, \textit{A New Age Now Begins} (New York: McGraw-Hill, 1976). Print. 57-59. The discussion of class emphasizes an aristocracy or at least a higher class based on wealth and merit instead of exclusively heritage. This fluidity made the line between classes sometimes difficult to discern. European visitors often expressed shock at the strange class structure of the Americans.
standing. In order to secure the property that they might potentially enjoy, they would have to secure traditional English rights for the class to which they hoped to belong.

The Sons, like many other phenomena of this era, gathered force over time. The first that anyone heard of the Sons was in 1765, when very informal organizations of Boston workers and artisans into groups known as “Liberty Boys.” These fellows frequently demonstrated in the streets of Boston, and as their membership grew, so did the controversy surrounding them. This owes in part to their increasingly violent methodology; the Sons acted more destructively in relation to how they perceived their protests were being treated by the British. The Sons were not alone in their protestations of British authority; both South Carolina and New York saw similar protests against British taxation. The taxation the Sons were specifically protesting was the Stamp Act of 1765, an act of Parliament which made illegal sale of certain items without a stamp certifying that a British customs officer had collected the revenue for the product.

Protests and demonstrations started out more or less peaceable in Boston, but they had a concrete cause and target. The Stamp Agents, collectors of British revenue, were seen as the enemies of the Sons, even though they were only following orders given them by the Crown. Historian Richard Walsh suggests that an economic slump that preceded the Stamp Act left many artisans on the street and available to serve with the Sons. And, despite their impoverishment,
these still had a small amount of disposable income. Unlike the Stamp Act Congress, which was exclusively composed of wealthy men, the Sons represented several different slices of society. Their grievances, therefore, reflected their varied social classes. Certain products could not legally be sold without first having a stamp put on them. This meant that, aside from charging a tax on all imports, British royal agents also knew exactly what was coming into the colonies. The British also restricted trade, following mercantilist colonial practices, making sure that the colonies bought the manufactured goods from the mother country while furnishing her with raw materials.

The Sons’ objections to this were manifold; first, while the Sons might have been a seemingly populist organization, their leaders were anything but common, and the grievances one economic group had with England might differ from another. Brewer Samuel Adams and author James Otis articulated the ideology that drove the Sons, and they came from a higher class than the majority of the Sons’ membership. They saw the merchant class of Boston as maintaining the beneficial relationship with England at the expense of the lower sort whose concerns they purported to voice. And, indeed, they attacked the property of men like Thomas Hutchinson. However, they also counted merchants like John Hancock among their number,

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32 See Gary Nash, *Class and Society in Early America* (Englewood Cliffs: Prentice-Hall, 1970), 75-78. See also Page Smith, *A New Age Now Begins: A People’s History of the American Revolution* (New York: McGraw-Hill, 1976), 81-85. These works help to convey the length and breadth of the variety of class in the colonies, and how truly diverse their interests could be. He notes that divisions between classes may have been one of the key factors that incited the Sons to the actions they took.
indicating an ideological coloration to their actions. Hancock sympathized with and funded the Sons, where Hutchinson berated them as unruly criminals.\(^{33}\)

Since their inception in 1765, the Sons of Liberty became a flashpoint not only for the British and the colonists, but for political debate among the colonists as well.\(^{34}\) Scholars often forget that, although the Sons of Liberty are often seen as inflammatory and offenders against British stamp collections, they in fact formed in response to British tax law. The Sons began as “Liberty Boys,” and they arose as a challenge to the British Stamp Act.\(^{35}\) The Sons had never been the first line of defense against British encroachment; the colonists had legal systems in place that they controlled and through which they could counteract the Crown in some ways.\(^{36}\) However, as acts of Parliament increasingly circumvented what the colonists believed to be legal government, the governed became increasingly uneasy and violent.\(^{37}\)

The Sons most obviously resented what they saw as Parliament’s violations of freedom of property. As one of the Englishman’s ‘unalienable’ rights, the Crown was obligated to expect it both by the famous Magna Carta and the English Bill of Rights.\(^{38}\) To countenance this


\(^{35}\) Davidson, “Sons,” 5.

\(^{36}\) New York’s defiance of the Quartering Act is one example of this, and the noncompliance of the selectmen during the Boston Liberty Riots another. See Nash, *Unknown*, 61-64.


\(^{38}\) The colonists understood the Magna Carta to apply to them, despite the British repeatedly emphasizing the fact that their American cousins could not enjoy the same rights as Englishmen. One of the peculiarities of the American Revolution seems to be its intentional misappropriation of history to fit a certain narrative. They made English common law and history support their revolution, even though they broke previously untouched political ground
argument, the British told the colonists that Parliament was not limited by these documents and could act however they pleased. Since the colonies were virtually represented in Parliament (an argument employed to pacify the lower echelons of English society), Parliament could therefore feel justified to claim to speak on their behalf. 39

The English, for their part, stated that all Parliamentary representatives vicariously embodied colonial interests, even if the colonists could not directly vote for them. The theory went that, like other members of English society, the colonists were represented without having a vote. 40 This virtual representation theory applied to lower levels of British society (since their lack of property obviously meant they lacked some virtue), and not to freeholders; therefore, applying it to freeholders necessarily incensed them. 41 The Sons of Liberty reacted with overt and violent hostility toward the tax impositions of the British, tarring and feathering stamp agents, burning their houses, and generally fomenting havoc and destruction in the lives of the King of England’s agents. Those more inclined to rhetorical protest pointed out that the colonists were being denied the choice of representatives that might lay claim to their property.

40 See Wood, Radicalism, 81-84. Wood notes that English society readily accepted the idea of people being represented without voting. See Donald Lutz, Popular Consent and Popular Control (Baton Rouge: Louisiana State University Press, 1980). 31-35. What made the colonists different was that they claimed freeholders’ rights following colonial charters such as that of Massachusetts. For some of the documents that the colonists used, see Ben Perley Poore, State and Federal Constitution, Colonial Charters, and Other Organic Documents of the United States (Washington, DC: United States Government, 1972). Note the “Colonial Charter of Virginia” and “The Grant to Sir Walter Raleigh.” 1379-1382, 1888-1893.
The idea of governmental authority that the colonials believed in was a mutual contract. The people agreed to support the government, and the government protected the people.⁴² However, the Sons methodology of regaining this governmental paradigm met with some opposition from others in the colonies. John Adams personally found their lawless behavior reprehensible, believing that they sullied the good name of liberty and cast a shadow over legal redress of grievances.⁴³ He demonstrated his fervent belief that these men were on the wrong side of the law when he defended the British soldiers following the Boston Massacre, stating that they were provoked into attacking and that the mob intended serious harm. George Washington himself expressed similar sentiments, and even saw armed rebellion as the worst possible course of action, only to be taken when all others had been exhausted.⁴⁴

To the colonists, the Sons appeared effective. The Stamp Act was repealed less than a year after its passage, and the Sons claimed direct responsibility for the repeal. Such claims were complicated, however, by the near-simultaneous passage of the Declaratory Act. This work by Parliament stated that, despite what the Sons might think were the reasons behind the repeal of

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⁴³ Adams agreed with the Sons theoretically, and he concurred that the British needed to repeal their measures to protect the rights of Englishmen. However, he also believed that the Sons were a threat to liberty just as much as the British were. See John Ellsworth, “John Adams: The American Revolution as a Change of Heart?” (*Huntington Library Quarterly*, Vol. 28, No. 4, August 1965 JSTOR.org, web, Accessed 9 February 2017), 3-6. See also John Howe, Jr, *The Changing Political Thought of John Adams* (Princeton: Princeton University Press, 1966). 12-17. Adams’ ambivalence is explained as an evolution of thought in these works. However, Ellsworth also states that Adams disingenuously tried to cast himself as a radical from the start.
the Stamp Act, the inconvenience of the Act alone was responsible.\textsuperscript{45} In fact, Parliament went even further, telling the colonies that the Crown and Parliament maintained authority over the colonies in whatever way they chose to act.\textsuperscript{46} Further, they countermanded an act by the legislature of New York nullifying the Stamp Act and severely limited their legislative power.

After the extremely hostile response to the Stamp Act, a new British administration decided that a new and alternative system of taxation was necessary. Therefore, Charles Townshend, Chancellor of the Exchequer, passed in 1767 a new series of duties that they believed would not anger the colonists.\textsuperscript{47} The knowledge that the colonists distinguished quite strenuously between external and internal taxes caused the British government to attempt different taxation methods to appease them. The British believed that the colonial objections to taxation stemmed from it being a British tax; allowing the people’s own elected representatives to collect the taxes would, theoretically, end hostilities, since they were being taxed by their representatives.\textsuperscript{48} The British thought that, if colonial authorities imposed and collected the taxes (which would then be delivered to the British Empire), the colonists would not resist.\textsuperscript{49} However, certain components of the Townshend duties upset the colonists more than even the Stamp Act did. One of the components of the Townshend Duties was a mandate sending British troops to

\url{http://www.constitution.org/bcp/decl_act.htm}.


\textsuperscript{47} Townshend seems to have paid far greater attention to the colonists’ legal theories than previous chancellors of the Exchequer, and he hoped that his tax impositions might not meet with the level of opposition that the Stamp Act had. See Max Farrand, “The Taxation of Tea, 1767-1773” (\textit{The American Historical Review}: Vol. 3, No. 2 1898, JSTOR.org, web, Accessed 9 February 2017).

\textsuperscript{48} See Nash, \textit{Unknown}, 55-60.

\textsuperscript{49} Ibid.
Boston, which served to further excite tensions. The colonists conveniently forgot that their own belligerence had necessitated the British sending troops to even collect part of the tax they were owed. Once the British arrived, they found no one willing to accommodate them. In fact, the entire climate of Boston was completely hostile to the presence of the British. Their general, Thomas Gage, worried that the climate would lead to a conflict, which it did.

The tensions between the colonists and the British exploded in 1770, when a small group of Bostonians started heckling British soldiers in the square. The altercation between the British and the colonists escalated, with the British soldiers at its epicenter. Suddenly, the soldiers fired on the crowd, killing several Bostonians. Reports of the incident afterward termed “The Boston Massacre,” and the British hired lawyer John Adams to defend them from the murder charges that the colonists were sure to send their way. Adams worried that his defense would upset others in Boston, since the British were highly unpopular, but it had the reverse effect. In fact, his relative Samuel thrilled at his distant cousin’s move, exulting at the respect that Adams demonstrated for the law and the way that such reverence reflected on the climate of Boston. Privately, both Adamses opposed the British colonial policy, but John had also been public about his distrust of the Sons and those who followed their example. To Samuel Adams,

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50 This provision was strenuously resisted by the colonists, who thought the Crown and Parliament had overstepped in this context. New York actually enacted legislation keeping the British soldiers out. See Nash, Unknown, pp. 76-80. Note too Smith, Age, 219-224.
51 This was a carry-over from New York’s belligerence to the British Quartering Act. See Nash, Unknown, pp. 79-80, and Farrand, “Taxation,” 7-12.
52 The reason for the altercation remains unclear, but is seen as a clear flashpoint of the Revolution. See Smith, Age, 130-135.
53 Adams’ reluctance to take the case shows just how much his reputation meant to him. See Howe, Adams, 7-11.
this represented a chance to present the British with a view of Boston as it truly was. Liberty, though it essentially meant freedom, was essentially limited by the law. There were certain limits to what the people could do with the rights they had. Adams believed that establishing Boston as a legally-minded town would prove to the British that their town merely wanted English common law restored.

The massacre and Adams’ subsequent defense, however, did nothing to assuage British distrust of the colonists. Parliament repealed the Townshend Acts, but the repeal left some of British impositions intact. Notably, however, from the year 1767 to the year 1770, the British and the colonials enjoyed a time of peace across the Atlantic. King George III admitted that his reasoning behind leaving the Tea Acts intact was simply reminding the colonies that they had to obey their king. This attitude, coupled with later royal action, would lead to an expansion of the conflict. The repeal of the Townshend duties was shortly followed by the Tea Act of 1773, which permitted the British to directly export tea to the New World, cheapening the tea to a point where the tax would hopefully be immaterial.

The Sons, for the great groundswell of popular discontent they represented, had their share of detractors. One of their most vocal critics was Samuel Adams’ cousin John, who believed that the Sons represented a clear threat to liberty. He feared that the Sons’ willingness to circumvent the legal means of redress seriously threatened the liberty of the colonists. Also,

55 See Nash, Unknown, 120-125.
56 King George seemed intent in making his authority clear to those he supposedly governed. See Farrand, “Taxation,” 12-15.
57 Townshend’s legal mind and logical thought processes failed to recognize that the colonists were now well and truly different from Britain, and they would make their difference known. See Chaffin, “Townshend,” 13-16.
men like Thomas Hutchinson found their disregard for royal authority quite nauseating. These thoughts consistently followed English common law, which saw liberty as a balance to be struck between two extremes: tyranny and licentiousness. The law, in the minds of the English, acted as a stay on both the government and the people, keeping both from overstepping their bounds. To these detractors, the Sons represented the licentious extreme. Some of these critics readily conceded that the Crown was indeed guilty of crimes against liberty; John Adams, for example, felt that the Crown had overstepped its bounds in taxation and needed to walk colonial policy back. However, he also believed that the Sons’ nature would prevent them from maintaining liberty. The reason why licentiousness threatened liberty was that it made the actions of individuals subject to judgments made by the public instead of the individual’s own will.

