

"I HAVE DEDUCED YOUR RIGHTS": JOSEPH GALLOWAY'S CONCEPT OF HIS ROLE, 1774-1775

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I

ON SEPTEMBER 28, 1774, Joseph Galloway proposed to the First Continental Congress his solution to the imperial crisis. His famous Plan of Union envisioned the creation of an American branch of the British Parliament possessing concurrent jurisdiction over all colonial legislation. Although the delegates debated the proposal and postponed further consideration by a narrow vote; Congress repudiated Galloway's cautious approach by endorsing the Suffolk Resolves, adopting non-importation, and finally having the Plan of Union expunged from the Journal of Congress. Historians have rescued the Plan from oblivion, some fascinated by the intrinsic merit of its ideas on imperial reform and others intrigued with the light it throws on the perplexing problem of loyalist motivation.¹ Yet Galloway's writings of 1774 and 1775 have not been fully utilized, and these sources remain the best historical account of his feelings and motives. His *Candid Examination of the Mutual Claims of Great Britain and the Colonies* . . .² not only contained the first published version of the Plan of

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¹ Julian P. Boyd, *Anglo-American Union: Joseph Galloway's Plans to Preserve the British Empire, 1774-1788* (Philadelphia, 1941); William H. Nelson, *The American Tory* (Oxford, 1961), 47-69; David L. Jacobson, "John Dickinson and Joseph Galloway, 1764-1776: A Study in Contrasts" (unpublished Ph.D. dissertation, Princeton University, 1959), and *John Dickinson and the Revolution in Pennsylvania, 1764-1776* (Berkeley and Los Angeles, 1965), chapter 5; Max Savelle, "Nationalism and Other Loyalties in the American Revolution," *American Historical Review*, LXVII (1962), 910; Moses Coit Tyler, *Literary History of the American Revolution* (New York, 1897), I, 369-383.

² [Joseph Galloway], *A Candid Examination of the Mutual Claims of Great Britain, and the Colonies: with a plan of Accommodation, on constitutional principles* (New York, 1775).

Union and Galloway's arguments in its behalf, but also denounced the constitutional arguments of his critics, diagnosed their ethical and intellectual sins, and presented a truly candid view of his own injured pride and quest for distinction. When John Dickinson and Charles Thomson, his longtime political enemies, attacked the *Candid Examination*, Galloway responded with a bitter *Reply* . . .³ which drew together brilliantly the tangled threads of his argument.

William H. Nelson and David L. Jacobson have shown that Galloway's chief concern in 1774-1775 was his consuming desire to exclude Dickinson from prominence.⁴ At the heart of this mutual antagonism were their different assumptions about the province's interests and the ways of preserving colonial liberty. Dickinson opposed Galloway's scheme to make Pennsylvania into a royal Colony and denounced successive British encroachments in the 1760's, because he sensed a growing and pervasive conspiracy to subvert colonial liberty.⁵ As Speaker of the Assembly from 1766 to 1774, Galloway became increasingly concerned that resistance against British policy would upset the delicate balance within Pennsylvania politics and jeopardize his own power.

In a curious way, competition with Dickinson may have stunted Galloway's own development as a whiggish defender of constitutional liberty in America. During a struggle, in 1760, with the proprietors over judicial tenure, he had defended the independence of the judiciary on broad, libertarian grounds.⁶ In 1776 and 1770 he privately denounced British restrictions on colonial currency as inexcusable deprivations of liberty.⁷ His breadth of vision contracted as he came to fear that British encroachments would keep Pennsylvania politics in turmoil and encourage the appetites

³ [Joseph Galloway], *A Reply to an Address to the Author of a Pamphlet, entitled, "A Candid Examination," &c. By the Author of the Candid Examination* (New York, 1775).

⁴ Nelson, *The American Tory*, 47-48, 54-69; Jacobson, "Dickinson and Galloway," 178-204, and *John Dickinson and the Revolution*, 83-85.

⁵ See Bernard Bailyn, ed., *Pamphlets of the American Revolution, 1750-1776* (Cambridge, Mass., 1965), I, 660-665, and Jacobson's articles, "John Dickinson's Fight against Royal Government, 1764," *William and Mary Quarterly*, third series, XIX (1962), 64-85, and "The Puzzle of 'Pacificus,'" *Pennsylvania History*, XXXI (1964), 406-418.

⁶ Bailyn, ed., *Pamphlets of the American Revolution*, I, 249-272.

⁷ Galloway to Benjamin Franklin, January 13 and June 16, 1766, June 21, 1770, Jared Sparks, ed., *The Works of Benjamin Franklin* (Boston, 1836-1840), VII, 303-305, 321-325, 481-483.

of his own political rivals. He came to believe that his dominance was an essential prerequisite to the defense of Pennsylvania's interests.⁸ His opposition to non-importation as well as his contempt for Dickinson's constitutional views led to the defeat of Galloway and his faction in Philadelphia in the Assembly election of 1770, forcing him to rely on his home county of Bucks for a seat in the Assembly and on assemblymen from outside of Philadelphia for his re-election as Speaker. These events vindicated his conviction that colonial resistance against British policy only served to feed the ambitions of dangerous men.⁹

The crisis of 1774, as Jacobson has demonstrated, brought this struggle for pre-eminence to an abrupt conclusion. Dickinson dominated the meetings in Philadelphia during May and June which led to the calling of a Provincial Congress in July, and his *Essay on the Constitutional Power of Great Britain* strongly influenced the Congress's recommendations to the Assembly. Under Speaker Galloway's influence, the Assembly ignored the proposals advanced by the Congress, excluded Dickinson and his supporters from the delegation to Continental Congress, and instructed those delegates to devise a "Plan" of reconciliation and to oppose any pronouncements "indecent or disrespectful to the Mother State."¹⁰ Delegates to the Congress arriving in late-August and early-September, 1774, found Galloway acting as a self-appointed chairman of local arrangements for the Congress while Philadelphia seethed with rumors of Galloway's treachery and ambition. The erosion of Galloway's influence in provincial politics culminated in October when Philadelphia elected Dickinson to a seat in the Assembly, and the Assembly in turn removed Galloway as Speaker and named Dickinson a delegate to the Congress.¹¹

Recent studies of these events, especially those by Nelson and Jacobson, have properly concentrated on Galloway's statements

⁸ On Galloway's political strength and tactics in the late-1760's, see Benjamin H. Newcomb, "Effects of the Stamp Act on Colonial Pennsylvania Politics," *William and Mary Quarterly*, third series, XXIII (1966), 257-272.

