

Lesson 4

Colonial Government— Basic Rights and Constitutional Government

Chapter 2



Key Terms

Boston Massacre	Massachusetts Body of Liberties
Boston Tea Party	Mayflower Compact
committees of correspondence	minutemen
constituents	primogeniture
covenant	Quartering Act
Declaration of Independence	Seven Years War
established religion	Sons of Liberty
First Continental Congress	sovereignty
Fundamental Orders of Connecticut	Stamp Act Congress
governor	suffrage
indentured servant	Tea Act
Intolerable Acts	The Laws and Liberties
legislatures	writ of assistance
magistrate	

What You Will Learn to Do

- Form an opinion about how the Declaration of Independence reflects your ideas about the purpose of government and protection of individual rights

Linked Core Objectives

- Communicate using verbal, non-verbal, visual, and written techniques
- Apply critical thinking techniques

Skills and Knowledge You Will Gain Along the Way

- Explain how differences between colonial America and Europe affected the Founders' beliefs about government and individual rights
- Consider how you, as a citizen today, would view the limitation of many rights to white, male, property owners
- Show how the Declaration of Independence justified the arguments for separation of the colonies from Great Britain
- Examine what the Declaration of Independence says about the purpose of government and protection of individual rights
- Define key words contained in this lesson

Introduction

In this lesson you consider why the American colonists who founded your country decided to seek independence from England. You examine how the Founders carefully crafted the Declaration of Independence to summarize their reasons for seeking independence and to lay the groundwork that would give us a government that would better protect our rights. Finally, you have an opportunity to judge if the rights the American colonists worked to protect measure up to today's equal rights expectations.

Colonial Settlement of America Inspired New Experiments in Constitutional Government

Almost half of our history as a people—over 150 years—took place before we gained our independence in 1776. This history had a great influence on the Founders. The many thousands of immigrants in the seventeenth and early eighteenth centuries came to America for various reasons. The most common were economic and religious. The English colonists brought with them English customs, laws, and ideas about good government. They were separated from England, however, by 3,000 miles of ocean. Consequently, the colonists soon discovered that they would have to improvise, adapt old ideas, and develop new ones if they were to survive.

In some respects, the settlement of America meant a return to a state of nature as later described by the natural rights philosophers. This new experience required new political solutions. One of our country's oldest and most famous charters, the **Mayflower Compact**, was a **covenant** or social contract, to which the Pilgrims agreed prior to landing in Plymouth, Massachusetts, in 1620. The Compact established a civil body authorized to make laws and appoint officers.

Key Note Term

Mayflower Compact—an agreement signed in 1620 by all adult males aboard the ship *Mayflower*, before landing in Plymouth, to form a body of politic governed by majority rule

covenant—a binding agreement made by two or more persons or parties



How does the Mayflower Compact reflect the principle of government by consent or social contract?

Courtesy of the Library of Congress.

Figure 2.4.1: The Mayflower Compact that established a civil body to make laws and appoint officers was in place before the Pilgrims landed at Plymouth Rock.

Courtesy of Bettmann/Corbis Images.



Understanding the Uniqueness of the American Experience

The special conditions of an undeveloped land profoundly affected economic, social, and political life in colonial America. Land was cheap and readily available. People available to till this land or perform other jobs in colonial society were always in short supply.

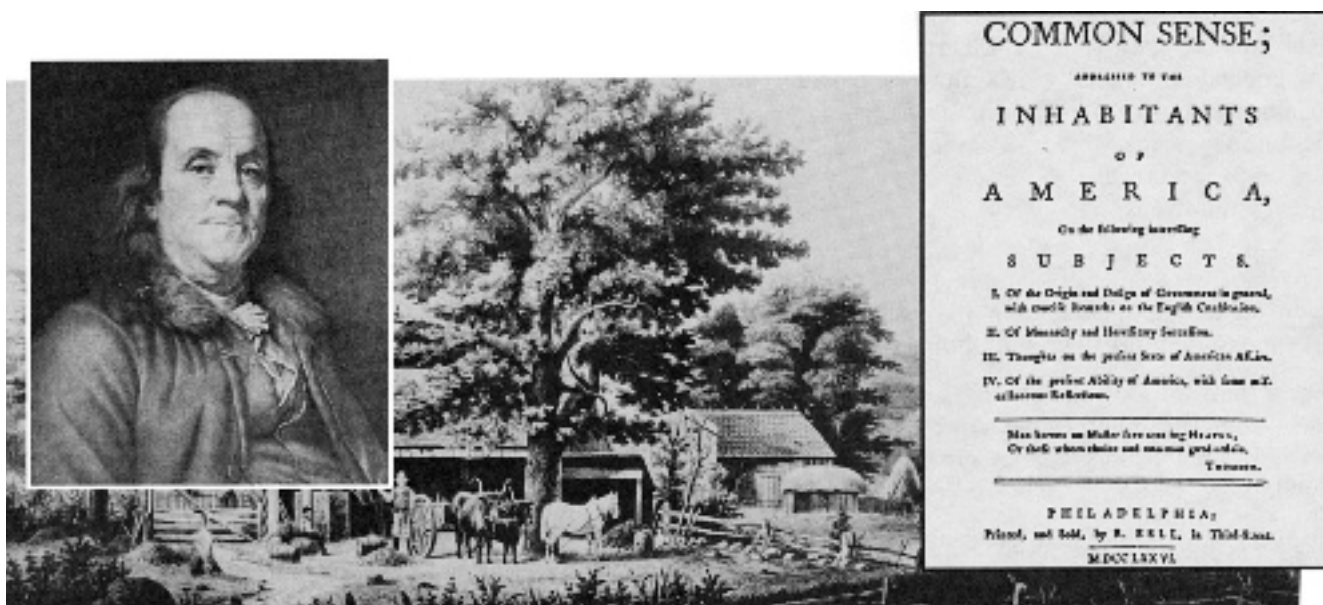
Cheap land and the great demand for workers meant that most American colonists had far greater opportunities to get ahead and achieve prosperity than most people in Europe. While some became very wealthy, others failed, creating a class of American poor. But the great majority realized at least a moderate prosperity that was beyond their reach in Europe. Almost any white man with ambition could gain the 50 acres of land required as a qualification to vote in most colonies.