The Sons of Liberty sparked so much controversy because of their newness to society. Though Gordon Wood notes that electoral demonstrations and outpourings of support were nothing new to the English, they never had any real power in English politics. The Sons also tried to obviate laws without legal means, simply making the Stamp Act moot simply by their resistance. Historians note that the Sons’ violent opposition to colonial rule had never been seen before among Europeans, and the British did not at all enjoy the sight. Rozbicki sees liberty as a quasi-commodity that the people and the government competed for; also, he suggests that

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59 Hutchinson’s position as a judge and later as a governor made opposing the British politically inexpedient, especially because he made his position for the mother country public early in the conflict. See Reid, Spirit, 40-43, and Nash, Unknown, 43-51, 15-20. See also Smith, Age, 111-118.
60 See Reid, Concept, 30-37.
61 Wood, Radicalism, 40-46.
62 Reid, Spirit, 30.
liberty could only be controlled by one party at a time. Rozbicki also applies his theories of liberty to governments, stating that governments had taken too many liberties with their powers. The opposite was also true; absolute liberty was anarchy, which made individual actions slave to the desires of the collective. Reid’s discussion of the Sons casts them in a more traditional light, seeing them as the more radical arm of the American Revolution in lieu of a functional part as Rozbicki does. British legal theory of the time explains their reasoning; Reid notes that fears of chaos brought about by democracy, and they fought hard to prevent the Sons from “perverting” the Revolution.

Not all the detractors from the Sons agreed with them on principle, however. Some still harbored hope that British authority might be restored. Judge and eventual Governor Thomas Hutchinson primarily supported the Crown’s agents in the New World to counter economic activities such as smuggling. Others took to colonial newspapers to defend the Crown before the people of the colonies. They argued that the king and Parliament had been endowed with authority by the very same documents that those protesting their authority supposedly employed

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63 The idea of power being balanced versus vested all in one side becomes a debate later. Rozbicki’s work sees power as equivalent to liberty in colonial thought, when in fact it was not. For a good countenance to Rozbicki, see John Philip Reid, The Concept of Liberty in the Age of the American Revolution (Chicago: University of Chicago Press, 1988). 20-29, 31-37.
64 Rozbicki’s belief that the revolution is essentially homogenous may be a holdover from what historians term the “consensus school” of thought, which sees the American Revolution as presenting a united front to the British. For more complete treatments of the various schools of thought, see Gordon Wood, “Rhetoric and Reality in the American Revolution” (William and Mary Quarterly, vol. 20, No. 1, January 1966). 3-8. Also note Peter Marshall, “Radicals, Conservatives, and the American Revolution” (Past and Present: No. 23, November 1962). 5-7.
65 See Reid, Spirit, pp. 95-100.
as legal justification. The charters, they argued, made the colonies subject to the Crown, and therefore the laws of the Crown, whether just or unjust, were legal. Besides, the King was more limited in his activities than Parliament. The Magna Carta and the Bill of Rights included more limits on royal power than they did on Parliamentary authority. Therefore, what Parliament had done, whether or not the colonies liked it, was perfectly legal.

Those detracting from the Sons, however, only provide half the colonial narrative. Samuel Adams and James Otis, their organizers, enjoyed a reputation among the Sons as the defenders of liberty and opponents of tyranny. This reputation as a mountebank was enhanced by his questionable affiliation with John Hancock. Some people accused him of manipulating the impressionable youngster, while others intimated that Hancock willingly participated in Adams’ disturbances. As though the opposition from mere observes were not enough, the British opposed him for his lack of respect for the rule of law.

Though many of the Founders paid lip service to disliking the Sons, they treated them ambivalently. John Adams suggested that the climate of antagonism and distrust that his brother Samuel had created contributed to the Boston Massacre. However, this climate facilitated the repeal of the Stamp Act and further pushed the British toward animosity against the colonies. Despite his previous stance, Adams maintained in his autobiography that he had supported the

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67 See “Magna Carta” (Constitution.org, web, Accessed 1 April 2017).
68 Though Adams received more publicity than Otis, Otis’ beliefs were comparably radical, if not exceeding Samuel’s in revolutionary mentality. See Nash, Unknown, pp. 23-25, 114-116. He mentions that Otis advocated for the abolition of slavery as early as 1766.
Sons from the beginning, even if nothing could be further from the truth. Though they would never admit it, the Founders used and even facilitated the Sons’ actions, as they made resistance to the British more effective and satisfying. Adams’ dissent further intimated that the Sons of Liberty did not in fact represent the law-abiding citizens of the American colonies, though many “well-to-do” men frequently took to the streets with them. One of the notable elements of the Sons’ movement was that it incorporated multiple social classes, and despite Rozbicki’s assertions to the contrary, American society followed the British vein of delineating such classes. The Sons of Liberty, in the mind of reservationists like Adams, skirted dangerously close to the licentiousness that English law wished to avoid. Those like Hutchinson stated that the Sons had definitely crossed that line, and that their leaders were no more than demagogues. Therefore, they had no claim to the ideals of liberty or to justification under English common law.

Others, however, stated that the Sons’ actions were the regrettable next step in the fight against the injustices of the British Empire. One of the Englishman’s most inviolate rights was the right to dispense with his property as he saw fit, and no deprivation thereof without just compensation. In the minds of the colonists, to be taxed without permission was robbery of the highest order. And, in the minds of the Sons of Liberty, this merited resistance by every avenue available to them. Free trade was another pillar of English common law, and the English had

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71 John Philip Reid, in his work on liberty in the age of the American Revolution, notes that the Founders’ art of maintenance of liberty was one of balance. Give the state too much power, and there was tyranny. Give them too little power, and there was anarchy. Reid, *Concept*, 35.
robbed them of that as well. When they had no choice to trade with the East India Company and no role but to fund the mother country, the Americans decided that they had had enough. Instead of submitting, the colonists opted to resist, but with a carefully crafted legal framework. Always the Founders emphasized the rule of law, and they made sure that even as they pushed boundaries they remained within the confines of English common law as articulated by John Locke. At least, that was the story. The truth was that the Sons radically challenged English legal precedent, since the common people never even had the appearance of affecting parliamentary procedure. However, despite the reality that English politics more strongly affected English tax policy than the Sons, the appearance remained and cemented the Sons as part of the colonial scene.

However, while the Sons might exist, the English obsession with law and order necessitated that their existence be justified. Those who agreed with the Sons had to reassure those who did not, because many of the conservatives quailed at the idea of “the mob” gone wild. The suspicions of lawlessness among the Sons of Liberty became a reality on a memorable night when the Sons of Liberty, following then-judge Thomas Hutchinson’s attempt to aid a Stamp Officer, burned his house to the ground. The more conservative among the Founders condemned the act, since both the office of judge and Hutchinson’s elevated social status should have protected the magistrate from this attack and the British from such

73 While not expressly prohibited, exclusive trade was seen as an unfair limitation of the right to property. See Reid, *Concept*, 20-31, Nash, *Class*, 30-37.
74 This public emphasis was made possible by the fact that newspapers like the Boston Gazette were owned by avid defenders of colonial rights. See Nash, *Unknown*, 53-57. Note also Reid, *Spirit*, 111-120.
76 Reid, *Concept*, 34.
resistance. Samuel Adams and the radicals, however, pointed out that the British had not listened when the people appealed peaceably. Therefore, violence was acceptable. Further, the Sons had organized themselves as a cohesive unit and acted as one, without rogue members perpetrating additional and unnecessary violence. Even the Founders that disagreed with the Sons of Liberty’s violent tactics ultimately came to accept the fact that violent redress was inevitable. They still harbored hope, however, that they could hold back the people’s dangerous impulses by rule of law. Law, they believed was the only antidote for the anarchy of the Sons. The Sons’ activities, despite their occasional outbursts of violence, came from a well-organized group, whose aim was the restoration of proper governmental regulation between England and the colonies. Therefore, they were both legal and just in the context of a defense of liberty.

Their violence notwithstanding, the Sons of Liberty effectively accomplished their ends, or so they said. They managed to prevent the collection of stamp duties all across the Eastern coast, or at least make it enough of a difficulty that the British decided that the revenue was not worth the trouble it brought. The English officials found that the colonials resisted the tax quite strenuously, and they reported back home that they could do nothing to collect the duties. However, the aforementioned transitionary nature of English politics prevented the officials

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78 See Miller, Adams, 55-60.
79 While some historians dispute that the Revolution was actually a legal revolution instead of a continuation of English political tradition, the claims that the colonists made defied traditional English thought even as the ideologues attempted to follow it to the letter. However, the radicalism that eventually became the revolution gradually came about with the Sons. It was not, as some earlier historians suggest, always present. See Rozbicki, Culture, 30-37.
80 See Reid, Spirit, 35-40.
81 Davidson, “Sons”, 10.
82 Reid, Spirit, 51.
hearing these complaints from acting. Therefore, it appeared to the colonists that the Sons had effectively accomplished their ends.

Historians translate the Sons’ actions with as much difference as they do the concept of liberty. Reid, Wood, Rozbicki, and others take the Sons as the populistic element of the American Revolution. However, where Reid intimates and the Beards emphasize the class consciousness that drove the Sons, Rozbicki disputes this. He sees the Sons as dissenters feeling all too keenly that the British are denying them liberty. However, Gordon Wood adds an interesting note on the subject that weakens Rozbicki’s claim. In British society, the common people had little role in elections beyond public spectacle; they possessed little power to speak of. The Sons, for the first visible time in British history, wielded actual power over the process; otherwise, the Stamp Act would not have been repealed. Or, at least, so it appeared. When the Sons acted, they had no assurances that their actions would have any import on the process at all; few common Englishmen had affected the process before. Once their actions proved effective, the Founders finally reacted with fear. Their effectiveness made them a threat, and the Founders had to choose between using the Sons and stopping them. They could not expect that the Sons would go away in the natural order of things; they had felt their own power, and they would not hesitate to use it again.

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84 See Nash, *Class*, 41-43.
85 While administrative flux on the part of the British made the repeal expedient, the colonists perceived their actions as primarily responsible. Note Nash, *Unknown*, 150-155. See also Farrand, “Taxation,” 11-20. See also Chaffin, “Townshend,” 10-13.
Economics undoubtedly affected the actions of the Sons; after all, the taxes that the British Empire had passed became were the flashpoint for the Sons’ inception.\textsuperscript{86} Even before the Coercive Acts threatened Boston’s economy, Britain’s colonial policies had already struck at their wallets. The renewed trade restrictions threatened New England’s lucrative smuggling enterprises and, while legal scholars note that such practices clearly violated the law, the colonists turned the law on its head.\textsuperscript{87} According to Samuel Adams, one of the leading men of the Sons of Liberty, their violations of standing English law were acceptable since they came in response to standing British violations of their own tradition.\textsuperscript{88} The British did not restrict the trade of their own merchants with other nations, the colonists said; treating the Americans so was inequitable.\textsuperscript{89} The Americans ignored the fact that regulations governed British trade and had governed them since the British had engaged in maritime trade.\textsuperscript{90} Economic historians suggest that the upper classes’ collaboration with the lower sort stemmed from these regulations.\textsuperscript{91} Because the British threatened their monetary stability, the merchants needed some way to rectify the situation, and thus they mobilized the people.

Other historians argue that, while pragmatism certainly drove the change, it occurred before the narrative got out of hand. Instead of a united group of Founders determined to appropriate political and economic power for themselves, historians like Rozbicki see a cadre of

\textsuperscript{86} The Sons both attacked the British Stamp Agents and those wealthy colonists who aided them, making them submit to their will or at least cowing them into noncompliance. See Nash, \textit{Unknown}, 79-85, Reid, \textit{Spirit}, 120-126. \textsuperscript{87} Reid, 28. \textsuperscript{88} See Miller, \textit{Adams}, 60-62. \textsuperscript{89} See Farrand, “Taxation,” 12-15, and Chaffin, “Townshend,” 2-10. \textsuperscript{90} Ibid. \textsuperscript{91} See Morris, “Struggle,” 8-12.
men divided on methodologies and beliefs.\textsuperscript{92} Some like John Adams longed for a more English governmental structure, and they believed that the only solution to the colonists’ problems was to act more orderly and English. Others like Samuel Adams believed that unconventional behavior would more easily capture imperial attention.\textsuperscript{93} The Sons’ extreme actions were acceptable, according to their apologists, because ordinary redress had proved impossible. Therefore, violence had to be perpetrated, and the Sons were the prime candidates.\textsuperscript{94}

The question of actions to be taken in the face of British impositions also took the shape in dispute of liberty. Those like John Adams believed that the Sons’ rather rowdy activities threatened the security of government. Men like Samuel Adams believed that the Sons’ actions were the duty of any law-abiding Englishmen. Their plight led them to their radical actions, and since they remained “orderly”, they represented neither a threat to liberty or to society.\textsuperscript{95} Order was the supreme measure of legality in England. Should an act be a legally grey area, whether or not it supported public order became the defining question of legality.\textsuperscript{96}

Rozbicki discounts the leaders and the Sons altogether, preferring an idealistic interpretation in lieu of a detailed explanation of the Sons’ membership and cause. According to him, the Sons’ power and their leaders’ novel methods take second place to the principles they espoused.\textsuperscript{97} The Sons adopted a populistic bent for the English principles of liberty in keeping with the pre-1765 American dissenting tradition. While electioneering and reveling in the results

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\textsuperscript{92} Rozbicki, 52.
\textsuperscript{93} See Miller, \textit{Adams}, 54-60.
\textsuperscript{94} Davidson, 9.
\textsuperscript{95} See Reid, \textit{Spirit}, 100-103.
\textsuperscript{96} See Reid, \textit{Concept}, 35-40.
\textsuperscript{97} See Rozbicki, 55-60.
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of such things were common, the changes in ideology that brought it about were completely new. Thus, their interpretation of liberty, as the overarching framework of British law, had to be different. Many contemporary observers note that, despite the rhetoric of many of the Founders, many of the Stamp Act protests seemed surprisingly well-organized.\textsuperscript{98} For his out-of-hand dismissal of class consciousness as a driving force behind the Sons, Rozbicki substitutes a newfound radicalism borne of liberty.\textsuperscript{99} This disputing of class consciousness, however, is unfitting in the British legal context.\textsuperscript{100} British law delighted in taxonomic divisions, since they permitted generalization and easily classification of people groups under the law. This treatment of people in groups naturally lends itself to creation class consciousness. And some of the Sons’ actions only make sense in that context. If the Sons had only been motivated by liberty, they would have not needed apologists; they would have been their own.\textsuperscript{101}

The Sons were politically motivated as well. While the taxes were the flashpoint, the manner of their imposition especially irritated the colonials. The discourse of the time distinguished quite starkly between internal and external taxation. English legal tradition emphasized government following proper avenues for law and regulation, and the colonist believed that they were following British tradition where the Crown broke from it. The source of authority had to be the people themselves, since the government’s existence was predicated on

\begin{itemize}
\item\textsuperscript{99} Rozbicki, \textit{Culture}, 29.
\item\textsuperscript{100} See Gary Nash, \textit{Class and Society in Early America} (Englewood Cliffs; Prentice-Hall, 1970). See also, Nash, \textit{Unknown}, 28-30, Smith, \textit{Age}, 50-57.
\item\textsuperscript{101} See Morris, “Struggle,” 1-7.
\end{itemize}
its contract to ensure the people’s well-being. An interesting historical aside about this period is that the idea of well-being was maintained by ensuring that the people had no limits on their freedom other than those of conscience. The thought of the time dictated that people’s freedom to act only ended where it did harm to their fellow man.