⁹ Jacobson, *John Dickinson and the Revolution in Pennsylvania*, 66-69.

¹⁰ Jacobson, "Dickinson and Galloway," pp. 178-179; *Pennsylvania Archives*, 8 Series, VIII, 7100.

¹¹ William Bradford to James Madison, August 1, 1774, William M. E. Rachal and William T. Hutchinson, eds., *The Papers of James Madison* (Chicago, 1962), I, 117-119; Silas Deane to his wife, September 5-6, 1774, in Edmund C. Burnett, ed., *Letters of Members of the Continental Congress* (Washington, D. C., 1921-1936), I, 11; Jacobson, *John Dickinson and the Revolution in Pennsylvania*, 80-81.

and writings from July, 1774, when he began to reveal his proposals for imperial reform, until April, 1775, when he finally withdrew from the pre-Revolutionary debate. These sources provide a more accurate guide to his pre-Revolutionary motives than does his retrospective *Political and Historical Reflections on . . . the American Rebellion*.¹² His writings of 1774-1775 deserve reconsideration, not only because they depict his well-known ambition and haughtiness as well as the ingenuity and resourcefulness of his Plan, but also because they abound with implicit and explicit testimony about the role he was playing, the inner struggle he experienced as he perceived the collapse of his strategy, and the compulsion he then felt to salve his own ego and vindicate both the utility and validity of his proposals. Nelson touched briefly, and suggestively, on this problem when he hinted that Galloway's "disabling vanity" crippled his energetic, imaginative quest for reconciliation.¹³ Surviving sources—including a recently published Galloway letter of July, 1774, which delineated in fresh detail his assumptions about his role—permit a reconstruction of Galloway's own comprehension of this experience. No writer has yet made extensive use of personal testimony in the *Candid Examination and Reply*. To use Galloway's polemical pamphlets as guides to his personality is, of course, risky, and some of the following analysis is, admittedly, speculative. What is not speculative is that the portrait of Galloway's motives in his pamphlets is corroborated by his surviving correspondence, several revealing quotations in John Adams's diary, and other sources.

Galloway's view of his own dilemma—his conception of his role and attempts to cope with the collapse of his political effectiveness

¹² The only surviving copy of Galloway's speech to Congress of September 28, 1774, proposing the Plan of Union is the draft in his *Historical and Political Reflections on the Rise and Progress of the American Rebellion . . .* (London, 1780), 41-44. John Adams's notes on Galloway's speech reveal, as Julian P. Boyd has demonstrated, that the 1780 version was heavily revised for its English readers and is not a reliable source for Galloway's ideas in 1774, see *Anglo-American Union*, 35-36, and Lyman Butterfield et al., eds., *The Diary and Autobiography of John Adams* (Cambridge, Mass., 1961), II, 141-144. Merrill Jensen reprinted a striking passage from *Historical and Political Reflections* in *American Colonial Documents to 1776* (London, 1955), 801-803, which depicted the motives of Galloway's enemies in Congress in terms similar to those he used in 1775; however, this passage places somewhat more emphasis on the "republican" character of their beliefs and economic factors—"declining fortunes" and "debt to British merchants"—than his 1775 analysis of Whig motives.

¹³ Nelson, *The American Tory*, p. 54.

—involved several elements. First, there was the structure of his famous imperial ideas, and next his persistent attempts to reconcile the disparate elements in his argument. Further, there were moral issues which the triumph of his enemies forced him to consider. Finally, the pattern of his introspection and intransigence, as it gradually developed, served to relate and connect all of these factors.

II

On September 8, 1774, Galloway sat on a committee of Congress listening to a debate on the sources of colonial liberty. Most involved in the discussion were four delegates: Richard Henry Lee and John Jay argued that the colonies were distinct political communities voluntarily associated with the British state, while John Rutledge and James Duane took the more limited position that the colonies were extensions of the British political system. At stake was the wording of the Congress's statement on colonial rights; Lee, Jay,¹⁴ and others wanted to base the American cause on the natural law right of a people to constitute a government as well as on English common law precedents protecting the rights of the subject. Duane and Rutledge considered natural law a dangerous ground and pleaded that the English constitution alone would serve as the basis of colonial remonstrance.

Only after these differences had emerged did Galloway enter the debate—apparently speaking at much greater length than the others he attempted to provide irrefutable support for Duane's and Rutledge's position. Congress should not base its appeals on natural law, he argued, because the colonies had been from the earliest settlement politically organized societies rather than ones which had emerged from a state of nature. Therefore, only the constitutional history of England provided a credible explanation of

¹⁴ When Galloway presented his Plan, Duane, Edward Rutledge, and Jay spoke in its defense, provoking Patrick Henry's outburst to John Adams about his "horrid Opinion" of "Galloway, Jay, and the Rutledges" and "their System," *Diary and Autobiography of John Adams*, II, 151. Jay's support of Galloway's Plan raises a curious problem, for in the committee on colonial rights and grievances he led the attack against the objections of John Rutledge, Duane, and Galloway who wanted to restrict Congress to the use of English constitutional precedents. Congress, Jay insisted then, should "recur to the Law of Nature" as well because "there is no Allegiance without Protection. And Emigrants have a Right to erect what Government they please." (*Ibid.*, 128.)

colonial rights. "The Essence" of the constitution was the representation in Parliament of the proprietors of land in the realm and their consent to legislation binding the inhabitants of those lands. Because the first settlers in America occupied territory not so represented, no law of Parliament enacted since the establishment of the colonies necessarily bound the colonists. Even Lord North, Galloway concluded, would concede the validity of these arguments if he made an effort to inform himself of the history of the constitution. Strong language! Galloway quickly acknowledged its radical implications: "I am well aware that my Arguments tend to an Independency of the Colonies and militate against the Maxim that there must be some absolute Power to draw together all the Wills and strengths of the Empire."¹⁵