There was no nobility whose social and economic status was protected by law. In Great Britain laws prohibited the sale and distribution of property attached to a noble title; it had to be handed down to eldest sons—the right of **primogeniture**. Because economic and political power was based on this property, generations of noble families had a privileged status in English government and society.

It is true that those people who came from educated British families or those with great personal wealth had an advantage over those who arrived in the colonies almost penniless and unknown. But wealth and family name did not mean automatic success in a land without a rigid class system; and the lack of these advantages rarely held back for long those with ambition. The carpenter and brick mason, for example, enjoyed modest social status in England. The constant demand for new buildings in America, however, allowed such craftsmen to earn a living equal to many of their social “superiors.” A well-born gentleman from Europe who considered hard work or manual labor beneath him might have a difficult time surviving in the colonies.

Key Note Term

primogeniture—the condition of being the first-born child; in law, it refers to the right of the eldest son to inherit all of his parent’s estates



How did life in the American colonies break down the social and economic barriers so common in Europe?

Courtesy of the National Archives, Library of Congress.

Thus, there was greater equality among Americans than among Europeans in their economic, social, and political life. While some upper class Americans might not have liked this situation, equality of opportunity and the chance to better one's position in life became fundamental ideals in the American experience. In this land of almost unlimited opportunity, one of a candle maker's 17 children, Benjamin Franklin, could rise to become a great inventor, statesman, and diplomat. An English corset-maker's son, Thomas Paine, could become a famous writer on behalf of the American Revolution. Alexander Hamilton, the illegitimate son of poor parents, could become the first Secretary of the Treasury of the newly formed United States.

Examining an Original Document about Colonial Life

In the mid-eighteenth century a colonial farmer, Philip Taylor, wrote about his life on the border of what today is the state of Vermont. Read what he wrote and then be prepared to discuss your answers to the questions that follow.

We now have a comfortable dwelling and two acres of ground planted with potatoes, Indian corn, melon, etc. I have 2 hogs, 1 ewe and a lamb; cows in the spring were as high as 33 dollars, but no doubt I shall have 1 by fall. I am living in God's noble and free soil, neither am I slave to others. . . I have now been on American soil for two and a half years and I have not been compelled to pay for the privilege of living. Neither is my cap worn out from lifting it in the presence of gentlemen.

1. What was it that Philip Taylor liked about life in America?
2. What rights did he enjoy? How are they related to the ideas of the natural rights philosophers? Do you enjoy these rights today?

3. Given what you know of Philip Taylor's experiences, explain why he would be more or less likely to favor laws that
- guarantee each individual the right to be secure in his property
 - limit an individual's right to buy and sell goods to anyone he or she chooses
 - give people certain rights because they are wealthy or from a certain family background or group

Basic Ideas of Constitutional Government Used by Colonial Governments

The colonies were originally founded by charters or grants given to private groups or individuals. These charters and grants said little about what form of local government the colonies should have. As a result, the colonies developed their own forms of government and America became a fertile ground for constitution making. The colonies depended more on written constitutional arrangements than was the case in England, whose own unwritten constitution represented centuries of evolution.

In creating such limited government, the colonists tried to protect themselves not only from abuse of power by the English government in London, but also from abuses by colonial governments themselves. The first governments of many of the colonies lacked constitutional restraints that were later seen as essential. Some of the early colonial governments persecuted those who refused to conform to the **established religion**. Resistance to religious persecution in the colonies became an important stimulus to the advancement of constitutional ideas and institutions.

There are many stories of religious dissenters who were persecuted in these early years. Anne Hutchinson, a brilliant and talented woman, arrived in Massachusetts in 1634 with her husband and seven children. She gained great respect as a midwife, healer, and spiritual counselor. Before long she began preaching a theory of salvation that was contrary to the official Puritan beliefs. Not only was she a dissenter but as a woman she was particularly offensive to the male leaders of the community. Brought to trial, she was cast out of the colony as “a heathen and a leper.”

Hutchinson fled Massachusetts to Rhode Island where religious dissenters were tolerated. It was the first colony to grant freedom of conscience to everyone. The Charter of 1663, provided that “noe [sic] person . . . shall bee [sic] any wise molested, punished, disquieted, or called in question, for any differences of opinion [sic] in matters of religion.” Jews, Quakers, Catholics, and others not welcomed elsewhere found a haven in Rhode Island.

