BRITISH COLONIAL TAXATION

D. Morgan Pierce

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BRITISH COLONIAL TAXATION POLICY

The estrangement leading to the American Revolutionary War perhaps started from British economic oppression. However, the colonists might have exaggerated grievance over British taxation as a plausible propaganda device.¹ On the contrary, perhaps the British first empire encountered such problems as she had with the colonies because Britain was not parasitic on her colonies. A nation usually expropriates colonial wealth, and taxation is a central device of expropriation. The British colonies were fortunate, in that England, anomalously, did not structure such a colonial relation. Colonies protect themselves from exploitation of their mother countries by concealing their production from the market, refraining from exchange and investment, in order to evade assessment and taxation. The colony thus inflicts on itself insuperable economic stagnation. Exactly because Britain did not tax the colonies, she confronted quite an opposite problem. The colonies wanted to expand their market, they wanted a stable currency, and they wanted to invest in native colonial opportunities.

Britain had been unusually beneficent to her Atlantic colonies; she did not tax them, while communication between colonies and mother country increased. This might have been an anomaly of the Stuart troubles. One nation obtains military superiority over a rival chiefly by virtue of fiscal superiority, and if Britain had perceived fiscal advantage in the Spanish or French colonial exploitation, Britain would have emulated the practice sooner than she did. Spain in particular had profited from her colonies, which had gold and silver; since the British American colonies did not have precious metals, there was no real incentive to imitate Spanish colonization. To the contrary, Britain introduced laws that sheltered colonial production from native English and foreign production; in consequence of this benevolence colonial production grew, in comparison with that of Span or France, spectacularly. In the late colonial period the

colonies had become a major sector of British revenue.

However, in England by 1750 the idea had become popular that colonial prosperity might encourage ideas of independence. This anxiety might support the idea that the chief purpose of British colonial taxation was to weaken the colonies, quite apart from economic benefits of colonial revenue to the domestic British economy. The Wool Act, the Iron Act, the Hat Act, the alterations of the commercial duty laws, and the impoverishment of the tobacco producers when their product was profiting Britain greatly, suggest such an intention in taxation.

This notion is highly peculiar. The intent of these commercial Acts could have been nothing other than to inhibit potential colonial competition in British markets. If so, it would have been irrational; the indefatigable colonial expansion was currently the main cause of British wealth. Prior to the Revolution the wealth of colonial commerce had become as large as that of European commerce, and, unlike the European trade, it was expanding. Taxation would have obstructed commercial profit, diminishing the colonial wealth accruing to Britain. No possibility within the options of British colonial taxation could have augmented derivative colonial wealth. If British taxation had been able to provoke new types of colonial production, colonial production might have increased British and colonial revenue; however, every single British tax initiative exploited the colonial productions already in full development, and thereby injured the capacity of the colonies to produce British wealth.

The British benefit from colonial development derived from the profits and customs duties of colonial commerce. British taxation sought higher fiscal return by taking a greater percentage of the total colonial profit, rather than to expedite a way to increase the total profit while maintaining the conventional proportion of production and profit; the lag between colonial accumulation and total accumulation from colonial trade would merely deplete the resources colonials had for further development. If tax revenue, not taxation, had increased in tandem with growth of colonial production and trade, an amiable transition should have been possible.
As accumulation from the normal trade cycle lagged behind fiscal growth, the expropriation from the imbalance decentralized trade relations. Despite repression, colonial production was growing very quickly, but because it could not possibly have grown as quickly as British national debt, it was inevitable that England would contend with the colonies for the larger part of colonial surplus. The English needed the surplus from profit and taxation to outpace the cost of war, and by the 1750s British colonial taxation seemed indispensable to that purpose.

The Revolutionary War might be interpreted as an early instance of internal capitalistic contradiction. In fundamental Marxist perspective, contradiction derives from overproduction. The capitalist produces so much that his profit margin cannot be sustained unless he destroys much of what he has produced, so that scarcity will revive high market prices. Simultaneously with production surplus, the producing class remains in poverty, denied access to what it produces, because popular purchase would entail higher wages and reduce the market price, to the point that the capitalist does not have enough profit margin to continue production. This sort of contradiction is usually describable in terms of industrial social classes, but the gravamen of the Revolutionary War seems to have been conflict between agricultural colony and proto-industrial mother country.

The fact that American self-taxation after 1790 was far more onerous than British colonial taxation in 1776 seems to contradict the thesis that economic malfunction caused the American Revolution. The British Sugar tax of 1766 was less than the self-imposed American tax of the same after independence. For the exception of Shane’s Rebellion the Americans never revolted against the higher American taxes. Commercial taxation on the basis of the Navigation Acts was considerably higher from 1700 to 1765 than in the prerevolutionary years 1765-1775. This is perhaps a tenuous counterpoint, however, because the colonists accommodated the heavier taxes by

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having evaded them better; confrontation set in when taxes were reduced, but enforced.

The British instituted prohibitions on types of colonial manufacture, but the colonies
did not invest in types of manufacture that were not outlawed. There was perhaps no
internal contradiction of capitalism between Britain and her colonies, for otherwise
this supposedly frustrated capitalistic élan of the colonies ought to have flowed into
permitted enterprises. Colonists did not place colonial intermediaries in London for
colonial trade, nor did the colonies vigorously lobby for permission to trade directly
with other European countries. On the other hand, whereas colonials were unable to
plant advocates in London for commercial affairs, they did position colonial speakers
in London, who were not permitted to speak to English MPs, but who could speak to
English merchants, who could speak in the colonial behalf.3

England did not innovate the Stamp Duty in the colonies; it had operated in
England since 1696. Privy Council had considered imposing it on the colonies for
half a century; its imposition on the colonies had been encouraged from its survival
in England. Nevertheless, during the Stamp Act Crisis colonists had warned that new
measures taken in the colonies might anticipate legal and fiscal innovation on the
native British population, and repeated the same warnings during the Townshend crisis.
To assess the argument, that colonial impositions might forebode changes in native
English government, it would be helpful to review the legality of taxation codes in the
Roman Empire and Catholic Europe, and examine the divergences which the Protestant
Reformation and the Common Law introduced in contradiction of the inherited Roman
Civil Law.

The American colonies at the time of the Stamp Act Crisis had attempted alliance
with the British public by warning that government might be planning to tyrannize the
native English population with the same sort of measures after it had subjugated the
colonies. The prior history of English tax policy might suggest what the motivations

3 Harper, Lawrence A.; Mercantilism and the American Revolution, The Canadian Historical
for colonial taxation might have been, and conversely the ten year attempt at colonial taxation might illumine the psychological intentions in native British taxation. It is plausible that a colonial power might experiment with governmental innovations on its external dependents before it would venture on its own population, because fewer legal or social forces would obstruct a venturesome policy in an immature colony. Such a thought pattern is concordant only with certain intentions of taxation, while completely implausible for others. The legality that animated taxation in the Roman Empire and Catholic Europe served certain purposes that might have persisted through the English Protestant Reformation, or, contrarily, divergences from Western tradition in early British taxation may signify intentions in taxation under Common Law that are quite alien to the Roman heritage.

Pope Boniface VII pronounced that all kings were subject to papal authority; this would have been innocuous if it merely referred to the superiority of the spiritual over the temporal, but it seemed to be presenting the papacy as a universal state, as the descendant of the Roman Empire, in which the various national, temporal Kings were lieutenants of the Pope. The pontifical doctrine of the divine right of kings derived from the Roman conception of the theocratic emperor. Late medieval juridical thought made a distinction between the king’s temporal and spiritual roles. In his spiritual capacity the king was to enforce the Pope’s will in the temporal realm. But the authority of the King was also thought to derive from the king’s having a direct contact with the will of God. This was the idea that originally founded the king’s right to impose taxes ad libitum.⁴ Whereas all other fiscal transactions were subject to audits, the king’s disposal

⁴ Whereas the Church had attributed sacerdotal qualities to kings, the divine right of kings, as it developed in France, deviated from the intentions of the Church. Jean Bodin had conceived of sovereignty as a quality that was necessarily only one, something that could not be shared. The notion of sovereignty conveyed that a monarch could not be subject to the papal will, and be a sovereign at the same time. This supported the notion of the divine right of kings. Cf. Carsten, F.L., editor: The Ascendancy of France 1648-1688, The New Modern Cambridge History, Volume 5, p. 96.
over tax revenue was not restricted by any law whatever. Whereas the Roman emperor was deified, the Medieval King was conceived to have two bodies: the union of Church and State.\(^5\) He was subordinate to the Pope, but in temporal matters his authority was supreme.\(^6\)

Canon Law, developed from Roman Law, eventually dominated the legal systems of all European countries except Britain. The English Common Law had Germanic, not Roman, origins. At the end of the Roman Empire the Roman aristocrats were exempted from taxes. Tax revenue in the Western Empire had declined to the point that neither the army nor the civil service could be financed. The Eastern Empire refused to make the expenditure for the defense of the Western Empire. In the 5th century the Germans occupied Italy. In outlying regions, such as Britain, Roman settlement had not deeply penetrated; Germanic law and culture formed England more than it did in Germany or the older Roman provinces.\(^7\)

Similarly the financial system of the Church was a legacy of the Roman Empire. Church constituted the only universal banking system throughout the medieval period, based on the *monte di pietà*, which developed from its original focus on succoring the poor. The Church had forbidden usury. In its cultural context this made good sense; in a subsistence economy loans were made to destitute people on the verge of starvation, and starvation forced borrowers to accept exploitative loan conditions.\(^8\) The Church’s condemnation of usury did not foresee the function of capital investment, which did

\(^{5}\) Clovis, king of the Merovingian Francs, was crowned at Reims in 496 as King of Francia, the successor to the Roman Empire. The notion that the King never died derives from the supposition that the king has two bodies, one his physical body, and two his existence as head of state. Cf. Jones, Colin; *The Great Nation France from Louis XIV to Napoleon*, Penguin Books, London, 2003, p. 6.

\(^{6}\) Cf. Webber, Carolyn, and Wildavsky, Aaron; *A History of Taxation and Expenditure in the Western World*, Simon and Schuster, New York, p. 236.


\(^{8}\) Cf. Webber, Carolyn, and Wildavsky, Aaron; *A History of Taxation and Expenditure in the Western World*, Simon and Schuster, New York, p. 163.
not exist in biblical or medieval times. Since outside its own institution for poor relief
the Church condemned lending, interest, and taxation, the Church’s sovereignty would
prevent the sovereignty of France and England. 9

Consolidation of national monarchies was a result of money economy. Until the 12th
century armies could be called up only by the king’s reliance on vassals; the soldiers
were serving on the basis of feudal duties. Organization could not be otherwise than
this pyramidal form because economic exchange was conducted through barter.
When money emerged, the possibility arose that one could organize a mercenary
army, independently of one’s vassals. The divine right of kings benefited the early
modern French king in two ways. Only the King had the right to make law; this
power comprised his sole authority to make war and peace, and to institute taxes.
These powers were unregulated by any subjects of the kingdom. Second, only the
King had a right to keep an army. 10 Previous to money, it was nearly impossible for a
king to control more than a small number of vassals, because his army depended on
the soldiers received from his vassals. The king’s total power, vis-à-vis his vassals,
was precarious; by a slight shift of the mixture any one of the vassals could be more
powerful than the king. If the king could accumulate money instead of goods in kind,
he would be able to achieve an irreversible preponderance over his vassals by means of
a mercenary army.

The nobility undertook to manipulate feudal payments in order to amass money;
whoever could accumulate money would advance in power. If the money currency was

9 Rome was receiving more tax revenue from the English than Henry VIII was; the break
with the Church was not so irrational as the episode of Anne Boleyn might convey. The
acquisition of the Church revenue and assets greatly aided the national consolidation of
England. Cf. Adams, Charles; For Good and Evil: The Impact of Taxes on the Course of
10 Finally, the King was the source of justice; his decision overruled the decision of any
judicial procedure and, in the form of lettres de cachet, could imprison anyone at will, without
justification. Cf. Jones, Colin; The Great Nation France from Louis XIV to Napoleon, Penguin
stable, feudal lords would demand payment of feudal dues in money. If the currency was debased, he would demand payment in kind, but would set the price set for the commodity payment far beneath the market price. The feudal landlords would then sell the commodities elsewhere at the higher market price. Feudal lords also forestalled: withholding grain from the market to make the market prices rise.\textsuperscript{11} When village markets developed, Kings and feudal lords charged market taxes payable in money.\textsuperscript{12} The transition from barter to money enabled kings to achieve a decisive dominance; simple shifts in the configuration of loyalties amongst the barons would not produce a new king-of-the-month, because one of the baron-kings would finally have become preponderantly more powerful than combinations of other barons. The capacity to accumulate money with which to employ mercenary armies was the key to this new political stability.\textsuperscript{13}

If the emergent nations had been prohibited from taxation, they could not have consolidated into states. England and France denied the sovereignty of the Pope over temporal jurisdiction, and therein attempted to protect their entitlement to taxation. Pope Gregory VII had tried to deny that kings had any sacerdotal power or authority, but by the late Renaissance this had been reversed in France. The babylonian Captivity intervened; the Pope had changed his location from Rome to Avignon mainly because his life was too much at risk without the protection of the French King. The coronation

\textsuperscript{11} Cf. Webber, Carolyn, and Wildavsky, Aaron; \textit{A History of Taxation and Expenditure in the Western World}, Simon and Schuster, New York, p. 176.

\textsuperscript{12} In 1529 Parliament forbade the payment of tithes to Rome on the ground that the tithes, though intended for the relief of the poor, had impoverished the payers thereof. Neither gold nor silver were naturally located in England, predisposing England to scarcity. The payment to Rome was in gold and silver, with the consequence that their scarcity was inflicting serious harm on English business extraction. The merchants were the principal agents calling for the termination of the tithe, in effect the break with Rome. Cf. Adams, Charles; \textit{For Good and Evil}; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 242.

\textsuperscript{13} Cf. Webber, Carolyn, and Wildavsky, Aaron; \textit{A History of Taxation and Expenditure in the Western World}, Simon and Schuster, New York, p. 166.
ceremony resembled the consecration of the bishop: thereby the King was entitled: évêque du dehors, and became head of the Gallican Church, subordinate only to the Pope. By the Concordat of Bologna, 1516, and afterwards by the Gallican Articles of 1682, the King of France had the power of appointment for all major posts and benefices of the Catholic Church in France.¹⁴ Both the Pope’s claim to universal temporal sovereignty and the contending claims to national sovereignty portended the demise of feudalism.

**ANCIEN RÉGIME TAXATION**

National taxation generally originates with imposition on commerce, not people. In classical and medieval times the direct tax on land had been the main tax revenue, because land was the only medium of accumulation.¹⁵ A poll tax sets in early, and seems quite feasible, but in medieval England and France 60% of the population was deemed too poor to pay a tax. Whereas the poll tax covered the widest tax base and its target was easily identifiable, taxability was very obscure. Commercial taxation identified those who were taxable. The common factor of poll tax, land tax, and commercial tax is surplus. When agriculture develops beyond subsistence to a constant surplus, commerce develops. Since commerce represents the compounded surplus of both agriculture and commerce, it is the most taxable. Agriculture continues in subsistence and barter long after commerce has converted to money economy, with the result that it is far more convenient and feasible to tax commerce than agriculture. If agriculture should have money with which to pay taxes, its money originated from commerce, and money economy in agriculture develops much later than commercial money economy.

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¹⁵ Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 262.
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As mentioned, agricultural revenue tends to remain the same in absolute terms, so that given certain conditions agricultural revenue will be insensitive to change in the remainder of the economy. The King and nobility had depended entirely on agricultural tax revenue. When English commerce expanded, its growth over agriculture manifested itself as inflation, in which commercial prices and profits rose with inflation while agricultural prices and profits remained stagnant. Consequently all who depended on agricultural revenue would experience a loss of purchasing power, although receiving the same payment as before. Fiscal revenue became insufficient. Since agricultural revenue would not increase with inflation, government targeted commerce. The excise tax and the customs duties constituted two thirds of fiscal revenue by the late 18th century. The emergence of a nation required cooperation amongst feudal barons, each of whom was roughly as propertied as the king. Even prior to feudalism, government was equivalent to local management; the medieval manors had developed from the late Roman latifundia. The patrician Romans had withdrawn into massive latifundia, in

17 Although in the early Middle Ages common sense might be followed in supposing that whoever was most powerful should be called “king,” in fact ideas of legality and lineage very quickly filled out the justifications of leading thugs as to who was entitled to what regions; it was extremely rare at any time in the Middle Ages for a potentate to seize territory without any legal pretention at all. The early French Kings were indeed less wealthy and less powerful than many barons. England was not as fractured by this circumstance as France because the duke who conquered England in 1066 immediately pronounced himself King of England, and all of the Norman barons who subsequently occupied English provinces were unequivocally vassals of King William. Cf. Adams, Charles; For Good and Evil; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 213.
18 The late Roman Empire suffered catastrophic inflation. The Roman patriciate converted money into purchase of enormous plantations, because land would hold its value under any conditions. The latifundia enabled them to gain some independence from the general collapse; the latifundia was the prototype of the medieval manor. No development of agronomy followed, however, because the intended economy was subsistence. Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 155.
which they formed their own small armies to defend against invading barbarians. They stopped paying taxes. Common people flocked into the latifundia to exist as proto-serfs, in return for the protection the latifundia provided from the barbarians. All wealth was self-contained from the production of the latifundia, which became the medieval manor. In consequence, the barons who held such manors were economically and politically independent of each other.

The English king enticed his barons into cooperation with national unification by a commitment to include them in government. France by contrast started with a monarchy that was smaller than some of the French baronages, and expanded its power not by convocation, but by seducing the support of larger baronages one by one. Both approaches were extremely difficult because taxation had ended with the Roman Empire several centuries previously. The problem was that the feudal organization was based upon subsistence agriculture, but economic growth in the later Middle Ages was in commerce. Prices in absolute money increased in tandem with expansion, but the economic return on manorial organization remained constant. The nobility was becoming incapable of living self-sufficiently from manorial production. They first attempted to raise their revenue by territorial expansion. This was futile, because land, big or small, would reiterate the original problem; the new commercial surplus was not comprehended in the system of feudal dues. A centralized financial system was required, but the feudal lords, never having experienced government or taxation of their self-contained manors, would resist national organization.

Since the other feudal barons were as wealthy and powerful as the presumptive king, the agreements that united France regionally were different in each region. Decentralization was legally embodied in the very same legal pacts that constituted unification. Every social sector (nobility, commoners, merchants, clergy, guilds, professions, and geographical regions) was divided by particularistic privileges. Each regional nobility consented to unification, for instance, by promises of exemption from taxation; at times when the King tried to extend a tax, the region would remind him
that its tax exemption had been a condition of their amalgamation, and the tax would be withdrawn. This had roots in the Roman latifundia. When Roman government collapsed, land tax disappeared. Local taxes persisted in the market place, but since only commoners paid such taxes, and the nobility received the payments, it came to be understood that only commoners, not nobility, paid taxes. The nobleman indiscriminately spent the tax receipts for personal consumption or public works; no distinction of legality was made between private and public money. Obligation to pay a tax would be an insufferable slur on the nobleman’s dignity, because taxation had become a sign of membership in the underclass.

The conversion to national taxation could only come about as agreement between King and nobility to tax the common subjects, in return for powers and privileges given to the baronage. The conversion succeeded because the nobility sustained the social order on which taxation depended, while in return the French barons remained insusceptible to taxation. The non-taxability of the aristocracy dialectically identified the commoners as those who were liable to taxation. Market taxes were improvised to tax the commoners; tax farmers were first appointed to collect a panoply of indirect taxes to pay for public expense. As to be expected, tax farmers were the most hated social class in Europe. Accordingly, governments originally gave the function to Jews, whom the governments would want to be the most hated people. When it became apparent how lucrative tax farming was, the Jews were squeezed out in favor of middle class natives.\textsuperscript{19} The King relied on his own tax farming bureaucracy for loans. The tax farmers were not in a position to refuse a loan, because their employment as tax farmers was a royal appointment. The tax farmers would then reimburse themselves from the tax revenue they collected.\textsuperscript{20} They slowly matriculated into the aristocracy

\textsuperscript{19} Tax farming helped in the process of raising taxes, since the hatred could be focused on the tax collector in the place of government. Tax farming also provided the opportunity to take loans in anticipation from the tax farmers. In England, France, and Holland the excise tax was in the hands of tax farmers. Cf. Carsten, F.L., editor: \textit{The Ascendancy of France 1648-1688}, The New Modern Cambridge History, Volume 5, p. 33.
by their function of making public loans in anticipation of the future tax revenues they would collect.\textsuperscript{21}

In effect, the French aristocracy had consented to national unification by a promise not to include aristocratic representation in the central government, instead leaving the preponderance of power with the regional baron rather than in central government. Originally any tax money coming to the king was first paid to the barons of each region, who then paid it to the king. The tax levied by the king was delegated to the regional barons. The barons exploited this role by retaining whatever part of the tax returns they needed for themselves.\textsuperscript{22} This was supported by what had become the traditional view, that the baron was fully entitled to use his tax revenue indiscriminately for private and public expense. A very important though apparently trivial difference was that whereas in France tax revenue was paid from the various baronages, in England not the baron, but a sheriff, collected revenue, and the sheriff was appointed directly (in this period) by the English King. Because land taxation in France was fragmented and dependent on the grace of barons, France had an initial inclination to find a less precarious source of taxation.

It had been a misfortune for the French monarchy that the regional barons presided over land taxation. The monarch could not achieve direct, uniform taxation throughout; the nation was fragmented through a million compromises with each region.\textsuperscript{23} Landlords fought against taxation of the commoners of their region so that their tenants could pay a higher rent from what had been saved in taxes.\textsuperscript{24} Regal taxation was intertwined with local communities because agents at the community level had to be used to execute tax collection. One thinks that a despotic government is very strong

\textsuperscript{21} Cf. Webber, Carolyn, and Wildavsky, Aaron; \textit{A History of Taxation and Expenditure in the Western World}, Simon and Schuster, New York, p. 230.
\textsuperscript{22} Cf. Webber, Carolyn, and Wildavsky, Aaron; \textit{A History of Taxation and Expenditure in the Western World}, Simon and Schuster, New York, p. 179.
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because it has no restraints, but in reality it was extremely weak, because the despot had to bribe everyone on whom he needed to rely; this extreme weakness of a despotic government is what motivates its evolution into something else. The local agents of French taxation were subjects first of all to their barons, not the king. Consequently tax paid into collection returned immediately into the barony before it got to its purported destination in the treasury.

The ancient régime states intended heavy taxation, but their bureaucracies were inadequate to ascertain the assets of the subjects. Taxes were assessed on whether the domicile had a fire place, or on how many windows it had, or the possession of a carriage; the crudeness of assessment resulted in highly inaccurate tax estimates. It was impossible to find out the real income of the subjects. Ancien régime states, being without an extensive civil service, relied on local nobility to assess and collect taxes; since there was a large difference between the interests of the baron and the monarch, the supposedly national tax was largely embezzled and the report on taxable assets

23 The privilege of tax exemption was liberally used to attach new provinces to the nation; by guaranteeing the autonomy of a province’s administration and its tax exemption, the baron thereof could calculate that he would have the protection of the King without having given up much in return. At times the King might try to repeal the ancient promise not to tax such a province. In 1750 Louis XV tried to tax Provence, but immediately ceased when Provence reminded him that tax exemption had been the condition of her amalgamation in France: “the maintenance of the old laws was the principal condition of the Union of Provence in your crown.” Cf. Kwass; Privilege and the Politics of Taxation in 18th Century France, Cambridge University Press, London, 2000, p. 29.
25 The hearth tax failed, as did the poll tax; government then attempted to tax according to the number of windows. That also failed. Cf. Adams, Charles; For Good and Evil: The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 253.
26 The deposition of James II was used as the occasion for abolishing the hearth tax. The House of Commons on the hearth tax: “a badge of slavery upon the whole people, exposing every man’s house to be entered in search at the pleasure of persons unknown to him.” Parliament then instituted a more remunerative poll tax in its place. Cf. Adams, Charles; For Good and Evil: The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 252.
in the region accordingly doctored. The collection of national taxes could ensue only through a pecuniary negotiation between King and nobility. One third of the royal taxes stayed with the local nobility; the king received at best half of the tax collection. A large part of the revenue was also purloined at the local level by minor nobility.\textsuperscript{27}

It was a legacy of the medieval era that the agency of revenue procurement and the agency of allocation were one. At every level of collection the agency would spend the collected revenue on its own priorities before passing the revenue up to the next level. Earmarking was a universal feature of taxation; a tax on a certain target would be earmarked to pay a specific expense. In consequence it was very easy to justify retention of tax revenue from the central treasury on account of its local earmark.\textsuperscript{28} If the monarch submits to the help he needs from the community level, the tax revenue will be embezzled by the same agents, and be dissipated in virtuous or vicious ways for the benefit of the community before the remainder comes into the king’s hands.

It was impossible to reform tax farm peculation. The tax farmer needed to be wealthy to perform his function, because he was always called upon to make loans to the king in anticipation of future tax returns. The French kings needed someone highly pliable in order to borrow; the tax farmers, who were not civil service employees, depended on the king for their posts. They could not help but lend to the king, but because the credibility of the king was notoriously low, they charged the king very high interest rates to compensate against the probability of default. The king was unable to take action against the peculation of the tax farmers, because he would have no one from whom to borrow if he prosecuted their corruption.\textsuperscript{29}

To maintain monarchical despotism it had been necessary to avert formation of

\textsuperscript{28} Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 276.
\textsuperscript{29} Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 219.
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...a national parliament. Integration of the tax system in civil society resulted in the operation of the tax procedure by the local elite. The monarchy used tax farmers to avoid refinement of a central bureaucracy, but much tax revenue had to be sacrificed to the embezzlement of the tax farmers.30 Embezzlement rendered what the king received from national taxation the smallest part of the revenue. The same flaw had afflicted the Roman Principate. Territorial expansion of a centralized tax system necessitates local officials at the intermediate levels to conduct taxation, but the familiarity of such agents to their locales made it impossible to sequester the taxation process from the interests of local government. Local agents delivered the greater part of supposedly national taxation to the localities. The baronage had a vested interest in not delivering wealth to make the king more powerful than themselves.

In the 17th century the nobility had frequently incited peasant revolts against royal taxation. This was not from compassion, but from the inference that the more the king extracted from their peasants, the less the nobility could tax them.31 Colbert reduced the taille, but at the same time quadrupled the gabelle and the aides, particularly the latter, in the period from 1661 to 1683. Because France had never developed manufacture, nor external commerce, customs duties were unproductive. Because of the aristocratic tax exemption, direct taxes were equally ineffective. Consequently 60% of French taxation consisted of the excise, most of which was paid by lower bourgeoisie and peasantry.32 To circumvent the futility of appointing agents with local interests to safeguard taxation against local interests, systems of centralized representation would have been indispensable. But instituting a representational system would have entailed

having to honor the local interests in return for cooperation in central taxation; but this approach would have diminished the ideal of monarchical despotism.\textsuperscript{33}

The only means to preserve despotic power under these conditions was to separate the tax machine entirely from the nobility and from civil society. The King instituted a system of \textit{intendants} who, appointed by the central government, were sent out to take tax collection out of the hands of the local aristocracy, and who, not being natives of the region, could supervise against embezzlement on the local level.\textsuperscript{34} The intendant could overrule any other dignitary in his region, and preside over any court case. He was especially required to control any social leader, noble or clerical, who had the potentiality to defy royal will. He appointed subordinates (\textit{subdélgués}) to control local tax collection. As the towns fell into debt to the king, the intendant increasingly took over administration of most of what had been local government.\textsuperscript{35}

The Fronde enlightened Louis XIV of the dangers from the nobility.\textsuperscript{36} As the \textit{sanior pars} of society the aristocracy asserted a right to participation in government, and at the same time they struggled against centralization and national taxation. Part of the Germanic heritage of the Franks had been an idea of contract and representation, but

\textsuperscript{33} This eventually led to the fall of the Stuart dynasty. Whenever Parliament refused a tax, the King contrived something like a tax which acquired the same sum and did not entail parliamentary consent. James I was refused a tax, and he immediately raised customs duties by 200\%: the “new imposition.” Cf. Adams, Charles; \textit{For Good and Evil; The Impact of Taxes on the Course of Civilization}, Madison Books, London, 1993, p. 245.