That admission represented the crux of Galloway's problem during his direct involvement in the pre-Revolutionary debate, from July, 1774, to April, 1775. Throughout that period he tried to sustain two distinct lines of argument containing the very contradictory implications he confessed to the committee of Congress. *Representation* was the key to the imperial problem; therefore, the exercise of Parliamentary jurisdiction over the colonies was a grievous anomaly which justified colonial opposition to the British policy. At the same time the *subordinate* status of the colonists within the Empire sharply circumscribed the permissible limits of colonial remonstrance. He felt confident that he alone could reconcile those two truths and in so doing promote the only possible solution to the imperial controversy. It is plausible to argue that Galloway stressed the need for some form of colonial representation in the councils of the Empire until October, 1774, as a means of attracting support for his Plan of Union and that he lapsed into negative talk of subordination only after the delegates rejected his positive proposals. There was, of course, a distinct change in emphasis between the summer of 1774 and spring of 1775, but only of emphasis and not of substance. Galloway continued to insist throughout the 1774-1775 period that his doctrines of representation and subordination could be reconciled. His unpublished memorandum on the imperial constitutional problem, "Arguments on Both Sides . . .," urged their compatibility. His statements in Congress and subsequent pamphlets

¹⁵ *Ibid.*, 129-130.

dealt at length with both colonial rights and obligations. Perhaps the depth of his commitment to both doctrines was best illustrated when a friend in New York, Samuel Verplanck, sent him copies of polemical Tory pamphlets, in all likelihood those of Samuel Seabury and Thomas Bradbury Chandler. After complimenting them for their insistence on colonial obedience, he complained that "they do not show the rights of the American Subject or even acknowledge that we do have any. They do not own that we have any Grievance and consequently nothing is pointed out as a Constitutional Remedy."¹⁶

Though withdrawn and secretive at the opening of Congress, Galloway was excited and sustained by his belief that "I stand here almost alone" in seeing both sides of the imperial dispute; "perhaps were I to remove to your great Capitol," London, he wrote to the English politician and colonial agent, Richard Jackson, "where the most important Matters are decided, I should not be less so." The margin for error in seeking to resolve the differences between Britain and the colonies, he told Jackson, was perilously small. Fundamental to the problem of colonial discontent was the burgeoning population of the colonies which would probably grow by tenfold in the coming century. It was inconceivable, he added, that Parliament could continue to exercise unlimited jurisdiction over so populous and expanding a society.¹⁷

His *Candid Examination* elaborated on these dangers. The "circumstances" of the colonies—their territorial extent, distance from Britain, and numerous harbors and ports—encouraged colonial autonomy and should behoove Britain to offer the colonies tempting inducements to remain within the Empire. More pressing was his concern that "the genius" and "temper" of the Americans required tactful handling for "no people in the world have higher notions of liberty."¹⁸ Therefore the inability of the colonists

¹⁶ "Arguments on Both Sides in the Dispute Between Great Britain and her Colonies . . .," *Archives of New Jersey*, X, 483-492; Galloway to Verplanck, February 14, 1775, *Pennsylvania Magazine of History and Biography*, XXI (1897), 480-481.

¹⁷ Galloway to Richard Jackson, August 10, 1774 (a copied extract in Jackson's handwriting enclosed in Jackson to Lord Dartmouth, December 21, 1774), Dartmouth Papers, II, 1031, William Salt Library, Stafford, England, printed in Jack P. Greene, ed., *A Documentary History of American Life*, Volume II, *Colonies to Nation, 1773-1789* (New York, 1967), 239-241.

¹⁸ Galloway, *Candid Examination*, 42-43.

to share in the process of imperial lawmaking violated "Reason," "Common Sense," and "the Principles of the English Government." "Is it unreasonable," he asked, "to expect . . . Discontent will not fill the Breasts of Americans?" In retrospect, Galloway regretted that the British government had not begun constitutional reform of the Empire at the close of the Seven Years War by guaranteeing to the colonists "the same Rights and Privileges . . . enjoyed by the Subjects in Britain." The ministry and Parliament should have then seen the need for such a settlement if for no other reason than the difficulty experienced in obtaining fiscal support from colonial assemblies during the War. Similarly, he believed, the colonists had squandered their opportunities during the previous decade by ridiculing the notion of colonial representation in Parliament which, while impractical, was a theoretically sound proposal deserving respectful consideration. Instead the colonists had poisoned future relations with the mother country by "tracing American Rights up to Sources from which they never came."

The dynamics of Britain's increasingly assertive policy and the growing intransigence of the colonists perplexed Galloway and instinctively he wished these new forces would cease functioning until he could implement a solution. "Is it not high Time," he asked Jackson, "that both Countries should retreat a little and take other Ground seeing That which they are now upon is likely to prove dangerous and distressing to Both?" Even if he could persuade the colonists to seek conciliation, he warned Jackson, nothing could be accomplished unless Parliament showed a willingness to modify its claims of unlimited supremacy: "I cannot find that there is the least Disposition in the People of this Country to submit to the parliamentary Jurisdiction under the present System of Government and the Share they hold in it."¹⁹ That precarious balance—the necessity for simultaneous "retreat" on both sides—entirely engrossed Galloway and helped account for his withdrawn behavior at the outset of the Congress.

Galloway's confidence that he could effect reconciliation sprang from his assumption that scrupulous wording of the colonists' petition to the Crown could induce the ministry to accept negotiation without appearing to force its hand. He proposed to accomplish

¹⁹ Galloway to Jackson, August 10, 1774, Greene, ed., *Colonies to Nation*, 239-241.

