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A Journal of Political Thought and Statesmanship

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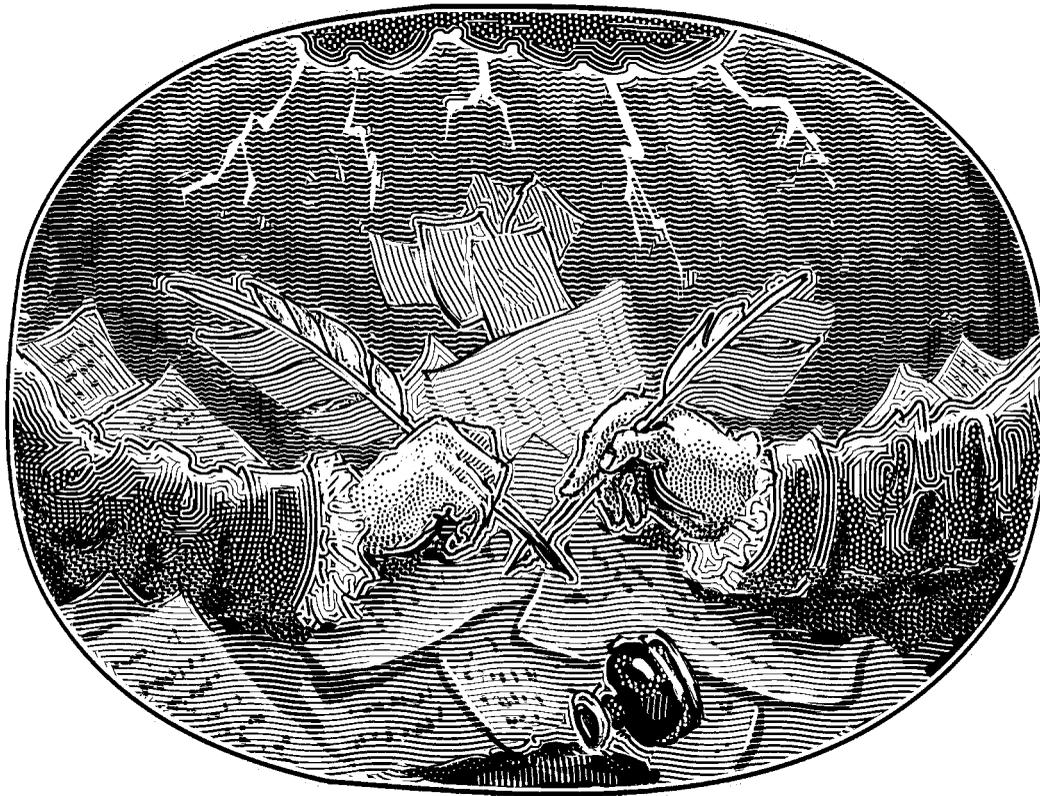
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Book Review by Darren Staloff

FOUNDING SCRIBBLERS

The American Revolution: Writings from the Pamphlet Debate: 1764–1776, edited by Gordon S. Wood.
The Library of America, 1,889 pages, \$60



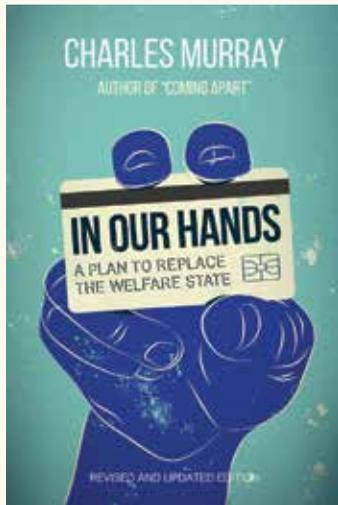
IN *THE IMPORTANCE OF BEING EARNEST*, Lady Bracknell does not like arguments. “They are always vulgar,” she declares, “and often convincing.” The arguments gathered in Gordon Wood’s magnificent two-volume collection, *The American Revolution*, are certainly the latter, although rarely the former. Judiciously selected and meticulously edited with an admirably clear introduction and an extensive and useful chronology, Wood’s 39 documents—largely pamphlets and newspaper essays with a handful of speeches, sermons, and state documents—lay out the debates that led to the dismembering of the first British Empire and the birth of the American Republic. These arguments convinced each side of the rectitude of its position and left British subjects on both sides of the Atlantic persuaded they had little choice but to take up arms in defense of their most cherished principles. The level of argument was impressive, with the debaters appealing to practices embodied in the ever-elusive British constitution as well as the strictures of natural and divine law. But given that the revenues at issue were so much smaller than the cost of either collecting or resisting

them, there is also something tragic to these arguments. Given the enormous stakes—the political unity of the English-speaking world—one cannot help wishing that another mode of disputation had been found.