\textsuperscript{34} Starting from 1642 to 1648 at the initiative of Colbert the Royal Council dispatched intendants to supervise the provincial bureaux des finances. The intendant was a venal office, but they were replaced in the case of incompetence. Cf. Kwass; \textit{Privilege and the Politics of Taxation in 18th Century France}, Cambridge University Press, London, 2000, p. 49.


\textsuperscript{36} The regional Parlements were essential to the Fronde. Louis XIV suppressed regional Parlements throughout his reign. When they were reinstated in the regency of Philippe d’Orléans, they substantially helped the progress towards the French Revolution. Cf. Carsten, F.L., editor: \textit{The Ascendancy of France 1648-1688}, The New Modern Cambridge History, Volume 5, p. 236.
this legacy managed to get submerged. From the King’s point of view the problem was that society was feudal before it was royal; power tended to rest in the nobility rather than in the King. Louis XIV managed to solve his problem first by establishing a standing army while not allowing a noble to have a personal army, and second in establishing a bureaucracy that was answerable only to the King.37

In France, as in England, the nobility liked to disguise their rebellion with the assertion that their divine king was misled by “evil counselors,” and thereby protect themselves a little bit from accusations of treason. Louis XIV did not appoint a new minister after the death of Cardinal Richelieu. Louis XIV acted as his own minister, depriving the nobility of the euphemism that the king was misled by his ministers. Similarly Louis XIV adopted “raison d’état” as the ground for the primacy of his own policy over interference from the Pope.38 The Monarchy’s exclusion of the Pope from French politics provoked the nobility to advocate papal guidance.

Intendance segregated tax collection from the self-interest of the community, but the combination of national taxation with non-representation engendered from the intendant system a class of tax-farmers whose self interest even more efficiently deprived the king of the revenue from national taxation.39 Regalian rights functioned much better in such interests as mineral reserves and commerce, for in particularized spheres tax appropriation did not form a universal, popular opposition at the same time as it extracted revenue.40 France started to depend on commercial taxation, and the loans by which French government was supported proceeded from French merchants making the loans. Government could not keep expenditure in cadence with tax receipt,

39 The mission of the intendant was to supervise judiciaries and tax agents to prevent embezzlement and corruption at the local level. The whole country was divided into 24 districts, each of which received one intendant. Cf. Adams, Charles; For Good and Evil; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 220.
and therefore took loans from the tax receivers in anticipation of the tax revenue they would collect, minus an interest charge.  

Government loan was so profitable that merchants who originally merely made loans eventually abandoned business activity altogether, to devote their full efforts to their office as tax farmers. As tax farmers were not civil service employees, contracting with them obviated the need for a Parlement, thus protecting the monarch’s despotism. This was the origin of the nobles de la robe; it had been a rather abortive attempt by the King to depress the power of the nobles de l’épée. To maintain despotism Louis XIV needed to debilitate the nobility; they were required to be present as courtiers at Versailles, thus preventing them from military conspiracy in their home provinces. If they were meticulously present, they were rewarded with privileges etc., but if they were absent, they were deprived to insignificance. Louis XIV built a standing army and razed the provincial fortifications.  

The king had deliberately appointed middle-class individuals as tax farmers and as operatives in the real work of the State. Being new, the middle class couldn’t threaten the monarchy, but by taking over the government functions they would undermine the

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40 In 1627 the treasury was supposed to receive 19 million livres through the taille. Only 6 million accumulated; the rest had been purloined in one pretext or another by the 22,000 tax collectors, 160 supervisors, and 21 supervisors general. Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 278.

41 Tax-farming started in the Middle Ages; its identifying distinction was that the tax farmer was not a civil servant. Originally Jews were given the role of tax farmer so that a French Christian would not be stigmatized by the notoriety of the role, but afterwards, when the possible profits were imagined, only French Catholics performed the role. The tax farmer paid the Lord an amount of the tax revenue in advance of collection, and thereby became vital to the running finances of the baron or King. Oddly, the tax farmer avchieved his permanence because officially employed civil service bureaucracies embezzled even more than the publicly employed tax bureaucracy. Cf. Adams, Charles; For Good and Evil; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 223.

42 In short, the authentic nobility was absorbed into the monarchical splendor, but completely excluded from government. Cf. Jones, Colin; The Great Nation France from Louis XIV to Napoleon, Penguin Books, London, 2003, p. 14.
aristocracy. But this became a vicious circle. Earmarking, and the custom of depleting the collected revenue to pay expenses at the local level, retarded and diminished the arrival of tax revenue to the treasury. If the tax farmers were slow to deliver the revenue to the treasury, the King would take loans in anticipation from the same tax farmers, at high interest rates. The tax farmers had a vested interest in the inefficiency of revenue collection. Once they had grown wealthy from the high interest loans etc., they purchased offices and titles, thus constituting the second tier of nobility.\(^{43}\)

Tax farming was very inefficient; from 1776 to 1787 the fiscal revenue received into the royal treasury was only 24% of taxes collected. Earmarking continued from the time of baronial collection to the tax farmers and intendants; they were authorized to siphon money out of revenue collection before arrival to the treasury. The remainder of the tax revenue was paid into commissions and interest charges of tax farmers at various levels of collection.\(^{44}\) The nobility enjoyed an ironic revenge. The tax farmers cultivated relations to the nobility. If a noble engaged in any sort of business or money-earning activity, he would suffer dérogeance; he would lose his noble status. Therefore aristocrats could not engage in money-lending. The financiers or tax farmers therefore mediated loans from the nobility to the King at very high interest rates, while protecting the identity of the real lender. The King’s wars were, unknown to the King, financed by his nobility, at very high interest.\(^{45}\) Interest payment on tax revenue had been 30% prior to the French and Indian War, but rose to 60% subsequently.

Land tax had been capitalized in a very odd way. Tax farmers used their profits to buy key government offices. Government depended heavily on the gabelle as well as the land tax. A general feature of taxation is exemplified in the gabelle; objects of taxation are chosen for the indispensability of the item they tax, thus guaranteeing


\(^{44}\) [Mann, v.2, 179]

non-evasion of the tax. The gabelle was the salt tax; since humans cannot live without salt, and salt was essential for food preservation, it captured all the inhabitants as universally as the poll tax. The gabelle exemplifies that taxes tend as much as possible to attach to that which cannot escape detection. The gabelle was not limited to salt; it was a category of tax levied at the communal market level, eventually on almost any commodity or service.\textsuperscript{46} The gabelles were highly regressive, since their targets were such things as salt, bread, meat, wine, etc. They were productive, and the gabelle rates crept up.\textsuperscript{47} A major feature of early taxation was its utilitarianism; the criterion for a tax was whether it accumulated revenue; criteria such as equity, effect on society, or long term effects were not conscious items; most taxes failed to amass revenue.

Even in land tax, the domain that could most easily have been progressive and assessable, it was the tenants and small owners who supported the tax quota. Oddly, it was in France, where independent smallholding persisted, and not in England, where farmers were not land owners, that the land tax generated class resentment. In England, the tenant paid rent, and was never aware of his payment of the land tax. French agricultural land was not wholly in the property of the aristocrat, but the method of requisition served to obscure the tax burden.\textsuperscript{48} A village would be assigned payment of a certain total sum, but village government was authorized to distribute the tax burden; hence it would appear to the taxpayer that it was the fault of his village, rather than of the king, that he was obligated to pay a certain amount of tax.\textsuperscript{49} This device defended

\begin{itemize}
\item \textsuperscript{46} Cf. Webber, Carolyn, and Wildavsky, Aaron; \textit{A History of Taxation and Expenditure in the Western World}, Simon and Schuster, New York, p. 201.
\item \textsuperscript{47} Cf. Webber, Carolyn, and Wildavsky, Aaron; \textit{A History of Taxation and Expenditure in the Western World}, Simon and Schuster, New York, p. 202.
\item \textsuperscript{48} It was a happy error. In reality government instituted this way of collecting taxes, especially the taille, simply because government lacked an extensive bureaucracy for collecting tax through its own civil service. Individuals or small communal groups were delegated by government to do whatever government services that government was unequipped to do. Cf. Kwass; \textit{Privilege and the Politics of Taxation in 18th Century France}, Cambridge University Press, London, 2000, p. 48.
\end{itemize}
the king from vilification. Whenever a French aristocrat obtained an exemption, the deficit was offset by raising tax on the smallholders; since distribution of the tax burden was distributed at the local, communal level, the tax exemption of the aristocrat could never escape the resentful notice of the smallholder.

French government accommodated revenue shortage by extending permission to anyone to collect taxes who gave reassurance of remitting the revenue to the Crown. Private contracting of tax farms circumvented the need to establish a national Parlement. It was not government, but a private entrepreneur, who would attract most of the hatred. In both England and France the land tax succeeded by diffusing the image of the person blameworthy for the tax. Much of the social violence in France until 1789 devolved on the tax exemptions of the aristocracy. The situation was perplexed; when the aristocracy was spared, in compensation for exemption the tax burden of the commoners had to go up. 50 This incited hostility in the lower orders, but the hatred was not of the king, but the nobility. But from another perspective, tax exemption was a vital factor in social stability. The tax exemption guaranteed the imperturbable ascendancy of the aristocracy, and guaranteed the aristocratic defense of the monarchy. This achieved the Holy Grail of what anyone wants his wealth to achieve: perpetuation of wealth. Discounting immortality, a person with wealth will invariably spend it to preserve his economic position far in preference to using wealth for enjoyment or to pursue any other interest predicated on money. Government, under perfect conditions, would not accommodate this capital accumulation of the nobility, because fiscal revenue is much greater from an egalitarian than a privileged

49 The taille, although a head tax, had originally been collective. Government charged a parish a certain sum, but left the village leaders to distribute the tax to individuals in the parish. Cf. Kwass; Privilege and the Politics of Taxation in 18th Century France. Cambridge University Press, London, 2000, p.49.
50 The commoners paid between 66.6% (1706) and 86.3% (1771). The aristocracy benefited, but tax revenue would have been far better if the burden had been equitably distributed. Cf. Kwass; Privilege and the Politics of Taxation in 18th Century France. Cambridge University Press, London, 2000, p. 72.
tax base. Paradoxically, tax revenue should therefore incline even a monarchy to favor democracy over oligarchy.

Likewise, religious partiality was traditional and germane to the ancien régime, but inimical to tax revenue; greater revenue would ensue from legal uniformity of religious and provincial groups. Guilds in early modern France and England similarly indirectly bolstered both King and aristocracy while inhibiting economic growth. Guilds repressed innovative methods, and by preserving exclusive participation in some service through legal measures prevented those excluded from the guilds from supplanting the guild with better techniques. The guild’s favoritism in its control of business promoted the civic inequality on which the monarchy was dependent. The general economic loss which this protection of class hierarchy entailed would gradually move the king to abolish guilds in the aspiration for greater national tax revenue. In the same period the Austrian and Prussian monarchies strained toward abolition of serfdom because serfdom retained the aristocracy as the mediator of agricultural wealth; the landlord would be first to receive, and thereafter dispose of, agricultural wealth, whereas abolition of serfdom would make government the immediate master of the peasant, and thereby enable government to increase fiscal power from its prospects of wider tax distribution. England abolished serfdom first, and afterwards abolished the guilds; much later England reluctantly devised a legal form of toleration that, in various permutations, kept taxation immune to religious exemption. All of these measures increased tax revenue by promotion of tax uniformity. The very last stage of this movement was inclusion of commoners into the direct tax base, which was resisted most of all because the concomitant inclusion of the lower classes in government would substantially debilitate the political hegemony of the nobility.

But government in 18th century France was aristocratic. An 18th century king was himself an aristocrat, as were his relatives, and his personal security on the throne derived entirely from the only favorably inclined class, the aristocracy; the enmity of the middle class was negligible until 1789. The only thing that would disturb the
king’s contentment with suboptimal tax revenue was the external pressure of other societies, which would surpass France if its government revenue were not adequate to face foreign competition. How the tax laws impressed other nations was a factor in their construction. The aristocrat, who occupied government, would for the same reasons sustain the suboptimal revenue, due to aristocratic tax exemption, except in such circumstances as when France would lose from international confrontation unless more tax revenue were accumulated.

England had devised a commercial taxation to compensate against land tax shortfalls, but in France this had been impossible. Amsterdam and London had erected Banks that could lend at low interest; the interest rate for a monarch was very high. A commoner would invest, for instance in lending, only in certainty of repayment. This was possible in a representative society. The King of France could renege on debts whenever he wanted, with no retaliation in the world. The public would not invest their savings. The French Crown had completed a process of appeasement and compromise with the commercial world as it had with agriculture. England had developed manufacture and trade in cheap manufactured commodities relatively early, whereas France concentrated manufacture on luxuries, and kept inland customs barriers centuries longer than England. The large market for cheap commodities made manufacture in England fiscally remunerative, whereas luxury commodities kept French manufacture

51 John Law had been able to eliminate tax farmers momentarily, but immediately after the South Sea Bubble, the monarchy again delegated tax collection to corporations of farmers instead of maintaining a centralized tax agency. Venal office had supplied half the national revenue in the 17th century; the scheme was maintained after John Law. Cf. Jones, Colin; The Great Nation France from Louis XIV to Napoleon, Penguin Books, London, 2003, 651 p. 145.

52 The taille became a model for other European countries. More than any other tax the taille eliminated any need for parliamentary convocation. Thus the taille underpinned the monarchical despotism of France. Cf. Adams, Charles; For Good and Evil; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 215.

insignificant.

Universal taxation had been impossible because of the tax exemptions. The poll tax, the taille, which in origin had been conceived as a universal tax, was not collected by national agents. The King had a right to tax every subject in France for the exception of noblemen. The taille was considered equitable (!) on the ground that an invariant amount was exacted from each individual, regardless of his social station. The taille produced 85% of national revenue by the end of the 15th century. If instead of tax farmers the monarchy had employed civil servants, analogous to the English sheriffs, a sufficient measure of this sort would have entailed convocation of the Estates General. It was attempted to improve on the weak tax collection, without parliamentary involvement, by the sale of government offices; this tactic resembled the English sale of annuities.

Although Britain did not use sale of government office as a source of revenue, the sale of annuities amounted to the same thing, since the venal offices in France entailed virtually no service in the purchased office, and the purchase was carefully calculated according to the amount of salary ensuing from it; the salary was an interest payment (gage) that would come from an alternative investment as large as the cost of purchase. Venal office was a major cause of French failure in manufactured commodities. The middle classes invested their capital in the purchase of government office, so that very little capital went into manufacture. Office holding bore no risk as enterprise would, and office holding could lead to admission in the lower aristocracy. Furthermore, there was no tax exemption for enterprise as there was for office holding. The office

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54 The taille was first instituted in the 14th century. Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 198.
55 In 1639 the surintendent of finance expected tax revenue of 79 million livres, but 32 million actually arrived. The remainder had been consumed by the intermediary tax collectors. Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 278.
was designed to yield not more than the invested capital would otherwise yield from interest. Indulgence in vanity made venal offices a successful part of the French fiscal system. The purchase of an empty title and empty membership in the aristocracy prompted bourgeois to pay a much higher market price than what the office was ever likely to return.\(^57\) Commerce and manufacture had not developed well in France, as it had in England, because the middle classes did not organize to advance the middle class, but to advance out of the middle class. The individual had the possibility of advancing into membership of the aristocracy if he invested in office rather than in commerce.\(^58\) Just as annuities, venal offices were profitable because they assumed a market value beyond the control of government. They were the main gate for mercantile families to get into the aristocracy. In effect, France had capitalized a market in government office. Prices for office went far above what the office could ever return to the purchaser, but people stalwartly continued to purchase. It no longer mattered what the income value of the office was; so long as the market price was high, and was likely to go higher, it remained rational to purchase due to reliance on its future resale value.

Although the salary connected to the office was not sufficient to justify the office as a long term investment, usually possession of the office entitled the occupant to charge fees for his services at his own discretion, so the investor could cherish hopes that by gouging his public he could make up for the cost of the office.\(^59\) The French

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57 Anyone who bought an office received tax exemption and other privileges. Needless to say, tax exemption tremendously elevated the market value of office. The overstaffed officeholders raised the revenue from tax collection. Even the most minor employee received tax exemption, but the deficit from the tax exemptions was compensated, in its early phase, by improved revenue collection. Cf. Kwass; Privilege and the Politics of Taxation in 18th Century France, Cambridge University Press, London, 2000, p. 29.
bureaucracy, made up of venal office holders, developed a vital interest in preventing reform. If some inefficiency provided an opportunity for gouging or embezzling, the office holder, trying to compensate for the expense of the office, would do everything possible to preserve the inefficiency.

In the early modern period a functionary was free to use money entrusted to him for any purpose he liked; this was a corollary to the late medieval indistinction between private and public money. The private use of public money while it was deposited with the office holder was considered a perquisite of office. The functionary’s only obligation was to return money entrusted to him on the date it was due. Consequently venal office holders regularly invested government money deposited with them for personal profit. The dissipation of state tax revenue in such private investment schemes tended to deplete the government of the revenue requisite to remain solvent.

In Britain, more than half of government office (16,000 offices), although not

59 Probably from the start government sold offices primarily to get more fiscal revenue, for otherwise employment might have entailed professional qualification. The office had to be made attractive by awarding nobility, tax exemption, salary (gage), etc., in order to be able to charge high prices for the office. Cf. Kwass; Privilege and the Politics of Taxation in 18th Century France, Cambridge University Press, London, 2000, p. 30.

60 The state had become dependent on a stratagem that was destroying the state. The system of venal office was not collecting enough revenue and it was widening the extremes of rich and abjectly poor. As previously formulated, it had become a conflict between the nobility and the nobility. As office holders, the nobility would adamantly retain all of its privileges, and as the government bureaucracy they had every power to sabotage any government initiative at reform. However, the fiscal inequity would inevitably bring about the collapse of government, as the nobility could also clearly see. It was the nobility, not the monarch, that precipitated the French Revolution. Cf. Kwass; Privilege and the Politics of Taxation in 18th Century France, Cambridge University Press, London, 2000, p. 33.

61 A new method of management might transfer clients to other agents, resulting in a loss of fees, or new bookkeeping might make it difficult to conceal embezzlement. Any innovation might reduce the profitability of the office as it had been at the time of purchase. Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 279.

merchandised, was distributed through patronage. Patronage worked both ways. More often the principal would pay to get his apprentice a seat, if money was involved, and the apprentice would owe him loyalty. It could occur in reverse; the client might pay the principal a huge sum of money in order to receive an office or employment. Similarly, a king or another principal might receive a large loan in return for the king’s gift of some financial privilege. The kings of both England and France used office, either venal or in patronage, to borrow money. An ancient rule of primogeniture had been that male siblings were not allowed to marry, and that had probably been the origin of the practice of placing minor sibling in clerical positions. Government increased its power on the basis of the same principle when it conferred commercial monopolies and other intrusive privileges for colonial affairs.

Between 1689 and 1697, government expenditure doubled, and three quarters of the expense had been war. Territorial expansion was no longer able to make war pay for itself. In response the capitation was added in 1695, the dixième in 1710, and all other tax rates were raised, and expanded. By the time of Louis XIV’s death, oyster-sellers had to buy a government office to conduct their business. The tax base shrunk due to expanding poverty, and evasion increased with the increase of tax rates. Short of revenue, French government started to sell offices that it had already sold; the multiplied sale of offices signified that several individuals would come into possession of an office which only one of them could perform. This diluted the market value of an office, since the occupant of the office would have freedom to gouge only on alternate years. As the years passed, France’s fiscal revenue constantly grew worse, not better. Instead of reforming the scheme of venal office, the market constantly increased, and grew sloppier. It seems paradoxical that the French monarchy would constantly

64 This overaccumulation had already materialized by the end of the 16th century. Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 267.
D. Morgan Pierce

aggravate its financial deficit, and at the same time lavishly distribute tax exemption. One of two reasons for this was the sorcerer’s apprentice, and the other signified a positive gain. Since the entire French government was enjoying tax exemption and the privileges sold together with office, the whole government would work against any reforming threat to their own privileges. The office-holders had managed to make government office heritable, and transferrable; the monarchy had to comply with things that would sustain the market value of the office, in order to keep its own capital source flowing. It was the transformation of the office into private property that enabled the monarchy to introduce the paulette. Second, venal office functioned to prevent revolt; if the middle class had its privileges largely because of the purchase of office, they would be disinclined to lose their investment, as would result from a rebellion.66 Whenever the king granted an office, or a territory, the privileges given with the grant functioned like blackmail; no one enjoying privilege would oppose the King from fear of losing privileges directly connected to the King’s grace. Ultimately this feature explains how the King was able to prevent formation of a national parliament until 1789. Government was nevertheless overwhelmed at the obligation incurred by overselling offices, and therefore implemented a new measure to keep the scam working economically in the favor of government.67

In addition to the possession of an office, government now required that the possessor of the office pay, annually, for the right to use his office. By the early 17th century the market price of offices had become multiples more expensive than the

65 The finance minister Boisguilbert wanted to abolish the internal customs barriers and to reduce excise taxes; he predicted that lower prices would raise commodity consumption. The plan would have shifted taxation upwards, but poor people would buy commodities and raise demand. The GNP would have improved. But the initiative was scuttled. Cf. Kwass; Privilege and the Politics of Taxation in 18th Century France, Cambridge University Press, London, 2000, p. 227.
66 The highest aristocrats would be less able to stage a coup d’état if the group from whom they had to recruit was dependent on the privileges of venal office. Cf. Jones, Colin; The Great Nation France from Louis XIV to Napoleon, Penguin Books, London, 2003, 651 p. 10.
original price, and the profit of this market inflation was outside of the government’s grasp. A major benefit of tax farming, in addition to selling the office, was elimination of the overhead cost of collecting the taxes; no one needed to be paid a salary. Furthermore, salaries that needed to be paid to venal offices could be arbitrarily reduced. The paulette, the tax imposed on office-holders, required the holder to pay an annual tax of 1/16 of the office’s market value. The paulette kept the government revenue from venal office up to 30%-40% of total state revenue. The paulette secured the property rights in an office and its heritability from the holder to his descendant. It would be illegal for the occupant of the office to exercise his office unless he had paid additionally every year for the right to use his office and, if he delayed on payment of his right, he would forfeit possession of his office, and of course all the money that had been spent for its acquisition. One of the attractions of office-holding had been the affiliated tax exemption for the office holder, but the institution and periodic sale of the rights of the office functioned to impose a fresh level of taxation on the tax exempt office holders.

The paulette did not alleviate the taxation of the labor classes. Although the paulette might have been originally conceived as a substitute for the taille or other lower class taxation, in final effect government imposed the paulette without removing the other

67 Since Louis XIV the monarchy had always had an interest in fiscal reform, but every initiative was submerged by their own government. Instead of reforming the taille, Colbert had tried to abolish the taille in favor of excise taxation. Brittany and Bordeaux, being exempt from the taille, revolted against the new excise taxes. The monarchy quelled the rebellion with Swiss mercenaries, but reverted to the taille. Cf. Adams, Charles; For Good and Evil; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 232.
68 In 1714 salaries to venal offices were reduced from 5% to 4% of the price of the office. When the heritability of venal office was announced in 1743, the paulette was imposed on office-holders. From 1744 to 1750 the tax farmers were required to pay in 92 million livres, which was raised to 101.1 million for the period 1750-1756. Bribery was always paid every six years at the determination of required revenue. Cf. Jones, Colin; The Great Nation France from Louis XIV to Napoleon, Penguin Books, London, 2003, 651 p. 145.
taxes. The new tax was justified as a substitute for an old tax deemed unjust, but since the old tax had been established and was productive, there was too much temptation to keep it; the old and new taxes were compounded. Marion, the finance minister, tirelessly argued that the tax exemptions prevented reform, deflecting the burden of taxation dangerously on to the labor classes. The monarchy therefore depended on loans, interest payments for which aggravated the extreme division of rich and poor. The French nobility was not ignorant that their tax privileges were bankrupting the state.

The King inaugurated the “Visa,” a procedure in which state bonds had to be reviewed by a commission, which would invariably reduce their value. The procedure helped to reduce the national debt at the expense of the bond-holders. The nobility was well aware that the King intended to deprive them of tax exemption, and replied to this threat that if the King took them down, they would take the King with them. In 1789 the high court vetoed tax legislation that would have eliminated tax immunity; it was a desperate chance to stave off revolution, but the nobility was unwilling to accept the compromise. The nobility then made its fatal mistake; the high court called for the convocation of the Estates General, which alone would have authority to accept or reject the tax reform demanded by the King. The Court assumed that the Estates General would also conveniently veto the King’s tax reform because the Estates General was composed of three assemblies, one vote each: clergy, nobility, and commoners. The chamber of commoners would ratify the tax reform, but since both clergy and nobility were tax exempt, their two votes would overrule the one vote of the chamber of commoners. The King then doubled the number of representatives in

BRITISH COLONIAL TAXATION

the chamber of commoners, so that their voting power could overwhelm the votes of nobility and clergy in favor of tax immunity. There was no further litigation; the issue was resolved by intervention of the French Revolution and the guillotine.74

ENGLISH LAND TAX

Taxation starts with commercial duties, because the efficacy of a tax is relative to its bureaucracy. This might appear paradoxical, since the earliest and fundamental form of wealth is agriculture. However, freehold farming is a late historical phenomenon; it does not exist in primordial societies. Seigneurial land ownership is the first form of ownership to appear; the earliest form of agriculture is feudal, not allodial. Prior to freehold, there cannot be an agricultural tax. The Lord, of whatever circumstances, collected a substantial percentage of the agricultural yield, but this was in the form of feudal rent rather than taxation.

Merchants were not aristocrats; in the time period investigated they had no participation in government. The English started on their project of national taxation in 1275, when Edward I imposed the first export duty on the exportation of wool. One feature of the temporal priority of commercial taxation can be generalized from features of the wool tax: wool producers could not create business without wool export, and could not evade taxation without losing the exportation on which the tax was imposed. An item of taxation is preferred according to whether evasion will cost the taxpayer more than paying it. Taxes which are too expensive either to assess or to locate generally fail. Wool was the first commercial tax item to provide adequate financial support for the national government; its export tax financed the centralization of national government. Revenue from the wool duty was not made a part of the king’s

hereditary wealth; the tax revenues were to be spent exclusively on naval and military protection of British commerce, beyond the power of the king to divert.

If the King was in large part autocratic, how is it possible that this tax could not be at the King’s disposition? Part of making imposition of a tax sufficiently inexpensive depends on the assent of the people taxed. It is relatively easy to supervise commercial exchange; unlike other taxes, commerce, being highly visible, did not entail expensive bureaucratic development for taxation. The merchants’ recognition that they could not trade without British military and naval protection brought all the provinces of England into harmony with the project of national unity. 75 The wool export tax could not have been successful except for the circumstance that the merchants consented to a tax that was to be imposed on themselves.

In the pre-capitalistic period domestic commerce was diminutive. Domestic and international commercial taxation might have supported the cost of government in peacetime, but taxation was usually motivated from war, which, enormously expensive, would dwarf any tax revenue that might imaginably proceed from commerce. England prior to the Glorious Revolution borrowed about 25% of its government revenue; it was an established rule that war constituted an exceptional ground for extraordinary taxation and borrowing. Previously war making had been a profitable operation in which the king had to compete with his lords in seizing opportunities to make war, and compete with the same in taking the profits of war. When it was successfully made illegal for the aristocracy to keep private armies, ipso facto only the monarch had prerogative to seize what profits might offer themselves from war. The only opportunity that the Stuarts had to achieve despotism was in the royal prerogative of war. 76

75 “The King is Lord of the sea about these islands, not only as to jurisdiction and protection but as to property.” The King was free, without parliamentary collaboration, to impose customs duties on all imports and exports. The revenue therefrom was exclusively dedicated to naval protection. Later the customs duties were applicable to anything the king pleased. Cf. Coffield, James; A Popular History of Taxation from Ancient to Modern Times, Longman, London, 1970, 278 p. 66.
The benefit of royal military prerogative was that the despot did not have to submit an annual budget for parliamentary approval; he could impose and enforce taxes sponte sua.\textsuperscript{77} As war was the only ground on which the king could initiate extraordinary taxes without parliamentary approval, it became possible to juggle between taxes for the sake of war or war for the sake of taxes. The ship-money episode was such a prevarication.\textsuperscript{78} This prerogative was removed upon the Glorious Revolution.