this feat by a studious appeal to the rights of Englishmen. From the composition of the first Saxon Witan, feudal courts, and Parliaments under Edward II, all proprietors of land had possessed an integral role in the enactment of legislation binding the inhabitants of the realm. Only by an accident of history were the inhabitants of the colonies left unrepresented. The first settlers had not permanently surrendered that right, but had merely accepted Parliamentary supervision from "extreme necessity." Therefore, he concluded, the constitutional solution was for Parliament to introduce some form of representation. Until this change was accomplished, British authority in America would remain valid only in theory, and would be in practice, "as absolute and despotic" as that of any continental monarch. In the meantime, he wanted Britain to hold its power in abeyance. As a practical matter, "Parliament ought not, *as the Colonies are at present circumstanced*, to bind them by its Legislative Authority." On this basis reconciliation consisted of prodding Britain gently to adopt restraint by having colonial demands clothed in language which would not offend British sensibilities. Any disinclination to obey Parliament, he warned, would imply disrespect of the very institution which had the power to make needed changes in the status of the colonies. However, he acknowledged, some implied colonial defiance was unavoidable. "Yet when that denial shall be accompanied with an express desire of establishing a political *Union* with the *Mother Country*," he exulted, having discovered the goal of this tortuous maneuver, "such a denial does not carry with it any Thing unjust, offensive, or indelicate."²⁰

His *Candid Examination* refined the techniques of reconciliation by demonstrating how statements of colonial rights could be embodied in the rhetoric of obedience. His suggested model petition to Parliament acknowledged the necessity of a supreme authority within every state before it pointed to the sacrifices and hazards endured by the colonists in settling a wilderness and increasing the "wealth and power" of Britain. He attributed the limitations of colonial liberty to historical accident: "by such settlement" the colonies had "lost the enjoyment of, though not the right to, some of the first and most excellent privileges of Englishmen," the representation of their lands in Parliament and capacity to

²⁰ "Arguments on Both Sides . . .," *Archives of New Jersey*, X, 483-492.

"participate in the supreme legislative authority." By emphasizing the constitutional flaw in the structure of the Empire, his petition minimized the significance of specific colonial grievances regarding Parliamentary taxation, commercial policy, and interference with colonial self-government. Certainly, he conceded, those British policies had caused "great discontent . . . in the breasts of his Majesty's faithful American subjects"; however, the petition assured Britain that this discontent was chiefly regrettable because it eroded "that harmony which ought to subsist between the members of the same community." Finally, he insisted that the whole justification for colonial petition was the fact that only Parliament could remedy the situation. Colonial disunity and the absence of institutions representative of the colonies as a whole prevented any colonial contribution to the costs of imperial defense. Parliament possessed the power of restoring to the colonies a voice in Parliament and thereby enabling them to respond to the needs of the parent state.²¹

Galloway sought to enhance the attractiveness of this approach by projecting its future consequences. Legislative union with Britain would not only exempt the colonies from onerous Parliamentary restrictions, it would enable the colonies to contribute to the cost of the Empire without any loss of freedom. On these terms, reconciliation would produce lasting stability in the colonies by eliminating at one stroke existing colonial grievances and giving the colonies "the best of all political securities," a perpetual exemption from further British restrictions on trade and manufacturing. Critical to this stabilizing process was a new procedure, "a capacity of discharging with justice and punctuality all [colonial] duties to the [British] State." This solution aimed at the transformation of the British Empire by the "uniting of two great countries by the firmest hands of political freedom into one grand and illustrious Empire."²²

Galloway's Plan of Union sought to reconcile the requirements of colonial liberty with the closer integration of the Empire. Its preamble spurned the notion that the colonies were autonomous communities within the Empire. Its purpose, "the establishment of a Political Union," was defined both as the repair of disunity

²¹ *Candid Examination*, 59-61.

²² *Reply*, 6-8.

among the colonies and the creation of a durable connection between them and the parent state. It conceded the impracticality of colonial representation in Parliament and sought Parliament's approval of a plan which would simultaneously consolidate the capacities of the Empire to meet common dangers, advance the "interest of both countries," and preserve the "rights and liberties of America."²³ To secure these ends, the Plan would have created a continental legislature, a "Grand Council," whose delegates would be chosen by provincial assemblies for three year terms, and the assemblies would retain control over their internal affairs. The Plan would have enlarged the scope of royal authority through the creation of a "President General," appointed and serving at the pleasure of the Crown and vested with extensive administrative and executive power which he would exercise with the "advice and consent" of the Grand Council. He could withhold his assent from bills passed by the Council. All colonial legislation would require the approval of both Parliament and the Council.²⁴

The closest equivalent to Galloway's Plan of Union was a proposal for an American Parliament drafted in 1767 by William Smith, Jr., a New York Councillor and historian.²⁵ Both men were certainly familiar with Benjamin Franklin's Albany Plan for a union for the American colonies (1754) and revamped for their own purposes its recommendations for a continental assembly and royally appointed Governor General.²⁶ Franklin, in 1775, repudiated Galloway's Plan and argued that British policy since the Declaratory Act had so altered the imperial relationship as to make any extension of British administration in America un-

²³ The introductory resolution is printed in *Candid Examination*, 53, and another version is "Resolutions intended to be offered by Mr. Galloway & seconded by J[ames] D[uane] for Promoting a Plan of Union between G. B. & A.," with the notation, "But as the Plan itself was rejected by the Congress; the Resolves became fruitless & were not proposed," James Duane Papers, New York Historical Society.

²⁴ Boyd, *Anglo-American Union*, 112-114; for a further discussion of the Plan and comparison with subsequent versions, see *ibid.*, 34-37, 85-111, and Nelson, "The Last Hopes of the American Loyalists," *Canadian Historical Review*, XXXII (1951), note on 40-42.

²⁵ Robert M. Calhoun, ed., "William Smith Jr.'s Alternative to the American Revolution," *William and Mary Quarterly*, third series, XXII (1965), 105-118.