Others were inspired by constitutional values early on. The first colonial constitution was the **Fundamental Orders of Connecticut**, created in 1639, by three town settlements along the Connecticut River. Deriving its authority from all free men living in these towns, this constitution established a central legislative body for making laws. The other colonies would adopt constitutional arrangements of their own in the years that followed.

Key Note Term

established religion—an official, state-sponsored religion

Key Note Term

Fundamental Orders of Connecticut—adopted in 1639, this series of laws is the first written constitution in North America



Why is it important to protect the right to dissent?

Some of these experiments were successful; others failed or had to be revised many times before they became practical. The forms of colonial government varied somewhat from colony to colony. They all, however, shared certain basic constitutional principles. These principles generally reflected the influence of England but in some ways they differed. The ideas of British constitutionalism embodied in the governments of the British colonies follow.

Fundamental Rights

The colonists were concerned foremost with protecting those fundamental rights they believed they had brought with them from England. At first these basic rights were seen as the ancient and fundamental rights of Englishmen. These basic rights were later described as the rights of all men. They were defined by the natural rights philosophers as the natural rights to life, liberty, and property.

Rule of Law

To protect their fundamental rights, the colonists insisted on the creation of a government of laws, in which those responsible for making and enforcing the laws could not exercise arbitrary power as had been the case in some of the first colonial governments. The colonial constitutions also included the idea that the English law was higher law and was superior to any laws the colonial governments might make.

Separation of Powers

To a greater extent than in the British government, colonial governments provided for a separation of powers among the three branches of government. In colonial governments the three branches tended to be more independent of each other. Separation of powers was evident in the following ways:

- ***An executive branch.*** ***Governors were responsible for carrying out and enforcing law. In most of the colonies by the time of the American Revolution, the governors were chosen either by the monarch or the proprietors. Only in Connecticut and Rhode Island were the governors elected by those men in the colonies who were allowed to vote.***

Key Note Term

governor—the manager or administrative head of an organization, business, or institution

Key Note Term

legislatures—an officially elected or otherwise selected body of people vested with the responsibility and power to make laws for a political unit, such as a state or nation

magistrate—a lower-level judicial officer, usually elected in urban areas, who handles traffic violations, minor criminal offenses, and civil suits involving small amounts of money

- **A legislative branch.** All the colonies had *legislatures* that were responsible for making laws. All but Pennsylvania were similar to the Parliament in Britain with an “upper house” such as the House of Lords and a “lower house” such as the House of Commons. Members of the upper house were either appointed by the governor or elected by the most wealthy property owners of the colony. The lower house was elected by all the men in the colony who owned a certain amount of property. Pennsylvania was an exception; it had only one house. More independent of the executive branch than the British Parliament, the colonial legislatures would eventually become the strongest of the three branches of government.
- **A judicial branch.** This branch was made up of judges called *magistrates* who were usually appointed by the governor. Their responsibility was to handle conflicts over the laws and to preside at trials of those accused of breaking the law. They also were responsible for making sure the colonies were being governed in a way that was consistent with English law and tradition.

Checks and Balances

Power was separated and in some cases shared among these branches, so that the use of power by one branch could be checked by that of another. That is, the power of one branch could be opposed and therefore limited by the power of another branch. The powers of the governors were checked because they could not

- collect taxes without the consent of the legislature
- imprison people without a trial by a magistrate
- set their own salaries

The legislatures’ powers were checked by

- reliance on the governor to enforce the laws that they passed



How did early colonial governments reflect the ideas of English constitutionalism?

Courtesy of the Library of Congress.

- the power of the judges to make sure they did not make laws that violated those of England
- the veto power held in some colonies by the governor

The powers of the judges were checked by

- their being appointed by the governor
- the governor or legislature having the power to remove them if their decisions seemed inappropriate
- their reliance on the governor to enforce their decisions
- the basic right of every Englishman to a trial by a jury of his peers from the community

Representative Government and the Right to Vote

One of the most important constitutional developments during the colonial period was the growth of representative institutions in government. Representative government began soon after the first

colonies were established. The first representative assembly was held in Virginia as early as 1619. The right of colonists to elect representatives was seen as a way to

- reduce the possibility that members of government would violate the people's rights
- make sure that at least a part of the government could be counted on to respond to the needs and interests of the people, or at least of those people who had the right to vote. It also established firmly the principle that those governed could not be taxed without their consent or that of their representatives.

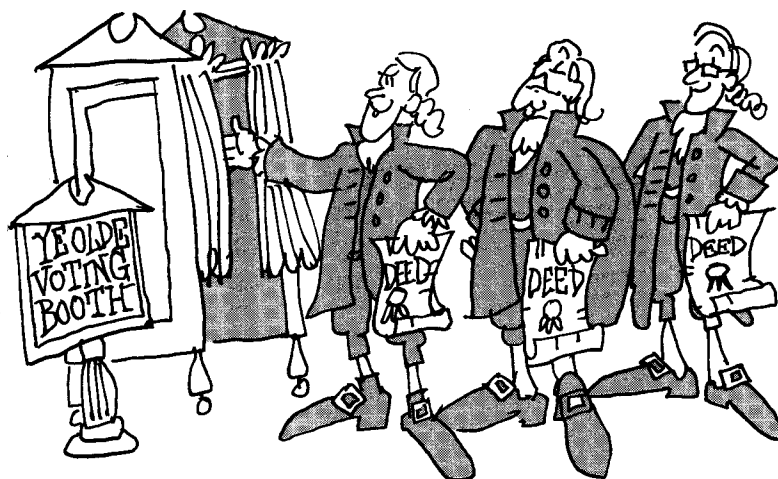
Why Colonial Governments Became More Representative than Britain's

Similar to their English counterparts, the American colonists believed that the security of life and liberty depended upon the security of property. Thus, property had to be protected. This explains why in the colonies as well as England there was a property requirement for the enjoyment of political rights like voting. If one of the purposes of government was to protect property, it seemed reasonable to limit **suffrage** to those who possessed at least a small amount of property.