The royal prerogative of war had been an ambivalent achievement for the monarchy. Private armies could be costless, in that the soldiers were paying with their feudal service in the army for the land that had been allocated to them. As the vassal’s property ceased to be understood to be the Lord’s property, which the Lord could confiscate at will, the transition of war into the royal prerogative could not function on the understanding that the soldier’s property was something the soldier paid for with his military service. The decay of fealty meant that a military organization would be expensive; it necessitated that a royal army be paid for in money. The cost of military

\textsuperscript{76} Parliament, always attempting to secure more power, allowed the King limited amounts of money. However, in the case of war, the King could raise emergency funds without parliamentary consent. When the King raised taxes, domestic rebellions took place. Thus, internal rebellions always followed upon external war. Cf. Adams, Charles; \textit{For Good and Evil}; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 228.

\textsuperscript{77} James had instituted the “new impositions,” high import customs duties that James could conduct without dependence on parliament. Nevertheless, the return was not enough to dispense with Parliament for new taxes. Elizabeth had temporarily imposed a “ship money” tax in preparation for the Spanish Armada. James used ship money to circumvent Parliament, but it was illicit; ship money was permissible only in the case of war, and there was no such threat when James imposed it. Cf. Adams, Charles; \textit{For Good and Evil}; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 246.

\textsuperscript{78} Charles I resumed ship money, but he extended the tax to all the English boroughs, although the ship money had been restricted to port towns on the coastline. It was again illicit, and London refused to pay it. Eventually Charles had no alternative but to convokve Parliament and petition for subsidies. Charles had to rescind the ship money, and London surpassed this confrontation with impunity. Cf. Adams, Charles; \textit{For Good and Evil}; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 247.
maintenance portended the impossibility of absolutism.

Despotic taxation was generally too meager to support costs, because the absence of collective support left any form of non-representative taxation vulnerable to embezzlement. Efficiency could only have been attained through a universally approved tax, one supported at every stage from representation. Although representative taxation was intrinsically more productive, it would coerce the monarch to cooperate with the interests of Parliament. The monarch would have preferred to insinuate a private bureaucracy of tax farmers, not in any way employed through representative bodies, and establish a system of loans from the commercial sector, again totally dissociated from political interests of emergent representative groups, so that the representative body would disappear in atrophy, as had happened in France. Only the second option worked for England.

The Stuart dynasty had tried their best to emulate French tax farming. The proceeds of the anticipated tax collection were mortgaged to financial syndicates, i.e. organizations not in government employment. The syndicate constructed a contract with the Treasury to pay a large sum in advance, and then to pay annual rent on the tax farm for as many years as the mortgage assigned; needless to say, all tax money collected in excess, completely unsupervised, became the money of the syndicate. For the Stuarts the advantage of this fiscally stupid arrangement was its dissociation from parliamentary supervision; the Crown received loans in anticipation of future tax collection, at high interest, plus defalcations in the case of emergency such as war.  

Parliament abolished monarchical taxes at the time of the Glorious Revolution. In

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79 From 1660 to 1690 tax farming was phased out; it was one countermeasure Parliament took for the prevention of monarchical tyranny. Parliament established a tax collection bureaucracy and imposed qualifying exams. To prevent corruption the tax agents were frequently moved to different tax districts, and the agents were kept accountable. The agents had to make remittance in full to the treasury, and supervisors reviewed their accounts. Cf. Adams, Charles; For Good and Evil; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 269.
1689 the English Bill of Rights specified that no taxation whatever could ensue without parliamentary procedure. In England taxation between the king and the people was better buffered than it was in France; the English fiction, that tax revenue was a gift, blocked the pretension that the property of the people was the king’s property, which he could unconditionally retrieve at will. English taxation had been formulated as a don gratuit, in exactly the same manner as the Catholic Church paid the French monarchy. French clerical payment of a tax would have implied that Catholic property, on which the tax would be paid, was fundamentally French property, the property of the monarch; the Catholic tradition of mortmain, by which anything once becoming property of the Catholic Church was inalienable in perpetuity, would not accommodate the contrary implication in paying a tax. In the 1680s the disputes between Louis XIV and Pope Innocent XI (pope 1676-89) almost led from a Gallican Catholic Church to a purely Gallican Church, reminiscent of Henry VIII; it was at this time that Louis XIV promulgated the four Gallic Articles. The fourth article established that a papal decree could not be binding on French Catholics without the approval of the King. The Church paid France a don gratuit instead of a tax, which sustained the position that the Church’s French property did not belong to France, and was not taxable; the gift was from grace (gratuity), not from duty. France received its revenue from the Church, and the question of perpetual ecclesiastical property could be left moot.

80 James Osborne, Earl of Danby, organized the tax farm for Charles II during his tenure as Lord High Treasurer from 1673 to 1678. He organized the bribery of Members of the House of Commons to counteract the French ambassador’s bribery of the same. The tax farm might have enabled Charles II to achieve absolute monarchy, to achieve despotism, but Danby turned against James II. Cf. Carsten, F.L., editor: The Ascendancy of France 1648-1688, The New Modern Cambridge History, Volume 5, p. 328.
Prior to the colonial era a buffer had developed between the King and the native English people in the transition from requisition to tax. Collection was not based on the premise that the property of any subject was, more fundamentally, the property of the King. Once the premise was blocked, that the King could arbitrarily retrieve any property of his subjects, because they were owners only by the King’s grace, it became embarrassing to account for why the King, not in ownership of his subjects’ assets, could lay claim on them. The English answer had been that although the subjects’ property was not the King’s property, the subjects could make a “gift” to the King in the form of tax revenue.  

During the Tudor dynasty direct taxation was by requisition. The Crown requested a certain amount, but the localities themselves assessed wealth and distribution of the amount by themselves; the Crown did not interfere in how each community devised its distribution of a tax levy. An essential aspect of the new form of taxation was its uniformity; the given tax would apply everywhere, at the same rate under the same circumstances, whereas in feudal England the royal requisitions were diversified according to the will of the feudal lords. Colonial funds had always been raised in the name of requisitions, not taxes.

This idea that tax revenue was a gift of the people to the monarch was a major divergence from the Roman and ecclesiastical conception. Taxation had originated in England as a gift from the people to the Crown. The mission of Parliamentarians was then to determine how much the gift to the king would be. Parliamentary members had an official status as representatives from their districts; they nominally functioned to

84 England became a great power partially because of her tax rebellions. The House of Commons devised taxation, and even in that case the common people were ready to rebel if the tax policy didn’t agree with them. In the manner of a Devil’s advocate, the people helped Parliament by opposing it. If England had not eventually formed a regressive tax, Britain might have gone bankrupt due to favoritism for the nobility. The activity of the common people guided England to design utilitarian tax distributions. Cf. Adams, Charles; For Good and Evil: The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 261.
return to their districts, extend the king’s request for money, and return to Parliament to announce the constituents’ “gift” of the amount of money. It was by this maneuver that Parliament (i.e. the nobility), not the King, became the only authority to levy taxes, because it was the grace of the people to give the king revenue, rather than a right of the King to take it.\(^{85}\) In Roman Law the monarch, not the people, had a divine right in the determination of how much tax would be paid.\(^{86}\) The French convention of barons was irregular, and the French King, in accordance with divine right, levied taxes autocratically.\(^{87}\)

As of 1215, the English King could not levy taxes without the consent of the barons, i.e. Parliament. But England was not the first nation to establish a viable tax. Although England had managed to unify a hundred years before France, France was first to transcended feudal fiscal devices with a variety of national taxes.\(^{88}\)

86 The notion of divine right re-emerged through the Reformation political philosopher Jean Bodin. The King was absolute; his authority was unimpaired by otherwise legal restrictions because of the divinity of the King’s authority; no human being could interfere in the king’s will. Cf. Jones, Colin; *The Great Nation* France from Louis XIV to Napoleon, Penguin Books, London, 2003, 651 p. 7.
87 The English had axiomatically reasoned that the King should live of his own. In England the King was always the most wealthy and powerful of the barons; if he were not, he would be deposed. He was not elected. It was supposed that the wealthiest individual should not depend on the money of others. The King received his revenue from Crown property, in the same way as any baron, he had certain feudal rights on his vassals, and Parliament contributed taxes in times of war. One part of his feudal rights were the tonnage and poundage, customs duties on ships, and these rights probably derived from the Roman portoria, which were Roman taxes on ships at port. Cf. Coffield, James; *A Popular History of Taxation from Ancient to Modern Times*, Longman, London, 1970, 278 p. 65.
88 From the viewpoint of the times, it seemed that parliamentary Britain was atavistic and that French development was more advanced. The French monarchy had a tax dictatorship, and was therefore agile enough for the commercial world, whereas England’s parliamentary tax procedure was an obsolete remainder from the medieval practice of formulating tax by assembly. Cf. Adams, Charles; *For Good and Evil: The Impact of Taxes on the Course of Civilization*, Madison Books, London, 1993, p. 245.
failure to establish national taxation was due to the circumstance that England was the only European country in which the king’s power to levy taxes had been limited.\textsuperscript{89} The elaboration of a contractual relation between the king and people in the Magna Carta legislated the limits within which royal taxation was possible.\textsuperscript{90} The English innovation reflected the relative power of the nobility vis-à-vis the King; tax collection continued to be determined locally, i.e. baronially.\textsuperscript{91} Commercial expansion of the early modern period increased English wealth, but agricultural revenue remained static. It was therefore increasingly inadequate for the nobility, inasmuch as they were fully exposed to the price inflation induced by commercial expansion, but were segregated by their feudal structure from the economic expansion.

Throughout late medieval and renaissance British history, as government expense increased, new revenue was acquired from greater taxation, but only on the exigency of military expense. English commercial taxes were confined to the fiscal requirements

\textsuperscript{89} Cf. Webber, Carolyn, and Wildavsky, Aaron; \textit{A History of Taxation and Expenditure in the Western World}, Simon and Schuster, New York, p. 174.

\textsuperscript{90} The King was allowed, but only in emergency, to appeal to Parliament for subsidies, i.e. extra tax revenue. Usually Parliament did not grant the full amount for which the King petitioned, because Parliament conceived itself as a control over royal excess, and especially as a force to prevent unnecessary wars. The decision to go to war was solely of the King, with no parliamentary involvement, but Parliament could usually halt an unpopular war by refusing to release funds necessary for its conduct. The King could not raise tax revenue independently of Parliament. Cf. Coffield, James; \textit{A Popular History of Taxation from Ancient to Modern Times}, Longman, London, 1970, p. 63.

\textsuperscript{91} By the time of Magna Carta, parliament had achieved authority over taxation, although it was contended for centuries afterwards. Following the Stuart dynasty the contention was less that between King and Parliament than between Parliament and people. Taxpayers, including assessors and sheriffs, simply didn’t cooperate if there was a popular consensus that the parliamentary tax was unfair. In 1397 Parliament had considered a graduated poll tax, but instead shifted the tax to the labor class. Tax farmers, who acted mercilessly, were appointed to collect the revenue. The Peasants’ Revolt broke out, in which tax records were destroyed and the Archbishop of Canterbury was killed. The King barely escaped murder. Since that revolt English government was careful of what they would inflict on the commoners. Cf. Adams, Charles; \textit{For Good and Evil}; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 237.
BRITISH COLONIAL TAXATION

of a military structure. Direct taxation had also been implemented very substantially throughout the 14th century. If the direct taxation is combined with indirect customs taxes, half of English fiscal revenue derived from taxation. During the Hundred Years War (1336-1453) the Crown raised £3.25 million in direct taxation, £5 million from indirect taxation, and £4 million from excise taxation. Ca. 1520 inflation rose by 600%. Real wealth increased at the same time, so that the 600% rise in prices remained tolerable. Inflation and economic growth nevertheless are not synonymous; Crown revenue deriving from land rent severely diminished. Elizabeth, Henry VIII, Edward VI, and Mary expropriated Church property, debased the coinage, and sold Crown land to make up the difference. Coinage was expanded by debasing it, and inflation then degraded the buying power of the currency.

Such recourses being somewhat nefarious, they could be taken only once, and no constant solution for royal deficit was discovered.\(^{92}\) Tonnage had inherent contradictions. Customs duties had been reserved to finance the monarchy, but within a short time customs duties could not supply enough revenue. First of all, increasing the yield from customs duties required increasing the volume of international trade. To the degree this could not obtain, it would be necessary to raise the rate of customs duties. But that was contradictory. If the customs duty on export were raised, then external sales would diminish as prices increased. If customs duties were raised on import, then domestic demand for the imported commodity would subside for the same reason. Increase of the customs duties would strangle the volume of trade, thus reducing the fiscal revenue. Moreover, tariffs on foreign goods would provoke other nations to retaliate by raising their tariffs, again tending to the reduction of the total

\(^{92}\) The axiom, "the King should live of his own," was unrealistic in early modern England. The inflation starting in the reign of Henry VIII badly damaged the relative wealth of royalty because its revenue, based on agriculture, was a fixed revenue while prices were increasing. By the time of James I it was necessary to appeal for subsidies merely to cover ordinary government expenditure. Cf. Coffield, James; *A Popular History of Taxation from Ancient to Modern Times*, Longman, London, 1970, 278 p. 67.
commercial revenue. Consequently excise taxation became the favored source of fiscal revenue, because internal taxation had none of the negative effects of customs revenue. Eventually, as in Holland, the excise tax was deliberately used as a means to reduce customs duties.\footnote{Cf. Carsten, F.L., editor: The Ascendancy of France 1648-1688, The New Modern Cambridge History, Volume 5, p. 31.}

Medieval kingdoms minted new coins with less precious metal content when in deficit. As mentioned, Roman taxes never changed, nor did it change the metal content of its coin. Because of the traditional (Roman) stability of money, the European countries had not yet encountered the variable relationship between the gold content of coin and market price, nor the variability between amount of money and market price. The early modern nations supposed that an increase of debased coin would constitute greater wealth. Prior to the Spanish gold influx, prices were stable. Consequently, the European countries had no idea of inflation, increasing the money supply, would merely reduce its buying power. This also explains why the age-old custom from Roman times, never to introduce a new tax and never to raise an existing tax, had become a completely misleading preconception for the modern conditions of inflation. It had not yet been discovered that the purchasing power of currency diminished when government minted money out of proportion to productivity.

Early English taxation concentrated on land ownership and commerce, because direct taxation in the forms of the poll and income tax, though attempted, proved to be beyond the English bureaucratic infrastructure. The renaissance Italian city-states had innovated income tax, property tax, salaried civil service with limited terms, and double-entry bookkeeping; none of these innovations was adopted in the following centuries.\footnote{Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 153.} Henry VIII implemented a precursor of income tax, but it failed because the powers of assessment were not equal to evasion; after its abandonment it was not
reintroduced until 1799, 150 years later. The Napoleonic Wars revived the income tax, but outrage brought about its abolition and it was delayed again for another 30 years.\(^{95}\)

Kings, possessed of the divine right, had very poor credit ratings. No law applied to kings; they could renege on a debt, or throw the creditor into prison with fictitious legal charges, or arbitrarily reduce interest rates and protract the loan periods: without any repercussions.\(^{96}\) The King borrowed in his personal status; neither government nor his successor was obligated to pay his debts. On the other hand, the King could secure loans with tax receipts and the royal estate; he could still borrow because of the very high interest rates offered. The willingness to provide high interest rates was motivated by the King’s desire to avoid entanglement with Parliament. However, loans were very expensive for the King, and difficult to achieve. To overcome the reluctance to lend, the King offered annuities, which were likewise secured by the annual tax revenue. Whereas direct loans were from commercial entities, annuities were purchased by private citizens. The purchaser would receive fixed money revenue for a period of one or two lifetimes. The annuity was an attractive investment because the King offered high interest rates. However, in the early modern period secular interest rates were deeply falling; the annuity, contracted on generous fixed interest rates of one or two lifetimes earlier, was very favorable to the purchaser, but a cause of bankruptcy for kings. Kings then acted kingly; they defaulted. Some other revenue source was needed.\(^{97}\) The King could not take the most obvious tactic: taxation. All the permutations of the English taxation system reduce to the King’s detestation of Parliament.

The land tax had originally been a property tax. The ease of land assessment led

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to its conversion into a pure land tax. A direct tax on commercial wealth was never successfully established. A tax called a “subsidy” was occasionally imposed, but never permanently. The Roman tradition, continued through the Church, had established that no new taxes were ever to be introduced, and the rates of existent taxes were never to be changed. This suited a stable agrarian society in which taxes were paid in kind, such as Rome, but it did not comport with a capitalistic society. The rigid stability of taxation was an unfortunate atavism surviving from a time when money values did not fluctuate. Such commercial taxation as the subsidy, under the influence of the Roman tradition, could be justified solely for the sake of emergencies, and thereafter had to be discontinued. Every form of property tax was collected like a subsidy; it was imposed to correct deficits from the previous year’s tax revenue; in alignment with Roman tradition property tax was only retroactive, in response to a justifying emergency, and sporadic.

As property taxes were direct, it was thought that like the land tax, property tax had to show equity. This was not thought of a poll tax like the taille because its charge was very small, but since property greatly varies, it was considered necessary to vary the charge of the tax. It was this humane consideration that brought about the extinction of the tax. Early modern bureaucracies were very meager. The compound of administrative incompetence, political vicissitude, and price fluctuation, together with tax evasion, made a fair property assessment impossible, and the attempt at a property or wealth tax was abandoned.

Commercial property remained beyond the capacity of assessment; commerce could be easily taxed by excise or customs, but such taxes applied at the moment of transaction, whereas a tax on the merchant’s assets was not attempted. Government imposed an exhaustive variety of excise taxes on all commodities. The excise tax became a major revenue source by the mid 18th century. Excise taxes offered two irresistible advantages; they were inescapable, and since they were of commercial transaction the tax could be paid in money rather than kind. The circumstance
that an excise tax charges everyone was another of its advantages.\textsuperscript{101} Excise tax was highly productive because a tax on transaction is necessarily regressive; the excise is regressive because most purchasers are commoners, and the purchaser always participates in payment of a transaction tax.\textsuperscript{102}

Failure of a property tax had the lopsided effect of taxing only landholders, leaving those not occupied in agriculture tax-free. As English society underwent national formation, the manorial agricultural structure did not disaggregate into alodial farming; the aristocracy retained possession of virtually all agricultural land, and landlords alone were subject to the land tax. Henry VIII introduced one new element into taxation; he ceased to depend on the occasion of war as the pretext for new taxes. Henry VIII introduced peacetime taxation in 1530, to remedy the fiscal deficits resulting from inflation, although, as always, it had ultimately been war that caused inflation and

\textsuperscript{98} In 1696 an excise tax was imposed on houses. In 1697 the excise was imposed on street vendors. In 1695 excises were imposed on deaths, births, and marriages. The English stamp tax was issued in 1694. The hearth tax was issued in 1662, and a window tax in 1747. Other excise taxes were attached to wine, liquor, and tobacco. Cf. Coffield, James; \textit{A Popular History of Taxation from Ancient to Modern Times}, Longman, London, 1970, p. 76.
\textsuperscript{100} Cf. Webber, Carolyn, and Wildavsky, Aaron; \textit{A History of Taxation and Expenditure in the Western World}, Simon and Schuster, New York, p. 271.
\textsuperscript{101} Excise taxes concentrated on items indispensable to life; hence its application to all people. It would appear to be unfair to the commoners, who constituted the main source of this revenue. The excise increased the price, and since the commoners had less disposable income to meet a uniform price, in effect the uniform price deprived the commoners more than the nobility. Cf. Coffield, James; \textit{A Popular History of Taxation from Ancient to Modern Times}, Longman, London, 1970, p. 75.
\textsuperscript{102} Government had used customs duties and excise taxes to secure government loan. The excise made government borrowing easier because it guaranteed the reliability of the loan. National debt increased to the degree that investors thought that a loan to government was safe. Whereas war had served as the main excuse for extraordinary taxation previously, excise taxes were now justified as a way to reduce national debt. The excise enabled national debt, and national debt justified extension of excise taxes. Cf. Coffield, James; \textit{A Popular History of Taxation from Ancient to Modern Times}, Longman, London, 1970, p. 77.
deficit. Land tax had been the main direct tax; consequently government revenue depended disproportionately on aristocratic landowners. Only land was immune to tax evasion.

How could Parliament, which was 100% made up of great landlords, allow a major tax which fell disproportionately on themselves? In both France and England, commoners originally existed in the nature of a property. The tenths and fifteenths were originally a property tax, not, more narrowly, a land tax, during the period in which the peasants, i.e. serfs, were still categorized as property. Because of the inefficacy of assessment, both taxes, in both countries (tenths, fifteenths, dixièmes, vingtièmes), subsided to what was accurately assessable, the land tax.\textsuperscript{103} The diminution of the tenths and fifteenths to a pure land tax occurred after emancipation from serfdom. The \textit{dixième} had been originally introduced to finance the War of the Spanish Succession. Very interestingly, the \textit{dixième} continued because the war ended; it was realized that wars were won by economic superiority.\textsuperscript{104} If a country could pay off its national debt rather quickly, it could prevail in negotiations and treaties better; better solvency signified that the country would be more formidable in the next war, because the country would have greater ease in financing it. Debt reduction meant higher taxes, and higher taxes were introduced to prepare the country for the next prospective war more quickly than its enemies. National finance had become a conscious device of war.\textsuperscript{105} Louis XIV established the \textit{dixième} in 1710; in 1741 Louis XV reintroduced it.\textsuperscript{106} In the Seven Years War Louis increased the vingtième and the capitation by 300%. In 1782, at the end of the American War of Independence, the vingtième was again raised by 300%.\textsuperscript{107}

\textsuperscript{103} In the 12th century the tenths and fifteenths had been invented as a method to provide revenue for the Crusades. Originally the tenths and fifteenths applied to moveable property. The commoners were all subject to these taxes. The 10ths and 15ths did not function well because assessment was too inaccurate. Cf. Coffield, James; \textit{A Popular History of Taxation from Ancient to Modern Times}, Longman, London, 1970, p. 70.

The vingtième was challenged on the ground that the King “should live of his own,”
but by the 18th century the King’s domain constituted only a single digit percentage
of what he spent. It was also maintained that only war could justify imposition of a
new tax like the vingtième.\textsuperscript{108} France had drawn extraordinary tax revenue under the
title \textit{affaires extraordinaires}; these were emergency funds which were resorted to
frequently, so in their place the \textit{capitation}, a poll tax, was instituted. Just as in England,
however, the tax which the capitation was to replace was never abolished, because the
\textit{affaires extraordinaires} were productive. If a tax successfully collected money, the
state was always disinclined to abolish the tax, regardless of reasons against it. The
capitation had been instituted on the justification that it would extinguish national debt.
The opposite resulted. Because the capitation extracted great sums of money, new
loans could be made on the security of the new tax, and national debt ballooned. By
18th century decree, taxation was no longer justified for amortization, but merely to pay
interest on yet larger debts.\textsuperscript{109} Taxation and credit had become manifest instruments of
war. Louis XIV forced his enemies into treaty negotiations in 1710 simply by having
instituted the dixième; his enemies were intimidated by French capacity to call up
more money to finance the war. On the 16\textsuperscript{th} of June, 1761, government prolonged the

\textsuperscript{105} The capitation tax was never revoked. The French dixième was revoked in 1717,
restored from 1733 to 1737 for the War of the Polish Succession, and then from 1741 to
1749 for the War of the Austrian Succession. From 1749 the dixième was continued under
the name vingtième, and remained a permanent tax. One should keep in mind that the tax
benefitted for external war while it at the same time would increase the probability of internal

\textsuperscript{106} The Royal Council announced that anticipation of a new war had forced the regime to
raise tax revenue. Cf. Kwass; \textit{Privilege and the Politics of Taxation in 18th Century France},

\textsuperscript{107} Cf. Kwass; \textit{Privilege and the Politics of Taxation in 18th Century France}, Cambridge

\textsuperscript{108} In 1725 the Duc de Bourbon was ousted from office merely for proposing the idea of a
cinquantième (2\% income tax) during peacetime. Cf. Jones, Colin; \textit{The Great Nation France
increase of taxation that had been originally instituted by the edict of 1752; Bertin had hoped that mere news of the protracted increase of the *vingtième* and capitation would intimidate Britain into accepting a peace treaty for the Seven Years War favorable to France. The tactic was treacherous; if the declaration had incited domestic protest, the internal agitation would discourage creditors from venturing more loans.110

Feudal dues, which were paid to a baron, not a king, antedated taxation. The commoner’s liability to taxation signified an elevation of his status from a property to an English subject. Conversion to national taxation took place by granting the baronage privileges in return for letting their commoners be liable to national tax. In both countries the imbalance implicit in pure land tax was alleviated by class privilege; in England the landlord himself, or his own nominee, governed the procedure of assessing his holdings for tax purposes. Originally the land assessments had been mensual, but the assessment was thereafter changed into a fixed land tax, and assessment of anything other than land was proscribed. After the land assessment was made rigid, the assessment was kept much lower than any estimate that could appear proportionate. The owner or his steward made the assessment, an independent civil servant did not verify accuracy, and the assessment was not revised for decades.111 Since 1692 the English land tax was formally 20% (4s/£), but the assessment of the land value was grossly underestimated. Louis XIV thereafter created the *dixième* in emulation of the English land tax.112 The French aristocratic landlords dissipated the burden by

109 Louis XIV justified continuation of the capitation and the dixième following the War of the Spanish Succession on the ground that France would go bankrupt without these tax revenues to pay interest. Cf. Kwass; *Privilege and the Politics of Taxation in 18th Century France*, Cambridge University Press, London, 2000, p. 46.
exempting themselves from land tax. This was possible because French land was largely retained by innumerable small freeholders, who could compensate against the land taxes not collected from nobility.\footnote{113 Half of the 50,000 estates in the South were the property of noblemen. The second half was in the possession of church, bourgeoisie, and smallholders. A seigneurie, i.e. an Estate, was divided into share-cropping (métayage), lease (fermage), and tenures (censives). Peasants owned 30\%-40\%, nobility 20\%, and bourgeoisie 20\%, of arable land. Cf. Jones, Colin; The Great Nation France from Louis XIV to Napoleon, Penguin Books, London, 2003, 651 p. 153.} In England exemption of this sort was impossible because virtually the totality of land was the property of the aristocracy, so that an “exemption” could not be offset by taxation of smallholders. There were none.

The land tax comprised the whole population, there was no possibility of deception, and its yield was more constant than that of any other tax. Its disadvantage was its presumptive weight on the nobility; land, being 95\% in the property of the aristocracy, would make a land tax progressive. The aristocracy would accordingly have opposed a national land tax. Although the land tax was officially paid by the landlords, political turmoil did not arise because the cost of the tax was shifted to the tenants, who paid rent for the land. As the tenants did not pay land tax as such, but simply complied with the market values of land rent, the concealment of land tax in rent did not antagonize them. This became an important element of the English tax tradition: as much as possible, the tax must be kept concealed from the taxpayer.

Likewise the excise and customs taxes, though ostensibly of the commercial class, were immediately passed on to consumers. The excise, first appearing in 1643, anteceded other forms of universal taxation. Taxation of the poor prior to 1643 was direct, sporadic, and inaccurate; in effect the poor had not been taxed because no effective device for targeting them had been devised. In the prior era their bondage to soil as serfs had enabled the land tax to cover them. For an interim following emancipation they were left unaffected by tax because it had been thought they had nothing that could be taxed. Following this year, however, they were taxed at every
moment of purchase, and until its abolition in 1698 they were covered by the poll tax.\textsuperscript{114}

In the early modern period the greatest part of national tax revenue was extracted from the excise, i.e. domestic commercial transaction, and customs duties, i.e. external trade. Tariffs were not effective for revenue in the early modern period, primarily because there were no developed native industries worth protecting; international trade was largely in things for which the trading countries had no native resources. England could not afford to invite retaliatory tariffs for so long as it wanted to profit from international trade.\textsuperscript{115} At the outbreak of the Civil War Parliament imposed an excise.\textsuperscript{116} The English commoners had until then associated excise tax with tyranny, that is, regarded it as something that distinguished them from tyrannical, Catholic nations. The first excise was charged on liquor, probably in the hope that an item considered faintly immoral would exculpate the excise in the popular eye. Government could not resist the temptation of a successful tax; the excise was extended to bread, meat, clothing etc. as the Civil War never desisted to demand more money. Rioting culminated in the arson of excise centers in London, but the excise was not abandoned.\textsuperscript{117}

The European governments regularly added new consumption taxes and raised their rates.\textsuperscript{118} The commercial taxes were correctly, as it was then thought, regressive,

\textsuperscript{116} Customs revenue would not have financed the Civil War. Subsequently the excise, introduced in 1643, was regularly used to finance war, and was the origin of domestic riots. The excise on beer and other alcohol persisted through the Restoration and by 1670 supplied one third of total fiscal revenue. Cf. Carsten, F.L., editor: The Ascendancy of France 1648-1688, The New Modern Cambridge History, Volume 5, p. 32.
\textsuperscript{118} Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 269.
inasmuch as the largest taxes weighed on commoners.\textsuperscript{119} Government deliberately attached excise taxes to whatever it identified as indispensable or at least universally purchased.\textsuperscript{120} The common people paid direct taxes such as the taille, owed feudal services such as the corvée, were subject to confiscation for wartime supplies, and had to quarter soldiers.\textsuperscript{121} The commoners supported by far the greatest part of taxes as well as vestigial feudal services. It had been thought, nevertheless, that excise taxes were fair, because all individuals paid, in contrast to direct taxes, which were selective.\textsuperscript{122} Equity was conceived as a requirement that all subjects pay the same tax without exception.