THE CORE ARGUMENT THAT RENT THE empire was whether Parliament had the right to impose taxes on the colonies. Even before the imposition of the Stamp Act in 1764, Massachusetts lawyer James Otis rejected the possibility. The core principle of the British Constitution was that “the supreme power cannot take from any man any part of his property, without his consent in person, or by representation.” Writing on behalf of Prime Minister George Grenville’s administration, Thomas Whately insisted that the colonies were represented, if not actually then virtually, “for every Member of Parliament sits in the House, not as a Representative of his own Constituents, but as one of that august Assembly by which all the Commons of Great Britain are represented.” That the colonists lacked a say in electing those representatives was simply irrelevant, for “neither are Nine Tenths of the

People of Britain Electors.” In his celebrated rejoinder, Maryland’s Daniel Dulany did not deny the plausibility of virtual representation as such. Instead he argued that it could not apply to the colonies because their interests and those of British voters were too disparate: they lacked “that intimate and inseparable Relation between the *Electors* of Great-Britain and the *Inhabitants of the Colonies*, which must inevitably involve both in the same Taxation.”

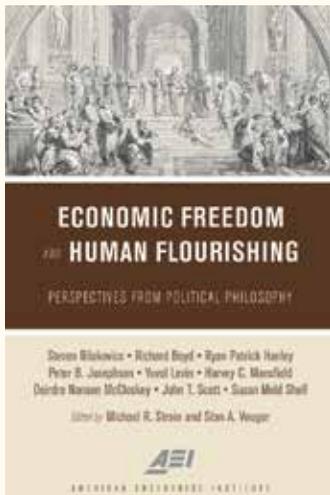
The problem with Dulany’s argument was that the colonies had been paying taxes in the form of tariffs since at least the 1650s. When Charles Townshend, chancellor of the exchequer, exploited this loophole in 1767 by passing taxes in the form of import duties, the Americans responded with a fresh distinction. Genuine navigation acts were intended to facilitate trade within the empire, and when the avowed purpose of such acts was to tax the colonies they ceased to be legitimate. “If you ONCE admit, that Great Britain may lay duties upon her exportations to us, for the purpose of levying money on us only,” warned Pennsylvania’s John Dickinson, “the tragedy of American liberty is finished.” William Hicks



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Economic Freedom and Human Flourishing
Perspectives from Political Philosophy
Edited by Michael R. Strain and Stan A. Veuger

July 2016 ISBN: 978-0-8447-5001-9

So much of the policy and political debates around issues of economic liberty are cast in somewhat narrow terms. But it is helpful—and refreshing—from time to time to step back and examine the foundation. Is economic liberty necessary for individuals to lead truly flourishing lives? To answer this question—and more—this volume brings to bear some of history’s greatest thinkers, interpreted by some of today’s leading scholars of their thought.



went further and denied the right of Parliament to regulate trade at all. Given that commerce was, after all, a natural right, how could we “tamely concede a power of restraining our natural liberty?” By the end of the 1760s the two sides had argued themselves into an irreconcilable conflict of principle.

A SIMILAR IMPASSE AROSE ON THE QUESTION of sovereignty. As every patriotic Briton knew, the Glorious Revolution of 1688 had finally fixed the sovereignty of the British state in the King-in-Parliament. The American claim that the colonies could not be taxed without their consent belied the fact that sovereignty could not be divided. Even worse, it undid the Glorious Revolution’s check on the absolutist pretensions of the latter Stuart monarchs. As the British bureaucrat William Knox noted, the Americans saw the colonies as part of “the king’s domain” rather than “the British state.” If so, he concluded, “they can have no title to such privileges and immunities as the people of England derive under acts of parliament.” The claim that the colonists recognized the sovereignty of Parliament absent the power to tax or legislate for them was the height of sophistry; “its power over the colonies is somewhat like that allowed by the deists to the Almighty over his creatures, he may reward them with eternal happiness if he pleases, but he must not punish them on any account.”