Fifty acres was the usual requirement for voting in the colonies. Because land was easily acquired in America, the body of eligible voters was proportionally larger than in England and the colonial legislatures were accordingly more representative. The economic opportunities in America meant that a larger proportion of colonial society enjoyed political rights than was the case in England.

There were other important differences between elections to the colonial legislatures and those to Parliament. More colonial elections offered the voters a choice of candidates. The colonial legislators were elected more frequently than members of Parliament, who usually faced reelection only once in seven years.

Unlike their British counterparts, colonial legislators usually came from the districts they represented and were considered to be the agents of their **constituents'** interests. By the time of the Revolution, members of the British Parliament, on the other hand, were said to be representative of the interests of the nation as a whole. The colonists were considered part of the British nation; therefore, the British argued, the colonies were represented in Parliament (see Figure 2.4.2).



Key Note Term

suffrage—the right to vote

Key Note Term

constituents—the people represented by an elected official

Figure 2.4.2: Why did more people in America enjoy the right to vote than in England?

Courtesy of the Center for Civic Education.

The Basic Rights Most Americans Enjoyed

The royal charter that established the Jamestown colony in Virginia in 1607 declared that

[T]he persons that shall dwell within the colony shall have all Liberties as if they had been abiding and born within this our realm of England or any other of our said dominions.

Similar guarantees were included in the royal charters establishing Massachusetts, Maryland, and other colonies. Such guarantees echoed the ideals of the Magna Carta—that all Englishmen, wherever they went, enjoyed certain fundamental rights, which needed to be confirmed from time to time in official documents.

Key Note Term

Massachusetts Body of Liberties—a document that described the rights of citizens and the authority of public officials



Why did the American colonists believe they enjoyed the same rights they had in England?

Courtesy of the Library of Congress.

This tradition became a fundamental part of American constitutionalism and led eventually to the U.S. Bill of Rights. The first of the colonial charters of rights was the **Massachusetts Body of Liberties**, adopted in 1641. This charter secured the rule of law and protection of basic rights of persons living in that colony against any abuse of power by the colony's magistrates. In some respects this document was America's first bill of rights.

No man shall be arrested, restrayned, banished nor anywayes punished . . . unless by vertue of some express laws of the country warranting the same.

The Body of Liberties guaranteed trial by jury, free elections, and the right of free men to own property. It also made it illegal for government to take property away without fair compensation. It prohibited forced self-incrimination as well as cruel and unusual punishment, rights that later were incorporated into the U.S. Bill of Rights. Although it limited suffrage in Massachusetts, the Body of

Liberties granted nonvoters certain political rights, including the right of petition, which was to become part of the First Amendment.

Similar chartered guarantees of basic rights were later passed in other colonies. In addition to such guarantees as freedom from illegal arrest, trial by jury, and no taxation without consent, Pennsylvania's first constitution provided for freedom of conscience. By the eighteenth century all of America's colonies had come to acknowledge this basic right, though in some colonies full enjoyment of political rights remained restricted to those belonging to the established religion in the colony.

Most of these charters guaranteed rights that were familiar to English law. Sometimes they went even further than English law. The Massachusetts Body of Liberties,

for example, was followed seven years later by an even more comprehensive code of laws, called **The Laws and Liberties** (1648). This code abolished the laws of primogeniture. It also provided more humane treatment of convicted criminals and debtors and simplified the judicial process.

Points to Ponder

1. Did the colonists enjoy a greater degree of representation in their local governments than British citizens had in Parliament? Why or why not?
2. Why were voting rights limited to men of property in the colonies and England despite the belief in representative government?
3. In what ways did the colonists' experience with limited self-rule for over 150 years affect their ideas about government?

Did All Americans Enjoy These Rights?

Not all Americans, however, enjoyed the rights that had been secured in the colonial constitutions. In some colonies the right to vote or hold office remained restricted to male Protestants, in others it was restricted to those who belonged to the established state religion.

Women were denied political rights. Colonial laws limited their ability to own property and manage their own legal and personal affairs. Although laws varied in different colonies, women usually had the legal status of underage children. When they married, they lost most of their legal identity to their husbands. According to English law,

The husband and wife, are one person . . . the very being or legal existence of the woman is suspended during the marriage.

There were also in the colonies a large number of **indentured servants**, most of them white, who were little better than slaves while they completed their period of service. The most glaring example of the violation of rights was the permanent enslavement of Africans, which had become well established in the American colonies by the eighteenth century. Slaves, who made up 20 percent of the population at the time of the Revolution, were treated as property and thus denied their basic human rights. Much of the prosperity enjoyed by colonial Americans came from slave labor.