²⁶ Galloway, of course, must have known the Albany Plan well from his long association with Franklin, and Smith's father, William Smith, Sr., was a member of the committee at the Albany Congress which approved Franklin's proposal; see Leonard W. Labaree *et al.*, eds., *The Papers of Benjamin Franklin* (New Haven, 1962), V, 376, n. 6, and 417-418, n. 4.

desirable. Galloway, for contrasting reasons, also recognized that colonial suspicion of British policy rendered the Albany Plan obsolete and for this reason called for a legislative union with the British Parliament.²⁷ That very innovation, however, provoked Franklin's acerbic comment, "when I consider the extreme corruption prevalent among all orders of men in this old, rotten state [he was then in England], and the glorious public virtue so predominant in our rising country, I cannot but apprehend more mischief than benefit from a closer union. . . . It seems like Mezentius' coupling and binding together the dead and the living."²⁸ Franklin's treatise on population may well have exercised a more pervasive influence on Galloway and Smith than did his Albany Plan. Both men were fascinated with the impact of burgeoning colonial population on American self-assertiveness and imperial relations.²⁹ In addition, both men devised their proposals in response to the pre-Revolutionary controversy as means of healing the breach in the Empire and both ultimately became loyalists. Smith indeed was excited when he heard rumors of Galloway's Plan, noting in July 1774 that "at Philadelphia a Plan is digesting for an American Constitution. I know not the Out lines of it. I hope it is for a Parliament and to meet here annually."³⁰

Though Galloway's and Smith's plans contained similar proposals, they were based on quite different assumptions about constitutional doctrine and the nature of imperial politics. The two documents also differed on a fundamental issue. Smith's legislature would have bypassed Parliament and dealt directly with the Crown in matters of imperial finance; Galloway sought a legislative union in which the British Parliament and its American branch would

²⁷ One critic accused Galloway of plagiarizing Franklin (*Pennsylvania Journal*, April 5, 1775), and Galloway retorted that his Plan differed materially from Franklin's, especially in its provision for a "political union" with Great Britain (*Pennsylvania Gazette*, April 26, 1775); for further discussion see Nelson, *The American Tory*, 60, no. 23, Boyd, "Joseph Galloway's Plans of Union . . .," *Pennsylvania Magazine of History and Biography*, LXIV (1940), 503, n. 34, and Labaree, *et al.*, *The Papers of Benjamin Franklin*, V, 417-418, n. 4.

²⁸ Franklin to Galloway, February 25, 1775, in Samuel Eliot Morison, ed., *Sources and Documents Illustrating the American Revolution, 1774-1788* . . . (Oxford, 1923), 137-139.

²⁹ For documentation see Calhoun, ed., "William Smith's Alternative . . .," 117, n. 18.

³⁰ Smith to Philip Schuyler, July 23, 1774, in William H. W. Sabine, ed., *Historical Memoirs from . . . 1763 to . . . 1776 of William Smith* . . . (New York, 1956), 190.

share concurrent jurisdiction over colonial affairs. Smith prefaced his plan with an analysis of imperial relations which was far more pragmatic and flexible than Galloway's. Smith abhorred the use of abstract constitutional principles because these interfered with constructive discussion. "The Truth is," he wrote, "that the Empire long after the Constitution was formed, acquired a *new adventitious State*. And the Question therefore is, not what the Constitution was or is, but what, present Circumstances considered, it ought to be. . . . The Constitution (be it what it will) ought to bend, and *sooner* or *later* will bend."³¹ Where Galloway spoke sketchily in 1774 about an increased political stature for the colonists under the Plan of Union, Smith propounded an expansive view of the future of American politics. He envisioned a time when population growth and westward expansion would make the colonies Britain's equal; his imperial constitution was to be a practical step in adjusting imperial relations during a generation of change from subordination to parity.

Galloway conceived of the Plan of Union as an instrument for his own public vindication, whereas Smith shunned any open participation in the controversies of 1774-1775. He preferred to work quietly among acquaintances in New York. His letters to friends in the Second Continental Congress suggested elaborate and subtle ground rules governing any attempts to negotiate with Britain and put forward his plan for an American Parliament as a basis for negotiation. However, unlike Galloway's approach to reconciliation, Smith's imperatives were entirely tactical and revealed a clinical sense of political communication: "feeling the pulse" of the ministry, proceeding "without a Word about Rights," and exercising exquisite tact and timing.³² Galloway was much too concerned with questions of doctrine and with his own self-justification to bother with these questions of tactics and protocol. The two men, then, suggested similar proposals for imperial reform, but proceeded from very different assumptions about constitutional doctrine and the mechanics of reconciliation.

As the late Richard Koebner demonstrated, ideas about the nature of the Empire underwent a bewildering transformation in

³¹ Calhoun, ed., "William Smith's Alternative . . .," 113.

³² Smith to Schuyler, May 16, 1775, and Smith to Lewis Morris, June 5, 1775, in Sabine, ed., *Historical Memoirs*, 224-225, 228-227c.

1774-1775.³³ Writers as diverse as Richard Cartwright, Dean Tucker, John Adams, Thomas Jefferson, Edmund Burke, and George III sought to define the structure of the Empire, praised its benefits, and called for vigorous steps to preserve it. What they lacked was a meaningful vocabulary to describe the Empire's internal stresses. In seeking to articulate their respective diagnoses they endowed concepts like "power," "liberty," "rights," and "reconciliation" with a host of contrasting meanings. Koebner made passing reference to Galloway's Plan as "a new constructive solution."³⁴ Had he chosen to discuss Galloway in the detail he lavished on other writers, Koebner would certainly have found additional support for his view that imperial concepts in 1774-1775 were derived more from the initial presuppositions of their authors than from any consensus about the meaning of the term "British Empire."

Galloway's "grand and illustrious Empire" referred not to the familiar Empire of the past but rather to a future relationship which only the Plan of Union could bring into being. Created under the same pressures which inspired other equally novel imperial concepts on the eve of revolution, Galloway's view could easily have appeared overwhelmingly original to its author and only part of a cacophonous blur to his audience.

III

Galloway's reputation as a skilled theorist was established as early as 1897 by Moses Coit Tyler's *Literary History of the American Revolution*. Julian P. Boyd's study of the Plans of Union added substance to that view. Nelson's account astutely shifted the emphasis away from the Plan of Union and toward Galloway's conception of representation. "In perceiving that Parliament was a territorial assembly with no rightful claim to control lands which were not represented," Nelson concluded, "Galloway went to the heart, not of the political, but of the constitutional impasse between Britain and America."³⁵

The gap between constitutional and political acumen merits further consideration; and Galloway's doctrine of subordination

³³ Richard Koebner, *Empire* (Cambridge, England, 1961), 194-238.

³⁴ *Ibid.*, 209.