Commercial taxes were charged mainly on indispensable subsistence goods,

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  \item \textsuperscript{119} The taille had degenerated into a “universal tax” that applied only to the lower classes, the poorest third of the population. Its effect was to make the majority of people incapable of purchase. Excises also made the lower classes incapable of purchasing the simplest commodities, as the excise raised the price of everything. It was thought that the taille was very economical, as it manifestly extracted the last possible penny out of the poor. In reality the taille, by reducing consumption, prevented any possible economic growth, and deprived the King of revenue that would have occurred if the lower classes had had purchasing power. Cf. Kwass; Privilege and the Politics of Taxation in 18th Century France, Cambridge University Press, London, 2000, p. 226.
  \item \textsuperscript{120} Although Parliament had announced its intention to terminate the excise tax at the end of the Civil War, it was not terminated because it was remunerative. Especially in this period, thought was not given to whether the object of the tax had a relation to the purpose of the tax revenue; all that counted was whether or not the tax was productive. Following the Restoration, excise taxes were continued on alcohol, soap, iron, lead, beer, etc. Cf. Adams, Charles; For Good and Evil; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 254.
  \item \textsuperscript{121} Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 272.
  \item \textsuperscript{122} Excise taxes contained in their statutes a writ of certoriari, according to which the defendant in an excise violation could not appeal to a higher court. The burden was on the defendant; if he could not prove he was innocent, he was guilty. If he tried to countersue an official, he was liable to double or triple the punitive costs. Even as late as 1789-90 this legal configuration held; in that year 79% of excise trials in London, and 85% in the country, ended in convictions. Cf. Dowell, Stephen, A History of Taxation and Taxes in England, volume 4, London, 1965, p. 105.
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similarly to the French gabelle. Internal financial structure further exonerated the gentry and aristocracy from taxation. The upper classes could invest in government loans, which repaid generous interest rates. The government loans, such as in bonds and annuities, were paid from national taxation. Since the interest rates of government loan were higher than the tax rates, even though the upper classes nominally paid the national taxes, the total effect of taxation produced a profit for them. Since the common poor did not have savings, they could not invest, and therefore could not use the available opportunity to defray the expense of taxation. Tax regression deepened in the case of war, and reached its nadir only after war, because more taxation was needed to pay the war bonds of those who had invested in the war. The John Wilkes movement started, significantly, following the French and Indian Wars; tax contentions regularly develop in consequence of war expense. Loans, which ostensibly alleviate tax burdens, subsequently aggravate taxation, which must then pay off the loans. The new taxes were regressive; the small bourgeois then collected behind Wilkes to overturn all the devices which shifted taxation from the upper to the lower classes: venal office, monopoly, special tax exemption.

Diversion of the land tax to tenants was not a perfect solution for the landlords. First, whatever the national government extracted through land tax was revenue that the landlords could have captured for themselves, and, second, there were limits to how efficiently landlords could deflect the tax to their tenants. Tenants living at subsistence would in bad seasons have no surplus to pay a tax, so that the landlord perforce would have to pay the land tax. Tenants took as small a share of agricultural produce as the landlords could contrive. The landlord could not nonchalantly pass added cost on to the tenants because, by definition, a tenant living close to subsistence would then either starve, and produce less, or give up the tenancy. A conflict persisted between national government, constituted of nobility, and the nobility. Freehold farming seemed to be the only option by which to substantially tax land revenue, but the landlords hardly wanted more efficient taxation so much that they would give up their property in 95%
of English land. This ambivalence would persist, because commoners would yield far more tax revenue than a noble class, and therefore a monarch would have a residual fiscal motivation to raise common people up to a taxpaying class.

Redistribution of revenue is a feature by which progressive taxation can improve social stability, providing resources to poor and marginal groups. In this early modern period an opposite conception of social stability prevailed. There had been no idea of the economic prudence of not taxing common people to the maximum. The idea ought to have been possible. Rome had taxed its farmers so heavily that farmers saw no point in continuing to work, and they fled their farms. The laws of Diocletian ought to have made that event a lasting memory. In France, smallholders paid 50% of their income as taxes, whereas tenants paid about 80% of their harvest in tax and rent.

The wealth of the aristocracy and gentry must be protected, and the potential hostility of the poor must be hamstrung by keeping them poor. The capitation tax and the excise taxes, being regressive, oppressed the commoners more than the gentry and aristocrats. The excise taxes recommended themselves exactly because they guaranteed the immobility of the class structure: the wealthy would remain wealthy. The just price, just wage, and sumptuary laws suppressed the lower classes, for the safety of class stability.

Taxation other than of land focused on the merchant class, the only other social sector that produced a surplus; loans from commercial magnates were an opportunity to forego taxation which would otherwise have fallen on the merchants. They were more adept at making royal loans advantageous to themselves than they could have

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123 For the exception of Elizabeth I, who noticed that taxation was impoverishing France; she adopted a resolution to keep taxes as low as possible, and avoided war. Despite the Spanish Armada, her policy got England out of debt and left the government with a large surplus. Cf. Adams, Charles; For Good and Evil; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 245.
124 Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 263.
accomplished with taxation. Their upper hand in the loan transaction was due to the circumstance that the king had a greater interest in not taxing the merchants (taxation would necessitate compliance with representative bodies) than the merchants themselves were afraid of being taxed. Early modern monarchy conceived state finance to be the king’s personal responsibility; parliament or other bodies might have an advisory role, but the king’s power to spend was untrammeled. In consequence a body such as Parliament could not back a king’s debts. Simple identity of King and State meant that a king could not do otherwise than to borrow privately, in his own name.\textsuperscript{125}

As long as the King could get revenue from private loans, he could ignore the demands of representation. Parliaments never granted the King new tax revenue unless the King made some concession to Parliament. This quid pro quo was highly obnoxious to the King. The financial benefit that a parliament offered the King was asymptotic; it was the grant of a tax for that year only and, if the monarch wanted to continue the tax, he would need to petition parliament again in the following year. What parliament demanded in return, however, was something permanent; the concession granted, whatever it was, would endure into eternity. Consequently the monarch never wanted to trade tax grants for concessions. This made the royal loan from the merchants more valuable to the monarch than to the merchant. The royal loan was a source of revenue in which the parliament could not interfere, and in which the exchange was of temporary benefits. Kings avoided taxation because of its entailment with representation, but the consequence, in the Stuart dynasty, was an apoplectic demise from the enormous and unsecured debts accumulated with merchants and tax farmers. It brought about the demise of the Stuart dynasty.

The Bank of England was established after the episodes of royal insolvency; it could not have been established until after the king was no longer able to take personal loans independently of parliament, that is, the Bank of England could not have come

\textsuperscript{125} Cf. Webber, Carolyn, and Wildavsky, Aaron; \textit{A History of Taxation and Expenditure in the Western World}, Simon and Schuster, New York, p. 252.
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into existence until after Parliament guaranteed royal loans. Prior to the Glorious Revolution Parliament did not guarantee loans to the King, because he could take them without Parliamentary permission and used them to evade parliamentary control.

Throughout the Stuart dynasty, until the Glorious Revolution, the tradition of earmarking resulted in an accountancy which kept all revenues and disbursements hermetically sealed from each other. Assume that payment of a debt was earmarked with a certain toll. If the toll were to be somehow abolished, the revenue assigned for payment of that obligation would exist no more. The obligation would not be paid at all; the deficit of the failed revenue would not be compensated from another revenue source, which had already been earmarked exclusively to pay some other obligation. Revenue funds were never consolidated. In most cases payment of an obligation by an earmarked revenue would take many years, so that there was high probability that the source of repayment might be abolished or reduced long before the creditor was fully repaid. It was the risk to the creditor, not the government. At times, if the creditor were important, the King would award the creditor a new earmarked source for payment of the account, but then the previous creditor who had received this earmarked revenue would be deprived, and a transference of some other earmarked account might be effected. Finally, labor class persons, at the bottom, were deprived of pensions, retirement funds, annuities, or repayment of debts to which they had ostensibly been entitled.\(^{126}\) After the Glorious Revolution the King could not circumvent Parliament with private loans, and government was reconceived from an identity of King and State to a conception in which a large number of individuals, including Parliament and Ministry, constituted the State.

Venal office persisted in all European monarchies. When a nation overcame the absolute monarchy, as in England at the Glorious Revolution, the support for venal office collapsed. A government operating by the rule of law was stable enough to enter

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the capital market directly, and was thus able to get interest rates equal to or lower than the market interest rate, whereas governments always had to pay higher than average interest rates when they were monarchies. The viability of the Bank of England, established in 1697, derived from the discovery that a large national debt could be made “profitable”; by consolidating floating debt, i.e. short term debt contracted outside of the bank, into long-term debt in the bank, debt could be funded. Prior to the Bank of England, government took short term loans to make exigent payments, but faced repetition unless collected tax revenue arrived. Long term borrowing, once possible, funded debt, while short term notes were used to pay floating debt. Long term debt was guaranteed by assignment of some source of fiscal revenue to the payment of the debt; the British public, thus discovering security in the investment, would invest their private capital to pay the external debt, and then rely on guaranteed government interest payments on their public loan, achieving a secure profit from their personal savings. The remainder of the British debt was paid through taxation. Commercial taxation was the greatest source of revenue (customs, excise), and the second largest tax revenue was the land tax. The customs and excise taxes were indirect, or hidden, in that tax was taken out before retail sale, simply raising prices, but the consumer was left unaware of his having paid a tax; this helped greatly in minimizing tax riots.

Landed nobility and merchants composed Parliament during the Hanover dynasty; mercantile and noble interests were in rivalry at the same time as the tax composition disadvantaged the aristocracy. Prior to 1689 the King had refused to go to war against

129 Customs duties had limited yield. Trade was not sufficiently voluble to render customs revenue that would satisfy all fiscal needs. More importantly, when customs duties exceed a certain range, the profits of smuggling predominated over its risks, and gradually more would be smuggled. Cf. Coffield, James; A Popular History of Taxation from Ancient to Modern Times, Longman, London, 1970, 278 p. 78.
France; in this interim of peace England expanded her external commerce. But until the Glorious Revolution English taxation had been inefficient. Between 1660 and 1685 Parliament had granted an irregular direct tax, an “assessment,” that was supposed to be indiscriminately of property, but which devolved exclusively on land. The assessment varied between 1s/£ and 4s/£, which produced £500,000 per s/£. Under Queen Anne this assessment was made permanent under the name land-tax. It was conceived specifically to finance the wars against France. The tenths and fifteenths, it will be remembered, had been a wealth tax, and therefore applied to personal as well as real estate. However, the tenths and fifteenths diminished into a pure land tax, personal estate was left out, and merchants were left curiously untaxed. Whereas real estate was taxed, no tax schema had yet been designed for personal estate, which comprised the non-land assets of the merchants. England could not have sustained her precarious national defense against France if either the merchants or the landlords had withdrawn cooperation; it was vital to appease the aristocracy by reducing the land tax. Throughout the prewar period starting from 1763 the liability that coalition in the English government might fall apart importantly depended upon whether colonial taxation could alleviate the land tax.

The British American colonies did not have trade relations with European countries or colonies of other nationality; confinement to a British trade union ought to have ingested the colonies into the same tax structure as the mother country. But England did not impose a direct tax on the colonies until 1765. The colonies had been established in the legal status of fiefdoms, not provinces, and were therefore under the feudal jurisdiction of the King. Therefore they were not taxable. But even at this point the status of colonies was confused because their charters were as municipal corporations, the same legal basis as that of native English towns. Therefore they were taxable. Taxation had originated in England as a gift from the provinces to the Crown.


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Conceivably Britain delayed the attempt to tax the American colonies because their legal status, as fiefdoms, was categorically different from that of native Englishmen. When James II and Charles II began cancelling the charters of English towns by *quo warranto*, it was within royal prerogative to do so, but it was one of the factors that precipitated the Glorious Revolution.

The colonials, supposing that they would benefit from the acquisitions of the French and Indian War, were initially reconciled to the idea that they should help alleviate the British national debt. The Revenue Act of 1764 and the Stamp Act of 1765 ensued. The dilemma posed by English land taxation had invigorated the English aristocracy. War finance inevitably depended on land tax, i.e. depended on the aristocracy. The manpower of armies could come from nowhere but the agricultural tenants. These people were no longer the property of the landlord, but nevertheless the landlord’s success depended on the labor quality on his fields. Conscription ineluctably depended on the landlord’s consent to deplete agricultural labor. Thus, prior to capitalism, the landlord class controlled English politics. The fiscal aspect of the army became more critical than manpower; when feudal obligation did not facilitate conscription of the landlord’s peasants, the professional army intensified the demand on revenue to pay the army. This oddly had the effect of amalgamating traditionally confrontational classes, the aristocracy and the merchants. Because English agriculture had become commercial, the merchant and aristocrat could not persist in oppositional interests. The landlord and merchant were different only in the commodity they produced, while both were “capitalists” in the sense that their class identities no longer made a difference in their interests: market expansion. The interests of nobility and merchant class remained oppositional in France much longer, until 1789, as the French nobility kept its exemption from taxes. France had not needed to consolidate a powerful representative group because the nobility, being exempted from taxation, did not need representation. The French Revolution was instigated by the Estates General, a representative organization so vital that it had not once been invoked for 150 years.
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prior to its convocation at the eve of the Revolution.\textsuperscript{131} The monarchy of an absolutist regime had been able to avoid calling representative assemblies in return for exempting its aristocracy from taxation.

**Punitive Taxation**

It is perhaps inconsistent to presume that taxation is more remunerative in a democratic than in an oligarchic scheme, but at the same time to notice that British government favored capitalism and private accumulation; government fostered oligarchy. British government promoted the dominant social class because taxation is immediately dependent on accumulation, whereas the greater long-term taxability of a democratic society could not have been a conscious datum for at least another century.

Attrition of the labor class population can induce something that looks like national philanthropy. Britain had devised a primitive form of socialism; just as taxation functioned to secure the authority of one class over another, taxation could conversely function to redistribute welfare to destabilized or marginalized classes. Deterioration of the population of poor people might lead to manpower shortage and higher wages. It may be apposite for a national government to finance labor class welfare to insure that the numbers of the poor do not cease to grow. England was the first European country to organize a welfare system through its Poor Laws, and the “poor rates” were the largest tax that commoners had to pay. The basic idea of the poor rates was anticipated in the tithe of the Catholic Church, which had also been instituted to aid the poor; the English poor laws were introduced after England’s breach with the Catholic Church, serving as a substitute following the abolition of the tithe.

\textsuperscript{131} Louis XIV especially killed the development of representative government. The Estates General, i.e. the French national parliament, was adjourned in 1614, and was not convoked again until 1789. The “Assembly of Notables” was adjourned in 1626, and never recalled. Provincial parliaments were also permanently suppressed: Dauphiné, 1626; Normandy, 1666; Alsace, 1683, and Franche-Compte in 1704. Cf. Jones, Colin; *The Great Nation* France from Louis XIV to Napoleon, Penguin Books, London, 2003, p. 12.
However, as Malthus warned, philanthropic care of the poor can aggravate the problem. If welfare enables the poor to live without working, procreation resulting from philanthropic treatment will increase the numbers of the poor to excess, instead of relieving them, and aggravating the burden of taxation without achieving any benefit. Guaranteed welfare can create a useless Lumpenproletariat instead of a reliable workforce. Governments are motivated to devise some contingent form of welfare, such as workhouses, to ensure that the ward’s life in the workhouse, i.e. within welfare care, will always be more unpleasant than life as he would experience it in employment, out of welfare. Perhaps most machinations devised to hit such a sweet spot were failures.

Tribute in the ancient world, and the treatment of Jews in medieval Europe, are significant precursors of the English Poor Laws. Payment of tribute to the Roman Empire would provide revenue, but more importantly by depriving the enemy of surplus it eliminated the threat of aggression. But this is still quite different from punitive taxation. A closer precursor had been the medieval practice, in all of the European countries, of imposing excessive taxes on the Jews. The resemblance to punitive taxation was in the curious European resolution not, simply, to exterminate the Jews instead of exploiting them. The prevalent thought had been that conversion of the Jews to Christianity would be a stronger testimony to the truth of Christianity than to exterminate the progenitors of Christianity. But this idea did not preclude abuse in aid of persuasion; it was thought that taxation of the Jews might make their lives sufficiently miserable that they might convert to Christianity to escape the tax burden. But this was still not the same as punitive taxation insofar as it was directed against a wholly alien cultural group. Taxation of Jews and tribute were malevolent, whereas the Poor Laws, essentially, were benevolent; the strand of identity was in the aspect that all were primitive attempts at social engineering. Neither money extorted from the French Huguenots nor that from the Jews achieved any substantial improvement in the finances of any European country. It was not the revenue from such taxes that
motivated taxation, but a non-pecuniary social improvement envisioned to result from such taxes.

The idea of systematic punitive taxation to achieve a social transformation seems to have been an original British invention. Queen Elizabeth’s laws against Catholics anticipated this formation. It is discernible in Charles I’s attempt to make Parliament inconsequential by his ingenious application of ship money.¹³³ Ship money was levied for the third time in October 1636; if the levy succeeded, there would no longer be a financial need to convoke Parliament.¹³⁴ The Treaty of Dover of 1670 established that Louis XIV would pay Charles II for restoration of Catholicism in England and for destruction of the Dutch state.¹³⁵ The Navigation Acts similarly used taxation to manipulate trade conditions rather than to accumulate revenue. Whereas this was anticipated in various events of 17th century England, by the 18th century punitive taxation had achieved its mature, explicit form: tax policies expressly to the purpose of debilitating social sectors deemed to threaten social stability.

¹³³ Charles I demanded ship money for the first time to support a secret Spanish pact to attack, destroy, and divide the Dutch Republic. The Parliament, being Protestant, would have opposed an attack on another Protestant country, while Charles I had secretly promised to convert to Catholicism. The ship money was for the Spanish war effort, but Charles said that the naval buildup was to combat piracy. In 1635 a second call for ship money was made, but this time there was not the slightest military pretext for expenditure on the navy. Cf. Grapperhaus, Ferdinand H.M.; Taxes, Liberty, and Property Meiburg & Co. 1989 Amsterdam, p. 264.
¹³⁴ At the same time Laud’s intolerance in behalf of the Anglican Church strengthened the oppositional Puritan movement, which came to characterize Parliament. Parliament recognized that ship money might become a permanent source of tax revenue, by another name, and outside the authority of Parliament. Cf. Grapperhaus, Ferdinand H.M.; Taxes, Liberty, and Property Meiburg & Co. 1989 Amsterdam, p. 269.
¹³⁵ Louis was to give Charles II 3 million livres each year; Charles II was to acquire three provinces of Holland. Charles II was to declare his conversion to Roman Catholicism, at which time France would send 6,000 soldiers to suppress English reaction to his conversion. Cf. Carsten, F.L., editor: The Ascendancy of France 1648-1688, The New Modern Cambridge History, Volume 5, p. 310.
The Puritans under Cromwell and Parliament charged a punitive tax on the Royalists; by edict they extorted one tenth (the “decimation”) of the wealth of all those who had taken the royalist cause.\footnote{The favor was returned from the royalists to the roundheads subsequently to the Restoration; £100,000 in extortions and £640,000 in “plunder” were taken from the Puritans. Cf. Adams, Charles; \textit{For Good and Evil}; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 254.} Upon the Glorious Revolution such tax discrimination turned on Catholics and Low Church Anglicans. Such groups were not allowed to attend university, and were thus excluded from legal and medical professions. Both groups were debarred from public office, and Catholics from Parliament. Previously such groups had been denied the right to vote and had been compelled to pay onerous taxes in retribution for not being High Church Anglicans. Similarly to the taxation imposed on European Jews, the treatment was relatively gentle. The attitude did not anathematize the persecuted group, as would be ingredient in extermination or expulsion. Rather, it was hoped that the pressure would move the group to convert to Anglicanism, by which the persecuted group, assimilated and wholly accepted by the main group, would receive relief. If, on the other hand the group refused conversion, impoverishment from onerous taxation and the deprivation of lucrative professions would render the group politically innocuous.

An element of the Restoration had been revenge. The new Parliament awarded the King supremacy over the army and navy, while other armies were not allowed. The new Treason Laws enabled the King to imprison opponents ad libitum. The Licensing Act expanded the power of the monarch to suppress unwanted publication. The Corporation Act limited membership in any corporation to Anglicans, i.e. royalists. This was the Clarendon Code, which was afterwards refined in the Test Acts of 1673 and 1678: full citizenship thereupon entailed the sacraments of the Church of England. The Act of Uniformity (1662) deprived of their benefices pastors who declined Episcopal ordination. Only Anglicans remained in the Church and universities.\footnote{The favor was returned from the royalists to the roundheads subsequently to the Restoration; £100,000 in extortions and £640,000 in “plunder” were taken from the Puritans. Cf. Adams, Charles; \textit{For Good and Evil}; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 254.}
A state with a uniform religion would yield greater tax revenue. Enlightenment thought conjectured, in the tradition of Machiavelli, that the aristocratic classes protected their position by taxation; by debilitating common people it entrenched the power of the ruling class. The Conventicle Act of 1664 forbade religious assemblies of five persons or more; this prevented the favorite way of dissenting Protestants to circumvent the Anglican Church. The Five-Mile Act prohibited all pastors who had declined the Anglican rites to be within five miles of an incorporated town.¹³⁸

The Enlightenment appreciated the value of the Church in its power to keep the ignorant labor class submissive within an oppressive tax regime. Whereas this idea had functioned under French Catholicism, religious uniformity was not possible in Protestant England. The next best religious configuration in terms of tax purposes would have been universal toleration, which would have eliminated internal differences in the tax rate by making all subjects, of whatever religion, uniformly taxable. However, the first schism in the Anglican Church emerged precisely by a puritan challenge to rights of central taxation, namely the centralization of the Poor Laws. If not uniformity, toleration ought to have been the goal of the monarch. To the contrary, the nobility, i.e. the governing class, would see great advantage in intolerance towards religious heterodoxy, even though social exclusion of the heterodox religious groups would be less tax efficient. The orthodox political group could intensify their political ascendancy by using the heterodoxy of the other groups to disqualify rival political formations.

When in 1673 Lord Chancellor Shaftesbury discovered the secret plan to return England to Catholicism, opposition in the House of Lords led the King to renounce his

Declaration of Indulgence. Thereafter followed the Test Act, which barred from office anyone who did not take the sacraments according to the Church of England, and who did not repudiate the Catholic doctrine of substantiation.\textsuperscript{139} This phenomenon occurred on both sides of the Protestant-Catholic England, both before and after the Glorious Revolution. The deficit in tax collection was corrected by charging higher, punitive taxes on all those who did not belong to the Anglican Church. It is ambiguous whether this taxation was primarily for the sake of conversion or whether religious conversion was a pretext for expropriating revenue.

In the colonial era British land taxation was in transition from an agricultural to an industrial economy, while English society was in a contended and imperfect transition from Catholicism to Protestantism. The taxes imposed on the Catholic Irish and the Catholic English had not been revenue taxes; they functioned to debase the Catholic populations and to compel them to conversion in the Anglican Church. A punitive tax for the express purpose of social reorganization was not foreign to the English; it is at least thinkable that taxation policy for the colonies may have been animated by thoughts in this tradition. We would like to investigate whether the early attempts to tax the colonies had been punitive or fiscal in main intent.

\textbf{REGULATORY TAXATION}

Under the pressure of England’s insolvency, commercial taxes fostered by the Navigation Acts shifted in connotation. The need to exclude of foreign traders from British colonies had become vestigial, but while the Navigation Act taxes had become accepted already, for the accomplished purpose of a closed trade union, their acceptance, once accomplished, might be dedicated to new purposes. A government is always reluctant to repeal any tax which functions, because most tax initiatives fail. Direct taxes had not been imposed on the colonies until 1765.\textsuperscript{140} Until this time, land

\footnote{\textsuperscript{139} Cf. Carsten, F.L., editor: \textit{The Ascendancy of France 1648-1688}. The New Modern Cambridge History, Volume 5, p. 311.}

\footnote{\textsuperscript{140} Until this time, land...}
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tax in England had been the main source of direct English tax revenue; consequently
government revenue depended disproportionately on aristocratic landowners. Landed
nobility and merchants composed Parliament; their interests were in rivalry at the
same time as the tax composition disadvantaged the aristocracy, and at the same
time as the aristocracy outnumbered commercial representation in Parliament. Land
owners financed government while merchants and manufacturers, who might earn
equivalent amounts, went largely untaxed. Reluctance to allow the merchant class into
parliamentary membership had become a compromised attitude. The House of Lords
was immune because occupancy was hereditary, but since occupation in the House of
Commons proceeded by election, merchants were able to infiltrate Commons. Noble
families indulged marriage arrangements with merchant princes so as to infuse their
depending financial status, but such mergers of noble and mercantile families meant that
often the interest of the merchant became that of the nobleman. The seats of the House
of Commons were in effect purchased, although the election procedure considerably
stalled the ascent of merchants in comparison with the ease with which government
office was purchased in France. Commercial taxation of outlying colonies might
have relieved the British population of some of the regressive taxation, and have thus
provided an innocuous means by which merchant activity could contribute an equitable
share of fiscal revenue, without introducing direct taxation of the merchants.

England could not have sustained her precarious national defense if either the
merchants or the landlords had withdrawn cooperation; the rivalry could not be
resolved by destroying one group or another. It was vital to appease the aristocracy by
reducing the land tax. Throughout the prewar period starting from 1763 the possibility
that coalition in the English government could fall apart importantly depended upon
whether colonial taxation could alleviate the land tax. All European governments

140 The colonial paid on average $0.25 per year while the native Englishman paid $5.50.
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taxed their population to the maximum; a Malthusian notion of effective demand, which generated clear implications of the dangers of maximum taxation, had not yet emerged. In the Roman Empire there was no agricultural innovation because a farmer who produced more would get heavier taxation; the consequences of excessive taxation should have been within the cultural memory.\footnote{141} The absence of colonial taxation made the colonies conspicuous as an untouched possibility of revenue. Over a century previously, England’s motivation to lure migration to the colonies had disengaged them from the local taxation of the English provinces, so as to make non-taxation understood as a traditional entitlement. The English had financed Anglo-French colonial wars from English taxation. It appeared to the English that the colonials were in debt to England for having financed their war. Moreover, all colonies depended on protection by the British navy on their trade routes.\footnote{142} Albeit that England never directly taxed the colonies until 1765, the colonies taxed themselves, and therefore did not feel beholden to English largesse. However, autonomous colonial taxation was never so much as 20\% of internal English taxation because the colonies were not subsidizing patronage and aristocracy.\footnote{143}

Most of the colonial revenues were nevertheless flowing into the British government, despite the absence of direct taxes. The navigation laws gave the British companies a monopoly over colonial commerce.\footnote{144} British goods cost two or three times more than

\footnote{141} Cf. Webber, Carolyn, and Wildavsky, Aaron; A History of Taxation and Expenditure in the Western World, Simon and Schuster, New York, p. 158.
\footnote{144} Burke: “this principle of commercial monopoly runs through no less than 29 Acts of Parliament from the year 1660 to the unfortunate period of 1764.” The Navigation Acts made it illegal for the colonies to import European goods except through British ships. Trade between the French West Indies or South America and the colonies was prohibited in 1773. Tobacco could be exported only to Britain. Cf. Coffield, James; A Popular History of Taxation from Ancient to Modern Times, Longman, London, 1970, 278 p. 82.
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they cost in England; one third of the price of British goods was due to taxation of
those goods, paid in England before they went to the colonies.¹⁴⁵ British import duties
plus the profits to British manufacturers amounted to £2 million per year paid from
the colonies to England. Despite low taxation, the colonists believed that they already
carried more taxation, which by any other name would smell as sweet, than they could
bear. Massachusetts for instance had to accumulate £237,500 in cash every year to
meet her deficits in the trade balance. Although England had promised to reimburse the
colonies for war expenses, by 1765 England was still in arrears of this promise, but
was simultaneously improvising new methods to extract colonial money.¹⁴⁶

Normally a dominant society envelops a subordinate national entity in her tax
structure, but at inception this did not happen to the British colonies. A neighboring
annexation is intrinsically more taxable than a colony because the government is
located in the same place as its target, and because the inescapable captivation of
people is prerequisite for taxation. The commercial agricultural economy of the Atlantic
colonies invited taxation. Subsistence agriculturalists are more independent because of
the absence of money, and are amenable only to a more immediate, feudal domination.
Taxation presupposes the possibility of remote control; taxation cannot emerge prior
to dependence on commercial exchange and uniform currency. Although the colonies
were not a subsistence agricultural society, their confinement was inadequate for direct
taxation. Commercial agriculture promotes direct taxation in that a farmer cannot
elude the tax agent without abandoning his source of revenue at the same time; the
commercial farmer cannot elude the moment of commodity exchange. The individual
in the colony was adequately trapped in this manner, but the whole community in
which he lived was able to evade tax entrapment. Britain was financially unequipped to

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¹⁴⁵ Cf. Morgan, Edmund S.; A Popular History of Taxation from Ancient to Modern Times,
W.W. Norton & Company, 1976, p. 34.
¹⁴⁶ England owed three quarters of a million pounds sterling on the pledges to reimburse for
war expenses in 1765, two years after the end of hostilities. p. 32
enforce militarily odious laws in the colonies; the only opportunity for British taxation consisted solely in British laws which the colonists accepted. Direct taxation, entailing assessment and policing, exceeded such bureaucracy as England could afford. An annual census, or a restriction of populations to their given occupations or residences, would have been disastrous for unformed and growing colonies, and far beyond the capacity of British administration.