The contradiction between the colonists' demands for liberty and their continued tolerance of slavery was often noted by the British at the time of the American Revolution. As one English observer asked, "*How is it that we hear the loudest yelps for liberty among the drivers of negroes?*"

The Reverend Samuel Hopkins criticized his fellow Americans for "*making a vain parade of being advocates for the liberties of mankind, while . . . you at the same time are continuing this lawless, cruel, inhuman, and abominable practice of enslaving your fellow creatures.*"

Key Note Term

The Laws and Liberties—code that abolished the laws of primogeniture and provided a more humane treatment of criminals

Key Note Term

indentured servant—voluntary servants who sold their labor for a period of four to seven years in exchange for passage to America

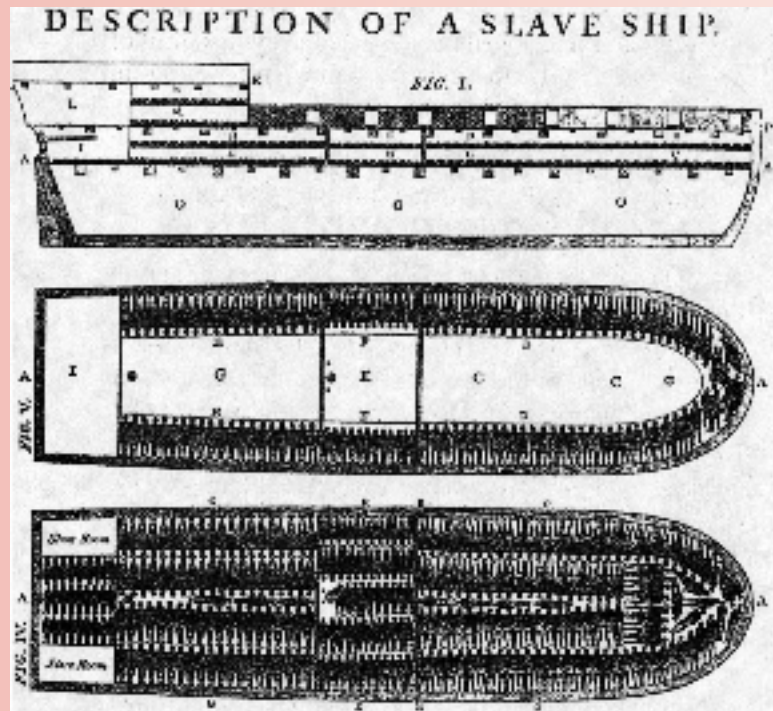
Evaluating the Institution of Slavery by Using the Natural Rights Philosophy

Twenty percent (700,000) of the 3,500,000 people living in the colonies in 1776 were enslaved Africans. Slavery flourished in the plantation economy of the southern colonies, but existed elsewhere and was legally recognized throughout the colonies. New York City had a significant slave population, as did New England.

There was some opposition to slavery among the population of free citizens as well as among the slaves themselves. Some opponents sought its peaceful abolition; others were willing to use violent or illegal means.

How does this diagram of a typical slave transport vessel show the inhumanity of the slave trade?

1. How might the natural rights philosophy be used to oppose slavery in the colonies?
2. How might the supporters of slavery also have appealed to the natural rights philosophy to justify their cause?
3. Is slavery compatible with the natural rights philosophy? Explain.



How does this diagram of a typical slave transport vessel show the inhumanity of the slave trade?

Courtesy of the Peabody Museum of Salem.

How the Colonial Experience Prepared Americans for Independence

By the time Americans became independent, they had acquired more than 150 years of experience in self-government at the local level. Such self-government had become necessary because of the colonies' distance from the government in England. This long experience in self-government would become invaluable in building a new nation.

The colonists had adapted the governmental institutions and constitutional principles inherited from England to meet their own special needs. They had created colonial constitutions that embodied such important principles as the rule of law and a separation of powers between the executive, legislative, and judicial functions of government, thus limiting the power of government through checks and balances.

Perhaps most important to America's future were the legacies of strong representative government and written guarantees of basic rights. As they developed, colonial legislatures became more representative and independent than the British Parliament. Colonial charters guaranteeing fundamental rights became treasured reminders of the colonists' constitutional inheritance.

Together, these two traditions of representative government and written guarantees of rights would provide a basis for the American Revolution.

Ask Yourself . . .

1. In what ways were eighteenth-century American and British societies similar or dissimilar in terms of the rights of individual liberty, equality of opportunity, and property?
2. What effect did colonial experiences have on the Founders' views about rights and government?
3. In what ways were liberty and opportunity for women and minorities restricted because of limited property rights in eighteenth-century America?
4. Do you think the same degree of social and economic opportunity exists for immigrants to America today? What has remained the same? What has changed?

Britain's New Policy toward the Colonies

After 1763, several factors caused the British to exert more control over the American colonies than in the previous 150 years. Britain had incurred large debts in its great victory over the French in the **Seven Years War** of 1756–1763. In North America this war was known as the French and Indian War. The British government was under heavy pressure to reduce taxes at home. To the British ministers this meant the American colonists paying a fair share of the war debt. Between the end of the war in 1763 and the Declaration of Independence in 1776, Britain tried to increase control of the colonies. To reduce tensions with the Native Americans, the British government passed a law forbidding the colonists from settling in the western territories. To raise revenue, the government increased control of trade and customs duties. The Stamp Act of 1765, introduced a new kind of tax on the colonists by

Key Note Term

Seven Years War—a series of dynastic and colonial wars between England and France; the American phase, fought between 1754 and 1764, is known as the French and Indian War



Why were the colonists angered by the Stamp Act of 1765?