Questions of institutions like slavery and indentured servitude therefore sat uncomfortably in English discourse, since they quite clearly ignored these qualifications. Notably, the structure that government provided kept anarchy from ruling; the English believed that giving the people too much power created a form of popular tyranny that they called “anarchy.” Liberty, in the English narrative, therefore had to keep some power away from the people, because an absolute democracy would mean chaos and possible societal collapse.

However, the accepted British theory of liberty stated that those free to enjoy the rights and privileges of Englishmen were freeholders. Therefore, the British Parliament had no authority to tax the colonists, since the only representative that they could send to the Parliament lacked the power to vote. Therefore, they needed a new assembly to pass tax laws that applied to them. This political belief traces its way back to the English belief in the right to property and in liberty. The government had the freedom to limit the right of property on insofar as they acted according to the people’s will. If they failed to do so, limiting the right to property more or less

102 Some historians dispute this on the basis of men like John Adams and Alexander Hamilton, who both sneered at the thought of the people controlling the government. See Lutz, Control, 18-27.
103 See Reid, Concept, 22-28.
104 Reid, Concept, 35.
105 The justification for their argument was that they had sufficient property to be counted as freeholders, and they had been denied those rights which their charters guaranteed them. See Nash, Unknown, 17-25, Lutz, Control, 29.
than the people wanted, the people could and would rebel against their authority. Government had to balance authority and leniency if they were to succeed.

These beliefs came from William Blackstone’s *Commentaries on the Laws of England.* These were analyzed further by political theorist John Locke, but the work itself was revolutionary enough in its own right. Blackstone established law in divine authority, not in any ruler. In his belief, there was a higher moral code than that of government. This legal code had been created by God for man’s happiness, that he should be free. However, since it was the human condition not to know exactly what God’s natural law was. He purported, for the first time, that law was a contract entered into by both government and the people. This contractual agreement theory fit quite nicely with the justification of resistance to the British. Municipal law, like revenue policy, was supposed to be mutually consensual. The refusal of the British to extend the vote to the colonists was to deny them consent. Blackstone also emphasized written law, which drove the colonies to point to their charters. They argued that, since the law expressly extended the rights of Englishmen to the colonists, then the British were clearly in the wrong. Blackstone’s *Commentaries* were widely circulated in the colonies, making the justification for the Sons’ demonstrations common knowledge, even if many disagreed with the application of Blackstone’s interpretation.

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107 Ibid.
109 Ibid.
With such a legal justification, the Sons felt secure in English common law. As previously stated, many prominent men in England sympathized with the colonists, but the rapidly changing English political cycle kept them from taking any meaningful action. The colonists incorrectly assumed this to be apathy, and their opposition became markedly more violent. This violence can easily be seen in the case of the Liberty Riots. In this incident, a ship’s captain named Daniel Malcolm was threatened with a search of his cellar by the town sheriff and local stamp officers. Many New England mariners smuggled goods into the country; Founding Father John Hancock participated in customs law violations to augment his considerable wealth. However, they did not believe that their activities were illegal. On the contrary, they thought that those with the economic means to trade ought to be permitted to trade with those whom they saw fit. Further, they made these protestations public in newspapers, even as they took to the streets. These rights were being denied to them because of the increased attempts of the British to reassert their authority over the colonies.

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113 Miller, *Adams*, 50.
114 See Wood, *Radicalism*, 70-75.
115 See “Pennsylvania Gazette, Nov. 7, 1765, Transcription” (Smithsonian sources.org, web, Accessed 1 April 2017). This article conveys the desire of those protesting the Empire’s actions as attempting to restore relations between Britain and lift what the colonist felt was an undue burden upon them.
Gordon Wood, refining this point, suggests that, since the colonists prided themselves on their obedience to the British crown and their status as ‘faithful subjects,’ they engaged in smuggling infrequently.\textsuperscript{117} Wood intimates that the English government concerned itself with appearances rather than the fact itself. They allowed the people to participate in government by appearance, but left them disenfranchised in fact. The attempted seizure of supposed contraband in the house of ship captain Daniel Malcolm caused the tensions to explode.\textsuperscript{118} In Malcolm’s case, the Sons offer a uniquely clear view of their ideals and motivations, as well as the extent of their membership and the sympathy for them. The Liberty Riots, as these events would later be known, demonstrate that the Sons already found their rhetoric and action in English common law. They took documents such as the English Bill of Rights and the Magna Carta.\textsuperscript{119} However, they expanded on these with William Blackstone’s Commentaries on the Law of England. Blackstone took the principles in the English legal system and changed how they were interpreted. For the first time in English history, rights came, not from law, but from one’s nature as human. Following these theories, laws against the freedom of the governed were null and void. They represented a violation of Blackstone’s interpretation of law.

The legality of the officers’ actions were complicated by those same English statutes. Even though they had the legal right to execute their duties, to search the house of an Englishman required that they produce a warrant. The court of Boston, opposed as it was to the Stamp Act, would never provide Sheriff Greenleaf or Officer Hallowell with a warrant to search

\begin{footnotesize}
\begin{enumerate}
\item[Ibid.]
\item[117] Ibid.
\item[118] Reid, Spirit, 11.
\item[119] See “English Bill of Rights” (Yale.edu, web, accessed 1 April 2017).
\end{enumerate}
\end{footnotesize}
a house for contraband goods. The only other option left to the agents, aside from letting Malcolm escape with perhaps having violated the law, was to seek a writ of assistance. The navigation Acts of 1696 allowed officers of the king to request a written document from any judge that carried the weight of a warrant. It was well that they sought such documentation; their first attempt had ended in egregious failure. Malcolm told them to leave his house or be shot (with pistols that he later confessed were unloaded and no threat to anyone), but testified later that the sheriff and the Stamp Officer had attempted to force the door to his basement. Legally, the officers could not do so because it was both the residence of one of Captain Malcolm’s friends (therefore a dwelling that required permission to enter) and because they had no warrant to search his house.

One of the most important elements to this case is English common law, hence the emphasis on John Reid, a lawyer by profession. Reid’s two works on the colonial period provide insight into the elements of English common law that the British government supposedly violated in their taxation of the colonies. Attempting to do so after Malcolm expelled them the first time could easily have landed the sheriff and the stamp officer in court for trespass violations, charges that many such officers faced at the hands of Whig-sympathizing courts.

120 Ibid.
121 See Farrand, “Taxation,” 8-10.
122 See Farrand, “Taxation,” 10-17. See also Reid, Spirit, 55-60. Importantly, this writ had been issued by Judge Thomas Hutchinson alone, not by the court. The writ could be issued by a single judge to augment royal authority. See Nash, pp. 51-57. Nash’s treatment resembles Schlesinger’s, but he examines the Sons in depth. He traces them from start to finish, and he sees their move to radical definition of liberty as gradual.
123 Ibid.
125 Reid, Concept, 16.
Worse, for all they knew, Malcolm might maim or kill them with his guns, which he still had not
told them were unloaded.

Any additional attempts to execute their duties led to violent responses from the people,
and the threats of tarring and feathering, to say nothing of fines imposed by courts, proved
sufficient to keep the officers away from Malcolm.\textsuperscript{126} The crowds, for their part, believed that
any threat that the Stamp officers posed was a threat to the liberty of Malcolm before the law.
Malcolm might have broken British law, but since British law was in violation of his personal
liberty, resistance was their only recourse.\textsuperscript{127} His right to property was inviolate, and the writs of
assistance were a threat to that right and the right of any shipper to have economic relations with
whomever they pleased.

These threats would embroil Malcolm in a political conflict that had built pressure for
some time; Malcolm’s belligerence, however, caused it to explode.\textsuperscript{128} Historians like John Reid
interpret the Liberty Riots as both an outpouring of the already-existing tensions between the
underclass and the British.\textsuperscript{129} The Whig Party in Boston had longed for a chance to show up their
Tory rivals, and this was it. Malcom’s home was his property, and therefore inviolate. The writ
by which they had attempted to force their way into Malcom’s home violated property rights,
because it allowed them entry without judicial approval. The Whigs conveniently ignored the

\textsuperscript{126} See Reid, \textit{Spirit}, 75-81.
\textsuperscript{127} Such demonstrations occurred in other areas where British customs enforcement was suspect, as well. See Walsh, \textit{Charleston}, 38-41. Note also Reid, \textit{Spirit}, 55-60.
\textsuperscript{128} See Reid, \textit{Spirit}, 21-25.
\textsuperscript{129} Studies of the Sons hold out consistently that the underclass was behind the Revolution, whether or not they
agree that that was how it finished. See Herbert Morais, “Artisan Democracy and the American Revolution”
(\textit{Science and Society}: Vol. 6, No. 3, June 1942).
circumstances that had forced Sheriff Greenleaf and other officials to such actions. With many public offices and judicial benches occupied by Whigs, the British officials could not realistically expect to obtain a warrant to search Malcolm’s house. Therefore, the writ of assistance was their final option and conveyed the desperation that they felt.

Reid emphasizes more than just economics in his analysis of the Liberty Riots. He notes that the political relations between the British government and their colonists had yet to fray, but they certainly were not ideal. The courts of the colony ruled that the sheriff and the stamp officer had the right to search Malcolm’s home, but they practically could not do so. Malcolm put out a public call for defense of his person and property. The Sons’ sacred creed was protection of property, and many of the British noted high spirits of discontent in colonial New England. The new political paradigm of governmental noncooperation accompanied by popular help was new to politics. Perhaps this was why contemporary newspapers reported that the Sons were either orderly protestors or rowdy ne’er-do-wells; because the Sons of Liberty were so new to the political scene, it forced people to react to them.

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130 Reid is not alone in this. See also Nicolson, “Demagogues,” 2-8. He notes that those still loyal to the Empire felt that the colonies were straying further from Britain than they ought.

131 Such a statement was an affront to existing colonial law, especially given the broad powers with which courts had been endowed by the Navigation Acts, even though cases like this were made before. See Robert Paul Thomas, “British Imperial Policy and the Economic Interpretation of the American Revolution” (The Journal of Economic History: Vol. 28, no. 3, September 2003, JSTOR.org, web, accessed 17 February 2017).

132 See “Pennsylvania Gazette, Nov. 7, 1765” (Smithsoniansources.org, web, accessed 2 April 2017). These newspaper articles portray the Sons of both Boston and Philadelphia as orderly men intent on legal resolve rather than mobs bent on destruction.
The Whigs knew how important such a case might prove if handled properly. To start, the writs of assistance like the one Judge Hutchinson issued to countenance Malcolm’s resistance had been questioned in many of the colonies. Even in cases where they were required, most courts refused to issue them on the grounds that they violated the colonists’ rights. For Hutchinson to issue one put imperial power foremost in the debate. The question asked was whether or not the government could, in fact, compel a person to surrender their right to property without a warrant from a court. A challenge to Parliamentary authority here might in turn open avenues for other challenges to the body’s power over the colonies. The case could also put royally appointed governorships at risk, as Hutchinson had backed the efforts of Sheaffe and Hallowell (the sheriff and the stamp officer) against Malcolm. This proved to be a gross miscalculation, as Malcolm appointed James Otis as his lawyer. Otis fought strongly against the writs of assistance, believing them unconstitutional pursuant to Whig thought. This put him

133 While a single colonial declaring a royal action like the Quartering Act invalid within its borders might not have an effect, as New York proved, Massachusetts rapidly joined New York in resisting royal impositions. Also, New York had their own brand of the Sons of Liberty, who were just as rowdy as Boston’s mechanics and artisans. See Benjamin H. Irvin, “Tar, Feathers, and the Enemies of Democracy: 1768-1776” (The New England Quarterly: Vol. 76, no. 2, JSTOR.org, web, accessed 9 February 2017). 1-5.
135 While a warrant was necessary for searches and seizures of personal goods, the Navigation Acts of 1696 allowed agents of the Crown to receive writs of assistance that had the same effect. See Thomas, “Policy”, pp. 1-3.
136 Historians differ on how much of an effect the Sons’ actions had on Britain. Gary Nash and John Reid both suggest that the Stamp Act Riots (which directly led to the Liberty Riots) made the British seriously consider repeal. Parliament’s Declaratory Act states quite clearly that Parliament solely repealed the Act out of convenience, and Townshend’s duties suggest that the British thought the Stamp Act an inefficient way to collect revenue.
137 Otis was more than just a lawyer; he was also a prolific pamphleteer and revolutionary, even advocating abolition in 1766. See Nash, Unknown, pp. 18-22. Note also Reid, Spirit, pp. 37-50. See too Gordon Wood, ed., The American Revolution: Writings from the Pamphlet Debate, 1764-1772 (New York: Literary Classics of the United States, 2015).
in a position of power; while Otis opposed the governor vicariously through Malcolm, he had both legal precedent and the people’s will on his side.