Land tax had been introduced in the colonies in ovo as quitrents; an amount payable ultimately to the king for land one owned in the King’s name. This approach was feudal; oddly, England did not persist in it. The colonists collectively ignored quitrents. Instead, the original formation of colonies as corporations introduced taxation in the indirect form of commercial taxation and customs duties. This form of taxation was successful, because the colonists were under the traction of commercial exchange.

Whereas quitrents were of feudal descent, customs duties were traditionally royal, legally descendant from tonnage and poundage, but were enacted through the parliamentary Navigation Acts.\textsuperscript{147} Taxation predominated in the commercial form long after the colonies lost their status as commercial corporations. The three-thousand-mile distance connoted fiscal inability to establish, let alone militarily supervise colonies. Taxation, be it of corporate, proprietary, or royal colonies, had to depend on pressure which England might inflict on corporations or proprietors resident in England who had privately financed the colonies. The direct dependence of the colonies on England both for supply and for protection from France and Spain determined the means by which England could extract economic benefit from the colonies. Revenue extraction

\textsuperscript{147} There was a distinction between the common law and royal prerogative. What was posited by common law could not be repealed except by King-in-Parliament; prerogative was outside parliamentary jurisdiction. All foreign affairs were within royal prerogative. The English ports were within royal prerogative. In the Bates case an Act of Parliament from the reign of Edward III seemed to dispute the prerogative of customs duties apart from parliamentary approval. This objection was overruled, and Charles prevailed in the Bates case. Cf. Adams, Charles; \textit{For Good and Evil}; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 245.
had to proceed not from direct taxation, but from trade monopoly. Colonies could not have been directly taxed as if they were native provinces.

With European nations eager either to colonize, to usurp, or to conduct trade with the British colonies, what could Britain offer to keep the loyalty of her colonies? The only possible enticement had been land; neither commoners nor aristocrats could react to colonization except on the prospect of land ownership. Even the indentured servants had to be given a credible hope of possessing land. The land in question was hypothetical; it was not in England, nor in previous possession, and the basic claim that it was *terra regis* amounted merely to a challenge to other nations to try to usurp it. Since such land was unoccupied, government’s gift to colonists would not be a fiscal expense, analogously to the expense of taking English land in previous possession and transferring it to a new group of people. Britain would receive loyalty, because the colonist’s hypothetical possession of the land persisted only by grace of the British government. Britain would receive colonial loyalty gratis, for as long as France or Spain might take over the colonies, in which case the colonists would lose the security of their property.

The only feasible condition for taxation, monopoly control, excluded the form of taxation of the colony as if it were a native English province. An extraneous factor reinforced need for a British trade monopoly; free trade would have enabled the colonies to leverage foreign trade partnerships to compromise British trade restrictions; British market prices would have been forced into uniformity with world market prices. The colonies, forbidden to entertain European trading nations, would necessarily place the entirety of their production into the British trade circuit. As long as colonies lacked any other form of capital accumulation except British trade, the captivation of the maximum colonial surplus in the British trade union made British taxation superfluous. Any tax imposition would simply collect the same revenue that was already captured in the commercial exchange.

Commercial regulation circumvented the dilemma; under the conception that the
American territory was a fiefdom, England could extract colonial revenue by applying customs duties to imported and exported goods. The duties were enough to substitute for taxation; if the colonies had been taxed, commercial exchange would have waned, colonial substitute industries would have sprouted, and England’s commercial revenue would have diminished in direct proportion to increase of taxation. It was in England’s interest not to tax the colonies, in order to maintain the revenue from colonial commerce. Customs duties had been the traditional method of collecting royal revenue because commercial exchange was easily supervised. The effect of direct taxation on this economic equilibrium would have been as self-defeating as raising taxation in England. Notwithstanding widespread evasion the colonies had accepted revenue collection through the navigation laws; it was in fact and tradition the accepted means by which the colonies compensated England for the cost of colonial defense.\textsuperscript{148}

Regarding the outbreak of the Revolutionary War, however, it is important to note that the native English population of commoners could not calculate this relation, and was incapable of appreciating that the colonials had reached saturation in taxability. Their awareness that they were paying five times as much national tax would keep them vigorously convinced of the injustice of light colonial taxation.

The efficacy of monopolizing British American colonial surplus through the Navigation Acts, rather than through taxation, depended on two premises. First, it was supposed that England would derive greater revenue from the colonies if they traded only with British dominions. This is not self evident, and it was not universally enforced; free trade might have expanded colonial production enough to have created a greater tax base. Second, any revenue worth consideration would certainly show up in commerce. Direct internal taxes were unnecessary, because wealth that could potentially be targeted by internal taxation would inevitably reappear as a target in commercial exchange. The customs duties of the Navigation Acts had been to prevent

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colonial trade with foreign countries, and as such were at least cognate with punitive
taxation, in that the object of these taxes had not been revenue.

Britain had well understood the necessity of a continuum between British and
colonial government; the first failure consisted in the discontinuity of colonial
democracy and British hegemony. The King’s prerogative over appointment of
the colonial governor and other positions ought to have secured control of the
colonial elites. The fatal breakage had been that the royally appointed governors
were given very little patronage to dispense, so that in consequence the tactic of the
prerogative failed to align the colonial élite on the side of Parliament. There is no
axiom in supposing that the colonial elite would align with the colonial people, out of
consanguinity; they might just as easily have aligned with Parliament and have looked
down on their own people, the colonials, perhaps analogously to the emotional relation
between the English and the common people in India.

However, the colonial elite did not descend from the British aristocracy, it was not
educated in England, had no chance of intermarriage with English nobility, and so
absolutely lacked ability to formulate dreams of ascent within the English aristocratic
hierarchy. Realization in the later phase that only native English, not colonials,
might hope to occupy the higher colonial positions aggravated colonial alienation.
The colonial élite echelon might have designed evasion of the demands of royally
appointed governors because they were unable to imagine personal advancement
through the grace of the Crown. Britain could not afford military enforcement against
low-key recalcitrance; the only remaining British option might have been to make
the colonists finance military control. What had been initially British power devolved
into civic, provincial power, developing in unison with a penchant to sequester private
accumulations of power from control of British government.

Taxation is possible when the personnel of a region are dependent on the centralizing
organization either for land or office; in the cases of both France and Britain the tax
system coalesced from a trade-off between the monarch and the nobility previously
in possession of the taxable region. Since there was no prior possession in the case of colonial territory, taxation could not have developed in the same way. Taxation would have been possible if the military and administrative personnel of the colonies had depended on central government for land and office. However, grants of land and governmental office to colonists tended to decentralize power at the same time as it was the essential means of colonial loyalty. The popular-democratic tendencies of land acquisition and self government, which were previously essential to enticing unsubsidized colonization, eventually led to larger land units and lucrative production; however, 1) the resulting colonial aristocracy had no common lineage whatever with the English aristocracy, and 2) whereas the source of capitalization depended 100% on British trade, agricultural production per se became a source of wealth independent of England or its monarchy. The circumstance that the colonies’ dependence on England did not extend beyond commerce made English dominance less than absolute. For three reasons the colonial infrastructure would be too weak to perpetuate loyalty: 1) the colonies were not bound to Britain in a unified money economy, 2) the colonial elite were not cognate with the English aristocracy, and 3) the 3,000 mile distance removed the colonies from military enforcement.

The only insurance of colonial loyalty was the fear of extermination by Catholicism, either in the form of French or Spanish conquest. If the French-Spanish threat were assuaged, greater colonial centralization would take shape, but to that degree England would become less able to command centralization. Taxation is the mainspring of centralization. Insofar as colonial elites intermarried, separately from English aristocracy, the colonial elite would have immediate hold over potential taxation. Since taxation would be the essential basis for the colonial elite’s maintenance of their status, the colonial elite would become unwilling to surrender the power of taxation to England.
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MOLASSES

Although the Navigation Laws had always collected some revenue, the Molasses Act was the first time in colonial history that Parliament legislated a tax on the colonies. Sugar and molasses from the French Caribbean islands cost New England 25% to 40% less than from the British Caribbean islands; New England could sell flour, lumber, livestock, and fish at a substantially higher price at French rather than British islands. The original motivation of the Navigation Laws had not been for revenue, but against interloping; nations that had foregone the expense of establishing a colony were taking advantage of the profits proceeding from those founded by England. This problem started with the Dutch construction of the flute, a merchant ship that could transport goods 30% more cheaply than English ships.

The Dutch smuggled English wool into Holland, manufactured cloth, and then smuggled the wool cloth back into England, where it undersold British cloth. England set up high customs duties to suppress Dutch trade. Holland smuggled a great variety of commodities into England and sold them at lower prices. It was too expensive to guard against smuggling. More than 50% of all imports eluded the customs duties. It was to the purpose of correcting for the customs tax evasion that Walpole introduced more excise taxes.\(^{149}\) It was ironic that the British stigmatized the colonists for smuggling, because smuggling was much more prevalent in Britain than in the American colonies.\(^{150}\) The thought of national preeminence originated from a context in which rival nations were extracting colonial profits that should have returned to the colony’s English investor. When colonial economy matured into a substantial source of revenue, the idea of exclusive profit had changed from profit, to the exclusion of interlopers, to


profit, to the exclusion of colonials.

Early commercial taxation had started without interest in revenue because colonial wealth had been negligible. Although England acquired revenue from colonial import duties, the cost of enforcing the duties exceeded the revenue received.\(^{151}\) In his polemic against the Stamp Act (1765), Daniel Dulaney exhibited that customs duties collected from the colonies amounted annually to £1,000, whereas their collection had cost £7,600 per year; Dulaney derived these figures from a pamphlet that Grenville had written.\(^{152}\) The strategy of the Navigation Acts had been to truncate Atlantic trade networks of the rival nations; if foreign countries could not use English colonies, they could not afford maintenance of a large fleet; a large English shipping fleet could monopolize the profit of the world’s transportation. It was an early perception that large scale development can make unit costs too unprofitable for smaller competitors.

Supersession of the earlier concept of colonial revenue is evident in the Molasses Act of 1733. The difference of British and French molasses was due to inefficiency. The British sugar plantation formed a vicious circle. Unlike industries of the continental colonies, sugar yielded quick personal fortunes, by means of which planters could buy estates in England and acquire parliamentary seats. Political power then protected the inefficiency of the plantation. Sugar was by far the most lucrative colonial industry; the fortunes of the sugar planters supported subsidiary fortunes in merchants, bankers, rentiers, and manufacturers, all of whom were English, and eager advocates of the sugar plantation.\(^{153}\) Seventy-four members in the House of Commons were directly invested in the West Indian sugar plantation.\(^{154}\) The membership of the sugar planters in Parliament protected the self-interest invested in sugar production, which obstructed

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progression to greater productive efficiency. The continental colonies did not have self-interest sitting in the House of Commons, so the rationality of their objection was hardly heard. British sugar production had become expensive because of the deputies’ embezzlement and their indifference to improvement of land that was not theirs. Duties on British sugar were predicated on the British trade monopoly; coercion to purchase only from British holdings made it affordable to continue with inefficient sugar production. Although New England sugar trade with the English islands collapsed, the loss had not been significant insofar as most of the sugar was purchased by direct import into England and thereafter reëxported to Europe.

The foundational opinion had been that the colony existed for the mother country; colonial wealth should be a disposable asset of the mother country. The colony did not have personhood, as it were; it was a pseudopod. The dominant inference was that all profits proceeding from the construction of the colonies were those of England, because the colonies had been established and developed from English substance. The British justification of the Molasses Act had been that all taxes were alike; since the colonies had cooperated in the commercial taxes of the Navigation Acts, the taxes of the Molasses Act were well founded in precedent, attested in the Sugar Act thirty years later: “...that no distinction can be supported between one kind of tax and another, an authority to impose the one extending to the other...” In his polemic pamphlet against the Sugar Act, Considerations on the Propriety of imposing Taxes in the British Colonies, Daniel Dulany responded: ‘It appears to me, that there is a clear and necessary distinction between an act imposing a tax for the single purpose of revenue, and those acts which have been made for the regulation of trade, and have produced some revenue in consequence of their effect and operation as regulations of

trade.” This purported to refute the Navigation Acts as precedents for the Sugar Act. A Parliamentary Act to impose duties was justified only if their purpose was to regulate trade. Dulany, anticipating (1765): “a right to impose an internal tax on the colonies without their consent, for the single purpose of revenue, is denied; a right to regulate their trade without their consent is admitted.”

Constraint on New England to buy the more expensive, less efficient British sugar would preserve capital invested in the British Caribbean islands. Parliament legislated to make the purchase of French sugar etc. illegal, rather than to introduce production laws that would balance the market price of British sugar with that of the French. This tactic stigmatized New England as the destroyer of English prosperity. Instead rectifying the corruption underlying the inefficiency of British production, Parliament protected corruption by constraining New England to pay bloated prices. The Molasses Act of 1733 imposed prohibitive import duties to make it unprofitable to buy French molasses legally. The Molasses Act did not provoke colonial hostility because it was ignored; English involvement in European wars depleted the fleet by which England could have patrolled against smuggling, and English customs officials took bribes at the colonial ports. Escape from internal British trade gave New England her sole opportunity to derive bills of exchange with which she could pay for British imports into New England. By the 1750s the unhindered French Caribbean trade had increased so much that the New England economy would have collapsed without it.

There was something apparently contradictory in the intention of the Molasses Act of 1733. Britain demanded that tax payment be in pounds sterling. Money taxation

158 Smuggling made possible lower prices for most commodities. The customs tax was easily evaded, but the excise tax was inescapable. Walpole introduced severe penalties for evasion of the excise tax. Cf. Adams, Charles; For Good and Evil; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 257.
concurs with a relatively affluent society; a society operating on money exchange is one in which a greater variety of commodities turns over more rapidly than in a society based on exchange in kind. Wages, rent, and taxes, when paid in kind, bring about economic stagnation because this method of payment does not stimulate further forms of exchange. Whereas taxation oppresses a barter economy, it facilitates an economy advanced to money exchange. Taxation in money encourages further trade as a means of acquiring the money needed to pay tax.

The Molasses Act would have enhanced the Caribbean trade, but have depressed the continental colonies, and this was clearly perceived in Parliament. Did British taxation intend the attenuation of colonial economy, or did it merely intend the advancement of the Caribbean sugar plantation? Precisely at this phase of the colonial development, taxation would cripple, not stimulate, the colonial economy. The colonies were not allowed a uniform hard currency, nor did the colonies have mines in precious metal. It was illegal to export British hard currency to the colonies, and trade with foreign countries by which hard currency might be accumulated was mostly illegal. The colonies were forbidden to mint currency. British taxation and British purchase could be paid either by purchase of bills of exchange in England, which were exchanged to the colonies for agricultural produce, or by paying the British in bullion, by melting down silverware etc, and foreign coins. Illegal trade was necessary in order to obtain enough foreign coins to pay the British in bullion. Under these conditions the Molasses Act would have smothered the colonial economy.

Although as a regulatory tariff the Molasses Act might have helped the Caribbean planters, the revenue it would have derived, had it been enforced, would have been inconsiderable; the benefit of the tax confining trade to British molasses would have raised the capital value of Caribbean assets. Even when sincere effort was applied in the subsequent acts, the annual revenue of the Molasses Tax was hardly more than the indirect taxes deriving from European exports through England. There was no motivation to enforce the Molasses Act because the cost of enforcing the law would
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have exceeded the revenue from the taxes. England could not afford to antagonize the colonies on whose cooperation she depended during the French colonial wars culminating in the Seven Years War. English involvement in European wars depleted the fleet by which England could have patrolled against smuggling, so that the total effect of the Molasses Act had been to provide English customs officials with bigger bribes at the colonial ports.

English reimbursement for colonial costs in the Seven Years War did not promptly ensue because Britain did not have the revenue to pay a reimbursement; she had debt. The Seven Years War was spectacularly successful for the British. The native English tax rate did not rise after the war, but, against common expectation, did not decrease in the least. As the GNP did substantially increase after the war, a general prosperity should have obviated resentment over taxes which had not increased. However, the structure of taxation was objectionable. Because the war had been financed from government loan, taxes due to the war were likely to appear not during, but after the war. The expense of war was consolidated in paying the interest-bearing bonds that the wealthier classes had bought with a view to getting a profit out of the war. The cost of war paid in this manner was invariably a regressive tax; the commoners were paying for the costs of war, plus interest premiums, to the wealthy classes. There was jeopardy in lower class disgruntlement, and therefore a strong incentive to shift the costs to the colonists, and to encourage popular resentment of the colonists for the British promise of war reimbursement.

The English commoners’ impression that the colonies were free-riders helped to shift resentment away from government. The reimbursement developed into a rather ridiculous confusion in which England tried to extract money from her creditor, with which to repay the same creditor. The English however supposed that the colonial

-tax burden was unconscionably light, and saw equity only in a condition in which the colonials were as heavily taxed as the English. The traditional opinion still predominated, that the colony existed for the mother country; it appeared absurd to the English, that they should pay a much heavier tax to transfer money to colonies. The ancillary status of a colony implied that colonial wealth should be exhaustively at the service of the mother country.

REQUISITION

Although the original colonies had been established in the prerogative of feudal estates, they borrowed their structure from that of incorporated towns. Requisition from colonies was a form of taxation to which the King was entitled, but, oddly, England never strongly imposed requisition on the colonies. This may have derived from the circumstance that nobility did not preexist national taxation in the colonies. Colonial assets had not been previously in the hands of a baronage that could bargain for something in return for transferring a right of taxation to the central government. The French nobility received tax exemption for consenting to such a right; the English nobility had received a Parliament. If nobility had preexisted British government in the colonies, the structure in the colonial tax system would have manifested the prior control by the nobility. However, the British colonists had not been the private property of anyone prior to migration; they consisted of refugees attempting to abandon subjection in post-feudal hardships. The settlers of corporate, royal, and proprietary colonies were not a form of property that might have been assessable or transferable. Otherwise, their feudal social status might have been commuted into something like a poll tax.

160 Colonists undoubtedly had greater political liberty than native Englishmen. In England, as in the continental countries, the law still set maximum wages, and colonial farmers were not subject to autocratic justices of the peace. Cf. Coffield, James; *A Popular History of Taxation from Ancient to Modern Times*, Longman, London, 1970, 278 p. 84.
The English desire of a century earlier for colonial population growth had led government to promise no national taxation in the colonies; this importantly figured as an enticement for migrants to accept colonial indentures; the English promise of self-government in the colonies was essential to their campaign to levy enough migrants. The indenture status did transform the individual into a form of property similar to that of serfdom, but the indenture was different in having been a commercial, not a social, contract. The colonists, unlike native English, had not been in a landlord’s previous property prior to conversion into the King’s property; colonial taxation had never been delegated to aristocrats or tax farmers as a concessive gift in return for transformation into a resource of regal power.

Two initial considerations might explain omission of an early British colonial tax strategy. The first was the manner in which the loyalty of those could be maintained who were immediately maintaining the colonies. The second consideration concerned the most efficient device for appropriating the colonial surplus. At inception the colonies were unprofitable; since there was no colonial surplus, consideration of expropriation could be deferred. The time lag of the two considerations configured the solution of the first problem in such a way that it obstructed solution of the second; the method of maintaining loyalty foreclosed taxation as an option for solving the second problem.

The Atlantic colonies did not offer immediate wealth (gold), were not financed by the English government, were not supplied with British investment, and had a non-monetary economy. They had been populated by religious refugees, outcasts of the English labor class, or African slaves. It would be entirely Pollyanna-like to suppose loyalty in British colonists because of their British heritage; having come to the colonies to escape some form of oppression in the mother country, their familial memory would not evoke loyalty from a traditional pride in their lineage. The British government had no contact whatever with colonial commoners. Colonial production was agricultural, and their network consisted of commercial contacts within a few
miles of their homes. Their social organization was proto-democratic and their agriculture was commercial rather than subsistent; market prices would remind them of England, but it was impossible for them to sense any political participation in Great Britain. Their democratic protostructure therefore predisposed identification with their provincial government, of which Britain would be tolerant for as long as the provincial government cooperated in delivering British remuneration. Supposing that the colonies transferred a regular profit to Britain without entailment in production costs, Britain would elude administrative expenditure by leaving the colonies to manage their own affairs. Such was the case in the 17th century.

Colonial government saved expense in exempting Britain from extending her native civil service in the colonies. Whereas military presence would have been too expensive, England could use the dependence that the colonies had on her to enforce, non-militarily, her economic objectives. Since surplus appropriation came from commerce and duties, not taxation, the expense of British bureaucracy in the colonies was unnecessary; the pure pull of the commercial dependence was sufficient. All of the earliest colonial charters stipulated a colonial assembly, but this was not the force of sweetness and light swirling around the common man. Such assemblies were implemented so that administration of the colonies would be financed wholly from self-taxation, rather than from the English funding for its own civil service.

England, fighting a war of survival with France, had margin only enough to devise victory; she could not afford to hesitate over niceties concerning the legality of taxation. Public debt became extremely high in consequence of this oversight, and the connection between taxation and public debt was inexorable; public debt would necessitate either harsh taxation or curtailment of government functions. At the end of the Seven Years’ War, native England was not further taxable; if the government had raised taxes, it would have received less revenue than it presently did at the lower tax rate. Higher taxes would have diminished the tax base because of the higher rate of business failure induced by higher taxes. Ironically, the alternative was to surrender the
colonial territory, for fiscal reasons, that she had just gained militarily.

Final recourse was to initiate taxation in the colonies; throughout the Seven Years War the colonies had paid only requisitions. Delegation of taxation to the colonial assemblies would have been the most consistent with colonial tradition, but would have been inefficient because of a cognitive gap. Colonial assemblies could determine taxation in terms of their own expenses, but could not assess the costs of the colonies in the context of empire; on the other hand, to delegate determination of taxation to those who were competent to assess the American colonial quotient in terms of empire would have been to remove power of taxation from the colonial assemblies. Parliament had determined the amount that a colony should supply, but delegated the colonial assembly to manage collection. This was the same as the French stratagem; it buffered the central government from blame for the taxation. Central control of taxation would have had to be coercive, and coercion would have ruined the capability of colonial assembly.

Revenues from the colonies had been by requisition, which in its colonial permutation had involved delegation of taxation to colonial assemblies. Parliament had determined the amount that a colony should supply, but delegated collection to the colonial assembly. As requisition was the conventional method approved from tradition, why did Britain deviate to direct taxation? The aforementioned cognitive gap made requisition inefficient; colonies either distrusted England’s estimate of an adequate requisition, and failed to satisfy it, or they made payment contingent on concessions from the home government. Central control of requisition would have sacrificed the buffer, and unconcealed coercion would belie the competence of colonial representation. The Crown had never managed to contrive uniformity in colonial financial support for defense partially because restraint of aid had enabled the several colonies to take advantage of the war situation. New England and South Carolina, immediately imperiled by the French and Spanish, contributed more than England requested, but the interior colonies, those not bordering with enemies, brokered aid
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for concessions. Quaker pacifism blocked Pennsylvania from providing financial or military aid.\textsuperscript{161}

England used her own army and navy to fight the Seven Years War, and ultimately pledged herself to pay all the war expenses of the colonies in return for military aid.\textsuperscript{162} The colonies had antagonized the English by selling supplies to the French and Spanish throughout the war, deriving a bonus profit while abetting the enemy armies against England. Since inception the colonies had regularly cheated on the customs duties of the Navigation Acts either by smuggling or bribery of the customs agents; the war had made the shortcomings of loose governmental union conspicuous. The colonies had not cooperated well on requisition during the Seven Years’ War, exacerbating British resentment by having conducted a profitable illegal trade in enemy supplies.

DIRECT COLONIAL TAXATION

Starting from the 16th century, the emergence of absolutism induced massive economic conflict. Bentham, roughly in the era of the American Revolutionary War, had already theorized the dogma of marginal utility: if a fixed amount of money would benefit one individual more than another, then ceteris paribus it would be rational to distribute the money to the person whom it would benefit more. This would imply a progressive tax, without connotations of compassion, but it had economic implications. A person who is wealthy without exception focuses his wealth on one interest: perpetuation. Marginal utility correctly points out that wealth cannot intensify gratification; a wealthy person cannot get greater gratification than a poor man by spending more money. In essence it is impossible for a wealthy person to spend more on gratification than a poor person, because of the limits of gratification per se. The

wealthy person therefore uses his wealth on the second best option: to guarantee its perpetuation. Paradoxically, the intense pursuit of profit is opposite to a pursuit of social wealth; pursuit of profit is the protection of class supremacy in an enclave of a suboptimal economic structure. Perpetuation consists in monopolies etc. which aim at profit, but in reality immobilize and devitalize money by denial of distribution to the non-wealthy; if perpetuation abets consumption then the consumption financed is predicated on the expenditure of poor people, since per hypothesis the wealthy person cannot spend more on consumption proportionately to the difference between his wealth and that of the poor person. Inevitably, accumulated wealth becomes dead money. If by the principle of marginal utility the surplus wealth is distributed to poor people, the money will be spent on consumption, which makes real use of the money and thereby invigorates the economy. However, even though marginal utility would enliven the economy, it would diminish the capability of the wealthy to guarantee the perpetuation of their wealth, and therefore provoke a negative evaluation of marginal utility in those who have political power, disjunctively, either to optimize social wealth, or to guarantee their personal wealth in a suboptimal economy.

In 1691 William Petty’s Political Arithmetic summarized the mercantilistic principle: Low wages and low interest rates are indispensable to prevail in foreign trade. The economic equation was changing rapidly in the 18th century; there were compelling reasons for supporting the common people. It is in the interest of government to bolster social equality, because equality expands the scope and yield of tax revenue. A progressive tax is economically rational, because it increases consumption spending. A government may however avoid progressive taxation, because its tendency towards equalizing income distribution destabilizes the wealthier class, inclusive of themselves.