Courtesy of the Metropolitan Museum of Art, New York.

Key Note Term

Sons of Liberty—an organization of radicals created in 1765 in the American colonies to express colonial opposition to the Stamp Act

Stamp Act Congress—a meeting in New York in 1765, of twenty-seven delegates from nine colonies, the congress was the first example of united colonial action in the developing struggle against Great Britain

Quartering Act—also known as the Mutiny Act, the law passed by Parliament that authorized colonial governors to requisition certain buildings for the use, or “quartering” of British troops

imposing duties on stamps needed for official documents. To the British these measures seemed reasonable and moderate, but they had a common flaw. They lacked a fundamental principle of the natural rights philosophy—the consent of the governed.

The Colonists Resist British Control

Generations of colonists had grown used to very little interference from the British government in their affairs. The new policies meant a change in these conditions. Although some colonists accepted the new measures, many others resisted. New trade restrictions and taxes meant some colonists would lose money. Perhaps more important, the new regulations challenged their belief in representative government. Locke had said,

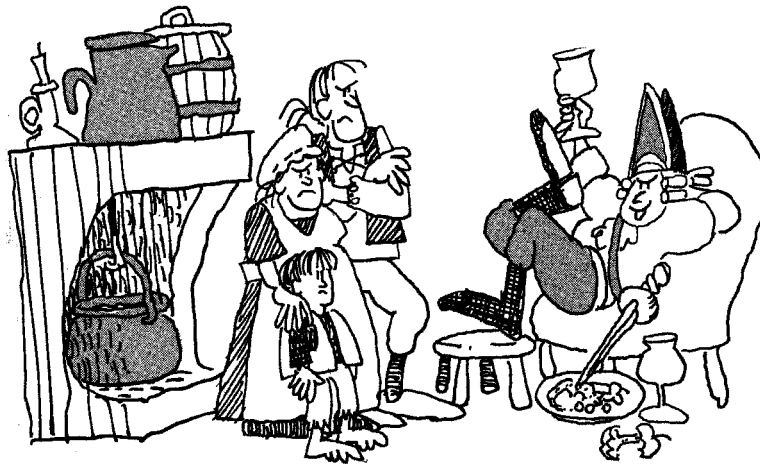
. . . the supreme power cannot take from any man any part of his property without his own consent . . . ,

that is, the consent of the majority, given it either by themselves or their representatives chosen by them.

The colonists believed that each man had a natural right to life, liberty, and property. Consequently, they thought that tax laws should only be passed in their own colonial legislatures, in which they were represented. “No taxation without representation” had become an established belief of settlers in the American colonies.

Colonists calling themselves the **Sons of Liberty** rioted against the Stamp Act. Representatives from the colonies met in the **Stamp Act Congress** to organize resistance—the first such gathering in American history. The British government’s response created new grievances. For example, the **Quartering Act** of 1765, forced the colonists to shelter British soldiers in their homes. To the colonists this violated a basic guarantee of the Petition of Right.

Colonists charged with various crimes were transported to England for trials that were frequently delayed. The **Boston Massacre** of 1770, helped convince many Americans that the British government was prepared to use military and arbitrary rule to force the colonists into obedience. The **Tea Act** of 1773, reasserted the right of Parliament to tax the colonists and led to the **Boston Tea Party** (see Figure 2.4.3). The British government responded angrily with what were called the **Intolerable Acts**, closing Boston harbor to all trade. These measures attacked representative government in Massachusetts by giving more power to the royal governor, limiting town meetings, weakening the court system, and authorizing a massive occupation of the colony by British troops.



What basic rights are violated when the government orders private citizens to “quarter” soldiers?

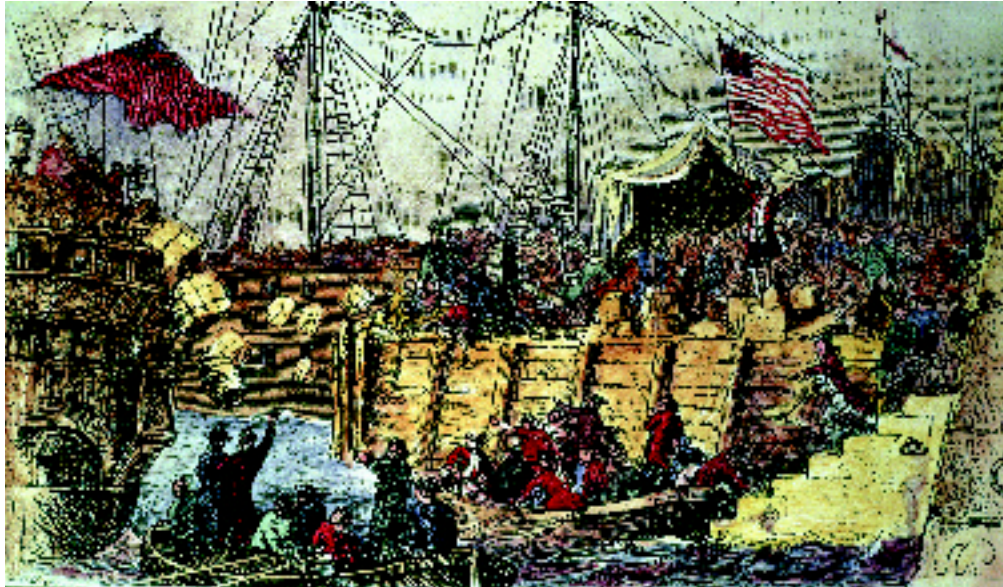


Figure 2.4.3: Do you think Locke would have supported the colonists' actions in the Boston Tea Party? Why? Why not?