The American rejoinder was that most of the colonies had been settled and chartered before the Glorious Revolution as part of an extended multiple monarchy that included Ireland, Scotland, and various other locales that were not directly governed by the English Parliament. The charters were, in fact, full-blown social compacts, and the colonies were, as William Hicks, an attorney from Bucks County, Pennsylvania, first argued, “so many different countries of the same kingdom, the nature of whose situation prevents their joining the general council.” Like Scotland and Wales—and Durham, for that matter—the colonies could be neither taxed nor governed by a parliament they did not belong to. Nor was this a reversion to a Tory or divine-right view of royal sovereignty, for the Glorious Revolution applied to the whole kingdom, requiring the monarch to govern accordingly within each of his parliaments, whether in Great Britain, Massachusetts, or Virginia. The result for Americans would have been something close to the commonwealth status of Canada and New Zealand today.

Having argued themselves into two equally coherent, principled, and irreconcilable positions by the time Parliament rescinded most of the Townshend duties, the two sides main-

tained an uneasy peace in the early 1770s. That peace was shattered in 1774 when the British government responded to the Boston Tea Party with the notorious “Intolerable Acts,” which closed the port of Boston and new-modeled the government of Massachusetts. The two sides did not change their positions, but they did raise the rhetorical heat. Thomas Jefferson’s *A Summary View of the Rights of British America* broke no new constitutional ground, but it self-consciously spoke “with that freedom of language and sentiment which becomes a free people claiming their rights, as derived from the laws of nature, and not as the gift of their chief magistrate: Let those flatter who fear; it is not an American art.” For New York loyalist Samuel Seabury, such “real whig” rhetoric was belied by the naked and hypocritical usurpation of power by the Continental Congress. “What right or power has any assembly on the continent to appoint delegates, to represent their province in such a congress?” he asked. “The assemblies have but a delegated authority themselves” and “cannot therefore have even the shadow of right, to delegate that authority to three or four persons.” The irascible Samuel Johnson was even more dismissive: “how is it that we hear the loudest yelps for liberty among the drivers of negroes?” American calls for armed resistance were met by Johnson’s response that “nothing remains but to conquer or to yield.” The furtive calls by American loyalists for moderation and compromise—the most popular involving the constitution of an American Parliament—met with deaf ears as both sides, convinced of the rectitude of their principled positions, resolved to settle the arguments with bullets and bayonets.

IN CONTRAST TO PREVIOUS COLLECTIONS like Samuel Eliot Morison’s *Sources and Documents Illustrating the American Revolution, 1764–1788, and the Formation of the Federal Constitution* (1923) and Merrill Jensen’s *Tracts of the American Revolution, 1763–1776* (1967), Wood’s is both far more extensive and includes British and Tory documents as well as their “patriot” counterparts. One of the great virtues of Gordon Wood’s collection is thus to show how these arguments about core principles concerning the relationship between taxation and representation on the one hand and metropolitan sovereignty and provincial liberty on the other developed in debate and then drove the two sides to positions so radically opposed as to leave no choice but what John Locke had termed an “appeal to heaven.” That such principled stands resulted in the birth of a great federal republic grounded in the consent of the governed and the rule of law is a matter

of justifiable pride for all Americans. But there is a sad poignancy to these debates, for few disputants could have anticipated, and fewer desired, the ultimate outcome. As late as 1774, New York delegate Philip Livingston's stalwart defense of American resistance—including the infamous Tea Party—rejected the possibility of an independent American republic “as the most vain, empty, shallow, and ridiculous project, that could possibly enter into the heart of man.” Thomas Bradbury Chandler, the Anglican rector of Elizabeth, New Jersey, could hardly believe that his fellow countrymen could consider destroying the political unity of the English-speaking world over the remaining minuscule taxes on tea, whose burden he aptly compared to “the weight of an atom on the shoulders of a giant.” Chandler's critique was even more aptly directed at the British. After all, the Americans simply wanted to return to the status quo before the crises of the 1760s. It was Parliament that had roiled the empire, deploying force and expending vast treasure in a vain attempt to force the colonials to pay what would have been, at best, an insignificant sum. Given the practical costs and consequences for both sides, the principled stand of Parliament can only be seen as imprudent at best, foolhardy and pigheaded at worst.