While the governor attempted to aid the stamp officers and the sheriff in the execution of the law, the town council proved quite ineffective in enforcing the law. Though the town council declared their inability to provide help even in the event that Malcolm had violated the law, other legal cases showed that they could easily prosecute stamp agents that broke the law. Even if they could not indict on the grounds that the stamp agent’s search was unlawful, they could file trespass charges if the agent set foot on the property of the violator. The response they gave to the Malcolm case echoed similarly frustrating noncommittal responses that other Whig governors, councilmen, and courts issued. Similar to the denial of housing and aid to British soldiers in Boston, the council agreed that Malcolm ought to be prosecuted if he were in fact in violation of the law.  

However, the town council did not see to enforcing the law; that was the job of the sheriff and the stamp officers. All that the council could do was affirm the sheriff’s right to conduct his duties. This noncommittal response diplomatically refused the sheriff and Judge Hutchinson support. In reality, the Whigs, in control of Boston, saw an opportunity for them to exert renewed

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138 This was seen by authors of newspapers such as the Boston Gazette as an affirmation that Boston’s respect for the law was paramount. Note Gary Nash, *The Unknown American Revolution: The Unruly Birth of Democracy and the Struggle to Create America* (New York: Viking, 2005). 53-55. He lists Benjamin Edes as author of the newspaper, which John Reid notes as exulting over the supposed respect of the colonists for lawful redress. See Reid, *Spirit*, pp. 51-58.

139 Historian Gary Nash notes that, while the town’s selectmen, would not take any action against the Sons’ radical actions, they condemned the Sons’ destruction of property after the fact. See Nash, *Unknown*. 67-73. See also Jon Butler, *Becoming America: The Revolution before 1776* (Cambridge: Harvard University Press, 2000). 120-125. Nash references several other cases, including the assaulting of the Stamp Officer of Boston, James Olliver, in relation to the execution of his duties. While the town’s council extended no aid to him at the time, they condemned the Sons afterward.
control over the royalists. If a case like Malcolm’s could be won and the precedent established, this microcosm might provide legal justification for resistance of English tax law by way of precedent. Such a thing would theoretically cause the British to reassess their stance on colonial taxation and representation. New England saw Britain and her wayward sons clash for many reasons; New England claimed as residents many of the country’s most learned folk, and the educated resisted British intervention quite strenuously.\footnote{Reid, Concept, 21. See also James Otis, “The Rights of the British Colonies,” in Gordon Wood, ed, \textit{The American Revolution: Writings from the Pamphlet Debate, 1764-1772} (New York: Literary Classics of the United States, 2015, originally published 1764).}

Further, the elites of Boston that sympathized with the Sons had quite the education in legal theory from Blackstone and Locke (to be augmented by Thomas Paine in 1774), and they believed that British law had moved far beyond their legal limitations.\footnote{See “English Bill of Rights,” (Yale.edu., web, Accessed 1 April 2017) \url{http://avalon.law.yale.edu/17th_century/england.asp}. The English Bill of Rights was designed to prevent unlawful exercise of powers by the King of England, but the colonists pointed out that Parliament’s powers were limited by the guaranteed rights of Englishmen. The powers of Parliament were predicated on representation; those unrepresented were not held accountable to their legislative authority. At least, this was the case according to the social contract theory of English law.} Colonial commerce passed through New England as well, and the merchants there had no intention of allowing the British East India Company an exclusive market. Others, like the Dutch and French, undercut the Company in price, but such importation was illegal without paying British tariffs.\footnote{Reid, Spirit, 31.} These protective taxes made foreign goods far less desirable to merchants; or, rather, made smuggling them in more attractive. With new trade laws imposed by Parliament on the colonies, however, smuggling became a delicate art.\footnote{Ibid.} While technically illegal, the Whigs argued that traders
would not have been driven to such dire measures if the British had not so severely limited their trading partners.

As with the Sons of Liberty, Malcolm and the Whigs’ resistance to the writs of assistance can be interpreted in several ways. The captain’s belligerence to forced entry suggests that he had smuggled goods in his house, which, if discovered, could have cost him a good deal of money and the ship that kept him in business. In addition, Malcolm was one of the more prominent shippers in the area, and if the government could pursue his case to the extent of the law and win, they could do the same to others. While not the wealthiest of Bostonian shippers by any measurement, Malcolm nested quite squarely in the middle class. If he was a target, so were they. A majority of shippers had reason to fear; a good portion of them at least dabbled in smuggling, goods being far cheaper without a tariff. This economic benefit made “Whiggery” an attractive political position. After all, resisting royal power came much easier with a coherent political school of thought at one’s back. The Whigs themselves saw an opportunity for informal economic activity, which would in turn yield to them no small amount of profit. Further, this case allowed the Whigs to exercise their newly acquired power over the courts. If they could influence imperial policy or at least hamper current policy here, they could easily do it elsewhere.

144 Such accusations were regularly leveled at the upper classes during the Revolution. These charges are somewhat just, given that many Royalists were wealthy individuals. See Nash, Unknown pp. 30-31. Note also Richard Walsh, Charleston’s Sons of Liberty: A Study of the Artisans, 1763-1789 (Charleston: University of South Carolina Press, 1959). 30-33, 17-20. Both authors highlight that distrust between classes made accusations of Royalism more believable.
145 Ibid.
146 Miller, Adams, 81
147 Nash, Class, 29.
The Sons of Liberty, though not the first outpouring of colonial antipathy toward the British, were an expression of both colonial uniqueness and a decidedly un-English view of liberty. Due to the fact that the sons drew most heavily from the urban artisan class of cities like Boston for support, but could also include farmers as in the case of South Carolina. These urban poor articulated an ideal of liberty opposed to the English, model, suggesting that liberty might be extended beyond those the British deemed worthy. The road to these ideals began with the assertion of colonial freeholders’ rights first. The low freeholder requirement for English common law was not low enough for the English to permit the colonies to even have one or two representatives in Parliament. Further, Parliament proceeded to pass tax law despite the protestations of the Sons of Liberty. However, as the British repealed tax after tax (owing to their own internal turmoil just as much as the headache of collecting the taxes they had imposed before), the Sons and their wealthy organizers began to hope that the British designs to tax them might have been abandoned. However, these hopes would be dispelled with the Boston Massacre and the subsequent resurgence of tensions between Great Britain and her colonial ‘children.’
CHAPTER III

AFTER THE STAMP ACT: TENSION AND THE TEA PARTY

Following the repeal of the Townshend Duties, the colonists and the British enjoyed a brief and tenuous peace. In this period, rhetoric cooled rather noticeably, and hopes for reconciliation were high. The repeal was celebrated in the colonies, with some political cartoons even displaying the colonists claiming that they could love the king better than the British. However, the Boston Massacre shattered those hopes and the attempts at bringing Britain and the colonies back together. During the time of the Townshend Duties, the colonies had attempted mutual nonimportation agreements instead of burned effigies and destroyed stamps. However, once Britain clarified its intentions to keep the colonies in submission, things changed. The Sons lost their respect for British property and authority, whether real or imagined. Further, they fully exercised their consciousness of their difference, now calling for increased colonial independence. Even cooler heads like James Otis (ideologically a radical, but a conservative on the issue of independence) were now in favor of a move toward independence. This change in rhetoric brought with it a change in policy: the colonies began to militarize in response. Both sides then began to increasingly stand at odds with each other, which would end in open conflict on Lexington Green in 1775.

Despite the carefully crafted image that the colonists purveyed, the difficulties that caused the repeal of the Stamp Act were not in fact a direct result of colonial political unrest.\textsuperscript{149} The Townshend Duties, taxes passed following the repeal of the Stamp Act in 1766, prove that the British had not changed their course at all, merely the vessel on which their taxes rode.\textsuperscript{150} As though that were not enough, the British also passed a Declaratory Act making clear that the colonies were subservient to Britain in all matters, and therefore making taxation legal. Even as the British changed the methods of their taxation, the colonies were changing their political philosophy.\textsuperscript{151} However, given the difficulty that the colonies represented to collecting revenue, the British left the colonies untouched for a brief period from 1768 to 1770. The Boston Massacre brought with it several problems and a renewed effort to corral the colonies. The tenor of political rhetoric in the United States moved from conciliatory to confrontational. While before even the most radical voices among the colonists had sought reconciliation with England, the tone of colonial political discourse became progressively less and less English.\textsuperscript{152} Their definition of liberty had necessarily changed, since the colonists drew on both the lower sort and

the wealthy in their demonstrations. This change, by contrast to early stages of colonial resistance, created for the first time a political movement that was decidedly un-English.

The American Revolution should not be understood as intentionalist; that is to say, the revolution did not begin in 1765. After all, the most strident of political voices in the colonies, Samuel Adams, sought to make clear to England that reconciliation was the initial object of the unrest. He first wanted to use the attention the Sons attracted as a platform to make clear the grievances the colonists felt against England, and to possibly open avenues for redress. The Sons believed that their clear articulation of English ideals and advancement within (they believed) the confines of English law made their success likely.

The repeal of the Stamp Act may have filled the colonists with hope, but that optimism soon proved ill-founded. The Stamp Act’s repeal was soon followed by the Declaratory Act, which stated that the King and Parliament could exercise their authority over the colonies despite whatever the colonial legislatures might say. Charles Townshend, the successor to George Grenville of Stamp Act fame, somehow perceived that the colonists differentiated between internal and external taxation. The idea was that, if the colonists’ elected representatives

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153 See John Philip Reid, *In a Rebellious Spirit* (Chicago: University of Chicago Press, 1988). 63-68. Though Reid’s historiography usually adequately portrays events, he tends to see an increasingly independent impulse as part of the Sons’ movements.

154 See Miller, *Adams*, pp. 130-134. Also, note “Pennsylvania Gazette: November 7, 1765” (Smithsonainsource.org, web, accessed 2 April 2017). [http://www.smithsoniansource.org/display/primarysource/viewdetails.aspx?PrimarySourceId=1004](http://www.smithsoniansource.org/display/primarysource/viewdetails.aspx?PrimarySourceId=1004). This particular publication, though not directly put forth by Adams, articulated his ideals quite succinctly. It made clear that the colonies wished it to be known that they were willing to serve the king’s interests if only he would serve theirs in return.

appeared to be administering the tax, they would not object to it. Seeing that Britain could profit from taxes properly administered, he decided to draft a new tax law that, he hoped, would meet with the colonists’ approval and keep Britain’s treasury well-supplied.\(^{156}\) Many observers in the British Parliament advised against passing a new tax law, telling Townshend that it would meet with the same opposition as the Stamp Act. One contemporary observer, however, described Townshend’s response as an obstinate persistence with his plan. As the Chancellor of the Exchequer, he put forth a series of duties in 1767, a little over a year after the repeal of the Stamp Act.\(^{157}\) Townshend cleverly combined a tax on tea with a discount designed to sell the East India Company’s main export in the New World.\(^{158}\) The plan, however, met with colonial opposition as the Stamp Act had. The Sons continued to demonstrate against these new taxes, and the Townshend Acts, too, would be repealed. With these repeals, the colonies enjoyed a time of tenuous peace before the Boston Massacre.

Even as the Sons of Liberty took to the streets, the political voices of the colonies could be heard loudly in newspapers and periodicals. In the time from 1765 to 1772, a time period known as The Pamphlet Debate, a series of pamphlets laid out in the open a variety of grievances and slights, whether real or imagined, visited on the colonies by the British Empire.\(^{159}\) Some complained about the acquisition of foreigners of a Catholic spirit in the Empire’s new Canadian

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\(^{156}\) See Farrand, “Taxation,” 5-8.
\(^{158}\) Ibid.
territories or accusations of political infanticide on the part of the English.\textsuperscript{160} All the accusations that they levelled at the British, however, were accusations that the English were acting in an un-English manner.\textsuperscript{161} Heretofore, the colonies had merely sought to assert the rights of their resident freeholders to participation in the English system of government per colonial charters.\textsuperscript{162} Given these charters, the colonists believed that their liberties were all but assured. The argument, while legally and theoretically sound, encountered problems in English political circles, since their definition was decidedly no longer English.

While the English did not always treat their colonial brethren with the arrogance that sometimes appears in history texts, many felt that the colonists had no right to equate themselves with Englishmen. Despite the promises made in colonial charters, and despite the clear presence of freeholders in the American colonies, the British colonies had historically not enjoyed the right of Parliamentary participation. Since Jamestown, the English citizens of the New World had lacked direct votes in Parliament.\textsuperscript{163} This might not seem representative, but in the English mind, votes did not necessarily translate to representation. The relationship between the English and their colonies, they explained, was one of virtual representation; the Parliament acted on behalf of all Englishmen, even those who could not vote. Therefore, even if one might be

\textsuperscript{161} See John Philip Reid, \textit{The Concept of Liberty in the Age of the American Revolution}.
\textsuperscript{163} See Poore, \textit{Constitutions}, 1329-1382. See also, Chaffin, “Townshend,” 1-12.
tempted to say that a lack of a vote left them unrepresented, such a case had been made for years under English common law and, in their society, was completely valid. This argument had proved effective before in explaining the relationship of the “lower sort” of society to Parliament, but it hardly satisfied the colonists. Some of the English also argued that the colonies could influence the votes of those in Parliament, since men like Benjamin Franklin had connections to English government officials.164

Such arguments did little to convince the colonists that the British form of government would address their grievances if it remained virtually representative.165 English liberty was gifted exclusively to the wealthy in English society, but colonial society was coming to see liberty as applying to more than merely the wealthy and landed. This redefinition led to an incompatibility of the two views of liberty and a subsequent conflict between them. Further, it must be noted that this definition came about by the agency of the urban poor, who had been disenfranchised by acts that Thomas Hutchinson and the ‘cabal’ of men who associated with the governor of the time, Francis Bernard.166

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166 See Gary Nash, The Unknown American Revolution: The Unruly Birth of Democracy and the Struggle to America (New York: Viking, 2005). 25-30. He notes that the tensions between the wealthy and the poor began well before 1765, when laws mirroring Britain’s own freeholder legislations prevented the poor of Boston (many of whom did not even own the less-than-a-pound-sterling amount required to vote) prevented the mechanics and artisans who made up the Sons from voting.
Part of the colonists’ distrust of the British came from the presence of British soldiers in Boston. As part of the Townshend Duties (since British armed forces appeared to be the only way to get even some semblance of compliance with the laws), these provisions had been designed to prevent the problems with transport that occurred during the French and Indian War. However, the presence of these troops struck the colonists as an invading army instead of a protecting force. Historically, the British had distrusted standing armies in any context, since armies could be used to force the people to do what the government wanted. Standing armies, therefore, and an army from outside, appeared as yet another affront to liberty. Conflict between British soldiers and the colonists exploded in 1770, when several Bostonian rioters were killed by British officers outside the Boston Customs House. This pushed the relationship between the colonies and England even closer to breaking, but the worst was yet to come.