³⁵ Nelson, *The American Tory*, 59.

provides a key to his difficulties at reconciling theory and practice. His strictures on obedience rested on a series of distinct propositions which he never integrated into an effective argument. First, he endeavored to establish the inseparability of the authority of the Crown and Parliament. Further, he insisted on the necessity of a supreme authority within every state. Finally, he sought to prove that the colonies were, of necessity, integral parts of the British state. The logical connection between these propositions was clear enough, but they lacked the unifying purpose and ingenuity which he had brought to the problem of representation. So elaborate and didactic were his writings on these issues that he was never able to reconcile, in a straightforward manner, the colonial right to representation in the legislative processes of the Empire with the need for a single supreme source of power lodged in the hands of Parliament and the Crown. He could only plead that the contradiction would cease to exist once his Plan of Union became a reality. Long before he had reached that conclusion, his assumptions about subordination in his *Candid Examination* had spread confusion and distrust. "Mr. G[alloway] has spent (I think) his first 20 pages in laying a wrong foundation and the superstructure he has raised on it falls of itself," Ebenezer Hazard wrote to Silas Deane, sensing Galloway's vulnerability. "He has taken for granted a very principle part of the dispute, viz., our being *within the Realm*—a monstrous proposition."³⁶

Hazard, of course, distinguished between the British realm and the British Empire, a distinction which Galloway did not deny. The Plan of Union and its accompanying theory of representation acknowledged that the colonies possessed, by historical accident and present circumstances, a different relationship to Parliament than did the lands of the realm. What he insisted upon was that subordination was as important a bond of the Empire as the colonists' right to representation in imperial legislative processes. The subordination which Hazard considered monstrous was what Galloway sought to pacify and render innocuous by imperial reform.

The unpublished "Thoughts on Both Sides . . ." laid the initial foundation for Galloway's theory of subordination when he insisted that the colonies owed simultaneous obedience to both the Crown

³⁶ Ebenezer Hazard (in New York) to Silas Deane, April 7, 1775, Connecticut Historical Society *Collections*, II (1870), 211-213.

and Parliament. To refute the argument that colonial charters obligated the colonists to obey the Crown alone, he argued, that charters assumed the first settlers in America to have been "Members" of the British state who "did implicitly agree and consent . . . to yield Obedience to the supreme Authority of the State." If the King could exempt the colonists from obedience to Parliament, Galloway argued, he could as easily "discharge the whole People of *Great Britain* from their Obedience" and thereby "dissolve the Constitution."³⁷ Colonial petitions to the Crown which ignored Parliament, he asserted in the *Candid Examination*, "involve the cause of America in an inextricable absurdity" by acknowledging the authority of the Crown but denying other equally inherent constitutional principles.³⁸

No doctrine of political theory, he declared, was more "firmly established" than the necessity of a supreme authority within every state. That argument, he apparently came to realize, depended on more than the concurrent authority of the King and Parliament. He had to demonstrate that the political order of the colonies was subject to all manner of deadly misfortunes against which the supreme legislative authority of Parliament was the only antidote. Carefully arranged citations from Burlamaqui, Tully, Locke, and Acherley all identified the legislative power as the cement of society and obedience as the only alternative to political disintegration.³⁹ This characterization of Parliament's power as a solitary line of defense against chaos was, for Galloway, a comparatively forthright way of claiming that the colonies were in fact part of the British state. Either they were part of the British state, he reasoned, or they were "so many independent Communities, in a state of nature" and bound by no authority whatever.⁴⁰ In this condition, colonial governments fell under Pufendorf's stricture, "with regard to lawful bodies, . . . whatever rights and whatever power they have over their members are all defined and limited by the supreme power, and cannot be opposed to or prevail against it. For otherwise, were there a body not subject to limitation by the supreme civil power, there would be a state within

³⁷ "Arguments on Both Sides . . .," 478-481.

³⁸ *Candid Examination*, 26.

³⁹ *Ibid.*, 4-5.

⁴⁰ *Ibid.*, 10.

a state."⁴¹ Galloway found further doctrinal support in Locke's statement, "*whoever . . . enjoys any part of the Land*" within a state "*must take it with the Condition . . . of submitting to the Government of the Commonwealth.*"⁴² Finally, Galloway argued, the rights of the colonists carried "reciprocal" and unavoidable duties; "shall Americans have the right to withdraw from the performance of duties," he demanded "and the state be bound to continue *them* in the enjoyment of all their rights?"⁴³

Galloway's purpose in explaining the meaning of subordination was, in part, to eliminate all alternatives to his Plan of Union as solutions to the imperial crisis. But these strictures only involved him in his most pointed exchange with his detractors, Dickinson and Thomson. They attacked the rigidity of his definition of subordination, which insisted that the colonies were either fully independent states like Hanover or France or else they remained "complete members of the [British] State."⁴⁴ Such an arbitrary definition of the bases for subordination, Dickinson and Thomson retorted, reduced the colonies to the level of "mere Corporations."⁴⁵ "I confess I do not understand what you mean by a 'mere corporation,'" Galloway replied. A corporation, he explained, was a respectable political entity, a dependent community within a sovereign state. Pufendorf insisted on the subordinate status of such communities with respect to the governing power. Indeed a subordinate community not bound by a supreme authority was "*a monster, a thing out of nature.*" By focusing on the abnormality of autonomous subordinate communities, Galloway instinctively

⁴¹ *Ibid.*, 29, 21-22; Samuel Pufendorf, *De Jure Naturae et Gentium Libri Octo*, C. H. and W. A. Oldfather, trans. (*Publications of the Carnegie Endowment for International Peace* [Oxford and London, 1934]), II, 996; on Pufendorf's utility to both sides in the pre-Revolutionary debate, see Leonard Krieger, *The Politics of Discretion: Pufendorf and the Acceptance of Natural Law* (London and Chicago, 1965). Galloway found in Pufendorf an explanation of the necessary limits placed on subordinate communities, and James Otis, Samuel Adams, and Alexander Hamilton cited his dictum that "colonies may be . . . planted in different ways. For either they remain a part of the state from which they were sent forth, or they are obligated to show respect to the mother state and to uphold its majesty . . . by a kind of unequal treaty, or, finally, they treat with it on equal terms and right." (*De Jure Naturae*, II, 1356; Krieger, *Politics of Discretion*, 260-261, 302-303.)

⁴² Peter Laslett, ed., *John Locke's Two Treatises on Government* (Cambridge, England, 1960), 366; *Candid Examination*, 14-15.