FROM A PRACTICAL PERSPECTIVE, THE real problem with the core of these arguments was that they were, as Wood styles them, a “Pamphlet Debate” where both sides argued whether Parliament had the right to impose its will on the colonies. A small but tantalizing number of documents sought to eschew that question and ask instead whether it should do so. The very first document in this collection, by the pseudonymous British author “Cato,” argues against prohibiting the colonists from settling the trans-Appalachian west. Cato did not invoke principles of right but rather maxims of prudence, reasoning that if the booming colonial population were bound by their current settlements “it is probable they will speedily set up Manufactures of their own, and be our Rivals instead of our Customers.” Governor Stephen Hopkins of Rhode Island made a singular argument about the commercial restrictions of the Grenville ministry. To be sure, he argued against their rectitude, but his most telling argument was that the new duties on molasses were “much higher than that article can possibly bear” and would only result in the death of the trade. Regardless of the purported powers of Parliament, could it “change the nature of things, stop all our means of getting money, and yet expect us to purchase and pay for British manufactures?” And the consumption of British manufactures

was the very point of the colonies, as a British respondent to Samuel Johnson noted. From the very first settlements the British state had wisely “chosen copious returns of trade, rather than scanty resources of tribute,” and as such “it would be absurd now to shake and to reverse your system.” The self-government of the colonies had hardly “overturned your empire.” To the contrary, “[i]t has made it.”

PERHAPS NO AMERICAN TRIED HARDER to reason with his British interlocutors than Benjamin Franklin. When he testified before the House of Commons in 1766 he did not invoke principle against the Stamp Act but rather noted “there is not gold and silver enough in the colonies to pay the stamp duty for one year.” The assertion of parliamentary rights would do little harm “if they are never attempted to be carried into practice,” but if military measures were used to enforce them that body would soon discover that “No power, how great soever, can force men to change their opinions.” The simple and worldly fact that Franklin insisted on was that, while the colonies served the mother country by purchasing vast quantities of its manufactures, they did not feel they could afford to pay the taxes Parliament imposed, regardless of principles, and no amount of force or legal constraint could compel people to purchase taxed items if they chose not to.

The thrust of Franklin's argument was echoed in England one decade later by Edmund Burke in his celebrated call for conciliation. The projected revenues of American taxation were trivial, the costs of collecting them substantial, and the potential impact on the export of British manufactures devastating. Prudence demanded that the whole issue of taxation be dropped and the colonies be allowed to go on as they had before the imperial crises. “I am not determining a point of law,” he reminded his fellow parliamentarians, “I am restoring tranquility.” To destroy that tranquility and the empire it rested on for a matter of abstract principle was to fall victim to a “species of delusive geometrical accuracy in moral arguments” which was itself “the most fallacious of all sophistry.” Such sophistry betrayed the small-mindedness of a pedant. As Burke pointedly remarked, “a great empire and little minds go ill together.”

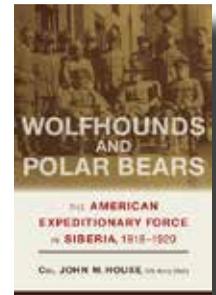
Darren Staloff is professor of history at the City College of New York and director of the Hertog Scholars Program at the Macaulay Honors College of the City University of New York. He is the author, most recently, of *Hamilton, Adams, Jefferson: The Politics of Enlightenment and the American Founding* (Hill and Wang).

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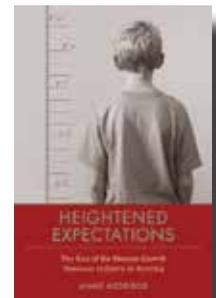


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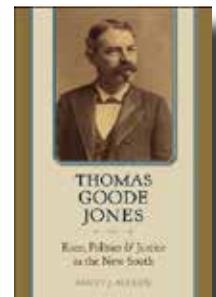


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