The English, despite whatever they thought of the colonial outcry, repealed the Townshend Duties as they had the Stamp Act. More accurately, all the taxes were repealed save the British imposition on tea. George III left the tax on tea intact simply to communicate to the colonies that the British were still firmly in control. However, the British did more than just keep the tea tax intact. They legalized direct shipment of the East India Company’s tea to the

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168 See John R. Howe, Jr. The Changing Political thought of John Adams (Princeton: Princeton University Press, 1966).12-15. John Adams offered a defense for the soldiers responsible for the massacre, but he feared that his defense might imperil his own reputation. Instead, he found himself even more famous than before as a paragon of legal theory in Boston. The British, however, did not view Adams favorably, partially because of the problems that his cousin caused and partially because his own political views put him at odds with the empire.
colonies, which was facilitated by Massachusetts governor Thomas Hutchinson.\(^{171}\) Hutchinson had once been a judge who worked in conjunction with agents of the Crown to enforce increasingly strict governmental regulation of colonial trade. This regulation, of course, was more stringent customs enforcement against smuggling.\(^{172}\) This had made Hutchinson so unpopular with the Sons of Liberty that they set his house ablaze in 1765. Hutchinson, in addition to declaring that Massachusetts would cooperate with the British edict, determined to leave the British East Indian company’s vessels in the harbor until the tea had been sold.\(^{173}\) However, the English did not agree with colonial rhetoric and took pains at every other turn to demonstrate that the colonies had no control of Parliament. Notably, before the passage of the Tea Act or the Boston Massacre, the British and the colonies’ hopes for reconciliation had soared. The famous British statesman William Pitt had even come out of retirement in defense of the colonies, and Parliamentary opinion seemed to be swinging in their favor. However, once the Massacre and the Tea Act occurred, the colonists’ anger exploded anew.

Predictably, though the British could ship the tea to the colonies, they found selling it significantly. The Sons, having reach as far as Philadelphia, Charleston, and New Jersey, were able to intimidate those who did not agree with their political views into boycotting the East India Company’s product. However, the problem did not end there for the Sons. Some of their largest sponsors, including Founder John Hancock, had lucrative smuggling enterprises that were

\(^{171}\) See Reid, *Spirit*, 73-75, Nash, *Unknown*, 83-86. Hutchinson was the main opponent that the Sons had in Bostonian government, but other merchants encouraged the maintenance of cordial relations between Britain and the Americas. These merchants focused on profit rather than ideology.

\(^{172}\) See Nash, *Unknown*, 84-87.

complicated by more stringent enforcement of British customs laws.\textsuperscript{174} Further, the East India Company’s ships were congesting Boston’s harbor, and Boston had recently suffered an economic downturn that left many of its artisans and mechanics unemployed. Viewing the British as responsible for the downturn, whether or not it was true, added fervor to the Sons’ rhetoric and actions.\textsuperscript{175} The tax on tea, as well, was seen as hateful, especially because it seemed to be almost everlasting. The revocation of British tax laws almost immediately after their passage never appeared to touch the tea tax. Despite the inconvenience that the tea tax was for British customs agents, they seemed unable to bring themselves to relinquish their grip on it.

British traders, ironically enough, knew that the government’s impositions on tea made in unpopular in the colonies, and they were sometimes forced to conceal tea they shipped to keep it from being destroyed. As Philadelphia’s port was one of the most important trading ports in the colonies (responsible for getting British goods inland), Philadelphia merchants feared the destruction of their product at the hands of that city’s chapter of the Sons of Liberty.\textsuperscript{176} These Sons were also active in the pamphlet debate, putting forward a pamphlet authored by “A Mechanic” accusing the East India Company of unjust taxation of their colonial brethren.\textsuperscript{177} Intimations similar to Thomas Paine’s later declaration that the British were guilty of political

\textsuperscript{174} See Miller, \textit{Adams}, 68-72.
\textsuperscript{176} See Irvin, “Enemies,” 5-7.
infanticide were made, and the author made abundantly clear that the colonies meant to budge not one inch in their stance on taxation.\footnote{Ibid.}

Relations between the colonies and the British were worsened by the radical yet inventive Bostonian response. The Sons, for their supposed unruliness, had quite the extensive communication network in their Committees of Correspondence. The Bostonian branch, in particular, was known as the Sons’ epicenter, and British officials referred to the town as a “viper’s nest.”\footnote{See Nash, Unknown, 166-170.} The vipers soon struck at the tea in their harbor; on the night of December 16\textsuperscript{th}, 1773, the Boston Committee of Correspondence met as they had in the past. Historian Arthur Schlesinger, Jr., describes for his reader how the Sons of Liberty, an association of tradesmen, mechanics, and liberally minded merchants, all seemed to be waiting for something.\footnote{See Arthur M. Schlesinger, Jr, “Political Mobs and the American Revolution: 1765-1776,” (Proceedings of the American Philosophical Society: vol. 99, no. 4, 1955). 3-5.} Samuel Adams gave a cry that the night would decide the fate of the nation, which appears to have been a signal. At this point, a large group of the Sons detached themselves from the meeting and exited the hall, at which time they disguised themselves as Mohawk Indians. What purpose the disguise served is not clear (since they fooled no one), but they made their way down to Boston Harbor and onto the East India Company trading ships.\footnote{See Schlesinger, “Mobs,” 7-8. See also Arthur Schlesinger, Sr., “The American Revolution Reconsidered” (Political Science Quarterly: vol. 34, No. 1, 1919). 4-7.} There, they proceeded to open the holds where the tea was stored (interestingly taking the time to replace the locks that they broke)
and, once they had similarly splintered open the chests, tossed the East India company’s hated goods into the Boston harbor.\footnote{See Nash, \textit{Unknown}, 144-147.}

Though Boston’s destruction of the tea receives most of the attention of historians, they were not alone in the colonies. In Philadelphia, for example, the Committee of Correspondence met and threatened the destruction of tea there.\footnote{See Thomas B. Taylor, “The Philadelphia Counterpart of the Boston Tea Party” (\textit{The Bulletin of Friends’ Historical Society of Philadelphia}: vol. 3, no. 1, 1909). 12-15. This collection of primary sources uses correspondence from Tory Merchants to demonstrate the fear that tea shippers had of their product being destroyed. More than that, it demonstrates how the Sons of liberty in Philadelphia managed to prevent what tea did reach their city from being sold.} In New Jersey, lawyers protested the impositions of British taxes. In Charleston, the mechanics and artisans of that city were joined, ironically enough, by the planter class of that city. This unification of colonial resistance, or at least colonial resistance along similar ideological lines, made it clear to the British that they needed to change the colonial paradigm somehow. Thus, they passed the Coercive Acts, designed to bring the colonies back under Britain’s shadow.

These acts were far more than a mere sending of a few troops to the New World or the imposition of a new tax. Even though the tax laws that the British passed put the colonies off, they followed in the pattern of the Navigation Acts of 1696. These acts were responsible for the writs of assistance that allowed stamp agents to theoretically search the dwellings of smugglers, as well as previous regulation of commerce. The Coercive Acts took the doctrines of the Declaratory Act, which had explicitly placed the colonies under the authority of the British
Crown, and extrapolated them to their utmost. It must be remembered, however, that these Coercive Acts were punitive actions aimed specifically at the city of Boston and especially at its maritime trade. Mere excoriation of colonial autonomy were not enough; the British then set out to bring the colonies back to their side by making an example of prodigal Boston.

Governor Hutchinson, though an ardent Tory and a defender of royal power in the colonies, was removed from his office and replaced via writ of mandamus by General Thomas Gage. The British, having seen the mistreatment of their men, wanted a firmer hand in the colonies, hoping that this might somehow bring their errant children back to their side. To reinforce Gage’s authority, Parliament also dispatched soldiers with him, placing them directly under his command. They wanted to punish the Bostonians, since Boston appeared to them as the head of the Revolution. Therefore, they closed the Boston port until the debts incurred by the destruction of the tea was repaid. However, the colonies found the repayment clause odious as well.

This closing of the port incensed the Bostonians and resulted in an outpouring of support for the Bostonians. Cartloads of food were shipped to Boston and, in a statement of resistance equal to the Tea Party, the colonies called a Continental Congress. Delegates from many of the colonies came to discuss the British policies and the implications they had for liberty. Now, they

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186 See Nicolson, “Demagogues,” 7-12
saw something far more menacing than taxation on the horizon. Patrick Henry warned George III that history had a way of raising up foils for tyrants, and that he would do well to heed the example of those tyrants that had fallen before him. Such threats make sense in light of colonial rhetoric at the time. Patrick Henry, although inflammatory in his speech, was not by any means unique. Such words had been uttered in a pamphlet authored by a first-generation English immigrant nearly a year before Henry gave his famous “Liberty or death” speech to the Continental Congress.

One might be hard pressed to see the relationship between pamphlets and riots; after all, some of those writing in this period were Loyalists, and they saw the Sons as serious threats to the stability of the colonies and the British Empire. According to this narrative, the leaders of the Sons were little more than demagogues, and they were rousing the people to resist the rule of law. The newspapers of Boston, which carried the pamphlets that fed the debate, told a different story. The protests were orderly and therefore lawful; even the burning of Hutchinson’s house was not treated as seriously as it might have been. The papers stated the pamphleteers helped to shape the political motivations of the Sons; many spoke differently of British power in 1774 than they had in 1765, and the pamphleteers often found themselves justifying the actions that the Sons and other colonial political movements took. These pamphleteers became the written

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companion to colonial demonstrations, and their rhetoric evolved with the protests in the streets of towns like Boston and Philadelphia.\textsuperscript{191}

Writers of these pamphlets like Daniel Dulany put the colonists’ new aspirations into words. Taking the taxation of the British, Dulany’s \textit{Considerations on Imposing Taxes} echoed the poorer sort of Philadelphia, Boston, Charleston, and Trenton. He called the taxation of the New World by the British worse than political infanticide, suggesting that the mother country was in fact feeding parasitically on her children for the sole purpose of enriching herself.\textsuperscript{192} Dulany’s accusations did not stop with the actions of the British. Parliamentary government would, he argued, have been more palatable had not Parliament attempted to destroy her children. The colonies, by the will of their people, ought to be free, Dulany argued. Any failure on the part of the British to grant them that freedom constituted a violation of colonial liberty.

Paine’s tone, though inflammatory, did not represent an abrupt change in ideology. Other, less-circulated pamphlets also made similar arguments.\textsuperscript{193} John Dickinson, the famous author of \textit{Letters from a Pennsylvania Farmer to the Inhabitants of the British Colonies}, had made a similar argument after the Declaratory Act essentially obviated the act of the New York Legislature opposing the Quartering Act passed by the British Parliament.\textsuperscript{194} He argued that the presence of a conquering army in the New World alone was pretext enough for the colonies to

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\textsuperscript{192} See Dulany, “Considerations,” 267-270.
\textsuperscript{194} See Dickinson, \textit{Letters}, 35-37.
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resist them. Other pamphleteers made similar declarations, far earlier than Paine. Paine broke new ground, however, when he called for the construction of a new government.195

This call for a new government made public the colonies’ desire to be free. Before, pamphleteers only voiced their grievances with England, rather than proposing any solution other than reconciliation. Paine’s explicit statement of colonial independence represents the logical next step in the colonial frame. However, practical considerations also had bearing on the shift in colonial rhetoric.196

Some historians, instead of seeing the Revolution as a purely ideologically motivated endeavor, observe an economically-motivated movement in which the wealthy and poor had separate motives. While this class struggle seemingly has little bearing on the pamphlet debate, it raises valid points that historians must consider. For example, many of the wealthy, though they resented the British taxation, had profitable mercantile exchanges with the British.197 Those of revolutionary persuasion did not trade with the British alone, but they still had some commerce with the Empire. Men like Thomas Hutchinson, who sympathized with the British and therefore much trade with them, had a vested interest in maintaining stability of relations between the colonies and their mother country. Economic historians, however, see the wealthy of the colonies’ shift in rhetoric as pragmatically motivated. Instead of completely believing the

195 See Paine, Sense, 41-45.
ideology put forth by the Revolution, the wealthy saw a chance to move the colonies away from Britain and under their own control. In this definition, ideology takes second place to the economic tensions of the New World: the common people sought to change their status before the law and perhaps secure themselves an opportunity to better themselves.\textsuperscript{198} The wealthy worked to tame the Revolution because the expansion of the revolutionary impulse threatened the status quo as it existed in the prerevolutionary period.