In terms of class relations the approach to colonial revenue collection most germane to British feudal tradition was cognate with requisition: a colonial élite was assigned to collect a specified sum, leaving the method of distribution and collection in their hands. It was the method of the French taille. Throughout the colonial period Britain
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had abided by this method, and persistence might have eventuated in a peaceful conciliation. The uncertainty over the proportionality of requisition appeared to be a systematic fault. Britain resolved to bypass the elite colonial groups with methods of taxation applying directly to the individual. But bureaucracy had not developed well enough anywhere in the world to track individual income so as to tax equitably. This approach would create insecurity for the colonial elite, since exclusion from tax collection would erode their social ascendancy. A third option was the excise tax; this would also bypass the colonial elite, but its collection, not premised upon unverifiable estimates of personal property or income, would be easy. An excise would involve calculation of the collective maximum tax revenue that would not jeopardize the economic viability of the colony. The third approach foreboded the displacement of the colonial elite with British placemen, given the premise that colonials would be more likely to dissemble the total taxable capital and embezzle the surplus of tax revenue before delivery to London. In the event, British placemen were equally capable of this.

The native English subjects were paying taxes twenty-two times greater than the per capita tax of the colonial.\(^{163}\) All European governments taxed their common population to the maximum; a sophisticated Malthusian notion of effective demand, suggesting that such taxation would harm the total economy, had not yet been entertained. From the tradition in which all European governments sought to concentrate taxation on commoners, the colonies were conspicuous as a virgin source of tax revenue. England had tried a century earlier to entice migration by absolving the colonies from provincial English taxation.\(^ {164}\) Afterwards came the period of “benign neglect,” in which Walpole saw more benefit in commercial development than in taxation; during the Walpole incumbency the American population doubled.\(^ {165}\) Consequently the colonies had never hosted the native English excise taxes, until now that the Tories occupied government.

Until 1763, it had generally seemed that the British trade monopoly in the colonies was adequate recompense for the English naval protection of that trade. The false impression that the colonies were beneficiaries of tax exemption was invigorated by the datum that England’s territorial conquest was immediately adjacent to the British colonies. The English people thought that the colonies should relieve native English taxpayers of the war expense, resulting in the Revenue Act of 1764 and the Stamp Act of 1765. Despite low taxation, the colonists believed that they already carried more taxation than they could bear. Massachusetts had to accumulate £237,500 in cash every year to meet her deficits in the trade balance. Although England had promised reimbursement of war expenses, by 1765 England had not fulfilled this pledge, and was aggressively seeking new means to extract new tax revenue from the colonies, perhaps to use part of the money to pay the reimbursement.\textsuperscript{166} Colonists might have resented the hypocrisy of extorting money from the creditor to pay the creditor with the extorted money, whereas the English regarded the colonial tax burden as unconscionably light.

\textsuperscript{164} Some of Walpole’s legislation between 1721 and 1724 induced remarkable economic expansion. By eliminating export duties Britain greatly expanded her overseas market share through lower prices. It required an active intelligence to discern that it would be beneficial to give up a proven source of fiscal revenue for the sake of a hypothesis about its effect on commerce. Cf. Adams, Charles; \textit{For Good and Evil; The Impact of Taxes on the Course of Civilization}, Madison Books, London, 1993, p. 269.

\textsuperscript{165} Instead of accumulating revenue through customs duties, which had been the established method for over a century, Walpole relied on excise taxation. In 1723 the excise was applied to tea and coffee. The finnance ministry had estimated that the British population consumed four million pounds of tea annually, but that customs duties had been paid on only 800,000 pounds. The expense of adequately guarding against smuggling would have been inordinate, but by switching to an excise tax it would be relatively easy to capture the whole tea trade. Cf. Adams, Charles; \textit{For Good and Evil; The Impact of Taxes on the Course of Civilization}, Madison Books, London, 1993, p. 255.

\textsuperscript{166} England owed three quarters of a million pounds sterling on the pledges to reimburse for war expenses in 1765, two years after the end of hostilities. Cf. Morgan, Edmund S.; \textit{A Popular History of Taxation from Ancient to Modern Times}, W.W. Norton & Company, 1976, p. 32.
Even without direct taxation, colonial profits were flowing into the British government. All colonial trade was collectively monopolized to British companies through the Navigation Laws; monopolization raised the prices of British goods to two or three times more than their native English prices. One third of the colonial price of British goods was due to taxation of those goods, paid in England before they went to the colonies.¹⁶⁷ British imports plus the profits to British manufacturers amounted to £2 million per year paid from the colonies to England. By 1763 England was sufficiently unhampered to enforce customs duties on French sugar, inciting the first colonial resentment.¹⁶⁸ The circumstance that New England was not wealthy in readily vendible raw materials entailed that her trade had to be multilateral, not multiply bilateral; few regions were capable of wanting original products that New England had to sell, with the result that New England trade had to be contrived and circuitous in order to get any trade circuit running at all. Unlike a bilateral trade circuit, in which failure of one trade did not affect the outlying trade circuits, any single trade link that failed in the multilateral trade circuit would make all commercial exchange fail. New England manufactured rum from the imported French molasses in order to provide an accepted trade item on the African Coast for slaves; rum was also the essential exchange item for trade in Newfoundland and Indian territories. Without rum New England had nothing that such trade partners wanted, and the trade links in fur, gold, and fish would collapse.¹⁶⁹

British internal taxation of the colonies conflicted with the cherished ideal of the closed trade union. The capacity of the native English monopoly trade system to

¹⁶⁸ Professors at Harvard University in 1765 proclaimed that it was right to evade customs duties if the duties made it impossible to conduct commerce. Cf. Dorfman, Joseph; The Economic Mind in American Civilization: 1606-1865, Volume One, George G. Harrap & Co. Ltd., 1947, p. 139.
secure for England the profits of colonial production rested on the disaggregated, incommunicative governments of the colonies. Regulatory taxation preserved privileges on which the several colonial economies depended, inasmuch as minute restrictions on their productions and vents would have made it impossible for them to have an economy, at all, except for special allowances to facilitate these channels. Uniform taxation would have eliminated such privileges, but would nevertheless have been propitious if the colonies had been liberated to alter productions and trading partners according to vicissitudes in the non-legislative trading conditions.

The original protest against the Sugar Act was on the ground that it was not a regulatory act. The colonists claimed that they did not complain “of their trade being confined to Great Britain for such goods as are manufactured there, so long as they can be imported duty free”; it was an objection to collection of duties on import by Crown-appointed agents and to policing against smuggling. They called for all duties on imported goods to be repealed on the ground that British merchants ought to be “free subjects.”

The objection seems not to be based on trade regulation, but on the initiative to build revenue collection on a prior structure introduced for heterogeneous purposes. The uniformity structured by internal taxation would have entailed free trade; there was as yet no legislation to liberalize colonial trading practice, and no assurance that such legislation was forthcoming: it was a quid pro quo completely reticent about the pro quo. A proper system of internal taxation ought to have made commercial and productive freedom possible by assuring England of adequate colonial tax revenue regardless of how a colony might alter its commercial exchanges. The reform ought to have benefited both the colonies and the mother country, but instead provoked violent anxiety on both sides. It would contradict the English preconception that a colony should be subservient to the mother country, and overturn the practice of closed trade union that was predicated upon colonial subservience. Whereas the navigation

acts enabled accordance of regionally differentiated colonial governments to variant productive and commercial features, taxation presupposed legal uniformity for all British territory, hence abolition of regionally diverse trade privileges and the separate autonomous colonial governments that negotiated them.

Ostensibly abolition of colonial governments would satisfy the predilection for colonial subordination. Taxation would have entailed abolition of the mercantile privileges England reserved for herself and the amalgamation of England and her colonies into a single nation state; England was disinclined to give up her primacy as the only nation, instead of conceiving herself as merely the greater part of a more abstract nation-state. The legal and administrative uniformity presupposed by internal taxation would have made separate colonial government inoperable; colonial legislative assembly would have had to be superseded by colonial participation in Parliament. The colonies insisted on the old scheme of mercantile regulation out of dread that direct taxation would dismantle their autonomous governments. The colonists anticipated that the taxes of the Stamp Act and Sugar Act were tentative experiments in the direction of extending all the internal taxes on native-born English subjects to colonial subjects. If their autonomous colonial governments were abolished in substitution for parliamentary representation, the colonists would lose their power to control taxation or legislation, because they would be outvoted in any collective parliamentary vote.171

The colonists did have a cogent point. The original charter stipulations that their local representative assemblies would exclusively control revenue had been based on the consideration that a colonial assembly could not both sit in Parliament and keep in touch with their constituency at the same time; on the other hand the metropolitan

171 The writs of assistance and general warrants, by which customs agents could indiscriminately arrest anyone they pleased, and ransack any house in search or incriminating evidence or smuggled goods, signified to colonists what it would be like if their local governments were dissolved and taken over by direct English government. The New York Assembly had been suspended; it foreboded suppression of all autonomous colonial governments. Cf. Shannon, Fred A.: America’s Economic Growth, Macmillan, 1951, p. 100.
government could not possibly assess how much tax revenue the colonies could afford, nor how much they would need. Assignment of taxation and revenue collection to colonial assemblies was the only device to approximate the submission of an English township to national government, on which colonial submission was modeled.

If England had extended uniform taxation, applying the same taxes to the colonies as to England, the colonial economy would have collapsed, because colonial tax revenue would have flowed into payment of British debt; tax revenue would not have flowed back into colonial investment. National revenue is never spent proportionately on the sources of its derivation, but on the exigencies of highest priority. Uniform taxation would have been to great colonial disadvantage, because costs were concentrated in English national debt at the same time as native British taxation was saturated. The overwhelming British national debt would advise to the colonists insulation of the colonial economy from that of England.

Taxation would have worked like a gold flow; given uniform taxation, revenue may accumulate most either to where the economy is best, or to where it is most exigent, but will not necessarily return to the benefit of where it accumulated. National costs will naturally attract the collective tax revenue to the most endangered economic region. If tax revenue moves according to such equilibrium, then uniform taxation would retard American commerce more than English commerce, until the point at which the living standards of the two regions equalized. The average English living standard was necessarily lower than that of the colonies because its economy had a manufacturing base predicated on subsistence wages. Since there were economic advantages from manufacture and manufacture flourishes on poverty, uniform taxation would have kept the colonial agricultural economy afflicted with a tax burden that was tolerable for a manufacturing, but unsustainable for an agricultural economy. Since uniform taxation would have been ostensibly the same for all, it would appear fair. However, since the totalized tax revenue would not return to the colonies, taxation would be unequal just as if different regions had been subjected to higher and lower taxes.
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Imperial taxation was incompatible with navigation laws and British trade monopoly; taxation would have been an option for increasing British revenue only if the colonies had been able to trade with foreign countries. The presumption that colonies existed for the enrichment of the mother country comported with the infantile economy of settlement, but when colonial economy matured sufficiently to make taxation serviceable, economic subordination for the enrichment of England was infeasible. For so long as the colonies bought only from England, taxation of the colonies could have been nothing more than taxation of the companies selling to them. A tax added to a commodity would have raised the cost of that commodity, and the company would protect profit by passing the cost into a higher price. But this would have been true for every company selling that commodity, so it would not alter the balance of competition. The colonists would either buy less of the commodity, or compensate by purchasing other things at lower prices. In either case the tax would have ultimately fallen on the selling company. If the tax were very general, a tax on everything, then it could not increase fiscal revenue at all; if everything increased in price, it would do nothing but inflate the currency. Consequently taxation would not have raised British revenue, unless at the same time Britain removed the restraints on colonial foreign trade.

The Navigation Acts were indispensable for the notions of colonial subordination and trade union; the several and independent colonial governments were necessary to preserve the special accommodations for the different colonies. The growing ineffectiveness of the navigation and bounty laws, as manifested in noncompliance, smuggling, and disregard of the Molasses Act, should have signified to Parliament that the navigation laws had become too inept for the vitality of the colonial economy. It should have obligated Parliament to distinguish between colonial constraint for the over-all economic good of England and constraint for that of the empire. England was not willing to subordinate herself in the status of the largest part of a collective empire, and the colonies, now having a population and capital about one third the size of England’s,
were unwilling to entirely discount their economy to assign 100% of its benefits to England; they were verging on a primitive notion of right of marginal return. Trade restrictions, innocuous for a smaller economy, were now harming a mature economy that had become dependent on external commerce. Whereas of necessity England had eschewed mercantile in favor of laissez-faire practices for herself, she imposed mercantile regulations for the colonies until the American Revolution.172

SUGAR ACT

Since the Navigation Act of 1660 England had acquired revenue from commercial regulation. Taxation was established by precedent for as long as there was commercial legislation over the colonies; the colonial initiative to accept parliamentary legislation but reject parliamentary taxation appeared inconsistent. Daniel Dulaney asserted the illegitimacy of revenue taxation, but to establish his contention he needed a conceptual distinction between the Molasses Act and the Sugar Act. The Molasses Act had accumulated revenue, but its purpose was not revenue, but to reconstruct trade routes most beneficial to the British West Indian planters; the Sugar Act was explicitly to acquire British revenue. Dulaney condemned the Revenue Act (aka Sugar Act), ultimately on the grounds that all taxes for colonial revenue should originate from the colonies themselves and, if revenue from the Sugar Act was not for colonial government, then, qua revenue tax, it would be unjust to tax one country (colonies) for the emolument of another (England). The distinction he drew was purely intentional; in reality both Acts drew revenue into the British, not colonial, disposition.

Dulany, famous for his diatribe against the Sugar Act, acknowledged that commercial regulation and taxation were coterminous but advanced an interior distinction that marked a merely intentional, not a real, difference between the former and latter unity of regulation and taxation. The former unity had been legitimate in the respect that

revenue was a collateral effect of commercial regulation, not its intention; tax revenue unavoidably resulted from the regulation of trade.\textsuperscript{173} This distinction coheres well with the thesis that England’s relation to the European countries was the object of the Navigation Acts. The latter unity was argued to be illegitimate because the revenue of the Sugar Act was the intended effect of the trade legislation.\textsuperscript{174} It was no longer a case of revenue unavoidably proceeding from legislation, but of legislation expressly in order to give a good appearance to extortion. His observation seems to have been well substantiated from the subsequent proposition by Lord North, February 27\textsuperscript{th}, 1775, in which he offered to exempt any colony from taxation that would provide the required revenue. North was setting aside the charade about taxation, representation, and autonomy; it was an offer to return to the old requisition relation, together with colonial legislative autonomy, provided the colonies generated enough revenue for the mother country.\textsuperscript{175} But the point isn’t satisfactory. Granting that the Sugar Act was a navigation law intentionally used to acquire revenue; why should that have indicted the British government?

A good tax is one which, though a cost to the taxpayer, controls the flow of money in such a way as to enrich the economy as a whole, so that the same taxpayer has more personal wealth than he would have had, had he not paid the tax. The high

\textsuperscript{173} Dulany substantiated his argument from a pamphlet written by Grenville; it asserted that the annual customs duties from the North American colonies accrued only to £1,000, while the annual cost of operating the colonial customs service came to £7,600. Morgan, Edmund S.; \textit{Colonial Ideas of Parliamentary Power, 1764-1766}, The William and Mary Quarterly, third series, 5, 1948, pp. 333.

\textsuperscript{174} Daniel Dulany: “It appears to me, that there is a clear and necessary Distinction between an Act imposing a Tax for the single Purpose of Revenue, and those Acts which had been made for the Regulation of Trade, and have produced some Revenue in consequence of their Effect and Operation as Regulations of Trade.” Cf. Morgan, Edmund S.; \textit{A Popular History of Taxation from Ancient to Modern Times}, W.W. Norton & Company, 1976, p. 25.

\textsuperscript{175} Specifically, he stated that the colonies should provide enough revenue to finance war and civil government. Cf. Robert Champagne, “\textit{New York’s Radicals and the Coming of Independence}” The Journal of American History, 51 (1964), p. 28.
taxes that the Dutch paid, to compensate for the lowest customs duties in Europe, exemplifies how a tax can raise welfare; the revenue that the Dutch received by making Amsterdam the preferred port of Europe monopolized commercial transaction for the Dutch.\textsuperscript{176} A bad tax is one that accumulates revenue, but at the cost of reducing total economic activity and diminishing the tax base itself. But this may describe some domestic taxes; it is plausible for instance that a given tax fits the criterion of a good tax for the mother country, while being a bad tax for the colony. The sugar and stamp taxes, applied to the colonies, would be good for England; however, because the trade deficits exhausted disposable money, the tax could not apply to the colonies without exacerbating the trade deficit; since the stamp revenue would not ultimately return to the taxpayer’s benefit, as the Dutch residence tax did, the stamp tax could only have done cumulative harm to colonial economy. Previously British revenue aggregated by monopolizing colonial trade and overcharging through prices inflated by hidden taxes and price gouging. The system was virtually a manner of delegating tax collection to the companies, during an era in which the government did not have the resources to finance its own revenue collection. As long as England could assume that the success of her private companies was success for England, it would have appeared appropriate to let the company be the direct recipient of colonial wealth and derive its fiscal revenue indirectly from the companies.

The increase of English national expenditure (always think: war) motivated the shift to direct taxation. But why did it appear to the British, at that time, that the change of revenue source would be efficacious? Second, taking reference to Dulaney, would the money flow resulting from direct taxation have been a bad tax for the colonists, by comparison with the present method of monopolized duty collection? Direct

\textsuperscript{176} The Dutch established a very extensive network of excise taxes, by means of which they were able to reduce their customs duties. The very low level of customs taxation made Amsterdam the favored port of Europe, which made Holland the wealthiest country per capita. Cf. Carsten, F.L., editor: \textit{The Ascendancy of France 1648-1688}, The New Modern Cambridge History, Volume 5, p. 31.
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taxes undermined mercantile policies; up to this moment colonial revenue was either
customs collection, or became first of all private income of the English merchants,
and thereafter national revenue from taxation;\textsuperscript{177} the revenue circuit gave the English
business class preponderant political power that structured the formation of the British
Empire in the interest of commerce.

In contrast to the commercial colonization that was efficacious in locations with
massive native population, free trade in the American colonies would have been most
lucrative for the British government, once the colonies had reached economic maturity.
Ironically, the metropolis might have favored the free trade and independence that
the colonies wanted. But this was strongly detrimental to the interests of the British
companies; the notion that the colonies enriched England by virtue of the increase of
private wealth meant that the English companies and merchants who profited from
colonial trade were bringing wealth into England by enriching themselves, inasmuch
as private wealth was a part of English wealth. The colonists violently rejected the
direct taxation that would have had to accompany a transition to free trade, although it
might have been to their ultimate advantage. In the cases both of English merchant and
 colonist, a system of internal taxation, prerequisite for free trade, would have shifted
the distribution of wealth and taxation. Augmenting national wealth by increasing
personal wealth was highly inefficient; British government would have derived wealth
far more effectively if it did not pass through the private possession of the merchants
first. Direct profit-taking by the companies meant that the merchants, as an overly
powerful political group, could exert too much interference in government policy,
against national interest in favor of special interest. This must have become obvious in
government circles in the wake of the Molasses Act, and the inadequacy was screaming
for attention in the contemporary problems of the East India Company.

A uniform colonial administration, enabling direct receipt of tax revenue, would

\textsuperscript{177} Cf. Tawney, R.; \textit{The Rise of the Gentry, 1558-1640}, the Economic History Review, 11,
1941, p. 34.
have had intrinsic advantages only if the British bureaucracy had been sufficiently sophisticated to measure the trade flows accurately; because colonial money passed through the companies it had always been impossible for the government to assess whether the colonies were a net profit or a net expense. The colonies had not been monopolized by proprietary companies, but by British government; unlike the East India Company, it was difficult to tax British merchants, because revenues were not concentrated in one company. Direct taxation would have produced a different money flow, in that the trading companies could not have manipulated tax revenue. Direct taxation signified a growing independence of the government from the merchant class and private companies. Colonial growth entailed that not all colonists would be on the immediate seaboard; there would develop an interior economy, and the colonial regions would start to integrate into an economy that was separate from what showed up in external commerce. Demolition of the navigation laws in favor of internal taxation would have comprehended the colonial tax body more efficiently by its inclusion of the colonial inland trade; whereas mercantile duties could affect only the seaboard, inland settlement would create remote economic communities sequestered from the economy of the Navigation Acts.

The Sugar Act of 1764 was the first attempt to deal with war debt by collecting colonial tax revenue. Postwar recession made the colonies bridle against the tax. The war had necessitated precipitous financial outlays; since currency rapidly inflated, money received had to be spent as soon as possible in order not to suffer diminishing purchasing power. With the cessation of inflationary war spending, the population no longer spent money to keep ahead of inflation, incurring collapse of market demand. Taxation would have aggravated the recession. The colonies had not, as it were, cross-invested in England, so that there might have been some margin of adjustment to British taxation; colonies had virtually no surplus that could have been invested in

178 The Sugar Act of 1764 placed tariffs on sugar, coffee, wines and other staple imports. cf. Kenneth C. Davis, Don’t Know Much about History, Avon Books, 1995; p. 44.
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British companies.

In the interim between 1733 and 1763 the colonies had become more important as a consumers’ market for English manufacture than as a supplier of raw materials. The “Sugar Act” was formally named “The American Revenue Act”. The new molasses duty (Sugar Act) signified recognition that the colonial economy had become a substantial origin of revenue; in place of a trade regulation, the Sugar Act was a revenue tax. In the interim 30 years the English recognized that the French Caribbean trade which they had tried to squelch through the Molasses Act had now become indispensable to so much British prosperity as was derivative from the colonial trade. The new customs tax on French and English molasses was made uniform; the molasses customs duty no longer functioned to protect British Caribbean from French Caribbean trade.\textsuperscript{179} The new molasses duty, reduced to half that of the superseded Molasses Act,\textsuperscript{180} was equivalent to the cost of bribing the customs agents; the duty was a revenue that would not spoil the continuing profitability of the trade, and it was just low enough to make the risk overhead of smuggling too high to motivate the effort.

It is impressive that in 1760 Parliament refrained from legislating enforcement of the original 1733 Molasses Act, which ostensibly would have yielded twice as much revenue. Parliament was sufficiently dispassionate to calculate the relative cost and benefit of violating its own laws, and to devise economic measures from consideration of the antagonist’s viewpoint. This may have been the first time in history that tax legislation was so deviously designed. The new, lower tax would yield more revenue because policing the old customs duty would have cost too much. The Parliamentarians had managed to perceive the advantages of expediency over a blatant moral posture.

\textsuperscript{179} The new tax was 3p per gallon of molasses; the duty of the Molasses Act had been 6p per gallon. Cf. David S. Lovejoy ‘Rights Imply Equality: The Case Against Admiralty Jurisdiction in America, 1762-1776’ The William and Mary Quarterly, third series, 16 (1959), 459-484
\textsuperscript{180} The new tax was 3p per gallon of molasses; the duty of the Molasses Act had been 6p per gallon. Cf. David S. Lovejoy ‘Rights Imply Equality: The Case Against Admiralty Jurisdiction in America, 1762 to 1776’ The William and Mary Quarterly, third series, 16 (1959), 459-484
Since the merchants would comply, enforcement of the sugar duty would cost less, inverting the former differential between the cost and the duty. Reduction of the duty to roughly the cost of bribing the customs agents made the risk overhead too expensive to be offset by the profit of illegal commerce. The reduction of the duty was a method to increase the molasses revenue, by having made the duty payable without cost.

Whereas the reduction of the molasses duty was intended to improve colonial compliance, the final purpose was revenue, which was apparently impaired by the 50% reduction of the rate. The Sugar Act offset the hypothetical deficit by application of the duty to a broader range of items. Among the actions taken was the questionable tactic of abolishing the drawback on European reëxports to the colonies. Until 1763 [Revenue Act], government reimbursed English merchants for import duties paid on European products passing through English transfer on reëxport to the colonies. Drawbacks had made European products cheaper in the colonies than in England; the European imports thus served to ruin the profits of colonial production, and thus to kill development of native industry. If English production could not supply the article, it would be better if European export could undersell native colonial production. Even if a colonial production did not displace English export, the capitalization resulting from successful colonial enterprise would eventually enable associated production that might impinge on the English monopoly market.

To prevent colonial class formation, Britain was very happy to provide colonies with those European goods that Britain could not provide; it was paramount that economic development not bring the colonies in association with each other. For as long as colonials were confined to agriculture, colonial exchange would be local. The colonials, though widely definable through the commonality of their livelihoods as a class- were not a class. The cellular exchange of agricultural production prevented economic

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181 Either duties were raised or new duties were imposed on foreign products, and foreign exports were scaled down by abolishing the tax rebates on English transfer. Cf. Shannon, Fred A.: America’s Economic Growth, Macmillan, 1951, p. 99.
centralization by which consciousness of a common idea might form. Economic centralization of colonial production occurred in London, nowhere in the colonies; as colonials had no political participation in Parliament, conditions for a pan-colonial class atrophied. Upon the abolition of the colonial drawback, European exports would become too expensive; demand would then nurture native colonial production. After import taxation at English transit, extra duties were imposed on the same products upon arrival in America.

Prior to the Townshend Act England had contemplated awarding direct Mediterranean trade to the colonists as an alleviation to offset the new taxes. The method of customs duties comprehended a disadvantage that might have been ameliorated by free trade; customs duties inhibited economic expansion, especially when trade was limited to the mother country. But the Mediterranean intention was defeated. Alteration from mercantile to free trade policies would have deprived English merchants of the profits accrued from London transfer, also eliminating opportunity to collect customs duties. Since England had already abrogated the drawbacks, there was substantial motivation to channel merchandise through English transfer.\textsuperscript{182} Colonies had previously been able to trade directly with the Azores and Madeira for wine. A very high import tax imposed on direct importation to the colonies now made exactly the same wines that paid customs duties in transit through England cheaper by reëxport through England. Parliamentary representation and gradual uniformity of tax laws affecting England and the colonies had been two plausible approaches to reconciliation, but pressure for fiscal revenue took priority. The new taxation on wine contradicted the proposal to grant the colonies a trade circuit in the Mediterranean. Despite the rationality of the initial uniform tax proposal, the British resolved not to replace commercial with internal taxation, but to compound them.\textsuperscript{183}

The premium in the abolition of drawbacks was its generation of an excise; as the tax

would be contained within the price, it would escape notice better than a direct tax. The pressure of English military insolvency shifted the connotation of the duties legislated under the Navigation Acts. Exclusion of foreign traders had become an atavistic motive, but prior acceptance of the Navigation Act duties would expedite conversion of the same tax to a new purpose. This delayed the upcoming confrontation over British revenue taxation. Further duties were applied at colonial ports of entry. The Sugar Act also established that tax revenue from the colonies would be used to finance a standing army to be stationed in the colonies. The stamp tax, effective in England since 1694, was foreseen for America.\textsuperscript{184}

\textbf{STAMP ACT}

Prior to the American Stamp Act the colonies had protested that accumulated debt impaired their ability to pay such a tax. The British ascribed colonial debt to the profligacy of the colonists, without speculating that British prohibition of colonial currency was the cause of debt accumulation. Lack of a money economy inadvertently promoted colonial trade with the mother country, in that the lack of a uniform medium of exchange inhibited native production. Barter involves not merely possession of something that the other party wants, but also the necessity of waiting until the two parties experience their desires simultaneously. Things bought from Britain were

\textsuperscript{183} The Sugar Act posited that the defendant in a violation was guilty; if he could not prove innocence, he was guilty. Litigation was removed from colonial courts, where a jury was provided. When colonial courts regarded a law as unjust, the jury would refuse to convict under that law. Furthermore, if a defendant was acquitted, he could sue the tax agent or informer for damages. Now all violations were brought to pro-government Admiralty courts. The defendant was not allowed to sue for damage if he was acquitted. He was guilty a priori, unless he could prove innocence. Of he were found guilty, the ship and its contents would be appropriated: one third would go to the court, one third would go to the informer, and one third would go to the customs agent. Cf. Adams, Charles; \textit{For Good and Evil}; The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 297.

unrestrained from the lack of currency, because payment was made in bills of exchange rather than in barter, thus making it easier to buy British rather than initial colonial productions. Since however the colonies were not allowed to trade with any country but Britain, supply and demand failed to regulate the market. Otherwise, the colonies would have been able to set proper prices for colonial productions. The legal exclusion of other potential purchasers enabled England to set the selling prices of colonial production very low. But Britain raised her export prices far above English domestic prices, as she was able to accomplish for the same reason, with the consequence that colonial trade had to come into imbalance. The British economic coercion inhibited a decentralized money economy; it achieved the British preference for an authoritarian regulation of economic forces centralized in London. That this entailed distress for the colonies was never a matter of consideration in England, nor was it so much as recognized.