⁴³ *Ibid.*, 13, 24.

⁴⁴ *Ibid.*, 5.

⁴⁵ *Pennsylvania Journal*, March 8, 1775.

shifted the argument away from the primary issue—whether the colonies were in fact within the boundaries of the British state.⁴⁶

Confident that he established the propriety of applying the term “corporation” to the status of the colonies, Galloway continued the discussion on his own terms. The natural characteristic of a subordinate community was the power to exercise local police power.⁴⁷ It simply did not follow, he lectured Dickinson and Thomson, that a community could expand local police power into full legislative authority. Now he was prepared to confront one of Dickinson’s and Thomson’s chief contentions: that the colonial assemblies were not subordinate because they exercised within their provinces jurisdiction as complete as that of Parliament within Great Britain. The Pennsylvania Assembly, he retorted, possessed no such unbridled authority. It could not enact laws repugnant to those of Britain; its laws had to conform as closely as possible to British law; none of its enactments could interfere in any way with the enforcement of Parliamentary laws. Surely, he concluded, a legislative body so circumscribed was scarcely supreme. On the contrary, colonial assemblies differed in no way from the units of English local governments, “corporations” like Bristol or the City of London. After all, he reminded his critics, both Bristol and London were represented in Parliament. Dickinson’s and Thomson’s claim that colonial assemblies were supreme within their respective provinces clarified their intentions, Galloway concluded, thanking his adversaries “for *blabbing this long concealed and most important secret*” and revealing for the first time “the cloven foot, . . . the black scheme of Independence . . . exhibited in all its horrid deformity.”⁴⁸

Virtually the only reference to “independence” in the pre-

⁴⁶ *Reply*, 25-26.

⁴⁷ Galloway’s service in 1777-1778 as General William Howe’s Superintendent General for Police in Philadelphia amplified his understanding of this idea. He strived with considerable administrative and political ingenuity to expand the office into a powerful executive position from which he might rally and dominate loyal sentiment and thereby demonstrate how benevolent, strong-minded colonial administration could—in conjunction with effective military measures—break the back of the Revolution. He viewed the police power of a provincial government as the cutting edge of imperial policy and as a means of achieving the same kind of reconciliation he had first proposed in 1774. See John M. Coleman’s study of Galloway’s concept of his role in 1777-1779, “Joseph Galloway and the British Occupation of Philadelphia,” *Pennsylvania History*, XXX (1963), esp. 272, 274, 279-280, 288-293.

⁴⁸ *Reply*, 26-27, 15-16, 4-5.

Revolutionary debate—at least prior to 1775—were in these exasperated accusations by Galloway and other critics of colonial resistance. Among the most important practical consequences of their writings was to raise the spectre of independence at the very time that the leaders of resistance were attempting to re-define Parliamentary supremacy in terms compatible with colonial autonomy.

In Bernard Bailyn's *The Ideological Origins of the American Revolution*, Galloway's importance as a constitutionalist has received its most recent and significant interpretation.⁴⁹ His strictures on subordination restated what had been, until the 1760's, an orthodox view in the Anglo-American world. It was the English "Whig conception of a sovereign Parliament" which had been hammered out in the struggles of the seventeenth-century, given classic form in Blackstone, and embodied most bluntly in the Declaratory Act. "How to qualify, undermine, or reinterpret this tenet of English political theory was the central intellectual problem that confronted the leaders of the American cause," Bailyn explained. "It is a classic instance of the creative adjustment of ideas to reality. For if in England the concept of sovereignty was not only logical but realistic, it was far from that in the colonies."⁵⁰ Dickinson's *Essay on the Constitutional Power of Great Britain* was one of the foremost efforts to accomplish this trick by devising separate spheres in which Parliamentary authority and colonial autonomy could operate. Dickinson's argument—which, it will be recalled, was drafted in a vain attempt to influence the Pennsylvania delegation to Congress later dominated by Galloway—argued that "the sovereignty over these colonies must be limited" and that "there must be . . . a line" drawn clearly designating the limits of Parliamentary jurisdiction.⁵¹

In October 1774 Congress adopted this position in its Fourth Resolve which acknowledged Parliament's control over imperial commerce and reserved to the provincial assemblies "exclusive right of legislation . . . in all cases of taxation and internal policy."⁵²

⁴⁹ Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass., 1967), 201-203.

⁵⁰ *Ibid.*, 223; *Reply*, 20.

⁵¹ *Pennsylvania Archives*, 2 Series, III, 528, 594; Bailyn, *Ideological Origins*, 223.

⁵² W. C. Ford, ed., *Journals of the Continental Congress, 1774-1789* (Washington, 1904), I, 68.

It was this solution to the problem of sovereignty which led Galloway to define most clearly his differences with Dickinson and Thomson: "you first took it into your *learned* heads, philosopher-like, to conceive that the supreme legislative authority, which is indivisible in its nature, was like matter, divisible *ad infinitum*; and under this profound mistake, you began with splitting and dividing it, until by one slice after another, you have hacked and pared it away to less than an atom."⁵³

IV

Galloway's doctrines of representation and subordination and his contentious style of argument were a cumbersome apparatus which he carried proudly. But refusing to jettison arguments he could not convey effectively, he was progressively isolated by his erudition from the public discussion he longed to dominate. "He is a man of integrity" and "improved understanding, but he is too fond of *system*," Rev. John Vardill, a New York Tory, said of Galloway in a letter to an English official in 1778; to which he added, "his natural warmth of temper, inflamed by the oppressions and indignities he has suffered, will render you cautious in trusting his representations."⁵⁴ This same rigidity in the structure of his ideas and fluid, volatile self-consciousness was already apparent in Galloway's writings in early-1775. Such was his resourcefulness that as his intellectual position became increasingly vulnerable and misunderstood, he turned his attention inward and contemplated with growing fascination his peculiar role as a critic of colonial resistance. "I . . . have laid before you the constitutional extent of parliamentary jurisdiction," he declared at the close of his *Candid Examination*: "I have . . . *deduced* your rights, . . . and explained your duties. I have pointed out the mode which . . . you ought to pursue for a restoration of those rights."⁵⁵ This didactic posture was the essence of his concept of his role; it drew together in his mind the complex threads of his arguments and set his whole endeavor in perspective.