The ideological explanation of the Revolution does not necessarily have to clash with economics. The ideological explanation can incorporate the economic factors that made the Revolution expedient, and the ideology helps to explain the intellectual changes that occurred throughout the period. For example, when Nash notes that some of the Loyalists in the colonies felt that the lower sort needed to be put down since they lived too well, he also shows that James Otis believed that they could and should be bettered.\textsuperscript{199} However, some of those that interpret the Revolution ideologically omit the economic component, some like Rozbicki even excluding it as a motivating factor.\textsuperscript{200} According to the economic view, the distrust that men like Adams had for the poorer sort came from their desire to maintain their vaunted status.\textsuperscript{201}

\textsuperscript{198} See Herbert Morais, “Artisan Democracy and the American Revolution” (Science and Society: vol. 6, no. 3 1942). 3-6. Note also, Wood, Radicalism, pp. 75-80. See further Nash, Class, pp. 33-36. The elasticity of class relations in the New World made movement between classes at least possible. Theoretically, if the Sons could procure for themselves money, they might be able to move between classes. The tensions between England and the colonies might make such mobility possible, since profit from trade with other nations (and thereby work for artisans) might make it possible.

\textsuperscript{199} See Nash, Unknown, 59.

\textsuperscript{200} See Michal Jan Rozbicki, Culture and Liberty in the Age of the American Revolution (Charlottesville: University of Virginia Press, 2013). 51-55.

\textsuperscript{201} Note Smith, Age, 201. She explains that James Otis later came to question the Sons and their radical actions, and that it was almost exclusively directed at their lower echelons.
saw the Revolution as an opportunity to expand their power in colonial society, and they attempted to do so in their rebellion against Britain.\textsuperscript{202} Within the unified front that the Sons presented existed tensions between the wealthy and the poor.

When studying the progression of the Revolution, both views can be synthesized in the context of the English political concept of liberty. The colonists, despite their shared political heritage with the English, differed substantially from their European brethren. The English requirement for voting was low, at only eleven shillings. Despite this, many of the urban poor in the New World could not even meet that low requirement.\textsuperscript{203} The requirement was that that money be invested in taxable land, and many in the towns could not have bought land even if they wanted to. The colonies had developed a distrust of centralized authority absent in England, and they could freely mingle between classes without fear of social repercussions. These cultural differences between the states and their English cousins allowed for the development of a different political heritage.\textsuperscript{204} This heritage, when it clashed with the attempts of the English to re-exert control, created political friction that led to a redefinition of liberty. The Sons, though similar to many political organizations before them, saw participation by the wealthy and the poor. Further, they acted in accordance with a common creed and, at least in the colonists’ eyes, had measured success.\textsuperscript{205}

\textsuperscript{204} See Wood, \textit{Radicalism}, pp. 20-22.
Though the repeal of the Stamp Act had more to do with changes in the English Parliament at the time, it still appeared to the colonists that they had won. Already, this implied drastic changes to political thought. If the common people had the ability to affect the political process, then philosophers should at least consider whether or not the people had such a right.

Some, rejecting the conservative spirit that had permeated colonial writings up to this point, James Otis, in the midst of the Pamphlet Debate, took this democratic spirit even further than other authors. He assumed that the freeholder provisions of English common law were detrimental to freedom, and that government had no right to deny the vote to anyone. By anyone, Otis meant all of society, both men and women. Otis himself had called for the abolition of slavery in 1760, more than a decade before Thomas Jefferson would draft a state constitution outlawing the trade in slaves. Such a radical proposition was unheard-of in England, though that country would abolish slavery before the colonists. Otis’ radicalism even outstripped Paine, who never proposed that slavery be abolished and opposed the idea.

This rhetoric represented a change even from English law at the time. This may be surprising, given how English the colonies believed themselves. However, English society was far more rigid and conservative than the colonists realized. Despite the revolutionary political theories proposed by John Locke, their society remained a woefully non-representative government. Their Parliament was elected exclusively by freeholders, with the common people

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206 See Nash, Unknown, 62-65.
208 See Nash, Unknown, 138-140.
having no course of action save to demonstrate in support of the officials they supported. In truth, however, English society’s traditional distinctions between men left the wealthy unable to mingle or fellowship with their lower-class neighbors, let alone enjoy the same rights. The thought of all enjoying the same rights regardless of their wealth or places in society frightened the British. Given a distinct lack of such a principle in the English political tradition, those articulating such ideas went back further in time even than the Magna Carta they held so dear. Even forgetting royal charters as a basis for their rights, men like author Stephen Hopkins took the definition of colonial populations as equivalent to the mother country to Greece. This ancient heritage, he argued, served as adequate precedent for governments as liberal as England’s. He also referenced Rome’s policy pertaining to the city of Philippi as proof that colonies had historically been treated as synonymous with the mother country.

This narrative, and the newly changed definition of liberty, brought with it revolutionary suppositions about government. Because the definition of liberty in England was necessarily tied to a class structure and aristocracy, its government would necessarily have to be as well. Even as he supported a practical aristocracy, even conservative John Adams advised against any titles that might be passed hereditarily. Therefore, government had to have a different kind of elite directing it. The governmental ideal that Adams set out with the new definition of liberty the

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colonies put what they hoped to be a disinterested elite in charge of governmental affairs. Once they had directed government in a certain direction, they could retire, secure in the knowledge that they had benefitted society by their disinterested defense of liberty. Adams reasoned that since these men would have wealth and status of their own, they would not require government to maintain it and would leave the positions they had filled of their own accord.

Adams represented a more conservative force on colonial political philosophy. He had defended the British soldiers following the Boston Massacre, and had at every turn questioned the legality of actions the colonies and Britain had taken. His political foil in the period was Thomas Paine. Paine rarely questioned the legality of colonial actions, rather casting doubt on the British at every turn. He further established the basis of political power in the people. While Adams agreed that the people were the basis for government, he felt uncertain about freely allowing all men to participate in government. One important aspect to emphasize about the American definition of liberty was its elasticity; according to idealists like James Otis, it should include a far wider slice of the population than it did. However, the phrase “created equal” and the practical ramifications of making the people equal before the law were different matters from one another entirely. Even as the colonies were becoming more progressive, they also worried about societal stability.

214 See Paine, Sense, 43-44. See also John C. Miller, Samuel Adams (Stanford: Stanford University Press, 1936).
215 See Nash, Unknown, 90-93.
Work like Dulany’s made obvious for all that the Americans had moved past the point of conciliation with Britain ideologically and politically, but it also exposes the first awareness the Americans had of their redefinition of English political philosophy. Up until this point, the colonies’ thoughts had always put their movements in context of a British political philosophy and government. The colonies at first did not conceive of self-government, and even when Thomas Paine proposed that the colonies could govern themselves, the idea came as a shock to Loyalists and even to those who opposed the actions of a British government.217

This argument, and the talk of self-government, did not affect policy in Great Britain. As the rhetoric changed from conciliation to separation in the colonies, the British became even more insistent on restoring the previous relationship they had enjoyed.218 As the colonists used their Committees of Correspondence and militias to build an increasingly independent apparatus, the British sent troops to the New World and began preparing itself to subjugate the colonies, by force if necessary. The Coercive Acts appeared to have no effect on the colonial mindset save to entrench it further, and the conciliatory voices in the colonies were drowned out by strident calls for independence.219

These calls from independence were not without their problems. The tensions between England and the colonies exploded in 1775 at Lexington and Concord, when the British army might cause. See also John Ellsworth, “John Adams: The American Revolution as a Change of Heart?” (Huntington Library Quarterly: Vol. 28, no. 4, JSTOR.org, web, accessed 9 February 2017). 4-5.
217 See Cato, “Thoughts,” Wood, Writings, 17-20. The first works of the Revolution praise England as the pinnacle of democracy and freedom, but those that came later railed against the tyranny and arrogance of the British Empire.
219 See Nash, Unknown, 165-167.
moved to capture the colonial militias’ weapons. This battle would commence a long series of defeats for the colonies, which put the future of the recently-convened Continental Congress in doubt. The states, though unified in theory by this body, in reality were a loosely associated conglomerate of independent political entities. As the British advanced on the colonies, the old colonial governments found themselves in states hostile to royal authority. The people began to push these governments to declare independence from the British Crown, but, since many of these governments were Tory-controlled, they refused to do so. These pushes frequently came from the same Committees of Correspondence that had rioted so often in those colonies before. These pushes made demands for the rights of the people according, not just to English common law, but according to the new definition of liberty that they had drawn from Paine and Locke.

Despite attempts both British and American at reconciliation, the war continued. The British passed a Conciliatory Act in which they agreed to remove all additional taxation from any state that agreed to help the British and return to the Empire. The Continental Congress, for their part, sent an Olive Branch Petition to the British Parliament, which stated the colonies’ desire for hostilities to cease and for their return to the British Empire. Both parties rejected the other’s overtures for peace, and the colonies continued their quest for independence with an

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221 See John L. Shaeffer, “Public Considerations of the Pennsylvania Constitution of 1776” (*The Pennsylvania Magazine of History and Biography*: Vol. 98, No. 4, JSTOR.org, web, accessed 3 February 2017). 4-5. The Committees of Correspondence were so powerful that the colonial legislatures feared them.
official declaration in 1776. This declaration made clear the colonists’ intention to fashion a government according to their definition of liberty. To this end, the declaration listed inconsistencies with the British definition of liberty and how these had led their lords to violate the colonies’ own rights.

After the repeal of the Stamp Act and the Townshend Acts, the colonies and the British both enjoyed a brief period of peace. However, the Boston Massacre and the Tea Act passed a few years later revived tensions between the colonies and the mother country. In this period, however, the fires and relatively chaotic protests of the Stamp Act Riots were replaced with collective boycotts and calls for independence. This change in rhetoric led to drastically different actions on the colonies’ part and to calls for independence, which would eventually be declared in 1776. However, declaring independence created problems for the colonies, who now had to decide how to govern their “free and independent states.”

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222 See “Declaration of Independence.”
CHAPTER IV

STATE CONSTITUTIONS: IDEALS VERSUS POLICY

The outbreak of Revolution, resulting from armed colonial opposition, forced the colonists to put their new ideals of liberty into practice. The British Army came to occupy Boston, and their presence there eventually sparked conflict with the colonies. This conflict thrust the colonists, and their leading politicians, into the difficult role of building new

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governments. Since the old colonial governments left those responsible for the Revolution unsatisfied, those in control of the colonial legislatures had to decide how they wished to replace the old charters. Not all states chose to craft new governments, as Rhode Island chose to leave its colonial charters and assemblies intact. Of those that did pass constitutions, despite Massachusetts challenge to traditional ideals of freeholder enfranchisement, Pennsylvania widening religious freedom to previously unseen levels, and Virginia establishing an independent legislature, the state constitutions maintained restrictions on liberty to some degree. These restrictions constitute what historians refer to as a “taming,” or an effort by the wealthy to keep the poor from exercising new rights.

Thanks to a pamphlet called *Common Sense*, and others designed to debate what government was designed to be, the Americans determined that monarchy was no more divine than any other system. Even as men like John Adams longed for a system of lordship and titles, and men like Hamilton sought lifetime tenures for elected officials, the climate of the country was one increasingly of democracy. This climate, at the behest of the Continental Congress, began producing state constitutions to replace the old colonial governments. These documents are quite relevant to any history of the Revolutionary Period, especially given their function as templates for the later national constitution. The states all pushed political

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boundaries, but each in different areas. Notably, the boundaries that the states pushed were not significant enough to mitigate the restrictions that they left intact.

Historiography portrays the state constitutions, like anything else, from a variety of perspectives. Richard Morris and Merrill Jensen both see constitutionalism and the reconstruction of colonial government as a “reclamation” of society from the lower classes and the chaotic democracy that they had brought about during the Revolution. This explanation focuses mainly on economic explanations of the Revolution, noting the violence directed at members of the upper class and the fear of anarchy that plagued the wealthy men’s every move. These historians follow the ideological leanings of historian Charles Beard, whose theories receive hard treatment at the hands of critics. However, the American colonists undeniably noticed opposition to the upper class, since many conservative and wealthy merchants opposed the Sons of Liberty and the threat they represented to commerce with Britain.

Other historians such as Gordon Wood and Gary Nash add to Jensen and Morris’s theories instead of detracting from them. They point out that the battle between the Sons and the wealthy in Boston, Philadelphia, New York, Charleston, and other cities followed ideology. Those wealthy most likely menaced by the Sons kept to the Tory side of politics,
while wealthy Whigs that supported the Sons might even enjoy their protection. The constitutions that followed imperfectly defended the ideology that they purportedly supported. Rights that some people felt should be upheld were not supported by a number of the state constitutions, despite the clamors of the people. Thus, the narrative of “taming” that historians put out holds truth; but to claim that the Revolution was tamed diminishes the truth of radicalism that permeated the Revolution. Taming more accurately meant keeping the Revolution from going further instead of causing it to regress.

The Constitution of Massachusetts uniquely embodies the ideology of liberty put forth during the American Revolution, but also brings with it its share of controversy. Although a convention met in early 1776 to discuss ratification of the state constitution, the question of the electorate repeatedly plagued the drafting convention. Some felt Adams’ presence quite strongly. Adams had authored the document, but some of those in the legislature thought that it ought to be amended to widen the electorate. It was at Adams insistence that the states had begun the constitutional push, however, and his lofty status made challenging his ideals difficult. After seeing the political success of the Connecticut Constitution, he suggested that Congress mandate the formation of new state governments. Even though Adams was not in attendance of the convention immediately, his arrival turned the convention toward increasingly conservative policy. Of note is that, despite Adams’ influence, some in the legislature still

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232 See Nash, Unknown, 293-295.
233 Ibid.
234 Adams seems almost to have thrilled at the thought of state-craft. See Howe, Thought, pp. 80-83.
opposed Adams’ conservatism, thinking it unjust to deny the people rights that they had fought to secure. The debate over the constitution’s finer points dragged ratification out until 1779.