The House of Commons refused to allow colonial petitions against the upcoming Stamp Act to be read in session, according to a rule that the House of Commons should categorically refuse recognition of any petition speaking of fiscal legislation. Why should there have been such a rule? By refusing such a petition the House members must already have carefully studied the petition; it seems at first absurd that the House should refuse to be acquainted with something with which it had to be already thoroughly familiar, in order to recognize it for prohibition. The rule indicates that the parliamentarians could not trust themselves with an issue in which they could not afford to make mistakes. A group’s collective decisions might easily turn out quite differently from what is expected, and especially when one small group, the Ministry, is part of a larger group, the House of Commons, half of whom belong to an opposing party. Given such a circumstance the petition might mutate into a “rider” on some other bill, so that the sense of the petition is implemented as a condition for passing the substantial bill, even in cases in which the majority would be plainly against the petition. Grenville had called for colonial suggestions on the matter, but subsequently
D. Morgan Pierce

ignored the colonial response that ensued. He introduced to the House of Commons a bill which would extend the Stamp Tax to the colonies. The Bill passed both houses without debate or opposition, as the real opposition that came up had been carefully filtered out of public discourse.\textsuperscript{185}

Perhaps the Sugar Act (Revenue Act!) could have been disingenuously construed as a Navigation Act to regulate transportation, rather than as a direct revenue tax; it could be argued to be a tax for the regulation of trade because the duty was collected at ports. The Stamp Act, following by a few months, disabused the colonists. The Sugar Act taxed imports, and therefore ultimately taxed companies. If taxation is upon imports, the burden inevitably weighs as much upon the purveyor as the consumer. It first appears that the consumer pays the tax because the import duty paid by the company is passed into the price of the product. However, the increased price encompassing the tax reduces effective demand, so that the company loses as much as the consumer, because its turnover decelerates. The Stamp Tax on the contrary taxed the internal colonial market, not merely the import sector of the colonial market. The Stamp tax was not associated with import, and thus got beyond the barrier by which British taxation encumbered the English company of supply. The burden fell wholly on the taxpayer. The Stamp Tax was the first colonial tax that did not encumber English export. The Stamp Act signaled the moment at which the colonial market had become more important as a consumer than as a supplier. The Stamp Duties, undisguised, were direct, internal taxes imposed by Parliament. Since a native Englishman could not be taxed without representation, the Stamp Act abruptly implied that colonists were not English subjects. The colonists resiliently demanded affirmation that they could not be


\textsuperscript{186} To ask them to submit to new levies imposed upon them in what they regarded as an illegal manner at the precise moment when heir trade was being restrained, was asking altogether too much. Cf. Morgan, Edmund S.; \textit{A Popular History of Taxation from Ancient to Modern Times}, W.W. Norton & Company, 1976, p. 47.
taxed without representation.\textsuperscript{186}

The parliamentary justification of the Stamp Tax had been founded upon precedent. The colonies had been paying tax through the Navigation Acts for a century; the Stamp Act was merely an extension of an accepted tradition. The colonist had never used \textit{natural liberty} as a ground to protest the Navigation Acts that regulated colonial commerce.\textsuperscript{187} The Navigation Acts had their legal descent from the right of royal tonnage, poundage, and ship money. The oceans and all land discovered outside England were in the possession and jurisdiction of the King. The Navigation Acts derived their legality from the King’s sovereignty over the oceans, although the Navigation Acts were issued from Parliament. Justification of the Navigation Acts by their descent from royal tonnage entailed that such taxation be taken only at ports. Hence it was essential that these duties obtain only in colonies on the seacoast. King Charles I’s attempt to extend his right of ship money to internal English towns ignited the English Civil War. The ship money episode was quite parallel to the precursors of the Revolutionary War. The location of the colonies on the coastline, combined with the prohibition against non-British trade, made British taxation inescapable. It did, but British taxation had always been confined to the Navigation Acts. Exactly for this reason the British abandoned their idea subsequently to the Seven Years War to establish inland colonies, on the ground that an inland American colony would elude British imperial control. The Stamp Act was an illegitimate application of an inland tax, just as Charles I’s extension of “ship money” to inland provinces had been.

\textbf{PARLIAMENTARY SOVEREIGNTY}

If Dulaney’s stricture (no revenue taxes) ruled out any legislation that produced revenue, then, arguably, most laws would be incapable of ratification. Strict distinction between the right of Parliament to legislate, but not tax, would deny taxation any

\textsuperscript{187} Neither the Declaration of Colonial Rights and Grievances, nor the Declaration of Independence cited the navigation acts. F.P.167
legal origin. If the authority to legislate taxation was not vested in Parliament, then in what sense did Britain have sovereignty over her colonies? Parliament, not the king, had taxed external commerce since the inception of the colonies; the Navigation Acts issued from Parliament. Violations of the previous Navigation Acts had been brought to admiralty courts located in America; the colonial rage seemed to focus only on things long legitimated by precedent.188 England could argue that nothing was new.

The Stamp Act precipitated a serious split in colonial sentiment. The reduction of the sugar tariff might have edified the colonials, but the Act had done no more than to disingenuously circumvent the objections of the colonists; the tax had been reduced so that compliance would be cheaper than evasion, but in reality the new Act intended expanded revenue by its new application both to English and French Molasses, as well as application to a much wider variety of other imports. Benjamin Franklin, who usually sensed colonial attitudes so accurately, had egregiously misjudged how the colonies would react to the Stamp Act. Although Dulaney & c. could not articulately formulate it, perhaps their distinctions between internal and external taxes, or between taxes for revenue and taxes for trade regulation, etc. were in analogy to the difference between a good and bad tax in a domestic economy; a good tax would be one that in the long term was beneficial to all parts of empire, while a bad tax was one that benefitted the metropolis through detriment to other parts of the empire. Colonial silence over the previous navigation acts perhaps comprised an understanding that the tax exploited foreign trading companies to the advantage of the British Empire, whereas the Revenue Act would benefit the mother country at the cost of the colony. Notice that the protasis entailed economic harm to the colonies as well as the foreign countries, but that the colonists did not protest, because it was a sacrifice for the good of the empire.

The direction of Dulaney’s thought had been that a regulatory tax would behave differently from a revenue tax, and that this difference would justify differences in

applicability. Presumably the argument was to the effect that the Stamp Tax could not be justified by the precedent of taxes collected under the Navigation Acts. That the Navigation Act taxes were regulatory does not per se provide a ground to deny that such taxes are a precedent for revenue taxes; the difference of regulatory and revenue tax may be true, but nevertheless irrelevant as to whether one tax forms a precedent for the other. The initiative of direct, internal taxation upturned the English tradition of leaving organizational disputes at loose ends. English legal culture usually left inconsistencies alone in a crazy quilt, afterwards legitimating, piecemeal, the more irrepressible of the lingering claims by appeal to long-term precedent. The colonies limited legitimate English taxation to commercial regulation by appeal to precedent. Parliament possessed prerogative power to enact external taxes without colonial deliberation, in the form of navigation acts. The essence of colonial objection to unrepresented taxation was that revenue taken from the colonies could not be legitimately spent for the good of England, more succinctly: colonial tax revenue should be spent on the colonies. Furthermore, if colonial tax was to be spent only on the colonies, a fortiori, such taxation should be legislated, as it had always been, by the colonial assembly, not Parliament.

It behooved Dulaney to expose a distinction between the intention of revenue and the accidental occurrence of revenue if he was to isolate the Stamp Act. In his *Considerations on the Propriety of Imposing Taxes in the British Colonies:* ‘that no distinction can be supported between one kind of tax and another, an authority to impose the one extending to the other’: ‘Contrary to this erroneous view, it appears to me, that there is a clear and necessary distinction between an act imposing a tax for the single purpose of revenue, and those acts which have been made for the regulation of trade, and have produced some revenue in consequence of their effect and operation as regulations of trade.’ He argued that parliamentary regulation of trade by imposition of duties was legitimated by tradition because its accumulation of revenue was unintentional. Because Parliament had never imposed an external tax on the colonies
for the sake of revenue, tradition did not license Parliament to impose an internal tax. External taxes had always been regulatory; since an internal tax could not regulate external trade, its purpose could be nothing other than revenue. The colonies had been exempted from native English taxes in their originating charters, all of which vested the colony with all powers of taxation; no colony had ever been called upon to pay an English tax. Dulaney’s terms external-internal would later prove to be infelicitous. His distinction between revenue and trade regulation might have intended to mean that any revenue intended by tax to be taken from the colonies to be given to Britain was unconstitutional. Dulaney: “a right to impose an internal tax on the colonies without their consent, for the single purpose of revenue, is denied; a right to regulate their trade without their consent is admitted.”

Dulaney’s attempt to discredit the Stamp Act by interpretation of its nearest precedent was in conformity with British legal tradition: he suggested that the tax from the Navigation Acts was not to amass revenue, and therefore did not justify any tax that was not regulatory. The proposed illegality of the Stamp Act was based upon its non-resemblance to the Navigation Act taxes; the arbitrary element of this interpretation was the premise that commercial regulation should substantively distinguish navigation from inland taxes. The burden rests on whether the difference, while true, should be admitted as a relevant difference. England had no recourse but to articulate the vagueness of the metropolitan-colonial relation. Internal taxation was the innovatory moment.

The colonial legislatures objected that British subjects paid only taxes that they freely elected to give; British subjects in England consented to taxation through their

190 Grenville announced the possibility of extending the stamp tax to the colonies to Parliament in 1764, at which time he alluded to the supremacy of Parliament over colonial government. cf. R. C. Simmons, The American Colonies: From Settlement to Independence, Longman, 1976, p. 296.
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representatives in Parliament. Since colonies had no parliamentary representation, taxation was unconstitutional. Dulaney’s publication managed to bring Grenville into a trap. Grenville himself, in his *The Regulations Lately Made concerning the colonies, that the taxes issued upon them, considered*, had argued that the colonies were virtually represented, when arguing that taxation was not a power of the sovereign but the prerogative of a representative body. ¹⁹¹ In doing so he committed Britain to the premise that representation was required for the legality of any tax and consequently, if his notion of virtual representation failed, Parliament would not have a right to tax the colonies. Parliament had never before taxed regions that did not have actual (not virtual) parliamentary representation.

As colonists were not and, given the practical circumstances, could not be adequately represented in Parliament, they could not be subject to parliamentary taxation. The Connecticut Assembly in October, 1765 concluded that only a colonial assembly, in which taxpayers had representation, could legislate a tax. ¹⁹² Noticeably this attempt deviated from Dulaney’s argument; if this were the ground for illegitimacy, then the regulatory taxes, which were also not ratified by a native representative assembly, would also be illegal. Dulaney achieved apparent consistency by the conciliatory admission that Parliament possessed prerogative power to enact external taxes without colonial deliberation, in the form of the Navigation Acts. But distinction between prerogative over commercial tax and non-prerogative over internal tax remained confused. Parliamentary prerogative was oxymoronic; the monarch, not Parliament, had such a thing as prerogative power, and it stemmed from the *terra regis* principle; the Navigation Acts were legislated by Parliament, not the King, and should therefore have been unrelated to prerogative. If the Navigation Acts were not derivative from

royal prerogative, they ought to have been legally invalid from inception, because the King, not Parliament, had jurisdiction over colonies. Neither passage of the power of prerogative from the monarch to the Parliament, not its extinction, had never been explicitly legislated. If the king no longer had prerogative, it did not follow that “prerogative” was vested in Parliament by default.

The Stamp Act definitively shifted hostility from the agents of home government to the home government itself. For the first century friction had been between the population and the governor or proprietor, but with the ascendancy of parliament over the king, no middle layer remained to obfuscate the conflicting intentions between colony and mother country. Duties on imported goods, i.e. virtually everything, had been hidden in the prices for so long as communication was regulated by the navigation acts. The stamp revenues, to the contrary, were prominent, were taxes imposed directly from England, and were explicitly for the sake of English, not colonial need; the stamp taxes were highly provocative. England did not persist in supporting the Stamp Act by citing precedents, but brazenly went to the point: absolute sovereignty of Parliament over all parts and aspects of the Empire. The assertion was revolutionary; prior to the Glorious Revolution the proposition had been flatly false. The king had been sovereign over outer parts of the empire; legislation that generated revenue had always been confined to external commerce.

The anomalous tradition of representative-democratic self government enabled the

195 Arthur Grenville, minister of the exchequer, authored the assertion. The distinction between external and internal taxation originated from the statement in which parliamentary sovereignty was asserted. Colonists, initially objecting to the claim supporting the Stamp Act, adopted the external-internal terminology, and went so far as to object to the Sugar Act on the ground that it was an “internal” tax. cf. R. C. Simmons, The American Colonies: From Settlement to Independence, Longman, 1976, p. 297.
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colonials to shift their need for participation into a preliminary central government within the American continent. Plausibly the introduction of direct taxation was a mistake, inasmuch as taxation would provide the vehicle by which common interests would organize individuals into a class. The British attempts at colonial taxation brought about a counterintuitive unity between the farmers and the elite in the colonies; common people willingly put themselves into the hands of the colonial elite to protect themselves from British taxation. This worked towards a decentralization of colonial economy, as colonists attempted to achieve economic independence from British power by making their production more self-sufficient. As the colonists came to perceive Britain as exploitative, the colonists created a proto-democratic social structure that worked against deferential economic traditions.

William Pitt’s Argument

Argument took the redundant form: colonial government should have exclusive power to institute internal taxes, for only the colonial government could convoke representatives to ascertain the consent of the population. This constituted a false equivalence with the previous assertion, that Parliament had no right to tax because there was no colonial representation in Parliament.\textsuperscript{196} It failed to explain the validity of the distinction between external and internal taxes. Perhaps the authentic, but unarticulated objection was that revenue taken from the colonies could not be legitimately spent for England; colonial tax revenue should be confined to the colonies’ disposition. This poorly formulated argument was communicated by Benjamin Franklin to William Pitt, who brought it to the House of Commons: ‘That the Principles of Taxation as distinguished from legislation were as distinct Principles and Powers as any two Propositions under the Sun.’ Taking a distance from its rhetorical value, the assertion is vague. A law against smoking in the library doesn’t bring any pecuniary

meaning into association, nor does an inheritance tax invoke a specific image of criminality; in such a sense they may be as different as any two things under the Sun. But, if not by legislation, how otherwise could a tax originate?

Dulaney had argued that it was illicit to legislate for the sake of revenue, although revenue incidental to legislation was unobjectionable; he was trying to locate the distinction between the Sugar Act and the previous navigation acts, ostensibly the same in being commercial regulation structured by duties. Parliament was reasonably puzzled. If the position disqualified any legislation having pecuniary interest, it implied a virtual prohibition on any legislation. Conversely, how would any taxation originate, if not by legislation? If the authority to legislate taxation was not vested in Parliament, then in what sense was the sovereignty of England over her colonies meaningful? Parliament, not the king, had taxed commerce since the inception of the colonies; the Navigation Acts issued from Parliament. Violations of the previous Navigation Acts had been brought to admiralty courts located in America; it appeared that the colonial rage was directed at nothing but what had long been legitimated by precedent.\(^\text{197}\) England could argue that nothing was new.

Pitt was not distinguishing between internal and external taxation, despite occasional coincidence with that distinction: “That the Principles of Taxation as distinguished from legislation were as distinct Principles and Powers as any two Propositions under the Sun.”\(^\text{198}\) According to this distinction the power to levy taxes even in Great Britain was limited to the House of Commons, the representative part of Parliament.\(^\text{199}\) Because taxation was a free gift of the people, national tax legislation had a unique procedure separate from that of all other legislative bills. Neither a member of the House of


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Lords nor the monarch could sponsor a tax bill until after the House of Commons had approved a grant for taxation, whereas all other legislative bills were finalized in the House of Lords by the monarch’s signature. Tax bills however returned from the House of Lords to the House of Commons. The Speaker of the House of Commons then finalized the tax bill by presenting it to the monarch as a gift from the House of Commons. The uniqueness of this procedure demonstrated that whereas Parliament had supreme legislative authority, this supremacy did not encompass taxation, which was exclusively within the authority of representative functions. Since colonies did not represent themselves, they could not be included in the legislative procedure by which alone the English natives allowed themselves to be taxed.  

The argument may not have been well formulated, to wit: whether tax and law are mutually entailed. It might have been inquired from what authority a tax may be formed. The colonies made their own laws. The exclusive right of the colonies to taxation might have been more accurately argued from the intimate association of taxation with legislation, which was located in the colonies, rather than to argue that taxation was generically different from criminal or civil law. Speakers led by Pitt argued from precedent: during the entire period in which the counties palatine of Durham and Chester enjoyed the Bishop of Durham clause, they were subject to parliamentary legislation but were not subjected to taxation until they were given representation in Parliament. A similar argument from precedent was made from the Anglican Church, which had a separate internal organization analogous to colonial government, had an autonomous system of internal taxation, but was subject to parliamentary legislation. The argument from precedent might have been the more cogent presentation of the evidence, but it is perplexing that William Pitt should have been interested in the distinction between legislation and taxation, unless it had deep implications that would neutralize the better argument’s disadvantage to England.

English parliamentarians assumed that if Parliament was not empowered to legislate taxes, then it was not legislating at all; the capacity to impose taxation was the test of whether it was a governing body. What advantage for England did Pitt see in denying the mutuality of the powers of legislation and taxation? Affirmation of the identity of legislation and taxation reaffirmed that the colonies were an integral part of the British Empire; subjection to legislation but immunity to taxation invited the supposition that colonies were in some sense not wholly British provinces.

The circumstance that the Anglican clergy did not legislate, but did formulate taxation, was used to reinforce the distinction legislation-taxation. This tactic was especially unfortunate: although subject to the civil law, the Anglican Church did formulate its own laws qua church body, just as it formulated taxes, qua church body. It is true that Chester and Durham were not taxed until they received parliamentary representation, but they had been made counties palatine for the express purpose that these counties should autonomously legislate, as deemed necessary for their military functions. The colonial argument was very poor, not because they were wrong to object, but because the colonies assembled a frail argument for a misformulated objection.

By the semantic understanding that a sovereign body could be only one, it followed that parliamentary legislation was absolute. Since the colonies alone had the power to tax themselves through legislative assemblies, the established facts entailed that taxation could not be conceived as a type of legislation. Consequently, colonists formulated that legislation signified an authority whose application was to the whole of the empire; regulation that applied to a restricted part in the whole was not legislation. Thus the Acts of Trade and Navigation were legislation, because they

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applied indiscriminately to all parts of the empire. Taxation could, in theory, have been legislation under this definition, but practical reasons prevented this. Under the understanding that tax revenue was gratuitous, a tax had to eventuate from a representative body that could attest the people’s desire to make the gift. If the colonial representatives could be in the House of Commons to attest to this gift-making, they could not be in their colonies to witness that the people they represented wanted to make this gift. To maintain consistency with the sovereignty of Parliament, it would be necessary either to eschew the principle that tax revenue was a gift, or deny that taxation was a kind of legislation. The second horn of the dilemma supported the conclusion that only a colonial assembly could satisfy the precedents of English legal tradition, by which the colonial population could be taxed.

In kaleidoscopic fashion the premises of one standpoint got connected, inconsistently, with another, a general confusion developed, and ridiculously concluded in an action that wasn’t logically consistent with any prior line of reasoning. William Pitt took up from this objection the position that Parliament had the power to legislate, but not assign taxes to the colonies. It was logically more coherent than the distinction between internal and external taxation; however, since it implied the same conclusion, that England should not impose the stamp tax, he was misinterpreted to mean the distinction between internal and external. This was more ironic because, setting aside Knox’s pamphlet, the collective colonial voice was asserting something quite different from the internal-external distinction; they were asserting what Pitt had most accurately refined.

Pitt’s replacement of the internal-external distinction with that of legislation and taxation conveyed a more inflammatory implication, that England could not

203 In a speech before Parliament Pitt asserted: ‘Taxation is no part of the governing or legislative power.’ Morgan, Edmund S.; *Colonial Ideas of Parliamentary Power, 1764-1766*, The William and Mary Quarterly, third series, 5, 1948, p. 337.
legitimately impose any tax on the colonies, implying that the prior practice of navigation revenue was unjust. But such an argument had the mark of shooting oneself in the foot; why advance an argument that no one in Parliament would accept? If Parliament were consequent to the logic of the argument, what sense would remain in asserting that the colonies were British colonies?

The second part of Pitt’s position shored up his argument by establishing that Parliament had supreme power of legislation over the colonies, thus accounting for the sense in which they were British. However, Pitt did not elaborate on what the power to legislate was nor, barring the power of legislation to raise tax revenue, what great happiness was in store for Parliament from the power to impose non-pecuniary laws on British colonies. The power of Parliament to legislate for the colonies was supposed to salvage the colonists’ identity as Englishmen. Perhaps the Mutiny Act, which required colonials to house and feed British soldiers at colonial expense, or the Magna Carta, which legitimated impressment for British ships, might have been construed as beneficial non-pecuniary legislation; but the colonists had stridently protested against these practices as thinly veiled stratagems to extort colonial revenue. The colonists rejected the Stamp Act, which would have drawn revenue to finance the British army stationed in the colonies, but the Quartering Act was introduced, which did not extract tax revenue, but compelled the colonists to pay for the maintenance of the army. The Quartering Act had been legislated originally during the English Civil War, to facilitate the struggle against the Royalists; its application to the colonies had not the slightest commonality by which it might have been justified by precedent. Most of the British soldiers were stationed in New York, which refused to obey the statute. Parliament, under the leadership of Charles Townshend, suspended the New York Assembly.205

At the same time the colonists were arguing in reverse: it is because they are not subject to parliamentary legislation that they are not subject to taxation. According to this strategy, the colonial assemblies displaced the authority of Parliament. Legislation comprised taxation, but because Parliament could not accommodate colonial representation, Parliament ceded its legislative authority to the colonial assemblies, which were able to accommodate representation. While Pitt maintained a caesura between legislation and taxation, the colonists, whom he was championing, insisted on the mutual entailment of taxation and legislation, and inferred that they were not taxable. Finally, William Knox’s pamphlet, and Lord Lyttleton’s speech in the House of Peers maintained in unison with the colonists the entailment of legislation and taxation, but inferred that if the colonists were not taxable it was vacuous to assert that they were British. The final outcome of the positions, the Townshend Acts, rested on a set of premises that no one was asserting.

**William Knox’s Argument**

Pitt’s position that Parliament had no right to tax denied the distinction between internal and external taxation, and implied that England had no right to impose any tax at all. Ironically the man who was alone responsible for bringing England to the brink of bankruptcy was now discouraging Parliament from combating an insolvency into which he had led them. The Knox pamphlet undertook to save Parliamentary ability to extract tax revenue by attacking the separation of taxation from legislation, based on a semantic entailment between rights and duties. One has the rights insofar as he has the duties of an Englishman. Knox’s argument introduced the first questions about the identity of colonials. His pamphlet implies that colonials can retain English identity only if they conform to the same duties as native Englishmen. The sense of being an English subject was to be subject to the supreme authority of England, namely Parliament. If they are immune to English taxation because they are not native, as they claim, then they cannot object to taxation without representation, for
only Englishmen have a right to representation. If they lack English identity, then the rights of Englishmen, which they pretend, are not legal hindrances to taxation. Knox proposed a dilemma according to which either tact that the colonial took would entitle England to tax him. There was no sense in describing someone who refused submission to Parliament as an English subject. If a person is a British subject, he will submit to Parliamentary tax legislation, whereas, if he is not a British subject, he has no rights, as an Englishman, that he could hold against Parliamentary legislation.206

What subordination was due? If they did not distinguish between internal and external taxes, but denied all authority to tax, what authority was left to Parliament? The colonists allowed Parliament authority to legislate for the whole empire such as concerned the interests common to all the members of the empire (as yet they made no claim that the colonial assemblies were entirely coordinate with Parliament in legislative authority), but they denied that Parliament’s legislative authority extended to the internal polity of the colonies, and consequently to taxation. Parliament had not attempted to interfere in the affairs internal to the colonies, so the colonial objection did not yet need to assert their exclusive legislative control of the internal polity. Because the threat was in taxation, but not yet in non-fiscal legislation, the colonies relied on the argument that Parliament’s supreme legislative authority did not comprise the right to tax; taxation and legislation were separate functions and historically had always been treated separately, etc, etc. Legislation was a function of sovereignty, and as Parliament was sovereign of the British Empire, it had the right to regulate oceanic trade. This presumably was meant to provide consistency as to why the colonies should

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206 Knox cites the Pennsylvania Resolves, in which it is asserted that the Pennsylvania inhabitants have the same rights and privileges of British subjects in Great Britain, but in which it is also asserted that they are “perfectly free”. He argues that they cannot be “perfectly free” if they have the obligations that entitle them to British rights. The argument is in his “Controversy between Great Britain and colonies Reviewed” Cf. Cf. Morgan, Edmund S.; A Popular History of Taxation from Ancient to Modern Times, W.W. Norton & Company, 1976, p. 69
accept regulatory taxation under the Acts of Trade and Navigation, but deny internal taxation such as the Stamp Tax.207 This conveniently overlooks the premise that the tax acts under the Navigation Act had equally been legislated without representation.

The colonists adopted Pitt’s standpoint; there was no question of whether or not to submit to Parliament, but merely of how that submission was to be accomplished in fidelity to the English constitutional tradition. Submission would not be achieved, in conformity to the intention of English Law, if the power of direct taxation were to be comprised in the meaning of parliamentary sovereignty. The French king, for instance, owned France; he was free to tax French subjects because he was the owner of everything that a French subject owned. In their anxiety to protect individual liberties, the English had conceived taxation differently. The King of England did not own England; everything that an English subject possessed did not ipso facto belong to the king. Thus taxation was not conceived as the king’s reclamation of what already belonged to him; tax revenue was the property of English subjects, which they conferred as a gift on the monarch. The fiction of the gift informed all tax collection; all tax revenue derived from the House of Commons, on the understanding that representatives from each borough were qualified to attest to their constituency’s consent to make a gift. Boroughs and townships represented in the House of Commons had their legal status from a royal charter.

The House of Commons had exclusive right to legislate taxes because the House of Commons was the representative part of government. But since the colonies had never been provinces, they had no representatives who could perform the fiction of conferring tax revenue as a gift. In the early colonial phase Parliament, in the eyes of England, was not entitled to colonial taxation, except through the Navigation laws; colonial territory was outside parliamentary jurisdiction. As a fiefdom, all colonial territory was terra Regis, property of the king, not property of England; therefore

the colonies did not have the legal status to which taxation was applicable. The King did have jurisdiction, but his ability to collect revenue was through requisition, not taxation. Taxation required consent by the representatives and their constituents, and the distribution of the taxation was determined by the group forming the tax law (Parliament). Derivation of colonial revenue in the legal status of royal prerogative eluded the legal contradictions inherent in taxation; customs duties in the regulation of commerce was legally cognate with the king’s right to revenue from a tonnage duty in the English ports. A requisition did not require consent, but the distribution of the revenue collection was determined by those assigned the requisition, not the issuer of the requisition (the King). The colonist had never protested against the navigation acts that regulated colonial commerce on the ground of natural liberty.208

By the time of George III, the royal powers had ostensibly receded before parliamentary power, but the king’s patronage controlled so many of the MPs that in fact the King’s preferences were prevailing more in parliament than in his prerogative. The King did not object to direct taxation of the colonies, although it was an encroachment of parliamentary into royal authority. George III supported all of the attempts of Parliament to tax the colonies. The amount of revenue to be collected continually increased, but the catastrophic change was not the amount to be collected but the unprecedented change from requisition to taxation. The conversion to taxation was never given a justification by Parliament; whereas earlier Parliament had accepted that it could not tax colonies because they were not in Parliamentary representation, afterwards Parliament wanly justified taxation on the grounds that colonies were virtually represented.209 The royal reply to the colonial “no taxation without representation” had been that since the MPs were men of independent means, they were impartial representatives for the good of the empire and therefore already representatives for the colonies.

208 Neither the Declaration of Colonial Rights and Grievances, nor the Declaration of Independence cited the navigation acts. F.P.167
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It was not quite true that MPs were of independent means, and therefore impartial; most of them were dependent on patronage for their positions, and therefore obligated to support the king. A large pressure, apart from war, for tax revenue lay in patronage. In principle Parliament was in competition with the King for supreme power. Ostensibly Parliament had prevailed, but the King controlled Parliament through his power over the appointment of MPs. Britain did not have a transparent concept of the correspondence of tax revenue and expenditure. The willingness of the MP to support the King was not due to amity; the MP depended on the King for his elected position, and would not continue as MP if the King changed his backing. Petition for tax funds was perennially necessary to pay for the scheme by which the MP would do the will of the King rather than the will of Parliament. In times of peace national taxation may have amounted to as little as 11% of GNP, whereas in war it approached 30%. Taxation was regressive and concealed from the public in the form of indirect tax. Otherwise the monarch was financed from private loan, largely exempt from parliamentary oversight, but secured on the guarantee of Parliament, and eventually discharged by tax revenue.