That concept of his role was implicit in all of Galloway's con-

⁵³ *Reply*, 20.

⁵⁴ [Vardill] to [William Eden], April 11, 1778, quoted in Coleman, "Joseph Galloway and the British Occupation of Philadelphia," 281-282.

⁵⁵ *Candid Examination*, 61.

duct in 1774-1775. He assumed that situations should hold still and men stand attentive while he brought the power of his mind and the persuasion of his pen to bear on the problem. "Parliament ought not, as the colonies are at present circumstanced, to bind them by its Legislative Authority," he pleaded in July, 1774, "both Countries should retreat a little and take other Ground."⁵⁶ All of his secretive preparation in August and September, 1774, demonstrated—as Nelson adroitly concluded—that "Galloway conceived of the Continental Congress as a constitutional convention; indeed, as *his* constitutional convention."⁵⁷ As the delegates deviated from Galloway's scenario, he adapted his approach accordingly by enlarging his role and gambling everything on the hope that his brilliant speech in behalf of his Plan would compel his critics to accept his leadership or admit that their own motives were selfish and disruptive. He sought to shield himself from personal attack by identifying himself entirely with the manifest virtues and disinterestedness of his Plan.

The last thing he expected was that his enemies would oppose his Plan by ignoring its substantial provisions. During the final stages of the Congress, an unidentified Virginia delegate, almost certainly Patrick Henry, taunted Galloway that his Plan was "big with destruction to America" and challenged him to debate its merits. Desperate to get the Plan reconsidered by Congress, Galloway agreed on the condition that the debate be part of its proceedings. The clash never materialized, but Galloway was shocked to hear that the Virginia delegates were at the same time openly talking of their intention to have the Plan expunged from the Journal of Congress.⁵⁸ When Dickinson and Thomson chided him for refusing to debate with Henry about his Plan "when he had been for months haranguing and caballing about it,"⁵⁹ Galloway concluded that trickery and deceit were the only replies he would receive to his serious proposals. "Your assaults have not even ruffled its scarf-skin," he said of attacks on his Plan more in chagrin than triumph. His accusation that, "It stands like an impregnable bulwark in the path of your independence and you do not

⁵⁶ See above pp. 000-000.

⁵⁷ Nelson, *The American Tory*, 48.

⁵⁸ *Reply*, 33-34.

⁵⁹ *Pennsylvania Gazette*, March 8, 1775.

know how to remove it,"⁶⁰ did not conceal his disappointment that his enemies had not tried to "remove it," that they did not consider his Plan the central issue in the debate, and that they preferred to discuss British abuses which he overlooked and to impugn his dedication to colonial liberty.

At the heart of these tactics Galloway perceived the sin of "sophistry," the twisting of words about colonial rights without regard for the inherent limitations of colonial institutions, and the re-interpretation of colonial interests in terms of men's imaginations and ambitions. When Dickinson and Henry engaged in these practices, he conceded, they may have done so unwittingly, out of "perverseness," but they violated the ethical standards of "honour and candour" which should govern polemical debate and thereby forfeited the respect of "sensible and honest men." Techniques of boldness, clever construction of arguments, and ideological finesse, in his view, had become ends in themselves, blinding men to the fact that "sophistry" could not "render . . . 'supreme' and independent what is in its nature limited, subordinate, and dependent."⁶¹

This intellectual confusion explained to Galloway's satisfaction the success of the movement toward colonial resistance. Not content with their own disobedience, Whig leaders felt compelled to spread their guilt more widely by stampeding into rebellion men "whose leisure and abilities will not suffer them to inquire into . . . fallacious doctrines."⁶² A decade earlier he had used the same argument to explain why members of his own political faction joined the resistance to the Stamp Act. "Our Friends were inclined to unite with those Wretches," he had then written, "not seeing their Design of bringing us to an Act which would Crown all the Violent Measures they had . . . taken against the Power of Parliament."⁶³ Now in the light of his experience in the First

⁶⁰ "To the Public," *ibid.*, April 26, 1775; *Reply*, 35-36.

⁶¹ *Ibid.*, 41-42, 3-4; cf. John Higham's proposal for a re-interpretation of the pre-Revolutionary debate in terms of the "political ethics" of its participants, "Beyond Consensus: The Historian as Moral Critic," *American Historical Review*, LXVII (1962), 623.

⁶² *Reply*, 24-25. Throughout this section I am indebted to Mary E. Blagg's treatment of Galloway's concepts of political behavior in her "Tory Political Theory in America, 1765-1776" (unpublished Ph.D. dissertation, Duke University, 1954), esp. 115, 118.

⁶³ Galloway to William Franklin, November 14, 1765, Benjamin Franklin Papers, I, 170, American Philosophical Society, Philadelphia; on the con-

Continental Congress and his inquiry into the morality of his opponents' conduct, Galloway believed he had isolated the source of disorder. His *Candid Examination* closed with a question calculated to unmask it: "are you *still* resolved," he asked of his readers, "to surrender up your reason to the miserable sophistry and jargon of designing men?"⁶⁴

Galloway's diagnosis of Whig "sophistry" marked the end of his attempt to play a meaningful role in the pre-Revolutionary debate. In May 1775, he asked to be removed as a delegate to the Second Continental Congress; and by June he considered himself "retired . . . from the distressing and ungrateful Drudgery of Public Life."⁶⁵ The superstructure of ideas he had constructed during the previous year was fraught with internal stresses. He had worked with tireless industry to resolve apparent contradictions in his doctrines of representation and subordination. He only could have succeeded if his audience had sympathized with his basic purposes: to "deduce" colonial rights singlehandedly from arbitrarily chosen premises and then to neutralize colonial discontent with a Plan so ingenious and dramatic as to compel assent. That concept of his role, and the experiences from which it crystallized, comprised the moral and emotional basis for his subsequent loyalism.

text of this accusation, see Newcomb, "Effects of the Stamp Act on Colonial Pennsylvania Politics," 269.

⁶⁴ *Candid Examination*, 62.

⁶⁵ Galloway to Verplanck, June 24, 1775, *PMHB*, XXI, 483.