When the constitution finally appeared as though it might pass the legislature, the people of Massachusetts were in uproar.235 This stemmed from the inclusion of a freeholder clause similar to that of Virginia. This type of legal clause essentially stated that those with a certain amount of land were the only members of the population entitled to a vote.236 Such an idea followed the theories Adams put forward in his Thoughts on Government, which suggested extremely conservative measures for governance.237 Adams seemed to delight in systems that had intricate and rather complicated inner workings, and he suggested legislatures that elected other officials by vote.238 Naturally, these legislatures would be bicameral, but Adams warned against vesting the power to elect both in the entirety of the population.239 He believed quite firmly that the common people lacked some virtue only given to the wealthy, and as such the wealthy had to be gifted with more authority until the common people could somehow improve. Once soldiers in the Continental Army contested the provision preventing the common people from participating, Adams’ bicameral system became a refuge for his personal philosophy. He suggested that the people elect one house and that freeholders elect another, hoping by some

236 See Nash, Unknown, 293-295.
238 See Howe, Thought, 79-81.
miracle to cling to the doctrine of exclusivity that he treasured so much. However, English liberty essentially included the franchise, and a definition of liberty beyond the English tradition would necessarily include it as well.

The debate that raged in Massachusetts centered on the effects each electoral policy would have on the people’s liberty. Adams believed that his policy would prevent Massachusetts’ policies being directed hither and thither by the people’s fickle desires. In this regard, he followed English political theorist William Blackstone, who suggested that liberty existed at the center of two extremes. Following Blackstone’s theories, these extremes both limited liberty and, as such, had to be avoided. Tyranny was the most obvious extreme, and came about when the government was endowed with powers that encroached on its subjects’ natural liberty. The second extreme could either be called licentiousness or anarchy, and resulted from the people being given undue influence over their governors. Adams feared anarchy more than tyranny, believing that the political climate of the states following the Revolutionary War uniquely facilitated anarchist behaviors. Further, he believed that making the legislature beholden to the entire population would endow the people with undue influence, and that their

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240 Adams was not alone in his exclusivist doctrine; George Mason and Alexander Hamilton shared his beliefs. See Lutz, Control, 17-22.


desires would pull the legislature in whatever direction the people saw fit. Adams believed that anarchy was far more dangerous because the Revolution’s natural impulse was closer to anarchy. Regardless of his objections, Massachusetts adopted universal suffrage, though the debate about it lasted from 1776 to 1779.  

Historians such as Jensen and Morris have a strong argument behind economic motivations for Adams’ philosophy. Adams believed that economic and political liberty were necessarily intertwined, and that those without the land and means to subsist aside from others’ help would inevitably be swayed by those who could assure their well-being. He even found participation by these men in government repulsive, seeing as those who governed best had less interest in the maintenance of power than in the harmony of the government and the governed. George Mason, the main author of the Virginia constitution, also believed that those without property should go without liberty or, at the very least, be barred from its more prestigious benefits. These both warned that government could become corrupted by the influence of the people, whose needs might theoretically be met by unscrupulous politicians. Such fears, however, did not sway the common people, and Massachusetts’ constitution was passed without  

243 See Nash, Unknown, 293-295.  
 Though the freeholders were named especially in the Massachusetts Constitution, they received few protections therein.

One might wonder how the more conservative Founders justified denial of liberty to other citizens, given that an entire war had been fought for the sake of that cause, at least theoretically. Tyranny and anarchy in the British parlance hold the answer. Though in modern thought anarchy and tyranny appear as opposites, in English thought they were related. British political theorists saw tyranny as the liberty of the people being denied by the hand of a single man. Anarchy, similarly, was liberty being denied to the populace because they were ruled by a spirit of collusion. Tyranny was a denial of liberty by autocratic edict; anarchy was the denial of liberty by democratic collectivism. The fear of what today is termed “mob rule” tormented men like Adams; they fretted over how much liberty they could give the citizens before the government became anarchistic. By this argument, therefore, a conservative taming of the revolution fits into the ideological school of thought. The Founders, according to their official justification, were not trying to keep the people down; rather, they were attempting to protect society from what they thought to be an imminent collapse. Practically, however, their legislation suppressed the people’s rights. Their fear of this “levelling” impulse (essentially phobia of a legally equal people, since English law had traditionally protected property-holders) would

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246 See Nash, *Unknown* p. 290. See also “Massachusetts Constitution,” Sections II-III.
become the central debate of democracy; whether liberty meant that all people should be made as equal before the law as they supposedly were born according to natural law.

The Massachusetts constitution shows historians that taming, while definitely a powerful force against the revolutionary impulse, did not always succeed. While the legislature tried to insert more conservative measures into the Massachusetts state constitution, the pressures the people applied to their representatives brought about the change they hoped for. Instead of a military or political taming, the people successfully pushed for a more radical constitution than the conservative bloc of the legislature wanted. The conservatives briefly attempted to resist, and even made a half-hearted case for the policies they had enacted. However, the people would not have it. In Massachusetts’ case, at least, the revolution went further than the drafter of the constitution wanted. The upper classes found their power challenged quite rigorously by the lower sort, with some even among their ranks sympathizing with the soldiers protesting the constitution. A better term for the controversy surrounding the Massachusetts constitution would be an attempted taming; the wealthy attempted to curb the radicalism that their Revolution had unleashed, only to fail. The people’s will managed to sway the legislature in their favor.

The Massachusetts constitution became radical after the people disputed its provisions; in Pennsylvania, the constitution radically altered politics from the start. The debate about the state’s constitutions truly began on July 20, 1775, when the state’s committees of

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251 See Nash, Unknown, 295.
252 Ibid.
correspondence put forth a set of resolutions to the colonial government. These resolutions met with stark opposition from the Royalists in the assembly, including the leader, Governor Joseph Galloway. The widespread support in Pennsylvania for these provisions would ultimately force Galloway to resign and led to the ascension of radical John Dickinson to head the assembly. John Dickinson was already a powerful force in the legislature, and had penned the famous *Letters from a Pennsylvania Farmer* in response to the Declaratory Act several years before. Under his auspices, Pennsylvania’s colonial government created several broad-powered agencies (outside the authority of its current governing document) and soon called a constitutional convention. Dickinson, despite his important role in the colonial assembly, would not author the state’s new supreme law.

Rather, this honor would be given to fellow Pennsylvanian Benjamin Franklin. Franklin would join such notables as Dr. Thomas Young (a famous leader of the Sons of Liberty in Philadelphia), Timothy Matlack, Robert Hill, George Bryan, and James Cannon in helping to outline the finished document, which was presented to the ratifying convention on September 5,

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253 See Paul Leicester Ford, “The Adoption of the Pennsylvania Constitution of 1776” (*Political Science Quarterly*: Vol. 10, No. 3 September 1985), 5-8. This particular article describes just how controversial the passage of the Pennsylvania state constitutions was. Also see Nash, *Unknown*, 276-279.
The constitution had a reputation as one of the most radical among the new states; in fact, accusations came from all quarters belittling the Pennsylvania Constitution as anarchistic. Such warnings often came from more conservative political thinkers, following the conservative thought of the time. John Adams sniffed that he would not be too surprised if Pennsylvania sought reconciliation with the British Empire simply to escape the populist imperialism that their state constitution imposed on them. Pennsylvania’s constitution revolutionized governance in several key ways (and notably challenged John Adams Thoughts on Government by having a unicameral legislature), but Pennsylvania was one of the most revolutionary. One of the more revolutionary amendments of the Pennsylvania constitution pertained to religious freedom. Like Maryland, the Pennsylvanian constitution maintained some religious regulations, but the policy they enacted was far more liberal than most of the colonies. Instead of an established church like Virginia, Pennsylvania permitted freedom of religious practice as long as a citizen believed in God.

While this might seem quite conservative for the time, one must recall that even Maryland’s policy was not so inclusive. There is no inclusion of belief in Christ as a qualifier unless one desired to hold political office, and the constitution states that no citizen may be

256 For notes on Thomas Young’s involvement with the Sons of Liberty, see Schlesinger, 1-8.
257 Adams levelled such an accusation, wondering if Pennsylvania might not be better served re-assimilating into the British Empire. Nash, Unknown, 277.
258 See Nash, Unknown, 289.
denied his rights if he meets the religious criteria.\textsuperscript{261} This inclusion made Pennsylvania revolutionary for its treatment of one particular group: Jews.\textsuperscript{262} Maryland’s constitution, while it allowed full participation for persecuted Christian groups like Catholics and Quakers, did not permit Jews full rights as citizens. The Pennsylvania constitution’s religious liberalism was greater in this regard, and it equaled Maryland in one other important respect: There was no state church.

Doctrinal affirmation may not have been necessary for citizenship, but there were still practical constraints on challenges to Christian doctrine. Citizens could freely practice their religion, and it might not be that of the Christian. However, as with many cases in human interaction, laws exist unwritten, and Pennsylvania was no exception. One example of such an unwritten law can be seen when Benjamin Franklin told Thomas Paine not to publish the first draft of his \textit{Age of Reason} because of the threat that it represented to established religion and morality. More societally related examples of this include questionings of Jesus’ divinity and other atheistic challenges to the Christian faith.\textsuperscript{263} What is remarkable about these statements is that they are made in Pennsylvania. The most ardent voices of atheism seem to have come from or been somehow related to Philadelphia and Pennsylvania. Even with society’s unspoken antagonism toward atheism and agnosticism,

\textsuperscript{261} See “Constitution of the Commonwealth of Pennsylvania.”
State churches, though to the modern observer a thing of the past, were quite common at the time of the drafting of state constitutions. Both England and France had established state churches supported by taxes imposed on the people. Notably, it mattered little whether or not the people were attendees (though not attending church was socially taboo); all citizens had to support the church monetarily. This remained the case in states like Virginia, where Anglicanism remained the official state-supported church even after the state’s constitution was ratified.\textsuperscript{264} Massachusetts similarly included provisions for monetary support of an established church. Pennsylvania not doing so permitted the state to protect religious minorities, and also followed closely political theories as set out, not by John Adams, but by Thomas Paine.\textsuperscript{265} Paine’s \textit{Common Sense}, aside from being a treatise on government, was also a critique of English society generally. While Paine only later questioned religion in his \textit{Age of Reason}, he challenged religion tied to the state in \textit{Common Sense}.\textsuperscript{266} He argued that monarchy’s closeness with the church allowed it claim divinity unchallenged, and that divorcing government and religion might be beneficial.\textsuperscript{267} Of note here is that, while Paine challenged established religion quite rigorously, he made no attempt to challenge the faith of the individual. On the contrary, he encouraged individual piety, but wanted government removed from religious affairs.

Notably, debates about religious freedom were not always cast in the light of liberty. John Adams himself stated that the people governed by the national constitution would have to be

\begin{footnotesize}
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\item[264] See Howe, \textit{Adams}, 80-85.
\item[265] See Paine, \textit{Sense}, 92.
\item[267] Ibid.
\end{footnotes}
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moral and religious. To him, a state-tended church was not only healthy, but necessary for maintaining the governments that the Revolution had built. 268 That religion in turn, he said, would make a government centered on liberty that much stronger. In Adams’ thought, morality and liberty were necessarily companions. Therefore, ensuring that religion was compatible with the constitutions was paramount. Notably, however, Adams expressed these views in general reference to the states, not specifically applying to Pennsylvania.

To Paine, however, unifying church and state could easily make liberty harder to defend, since religion and monarchy had historically been companions. 269 To him, government and church combined would inevitably lead to the collusion of the two. The debate would ultimately lead to the passage of Pennsylvania’s state constitution, though many felt quite strongly that the radicalism of the state was untenable. 270 The argument was that the Pennsylvanians had opened the doors to anarchy with a constitution far too permissible for its own good. Paine’s school of thought, however, stated that the people were more to be trusted with power than the government. 271 In his thought, the people could historically be proven more virtuous than a government, either state or national.

Though few openly criticized the religious liberty amendment, during the famous Pamphlet Debate of the late 1770s, one author complained about how much the Pennsylvania

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269 See Paine, Sense, 48-50.
270 See Howe, Thought, 85-87, Lutz, Control, pp. 23-27, see Nash, Unknown,
271 See Paine, Sense, 30-35.
constitution allowed. The author stated that the constitution was so ambiguously worded as to provide a “Mohametan” the rights of a citizen. While the idea of a religious minority being part of the state might not seem problematic, the Founders believed that not all religions or even sects of Christianity were created equal. Some religions and denominations, they thought, inclined the people to certain behaviors that ran counter to liberty. According to English political thought, Islam went along with a spirit of slavery. Some anti-Semitic Englishmen would level the same charges at Jews as well, perhaps explaining the unequal treatment of Jews in Maryland. Therefore, it was incompatible with the English system of government. However, Pennsylvania’s constitution, by loosest translation, might permit its practice by citizens. Also, the constitution allowed Jews to practice their faith, which many Englishmen also believed ran counter to liberty. Catholicism, too, appeared to blur the allegiances of the practitioner. Still, the Pennsylvania constitution permitted Catholicism, Judaism, and even implied permission of Islam, despite protest from certain quarters that their constitution could lead to anarchy.

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275 See Ruse, “Islam”.
277 The actual verbiage states that Pennsylvanian citizens must believe in God. Though this rules out polytheism, this provision might theoretically be applicable to non-Christian monotheistic religions. See “Constitution of Pennsylvania,” (Avalon.law.yale.edu, web, accessed 12 February 2017).
http://avalon.law.yale.edu/18th_century/pa08.asp.
In Pennsylvania, there was little attempt from within to tame the revolutionary impulse of the state, but strong efforts were made from without, and certainly not in regard to religious freedom. Those who follow the taming narrative often point to the Whiskey Rebellion as a late taming of Pennsylvania’s revolutionary impulse, but this revolt is not always associated with the Revolution. However, the Whiskey Rebellion exposed a conflict between the wealthy and the poorer sort of the state that was couched in the context of liberty. The lower classes accused the wealthy of sacrificing the liberty of the commoners to consolidate their own power. Some suggested that the country needed the same bill of rights that Pennsylvania’s constitution possessed. Pennsylvania’s constitutional ratification lacked the defined conflict of those like Massachusetts; while Royalists resisted at first, the constitution did not face significant legislative opposition from other revolutionaries.