The Whigs now demanded that all MPs evidently in the king’s patronage and payroll be excluded from Parliament. To divert pressure for reform Parliament set up a red herring by justifying colonial taxation on the grounds that colonists were not as heavily taxed as native Englishmen, that the Seven Years War had been fought in colonial territory, and that the serial colonial objections to taxation were inconsistent. But Parliament never again tried to give a justification for the origin and core of the

209 The colonists asserted: “no taxation without representation,” and the English replied that native English provinces are taxed, although they were not represented. The Civil War had determined that any taxation required thr concurrence of the King and Parliament. The Stamp Act and Townshend Act satisfied this requirement, and were therefore legal. Burke replied, in the House of Commons: to tax colonists without their consent was all the same a violation of natural law, which predominated over any constitutional statute. The British constitution was very positivistic; no credit could be given to an idea of transcendence. Cf. Coffield, James; A Popular History of Taxation from Ancient to Modern Times, Longman, London, 1970, 278 p. 87.
problem: the justice of taxing unrepresented people. Parliament, by ignoring this question, was operating with arbitrary powers. Parliament seized total power (unjustly and without due procedure) over the legislative powers of taxation, but from beginning to end never managed to increase its control over the source of taxation. At no time did Britain have enough military-police power to force the taxes which Parliament legislated. It was this tension between the asserted legislative authority and the administrative inability to enforce which disintegrated the relations of mother country and colonies.

Colonies had legal status by virtue of the same sort of charter, so that legal grounds and precedents either of an English township or of a colony might be conversely appealed to for the other; the attempt to ride roughshod over the rights of colonies might produce costly precedents in legal deliberations concerning English boroughs. The colonial charters had stipulated that all power of taxation proceeded from the colonial assembly, in consonance with the English legal tradition that taxation depended on the consent of those who were taxed. When the colonial charters were composed, it had been stipulated that representative assemblies would exclusively control revenue. The stipulation had been based on the consideration that a colonial assembly could not both sit in Parliament and keep in touch with their constituency at the same time. The metropolitan government could not possibly assess how much tax revenue the colonies could afford, nor how much they would need. Assignment of revenue collection to colonial assemblies was devised to approximate the submission of an English township to national government, on which colonial submission was modeled.

Knox’s diversion to an argument about the British identity of the colonials was a red herring, but the irrelevance of his argument to direct colonial taxation would not have occurred to a parliamentary body so emotionally exercised from their struggle with the monarchy. Any British Parliamentarian would be nonplussed to conceive what legislation was if not taxation; the very idea of their separation was absurd. For two hundred years they had struggled against the monarchy on the premise that only the
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legislative body, no other agency at all, had the power to tax; their survival from the long Parliament, Civil War, and Glorious Revolution centered on their insistence that any power to tax originally issued from their authority. To emerge from near extinction to supremacy, only to have it proposed that their legislative power did not comprise a power of taxation, was absurd; if they had accepted such an idea they never would have prevailed over the Stuarts. Taxation had to be inseparable from legislation, for without it James I could have instituted national taxes without consent, and Parliament would have withered away.²¹⁰

The speech of Lord Lyttleton in the House of Peers played more on the subterranean psyche of Parliament’s recent survival than it did on the objective features of the colonial objection: “This is no question of expediency; it is a question of sovereignty till the Americans submit to this legislature.” He argued that when the colonists emigrated from England, they were English subjects, and since no constitutional compact had since intervened, their prior status remained unaltered. The argument equivocated on the premise that Parliament had legislative supremacy at present, just as it did when the colonists’ ancestors had emigrated. But the terms of their submission to English law, when they were native Englishmen, had to be different from the terms of their submission under the conditions of their colonization; the colonial assemblies had been introduced expressly to sustain the continuity of their submission with that of the native Englishmen. By his argument that rights and obligations naturally descend intact insofar as nothing intervenes, Lyttleton inferred that the colonists had implicitly consented to the obligations of legislative taxation just by having enjoyed the status they claimed as British subjects.²¹¹ However, it was not true that the colonists had been subjected to parliamentary authority, because colonial territory had been terra Regis;

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it was not until the Glorious Revolution that the question of parliamentary authority could even arise.

Logically defective as it was, Parliament would find the argument persuasive by virtue of their two hundred year bias to preserve their survival over that of the monarch. After barely getting the upper hand over the king by the principle that only the legislature could impose taxes, they were less than impressed to be told by Pitt that they had supreme power over absolutely everything except revenue taxation; that is, they had power over nothing. To counter Pitt’s distinction between legislation and taxation, Knox introduced the slippery slope argument that virtually any parliamentary legislation might entail colonial expenditure, and thereby be disqualified as a form of taxation; the disability to tax would disqualify any legislation. Supposing that a navigation law generated large tax revenue while a stamp tax would render little tax revenue, it was absurd to approve the navigation law, because it was not a revenue tax, but refuse the stamp tax, because it was a revenue tax. Colonial legislators were in large part arguing that all imperial taxation, from England, on the colonies, was unconstitutional. It was calculated that the stamp tax would have cost the average colonist $1.35 per year, 0.2% of annual per capita colonial income. In matter of fact colonial taxation and British legislation had been entirely separate for more than a century; taxation proceeded from representative assemblies, and English legislation whether from king or parliament affected commerce but never revenue collection.

REPEAL OF THE STAMP ACT

Parliamentarians reacted to colonial opposition to the Stamp Act with a proposal that colonials be installed in the House of Commons. In conformity with English Common Law, but not Roman Civil Law, the proposal was to satisfy the premise that subjects who were taxed should be represented. The colonial objection was not a call for

innovation, but a recall to consistency with English legal tradition. It is, though very implausibly, thinkable that insistence on some modulation of this recourse might have resulted in a unified English-American nation; despite its implausibility it was the only choice by which England could have retained her colonies.

Parliament’s idea of colonial representation was motivated solely from one consideration: to legitimize imperial taxation. The motion was never given a broader proposal, as a means to engage the colonies both in taxation and legislation. The colonies repelled participation in Parliament because parliamentary colonial representation would have superseded the authority of colonial assemblies, giving disposal over internal affairs and resources to an English instead of a native colonial governing body. Reticence over the relation of legislation and taxation was a self-serving oversight; taxes were created by laws, and laws were formulated in Parliament. Failure to articulate the relations of representation, legislation, and taxation prompted the subsequent colonial challenge to the unity of taxation and legislation; the colonial position inferred from the absence of representation, that any Parliamentary legislation entailing taxation was inapplicable to the colonies. This left the inconsistent implication that Parliamentary legislation without fiscal obligation should be acceptable to the colonies, although the same absence of representation applied here as well; it was a spurious inconsistency because the colonies had not yet met with a non-fiscal Parliamentary law to which they felt compelled to object. Neither the English nor the colonial conception was consistent.

The colonial formulation immediately challenged implicit assumptions about legislation. Assume that being part of a nation is equivalent to submission to its laws. If a province does not obey the laws of its nation, it is in revolt. In that case, can a province not be in revolt if it refuses to pay national taxes, but otherwise abides by the national law? The normal answer would consist in whether the taxation issuing from a

national legislature was legitimate, according to adjective law.

The colonists did not take this tactic; they did not question whether the taxation had materialized by improper procedure through corruption or partisanship. This had, however, been the English reception of the colonial objection, when introducing the idea of colonial parliamentary participation. Instead the colonists took a tactic very close to the unintelligible or absurd. They objected that English legislative authority did not comprehend taxation because the colonial territories were external provinces. England had not expressed a right to govern the internal, provincial affairs of the colonies; the premise of a right to colonial legislative autonomy on the provincial level thus became the premise for the exclusive right of the colonies to formulate their own tax laws.

The argument is incoherent. Buttressed by Common Law tradition, it was held that the colonies should legislate over their provincial affairs, since they alone knew what the local circumstances allowed and what the colonial population could bear. The inference from local familiarity to local law-making was implicitly extended to taxation. But the inference to fiscal autonomy was unsound. If taxation is not comprehended in the prior right of legislation, then from what authority, separate from the legislature, does right to taxation issue? Taxation is a type of law; it does not come into existence except through law-making. If the legislature does not have the right, and there is no other authority, is there absolutely no right of taxation? No; according to the colonials, it was only the colonies that were exempt from taxation, because they were an unrepresented province. But, as their premise had been that a legislature did not have a right to institute taxes, it should follow that the right of taxation would be as alien to a colonial assembly as to a national Parliament. If the colonists could not endorse the right of colonial assembly to impose taxes, a fortiori, Parliament should not be entitled, because they could not endorse autonomous taxation without conceding what they had protested: the comprehension of the right of taxation within the right of legislation.
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The colonies had articulated that laws which applied equally to all provinces of the British Empire could issue from Parliament; only taxes or laws that could apply only specifically to one part or another were outside the legitimacy of Parliament. Neither the Sugar Act nor the Stamp Act had authentic precedents. This is, oddly, obscured by the point often raised that these were the first Acts of this sort that the British attempted. The colonies had exercised revenue taxation for over a century; the salient point is that revenue taxation originated from the colonial assemblies. The Sugar Act and Stamp Acts were the first times that the British had imposed revenue taxes. Likewise, the British defense that the revenue of such taxes would be spent only on the colonies is already considerably deflated under consideration that colonial assemblies had conducted such taxation on their own for over a century, whereas in the version of the British defense, the colonies would have no participation in deliberating what these colonial needs were, nor in control over how the collected revenues would be dispensed.

Colonists very adeptly found precedents in English law to use against the English interests in the Sugar and Stamp Acts. Colonial common law courts had jurisdiction over commercial violations, just as in England. The common law courts shared the colonials’ consensus about either the injustice of the navigation law per se or its unjust application; the courts never convicted colonial defendants.214 The Massachusetts colonial courts of common law issued writs of prohibition countermanding decrees from Admiralty Court, and discharged prisoners detained by Admiralty Court. Colonials declared that the colonial Superior Court was the equivalent of the Court of King’s Bench in England. On the basis of this assertion the colonial common law court

214 Franklin’s aspersions on the British navy were accurate. British naval captains received one third of the cargo and ship. The law virtually empowered British warships to commit piracy on American ships. Even when there was no smuggling, if the documentation was improper the naval captain would be authorized to confiscate the ship. Cf. Adams, Charles; For Good and Evil: The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 302.

presumed to eclipse the Admiralty Court.\textsuperscript{215}

The means of enforcing the Stamp Act and the Townshend Act were as much a
detraction of imperial equality of English subjects as were the taxes therein conveyed,
and just as unconstitutional. Admiralty Court dated from the Middle Ages and was
based upon the law of nations; jurisdiction was over disputes occurring on the high
seas, terminating, to the jurisdiction of common law, at the first bridge of English
navigable rivers. As the high seas were the domain of the King’s prerogative, it had
been a remorselessly interminable task of Sir Edward Coke and other common lawyers
to stave off the encroachment of Admiralty law into the jurisdiction of common law.\textsuperscript{216}

Admiralty Court was to preside over all cases outside of England; the high seas and
external territory. Such remained the arrangement when the commercial companies had
founded the first colonies. The common law courts in Westminster held jurisdiction
over commercial violations inland, in England, but the admiralty courts presided over
such commercial violations in the American colonies.\textsuperscript{217} However, when government
and court were instituted in the colonies, the Crown delegated disputes from Admiralty
Court to the common law courts of the colonial governments. When in 1696
Parliament comprehended that the colonial courts would obstruct enforcement of the
Navigation Acts, it legislated that colonial violations of the Navigation Acts would be
tried either in common law courts in Westminster or Ireland, or in American Courts of
Admiralty in the colonies. The colonial admiralty courts did not exist until that time;
they were established in 1697.\textsuperscript{218} Parliament had legislated that enforcement could
omit the common law courts, provided with a local jury, in favor of admiralty court,

\textsuperscript{216} David S. Lovejoy ‘Rights Imply Equality: The American Colonies: From Settlement to
Independence,” The William and Mary Quarterly, third series, 16 (1959), 461.
\textsuperscript{217} David S. Lovejoy ‘Rights Imply Equality: The American Colonies: From Settlement to
\textsuperscript{218} David S. Lovejoy ‘Rights Imply Equality: The American Colonies: From Settlement to
\textsuperscript{219} David S. Lovejoy ‘Rights Imply Equality: The Case Against Admiralty Jurisdiction in
America, xxx 1762 to 1776” The William and Mary Quarterly, third series, 16 (1959), 460.
without jury. This was a violation of the colonial charters, all of which comprised a defendant’s right to jury by his peers. Parliament removed colonial violations from the jurisdiction of colonial courts on the dubious ground that since violations were on international waters they should be liable to the admirality courts. This was clearly absurd when it comprised violations of the Stamp Act, which had no relation to crimes committed on the high seas.

Extranationality might have been a tenuous ground for exclusion of common law court for violations of the Sugar Act, but exclusion of violation of the Stamp Act from common law jurisdiction blatantly lacked legal foundation. Deprivation of a jury was comprehended in the foundation of Admiralty Law upon royal prerogative: royal prerogative had immunity from the conditions of common law. The King, not Parliament, exercised jurisdiction, and only Parliament was subject to the principles of common law; of course the Stamp Act crisis is simply one long history of parliamentary preemption of royal prerogative, but in this instance, Parliament allowed the privilege of royal prerogative to stand. Since the King was the ultimate proprietor of colonial territory, prerogative was the basis of law, with the consequence that the King could override any colonial law he pleased. This might stand as justification of the usurpation of common law by Admiralty Court, but this was itself a travesty. The struggle originated when the Molasses Act (1733); this was the first instance in which Parliament virtually replaced the King as the original authority of the colonies. The Glorious Revolution (1689) transferred appointment of the King’s ministers from the King to Parliament, and the King’s authority to exercise prerogative over the colonies had been made contingent on the allowance of Parliament, but perhaps from oversight, at that time Parliament left the King’s priority over colonial jurisdiction intact. Thus the Molasses Act was technically illegal, since no Parliamentary action transferred colonial affairs from the King to Parliament. The King’s prerogative could have abolished the common law courts, since the colonies were founded upon prerogative law, not common law. If Parliament had assumed jurisdiction of the colonies from the
King, then the Sugar Act and Stamp Act could not have been transferred from common law to Admiralty Court; if they had not been from Parliamentary Act, they could have. However, since they were Acts of Parliament, but the King’s prerogative had not been formally abolished, the legality of what English Parliament had done was too amoebic for the colonists to pin down as instances of unconstitutionality.

Both the Sugar Act and the Stamp Act removed violations from colonial jurisdiction to Admiralty Court. Both the officials of the Court and informants against the defendant were to be rewarded from confiscation of the defendant’s property.\textsuperscript{220} The stamp taxes had since decades previously been applied to English taxpayers. The English disobeyed the tax, which was operated under common law; Parliament did not try to enforce the tax by converting it to Admiralty law. The Stamp Act was applied to the colonies under Admiralty law from the beginning because the tax, under common law, had not been effective in England. Thus the English taxpayers had the “rights of an Englishman” in this instance, but the colonists, deprived of the benefits of common law, had been degraded.\textsuperscript{221} The double standard regarding admiralty law revived a resentment that exasperated the colonists for a century: Rights of an Englishman. Their rights had been discounted on the ground that their habitation was not in England. Parliamentary documents regularly distinguished between “natural born subjects,” and “liege subjects,” which would not have been upsetting so long as the verbal distinction did not lead to a substantive distinction.

**TOWNSHEND ACTS**

The Stamp Act was repealed, but all other taxes remained intact. Despite an assurance that Parliament would not again try to tax the colonies, within one year of the

\textsuperscript{220} David S. Lovejoy ‘*Rights Imply Equality: The Case Against Admiralty Jurisdiction in America, xxx 176z11776*’ The William and Mary Quarterly, third series, 16 (1959), p. 465.

\textsuperscript{221} David S. Lovejoy ‘*Rights Imply Equality: The Case Against Admiralty Jurisdiction in America, xxx 176z11776*’ The William and Mary Quarterly, third series, 16 (1959), p. 471.
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abolition of the Stamp Tax, the Townshend Act imposed new duties on imports.\textsuperscript{222} As ridicule is often the entry path for substantive aggression, the unfortunate simplification of internal and external taxation provoked the temerity to follow the Stamp Tax with the Townshend Act.\textsuperscript{223} The distinction was falsely imputed to the colonists in order to create a straw dog; leading colonial spokesmen, such as James Otis and Thomas Hutchinson, recognized the ruse for what it was, denounced the distinction as one the English had invented, and had anticipated the aggression for which this intentional misunderstanding would be used.\textsuperscript{224}

After ridiculing the internal-external tax distinction before Parliament, Charles Townshend proposed to conform to the distinction imputed to the colonists; he would refrain from internal taxation and confine taxation to customs duties. He added sardonically that he didn’t see any difference to the colonial tax burden if the revenue were extracted at the customs house or the inland tax collector, but proceeded to impose customs duties that would fully equal the revenue that would have accrued from an inland excise tax; supposedly the external tax was not dependent on colonial consent, as he interpreted the colonists, whereas the colonists would strenuously object to an internal tax without colonial consent. The distinction between external and internal taxation and its absurd implications had been foisted on the colonial argument by virtue of some colonial pamphleteers, who did assert the legality of Parliament’s power to tax imports from England, as such taxation had been effective by precedent since the days of settlement. The distinction was perhaps true, but falsely conceived. Since all things were imported from England, the restriction to customs tax amounted

\begin{itemize}
\item \textsuperscript{222} Cf. Dorfman, Joseph; \textit{The Economic Mind in American Civilization: 1606-1865}, Volume One, George G. Harrap & Co. Ltd., 1947, p. 140.
\item \textsuperscript{223} Ironically, it was Franklin who had recommended raising revenue by new customs duties; it was Franklin’s idea that originated the Townshend Act. Cf. Adams, Charles; \textit{For Good and Evil: The Impact of Taxes on the Course of Civilization}, Madison Books, London, 1993, p. 300.
\end{itemize}
to no restriction or distinction; right to tax by that limitation was a right to taxation with no limit. Townshend contended that colonists would not demand participation in the legislation of colonial customs duties, no matter how onerous, because such taxes were supposedly enshrined in long-term constitutional precedent.

It was only when colonial economy matured, and there was colonial wealth that escaped the regulation to tax imports, that it behooved England to reconsider the purely commercial scheme of colonial taxation. The absurdity of the distinction made it easy for Parliament, with a light conscience, to impose lopsided customs taxes on imports vitally necessary to the colonies, out of proportion to the conventional scale of customs duty, as a way of diabolically satisfying the colonial demand *expressis verbis* and acquire all the revenue foregone from internal taxation.225 Possibly the spitefulness of the ridicule added to the colonial fury.

The Townshend Act was passed in 1767. It continued the legislation to enforce the new taxes through the Admiralty Court, introducing detailed provisions to maximize enforcement of import duties and other commercial taxation.226 The Townshend Act applied import duties to glass, lead, tea, paper, and other materials, to be collected by British officials in American ports.227

Writs of Assistance were legalized for all Atlantic colonies. Violations of the

225 The Townshend Act imposed import duties on paper, glass, paint, and tea. It allowed the colonies for the first time to export wheat and flour to England, a small move in the direction of free trade. It also awarded bounties for hemp, flax, and timber, giving England an extra insurance for military supplies, giving the colonies a new revenue for extraction raw materials, and diverting colonial development of manufacturing industries. Cf. Morison, Samuel Eliot; *The Oxford History of the American People*, Volume One, Meridian Books, 1994, p. 258.


227 In contrast to Franklin, Burke immediately warned the House of Commons that the Townshend Act was no different from the Stamp Act; the colonists would refuse to pay the tax. Cf. Adams, Charles; *For Good and Evil: The Impact of Taxes on the Course of Civilization*, Madison Books, London, 1993, p. 300.
Townshend Act were to be tried in British courts without juries. The Townshend Act taxation was dedicated to the maintenance of the British standing army stationed in the colonies, payment of judges, and royally appointed officials starting from the governors. The particulars of the Townshend Act suggest a strategy of debilitating the colonies to prolong their abject dependence on Britain. Evidently revenue was not the motive of the Townshend Act. The ensuing colonial boycott of British goods over 1768-1769 produced a British commercial loss of £1 million, while the revenue gained from the Townshend duties in the same period, 1770, came to £2,700. The colonial trade with the English merchants, amounting to one third of all English commerce, was so great that the colonies could cripple English economy simply by refusing to buy English products; no other European colonial development had grown so large that it could threaten the economy of the mother country by a trade boycott. Yes, the Stamp Act was repealed. Yes, the Sugar tariff was reduced to one penny. But the one-penny tariff was applied to English as well as French Molasses, and within one year of the repeal of the Stamp Act, the Townshend Act was enacted. All other taxation measures were left unaltered.

A very few of the colonials had suspected the purport of the Declaratory Act, which had issued, as an intramural parliamentary compromise, to ease the ratification of the repeal of the Stamp Act. The phrase in the Act, “in all cases whatsoever,” had been substituted as a euphemism for a phrase in the earlier draft, which specifically named the right to impose colonial taxes; the phrase had been altered so as not to offend Pitt. But the Declaratory Act was issued simultaneously with the repeal of the Stamp Act, so that it would seem to the colonials contradictory to repeal the first internal tax act

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and assert the right to impose internal taxes at the same time. This false confidence
was reinforced by the observation that the Declaratory Act was a copy of a statute
of George I over Ireland, and that since the time of this statute Parliament had never
attempted to impose internal taxes on Ireland.²³¹

Lord North had acquiesced in the Townshend duties, but he was anxious to
preserve English merchants and manufacturers from loss in the colonial market, and
to preserve the purchasing power of wage-earners. The duties on paints, glass, and
paper had stimulated native manufacturing enterprise in the colonies by acting as a
protective tariff against British imports. Stigmatizing the Townshend duties on English
manufactures as uneconomical and preposterous, he moved for the repeal of duties
on most of the English exports.²³² The tea tax lacked this constraint; tea was neither a
possible British nor colonial production. Britain would have a successful precedent for
a new tax or for nationalizing a colonial enterprise on the next occasion of a British
economic shortfall.

The Townshend duties came as a shock; the colonists had not anticipated this to
ensue from the Declaratory Act. Despite the insincerity of the concessions, no new
colonial inflammation took place. The merchants who had organized the boycott
perceived that they risked losing more by alienating England. The merchants had
previously managed to involve the common people by humoring them with such
themes as social equality and natural rights. After the merchants’ change of interest, the
issues of “social equality and human rights” lingered, unaddressed, but now vivified;
they served to intimate the insincerity of the merchant class towards the labor class.
The popular resentment against the Townshend Act and things prior had informed itself
with ideas of equality and natural rights; the insurgence of such slogans was more

²³¹ Morgan, Edmund S.; Colonial Ideas of Parliamentary Power, 1764-1766, The William
and Mary Quarterly, third series, 5, 1948, p. 329.
²³² Cf. Morgan, Edmund S.; A Popular History of Taxation from Ancient to Modern Times,
threatening to the merchants' status than the British proclivity to tax them.\textsuperscript{233}

Whether economic reasons were central to the colonial revolt has been questioned. The British had legislated no new taxes for the colonies in the five years prior to the Declaration of Independence. The repeal of the Townshend Act did not address the essential objection to the enforcement of the Navigation Acts. The English had rescinded all of the Townshend duties except that on tea. Parliament was paying 90\% of the defense expenditure in colonial territory.\textsuperscript{234} This needs to be tempered, however, with reflection that Britain was constitutionally forbidden to keep a standing army, the standing army when stationed in the colonies would be financed by the colonies, and there was no external enemy from whom the army could protect the colonists. There was no serious economic contention at the time of the revolt; it started accidentally; violence at Lexington and Concord took place before either side had made any declaration. But the term \textit{accident} remains equivocal; it might refer only to the circumstances of the Tea Party or of Concord and Lexington, or it might mean that there were no deeper reasons for war than those on the surface of the Intolerable Acts. The repeal of the Townshend Act did not address the essential objection to enforcement of the Navigation Acts.\textsuperscript{235}

It was more the British intention to undermine colonial autonomy than any immediate economic injury that provoked the war. Townshend started the final slide into war with his pledge to achieve a large fiscal appropriation from America by new import duties and reorganization of the customs bureaucracy. His statement was probably mendacious. He was promoting himself, but was his popularity from this claim carried more by the prospect of a large fiscal gain, or was the popularity of his statement based more upon a promise to subdue the colonies? Were the

\textsuperscript{235} In fact the Navigation Acts were formally approved by the same colonists who objected to their enforcement. Cf. Dorfman, Joseph; \textit{The Economic Mind in American Civilization: 1606-1865}, Volume One, George G. Harrap & Co. Ltd., 1947, p. 141.
intention and reception of his boast fiscal, or punitive? Even if Townshend’s plan had worked perfectly according to his expressed intentions, the Townshend duties would accumulate only $\frac{1}{10}$ of the British deficit, £40,000 of the £400,000 deficit. The Townshend duties had been imposed for the purpose of a specific deficit; the sudden reduction of the English land tax from 4s/£ to 3s/£ produced a fiscal deficit of £500,000. It was unequivocal that the colonial tax revenue was for English, not colonial, purposes. Townshend’s plan foresaw a colonial civil list, funded by the duties, which would support the British standing army in the colonies, and the British placeholders who occupied the emergent colonial bureaucracy.

During the seven years of the Townshend Act, specifically the tea duty, the customs officials and other civil servants were paid from Britain, not the colonial assemblies, although the money was collected from the colonial import duties: £115,000 directly from the duties, and another £100,000 from the Exchequer, but all of the £215,000 had been drawn originally from the colonies, which had no participation in determining the payments or in how the revenue extracted from the colonies would be spent. The provision financed a great number of British placeholders to take over the vital positions of colonial government.

British payment of the governors, judges, etc. in the colonies would liberate the colonial governments from the control of colonial assemblies. Once assemblies no longer controlled salaries and other expenses, the assemblies would become defunct.

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236 The acquisition of Canada and Florida consequent to the Seven Years’ War seemed to the native English to be a great gain for the American colonies. It was not; colonials had been forbidden to settle in the new territories and Britain planned a government of them categorically separate from the Atlantic colonies. The English nevertheless inferred that the colonists should pay for the war because they had supposedly benefited. The English national debt had climbed to £132 million. Cf. Coffield, James; *A Popular History of Taxation from Ancient to Modern Times*, Longman, London, 1970, 278 p. 86.


The civil list would supplant the native colonial elite in colonial government; the elite might conceivably have preserved their social stature in business, but without political control of their own economy. Colonial autonomy would be effaced in the process of being made to pay for their British governors. The civil list would be parasitic; it would destroy colonial assemblies and autonomous government.

The main items of the Wilkes platform had been reform of the franchise, short parliament periods, abolition of parliamentary placeholders, and constraint of ministerial authority. The Wilkes movement took the side of the colonists in the early 1770s, and exhibited the universality of the colonial grievances. The American War of independence, like any war, initially galvanized British patriotic unity in support of the King. However, Britain used highly regressive taxation on the native English to finance the war, and the war repressed trade. The Irish were preparing to piggy-back the American war to seek their own independence. The regressive taxes were inciting popular insistence on tax reform.

Following the Revolutionary War, American taxation became much higher than British colonial taxation, but for the exception of Shane’s rebellion, no serious resistance ensued. The early American constitution was not egalitarian, and it preserved class distinctions precisely out of dread at what catastrophe a literal egalitarianism would bring about. During a period of ambivalence about the merits of an equal society, strong equivocation of the term equal was abused. Citing equality as a respectable ideal, equal taxation was made of every individual, in the sense that the same amount of tax was demanded of every individual, regardless of individual differences. This interpretation of equal taxation was, in effect, highly regressive, once again, as before, providing a legal protection to preserve

239 The Marquis of Grandby, member of Parliament spoke against colonial taxation before the House of Commons, April 5th, 1775: “From the fullest conviction, I disclaim every idea both of policy and the right internally to tax America. I disavow the whole system. It is commenced in iniquity; it is pursued with resentment; and it can terminate in nothing but blood.” Cf. Adams, Charles; For Good and Evil: The Impact of Taxes on the Course of Civilization, Madison Books, London, 1993, p. 293.
those who were wealthy in a sustained status of wealth.

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