Courtesy of Bill Jacklin/Bridgeman Art Library.

Key Note Term

Boston Massacre—on March 5, 1770, a mob of colonists harassed British soldiers guarding the tax collector's office in Boston; soldiers killed five Bostonians

Tea Act—the act by Parliament that conferred upon the East India Company, a monopoly importation of tea into the mainland colonies, thus eliminating the profits of the colonial importer and shopkeeper

Boston Tea Party—in an act of rebellion against British authority, and in particular to protest British taxes on tea imported to the colonies, a band of colonists boarded ships in Boston Harbor and destroyed thousands of dollars' worth of tea by throwing it overboard

Intolerable Acts—parliament replied to the Boston Tea Party with the five Coercive Acts of 1774: the colonist dubbed them the “Intolerable Acts” and were important factors contributing to the American Revolution

Key Note Term

writ of assistance—a document giving a governmental authority the power to search and seize property without restrictions

Identifying Violations of Rights

Each of the following situations is based on the experiences of colonists in America. Each has at least one British violation of a right that Americans thought they should have. If you had been an American colonist at the time, what rights would you claim on the basis of such experiences?

1. Your name is Mary Strong. You have lived in Charlestown most of your life and have strong feelings about how Massachusetts is being governed. Whenever you speak your mind freely, you find yourself arrested and put in an iron device that fits over your head like a mask to prevent you from talking.
2. Your name is Elsbeth Merrill. While you were baking bread this afternoon and awaiting the return of your husband, an agent of the king arrived to inform you that you must shelter four British soldiers in your home.
3. Your name is Lemuel Adams and you have a warehouse full of goods near Boston Harbor. The king's magistrate gives British officials a **writ of assistance** that enables them to search all homes, stores, and warehouses by the harbor to look for evidence of smuggling.
4. Your name is James Otis. You represent colonists who have been imprisoned and are being denied their right to a trial by a jury from their own communities. You argue that to deny their traditional rights as British subjects is illegal because it violates the principles of the British constitution. The royal magistrate denies your request and sends the prisoners to England for trial.
5. Your name is William Bradford. You have been arrested and your printing press in Philadelphia destroyed for printing an article criticizing the deputy governor. In the article you said the governor was like "a large cocker spaniel about five-foot five."



Should publishers be prohibited from printing criticisms of government leaders? Why? Why not?

Colonists Organize to Resist British Control

Committees of Correspondence were formed to publicize colonial opposition and coordinate resistance throughout the colonies. In the fall of 1774, 12 of the 13 colonies sent representatives to a meeting in Philadelphia to decide on the best response to the actions of the British government. The meeting was the **First Continental Congress**. Its members agreed to impose their own ban on trade with Great Britain in an attempt to force the British government to change its policies toward the colonies. British officials, however, considered that decision an act of irresponsible defiance of authority and ordered the arrest of some leading colonists in Massachusetts.

By this time many of the more radical colonists, especially in New England, were beginning to prepare for war against Great Britain. They believed it was the right of the people to overthrow any government that no longer protected their rights. The colonists formed civilian militia of **Minutemen**, supposedly ready at a minute's notice to respond to the British attack that everyone expected.

On April 19, 1775, British troops tried to march to Concord, Massachusetts, where they had heard that the Minutemen had hidden arms and ammunition. The colonists were alerted by Paul Revere and William Dawes who rode through the countryside warning people that the British were about to attack. On that day, at the towns of Lexington and Concord, war broke out between the colonies and Great Britain—the “shot heard around the world” had been fired.

Key Note Term

Committees of Correspondence—formed to publicize colonial opposition and coordinate resistance throughout the colonies

First Continental Congress—the body of delegates representing the colonies that first met to protest British rule and that eventually became the government of the United States

Minutemen—civilian armies of the American Revolution, so called because of their readiness for battle



What ideas were used to justify the Revolutionary War?

Courtesy of the National Archives.

Understanding the Purpose of the Declaration of Independence

Key Note Term

Declaration of Independence—the declaration of the Congress of the Thirteen United States of America, on the 4th of July, 1776, by which they formally declared that these colonies were free and independent States, not subject to the government of Great Britain

sovereignty—the ultimate, supreme power in a state; in the United States, sovereignty rests with the people

With Americans fighting the British, Richard Henry Lee of Virginia introduced a resolution in the Continental Congress on June 7, 1776, that called for a declaration of independence. The **Declaration of Independence** was accordingly drafted by Thomas Jefferson. The Declaration announced the final, momentous step in the colonies' resistance to the British government. It challenged the **sovereignty** of the crown.

Every state, no matter what its form of government or constitution, must have an authority beyond which there is no appeal. Sovereignty means that supreme authority in a state.