Even as these states ultimately broke with tradition in the formation of their constitutions, one of the more liberal governing documents ironically originated in perhaps the most conservative state of all: Virginia. Virginia’s reluctance to follow the push for democracy was legendary; the electorate in Virginia consisted exclusively of freeholders until 1830, making Virginia one of the only two states to retain such limitations. Many also argued that the clause that allowed the state government to determine how voting maps were drawn would allow

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partisan spirits to control the legislature and cause democracy to pass from existence.\textsuperscript{279} The state had an established church (Anglican), and was remembered as one of the states that pushed strongly for protections of slavery in the national Constitution.\textsuperscript{280} Given the obvious resistance that Virginia put forth to any reforms of the status quo, the idea of it having revolutionized anything seems oxymoronic. However, it must be remembered that the results of the constitution may not necessarily reflect the entirety of the debate.

The Virginia constitution’s initial drafts and the beliefs of its authors (in addition to its legislative policies) expose legislative liberalism beyond what might first appear. The state that would later become notorious as a bastion of slavery actually drafted its constitution such that it outlawed slavery not once, but twice.\textsuperscript{281} Further, these drafts came from Thomas Jefferson, a wealthy slave-owner and a firm believer in government by the wealthy elite. At the time of the drafting in 1775, though, Jefferson was not in Virginia, having been called to the Congress in Philadelphia. What made Virginia’s constitution so unique, however, was its bicameral legislature.

While not a liberal measure in modern eyes, such bodies had heretofore been largely used for national governments, such as the English Parliament. This indicated that the state of Virginia intended to maintain a good deal of autonomy from other states and from a national government.


\textsuperscript{280} See Taylor Stoermer, “‘An Entire Affection and Attachment to Our Excellent Constitution:’ The Anglican Political Culture of British Virginia” (Anglican and Episcopal History: vol. 82, no. 3, September 2013). 5-7. This author discusses the strong ties of the state to the Anglican Church when it was still a colony. These leanings would continue with statehood.

\textsuperscript{281} See Nash, Unknown, p. 167.
The English political tradition had employed similar governance, but in the case of conquered peoples like the Irish and Welsh. They had not attempted an equal legislative representation that had power similar to a national government on the state level. A state wanting to maintain autonomy might seem obvious; after all, it is the goal of all governments to maintain sovereignty. Even so, many among the Founders advocated for a homogenous union of the states into a single country. The Virginia constitution (and others) made it clear that the states wanted to maintain their autonomy.\textsuperscript{282} Interestingly, this theory actually followed Blackstone-ian interpretation of English common law, which differentiated between the laws of principalities and the laws of a supreme government.\textsuperscript{283} Following Blackstone’s theory, incorporating states into a national government made sense and might even be considered necessary. The state’s legislature had been empowered to choose the executor of the laws it enacted, something that, while liberal, was less so than other legislatures, such as Vermont’s. The legislature could also elect a Privy Council to direct the state militia (what would have been the equivalent of a standing army at the time) as it saw fit. Given this legal foundation, the colonies felt justified in declaring themselves autonomous units. The states’ autonomy, according to those who supported such a thing, kept any national government that might be created from the acquisition of too much power.


The maintenance of divisions between the states that left them participating in the Continental Congress announced an ambition of autonomous cooperation, something similar to the government of the Holy Roman Empire. Few other nations could boast a smattering of states endowed with semi-equal participation in government, and those who could often found factionalism to be the bane of functionality. The declaration of intent that the constitutions represented made clear that this undertaking was the Founders’ goal.\textsuperscript{284}

The legislature was unique in more than its structure and power. The Virginia constitution also declared that elections were to be held yearly, and that the incumbents were to be barred from running for reelection that term.\textsuperscript{285} Though not a term limit proper, the idea behind this legislation stemmed from Jefferson’s model government.\textsuperscript{286} Jefferson and Washington both envisioned an independent and virtuous elite representing the people, even if they were not of the exact same class as those they represented. The idea of men so independent of politics that they could come and go as they pleased without mixing their public and private lives was their goal, and perhaps too idealistic. Still, the idea of government repeatedly changing hands was revolutionary at the time.\textsuperscript{287} Even at present, term limits and forced ejections have not been put into practice in the government of the United States.

The debate over ratification in Virginia was hardly as drawn out as that of Massachusetts or Pennsylvania. However, there was a clear debate about government of the state of Virginia.

\begin{footnotes}
\item[284] See Howe, \textit{Adams}, 78-79.
\item[287] See “Constitution of the Commonwealth of Virginia.”
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and involved none other than John Adams.\textsuperscript{288} In fact, it was the debate about the ratification of the Virginia constitution that caused Adams to set pen to paper to craft \textit{Thoughts on Government}.\textsuperscript{289} Adams’ influence led to the creation of a government that, Adams admitted, was far more liberal than what he would have advised creating. More than that, Adams conceded that it was more conducive to liberty and functional besides.\textsuperscript{290}

He saw the Virginia government as a unique balance of liberty and restraint, with a bicameral legislature formed by a select few electors. Adams also noted quite happily that Virginia had assumed a bicameral legislature, which he thought more conducive to liberty. His belief was that a unicameral legislature lacked necessary limitations to preserve liberty. The hope was that the legislature would not expand its power over the people (which could lead to tyranny) since they would compete with the other legislature, the executive, and the state court systems, for power. Adams believed, as would later be said of the constitution, that such competition would ensure that the electorate would remain empowered. Therefore, he suggested making an executive that was beholden to the legislature, a court system beholden to the executive, and other checks that were put into action in the Virginia constitution.\textsuperscript{291} That juxtaposition of power would ensure that the various components of state government would be too busy competing to keep one another in check to take rights from the people.

\textsuperscript{289} See Howe, \textit{Adams}, 80-82.
\textsuperscript{290} See Selby, “Lee,” 5-10.
\textsuperscript{291} See Adams, “Thoughts,” 4-6.
A taming narrative of the Virginia constitution would make sense. From the start, their constitution seemed more conservative than most others in the United States.\textsuperscript{292} With a freeholder clause and a system of elections that kept the people from participation in the government, the constitution seems restrictive from the start. Liberty under this constitution by English definition seems restricted at best; the American definition of a widened franchise is nowhere to be found. The narrative of a tamed revolution is strong in Virginia, especially because the state would later represent a significant force for conservatism in the new United States. However, one can observe clear pushback and expansion of rights even as the Virginia constitution maintained the English legal status quo. The constitution quite obviously unfairly advantaged the wealthy, as the common people had no vote at all.\textsuperscript{293} The legislature similarly was composed exclusively of the wealthy, whereas other states allowed lower class individuals to theoretically participate. The taming narrative fits Virginia quite neatly in retrospect, as the revolution’s principles were applied where they represented the least threat to the status quo. However, those observing at the time had a different opinion.

Aside from John Adams, Founder Richard Henry Lee also agreed that the Virginia constitution was revolutionary. Here exists a question of interpretation in the period versus a modern interpretation. At the time, the document was thought to be revolutionary, but by today’s measure, it restricted liberty and left large segments of the population unrepresented. Further,

\textsuperscript{292} See Nash,\textit{ Unknown}, 290-291. \\
\textsuperscript{293} See “Constitution of Virginia.”
other states extended to all the right of suffrage. While some historians might argue that Virginia’s societal structure uniquely predisposed it to this type of governance, neighboring Pennsylvania had both landed elites and poorer farmers. As in Virginia, the freeholders wielded massive power in society. Despite this, they extended suffrage to all those who were taxable, not just freeholders. Others might argue that a more conservative spirit in Virginia affected their constitution; this argument can be made and holds some truth. Despite the liberalism that Thomas Jefferson wrote into his drafts of the document, Richard Henry Lee did not permit them to be put in the final draft of the document. Mason, too, objected to Jefferson’s provisions, saying they were far too liberal to pass muster before the Virginian elite.

The rhetoric of liberty in Virginia more closely followed John Adams instead of Thomas Paine. It had Adams’ bicameral legislature, the freeholder clause that he cherished, and a convoluted system of checks and balances designed to keep one branch of government from overwhelming the other. Though these structures were designed to preserve liberty and relegate government functions to its defense, they in fact became (at least partially) responsible for the maintenance of the colonial status quo.

One important final note on these constitutions is their amendment clauses. No matter the document, each was designed to change with time. These provisions were not accidental, nor where they peripheral. The process of drafting state constitutions was designed to arrive at a

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296 See Nash, Unknown. 163-165.
297 See Adams, Thoughts, 85-87.
form of government consistent with liberty. John Adams freely admitted that the Virginia constitution ended up more liberal than he anticipated. This response exposes uncertainty among the Founders. Even Adams, the primary force behind the state constitutions, did not know exactly what legal system would best maintain liberty. Amendment provisions would allow the government to change as the country did. Adams also believed in widening the franchise to the people, but only once they met the proper qualifications. The amendment clauses would allow the franchise to be extended when the time was right.

The Constitutions can easily be interpreted as protecting the interests of the wealthy at the poorer sort’s expense. Indeed, accusations of avarice against the wealthy came frequently in the prerevolutionary and Revolutionary periods. Washington’s own army grumbled at Congress for their lack of aid in dark times, and the Sons of Liberty often laid waste the homes of wealthy merchants who had supported the British. Further, many argued even at the time that the national constitution left the Federal Government with such broad powers as to secure the wealthy’s fortunes against the poor. These accusations mirror the fears of Adams that poor voters would concede authority to those best able to meet their financial needs.

Clear marks of class distinctions and ideological differences can be seen in the ratification of state constitutions. The challenge exists for historians in determining the balance between the two, not whether or not each exist. The radical ideology of the Revolution

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298 See Howe, Adams, 90-92.

Given these facts, one might easily be tempted to dismiss state constitutions as conservative compared to the liberal impulse of the revolution. This is undeniable, especially in cases such as the first drafts of the Massachusetts constitution. The strongest argument against a blanket declaration of conservatism, however, is the organic nature of each constitution. Whether Virginia’s reserved magnum opus or Pennsylvania’s radical creed, both included provisions allowing later modification of the document. John Adams approved of the concept of amending the constitutions after they were in place and wrote such provisions with this in mind.\footnote{See Howe, \textit{Adams}, 90-92.} He freely admitted that his attempt at statecraft might be imperfect, and thus he included amendment as part of the constitution. He hoped that later generations of republicans might continue protecting liberty as his had done.\footnote{See Lutz, \textit{Control}, 27-30.} Admittedly, Adams was a more conservative politician than most, but he also freely conceded that a more liberal interpretation of his ideals might be good. State constitutions might protect liberty through conservative means, or they might be liberal from the start. Most, however, included amendment procedures to address their shortcomings and, the authors hoped, would permit liberty to perpetuate itself.

Despite the liberalism of the constitutions, they undoubtedly tamed the Revolution. Universal suffrage was denied in almost every case, and in some cases was passionately fought
by the wealthy. The Revolution’s promises went unfulfilled, and more than that, the authors were conscious of the fact that their works were not adequate to fulfill the promises that they had made. Though Pennsylvania might have pushed boundaries with its religious freedom clause, though Massachusetts allowed all its male citizens to vote, and despite Virginia’s unique electoral bodies, each of the constitutions left the English system of governance intact. The Revolution, despite its liberalism and forward-thinking nature, was indisputably tamed. However, some of the Founders hoped the taming would not be the end of things; John Adams hoped inclusion of the amendment clauses would allow the constitutions become more liberal as their legislatures believed they were ready. Though not the most prescient move on Adams’ part, the inclusion of amendment clauses reveals a desire for the states to move forward from where they were.
CHAPTER V

CONCLUSION

Because of its central position in historiography, the American Revolution is necessarily interpreted in a variety of ways. The causes especially are often questioned, since every interpretation from economics to social modernization has been applied to it. Some of those who focus on the ideological motivations of the revolutionaries see them as motivated to acquire for themselves liberty such as the English freeholder class traditionally enjoyed. The early demonstrations of the Sons of Liberty, which required rhetorical justification because of their radical nature, were defended because they were to secure proper treatment of the colonies generally and the freeholder class specifically. However, the antipathy of the British toward colonial rhetoric and the colonies’ strangely fluid class relations facilitated the development of a decidedly un-English concept of liberty; instead of standing for the rights of merely the freeholder class, the Sons came to represent the interests of un-landed laborers and artisans as well.302

Economically-minded historians, however, see this impulse as being tamed in later years, especially by state constitutions and eventually the national Constitution. The curbing of the Revolutionary impulse represented a stark betrayal of liberty, since it had promised a more universal suffrage that it failed to deliver. This taming, however, is only part of the tale.303

302 See Nash, Unknown, 53-56.
303 See Jensen, “People,” 6-8.
Admittedly, the documents did all not provide the more inclusive suffrage that the revolutionaries had promised. However, they also pushed the boundaries of what was acceptable and legal in English common law all the same. Whether Massachusetts’ electorate, Pennsylvania’s religious freedom clause, or Virginia’s bicameral legislature, the states revolutionized some aspect of traditional British thought. The shortfall on the Revolution’s promises can be best explained as over-caution on the Founders’ part. The Founders practically justified their denial of liberty on the basis that it might bring about societal instability or collapse at the time. However, they hoped that the provisions for amending the state and national constitutions would allow liberty to be widened even further than they had. Their hope was that the Revolution would continue at a pace with society instead of outpacing it.

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