Sovereignty in Britain rests in the British Parliament. Parliament can, as some have said, "do anything but make a man a woman." It could, if it wished, repeal the English Bill of Rights or the remaining guarantees of Magna Carta or in other ways change Britain's unwritten constitution. Parliament would not likely use its sovereign power in such ways because of respect for the unwritten constitution by its members and by the British people as a whole.

Rebellion against the sovereignty of a government to which the colonists and generations of their forbears had sworn allegiance was a serious matter. Members of the Continental Congress believed it important to justify this action to other nations, to win both sympathy and active support.



Why did colonial leaders believe a formal declaration of independence was needed?

Courtesy of the National Archives.

The Main Ideas and Arguments of the Declaration

The Declaration of Independence is the best summary available of the colonists' ideas about government and their complaints about British rule. It does not make an appeal on behalf of the king's loyal subjects to the fundamental "rights of Englishmen." The Declaration renounces the monarchy itself and appeals to those natural rights common to all men and women everywhere. It identifies sovereignty with the people.

1. **The rights of the people are based on natural law that is a higher law than laws made by men. Its existence is "self-evident." It is given by God and is "unalienable." Neither constitutions nor governments can violate this higher law. If a government violates the law and deprives the people of their rights, they have the right to change that government or abolish it and form a new government.**
2. **A compact or agreement existed between the colonists and the king. By the terms of this compact, the colonists consented to be governed by the king—deriving his "just powers from the consent of the Governed"—so long as he protected their rights to "life, liberty, and the pursuit of happiness."**
3. **"Whenever any form of government becomes destructive of those Ends" for which government is created, it is the right of the people to "alter or abolish it" and to create a new government that will serve those ends.**
4. **The king had violated the compact by repeatedly acting with Parliament to deprive the colonists of those rights he was supposed to protect. These violations and other abuses of power, the Declaration argued, suggest the creation of an "absolute Tyranny" over the colonies by a "Tyrant" who is "unfit to be the Ruler of a free People." He is accused of:**
 - seeking to destroy the authority of the colonial legislatures by dissolving some and refusing to approve the laws passed by others
 - obstructing the administration of justice by refusing to approve laws for support of the colonial judiciary and making judges dependent on his will alone
 - keeping standing armies among the people in time of peace without the approval of the colonial legislatures
 - quartering soldiers among the civilian population
 - imposing taxes without consent
 - depriving colonists of the right to trial by jury
 - attacking the colonial charters, abolishing laws, and changing fundamentally the constitutions of colonial governments.
5. **The colonists therefore had the right to withdraw their consent to be governed by the king of Great Britain and to establish their own government as "Free and Independent States . . . absolved from all allegiance to the British Crown."**



What problems did the newly independent states face?

Courtesy of the National Archives.

The American Revolution Impacts American Constitutionalism

During the first years of independence, the grievances that had persuaded the American colonists to seek independence had an effect on how Americans shaped their state and national governments. The abuses of power by the British government made them distrustful of strong central government and strong executive power. The violation of such fundamental rights such as the following convinced them to secure these rights by formal declarations in the new state constitutions and eventually in the U.S. Constitution.

- **Freedom of speech and assembly**
- **Trial by jury**
- **Security from illegal search and seizure of property, and**
- **Protection from military rule**

What Do You Think?

1. The Declaration of Independence states that people have a right to abolish their government. Under what circumstances, if any, do you think such an action is justified? Would the Founders agree?
2. Would the Declaration of Independence justify a state leaving the union if a majority of its citizens wished to do so? Why or why not?
3. What was the intended audience for the Declaration of Independence? Does this focus explain the Declaration of Independence's appeal to "natural rights" instead of to "rights of Englishmen"?

Conclusion

This lesson described how the basic ideas of constitutional government were developed and used in the American colonies before they gained their independence from Britain. You learned about social and economic conditions that were special to America. These conditions sometimes required old ideas to be adapted or discarded. Sometimes the creation of entirely new solutions was necessary.

You learned about the early development of America's own traditions of constitutional government. You should be able to explain how the differences between colonial America and Europe affected the Founders' political views. You also should have a better understanding of why the American colonists attached special importance to such constitutional principles as written guarantees of basic rights and representative government.

You also learned that the growth of the American colonies raised issues that were difficult to resolve peaceably. You considered the circumstances that produced the Declaration of Independence, as well as the major ideas about government and natural rights included in that document.

You should be able to describe British policies toward the colonies that the American colonists believed violated basic principles of constitutional government. You also should be able to explain the reasons why Americans resisted these policies and how this resistance led to the Declaration of Independence. Finally, you should be able to describe the arguments justifying the separation of the colonies from Great Britain that are found in the Declaration of Independence.

Next, you will learn about state constitutionalism. You will learn about the similarities and differences between state and national constitutionalism.

Lesson Review

1. What was the Mayflower Compact? Why was it drafted? How does it reflect the idea that government should be based on consent?
2. How would you describe the economic, social, and political conditions of life in colonial America? How were these conditions important in the development of American ideas about government?
3. What examples can you identify of written guarantees of basic rights in colonial America? How were these written guarantees important in the development of Americans' ideas about government?
4. How would you explain the term "sovereignty"? What was the conflict between Great Britain and the colonies over sovereignty? How was this conflict resolved?
5. What are the basic ideas and arguments set forth in the Declaration of Independence? Why was it written?