Joseph Galloway's Plans of Union for the British Empire, 1774-1788

At Kew on the evening of November 14, 1778, George III wrote one of his patient, encouraging letters to his prime minister: "If Lord North," he pleaded, "can see with the same degree of enthusiasm I do, the beauty, the excellence, and perfection of the British constitution as by Law Established, and consider that if any one branch of the Empire is allowed to cast off its dependency, that the others will infallibly follow the Example... he will not allow despondency to find a place in his breast, but resolve not merely out of Duty to fill his post; but will resolve with Vigour to meet every obstacle that may arise, he shall meet with most Cordial Support from me; but the times require Vigour or the State will be ruined." George III, it is to be observed, did not share in the felicitous rhetoric that characterized so many of the writers of his reign; but his meaning was as clear as it was futile. For Frederick, Lord North was a specialist in despondency. He saw beauty and excellence in few things, least of all in his own capacity to pilot the British ship of state through stormy seas. About the only enthusiasm and vigor that he exhibited during 1778 took the form of frequent letters to his sovereign telling him what a miserable, incompetent prime minister he had, and suggesting that almost anyone, either in the party of Government or of Opposition, would be better fitted for the task. This opinion was shared by others in North's own party: Attorney General Wedderburn said that he was "just as undecided in a party of pleasure as in any other party"; and an Under Secretary of State, William Eden, spoke of his "irresolu-

1 Sir John Fortescue, ed., The Correspondence of King George the Third from 1760 to December, 1783 (London, 1927-28, 6 vols.), IV. 220-21.

tions, procrastinations, quiescences, and lazinesses.” North shamelessly admitted his ineptitude to George III time and again: “I never could, nor can decide between different opinions.” He pledged himself to Parliament to make conciliatory proposals to the American colonies; he saw all manner of obstacles in the way of fulfilling this pledge; he was afraid to propose terms for fear, if carried in the affirmative, he would alienate some members of his own party or, if carried in the negative, it would “render all accommodation with the colonies more difficult”; he was afraid that the wording of the statute proposing terms might give up more than was intended; he was afraid to suggest almost anything except that “Some other person must be thought of, to control and direct and put vigour into the Departments of Government.” Or, he added, “the nation is undone.”

Such was the man who directed the affairs of the British Empire at one of its most critical periods. George III could encourage, could threaten, could demand that Wedderburn be sent for to receive the Seal, could try to arouse North by praising the “beauty, the excellence, and perfection of the British Constitution as by Law Established.” But North, mercurial and despondent, vacillating and indecisive, could only bewail his own deficiencies—and beg to be relieved of office. At few times in its history did the British Empire need more desperately a prime minister who possessed what Lord North so obviously lacked: the ability to “decide between different opinions.” For the great issue faced by George III and Lord North in the American situation was a fundamental difference of opinion over the precise nature of the British Constitution “as by Law Established.” They regarded and treated this issue as if it were a question of rebellion against supposed grievances. What they had to do with was a revolutionary conflict of ideas over the nature and direction of the British Empire, which was
quite a different thing from rebellion. The American Declaration of Independence and Adam Smith's Wealth of Nations, both of which came in 1776, signalled the end of the old mercantilist empire that they sought to preserve under the "Constitution as by Law Established."

A quarter of a century after the Revolution James Madison succinctly stated the conflicting ideas: "The fundamental principle of the Revolution was, that the Colonies were coordinate members with each other and with Great Britain, of an empire united by a common executive sovereign, but not united by any common legislative sovereign. The legislative power was maintained to be as complete in each American Parliament, as in the British Parliament. And the royal prerogative was in force in each Colony by virtue of its acknowledging the King for its executive magistrate, as it was in Great Britain by virtue of a like acknowledgment there. A denial of these principles by Great Britain, and the assertion of them by America, produced the Revolution." 6

Historians concerned with social and economic factors and aware of the divergent paths of the colonies and the mother country during nearly two centuries before the Revolution would insist that Madison should have said "justified the Revolution" rather than "produced the Revolution." John Adams, indeed, would have agreed with them, for in 1818 he wrote that the ideas and principles that led the people to revolution were "to be traced back for two hundred years, and sought in the history of the country from the first plantation in America." 7 Whatever the origins of the Revolution—and a great body of historical literature is devoted to that subject—the unavoidable fact faced by George III and Lord North was whether the rigidity of the British Empire was to be shattered by divergent economic and social forces or was to become flexible then, as it has since, by a liberalization of the imperial constitution.

Among the ablest statements of the American position were John Adams' Novanglus, Thomas Jefferson's Summary View, and James Wilson's Considerations on the Nature and Extent of the Legislative

7 Works, V. 492.
Each denied the supremacy of the British Parliament over the colonies. Wilson gave it as his considered judgment "that the different members of the British Empire are distinct states, independent of each other, but connected together under the same sovereign in right of the same crown." His denial of the authority of Parliament was aimed directly at Sir William Blackstone, who held that "There is and must be in every state a supreme, irresistible, absolute, uncontroverted authority, in which the jura summi imperii, or the rights of sovereignty, reside. . . . That this supreme power is, by the Constitution of Great Britain, vested in the King, Lords, and Commons. . . . That, therefore, the . . . Acts of Parliament have, by the British Constitution, a binding force on the American Colonies, they composing a part of the British Empire." Even so good a friend of the colonies as William Pitt declared that they had been "deprived of a right, but by an authority they ought not to question."

Historians, somewhat like Lord North, have been indecisive in showing which of these two conflicting ideas was in accord with the tangled body of theory, precedent and practice that is the British Constitution. The classic position of modern historical scholarship was substantially that stated by Osgood in 1907: "British lawyers and officials at home . . . held that, in law if not in fact, the authority of Great Britain within the dominions was complete. . . . They held that the colonists were in principle as completely subject to parliament . . . as were the local jurisdictions within England itself. In this they were technically correct and were quite in harmony with the principles of English law." This view was startlingly challenged by Professor Charles H. McIlwain's The American Revolution: A Constitutional Interpretation, which appeared in 1923. One of the significant facts damaging to Professor McIlwain's thesis is that the charter of Pennsylvania specifically reserved to Parliament the right of taxing the province by levying duties on commerce.

8 Wilson's original manuscript for his Considerations, which is in The Historical Society of Pennsylvania, was written about 1770. A careful collation of the manuscript and an exact editing of it should be done. This important contribution to the political theory of the Revolution, based on a thorough study of legal and constitutional precedents, has been reprinted several times, but never, since 1774, from the original manuscript.


10 Commentaries (Philadelphia, 1772), IV. 48, 49, 50, 51.

11 The American Colonies in the Seventeenth Century, III. 9.

12 One of the significant facts damaging to Professor McIlwain's thesis is that the charter of Pennsylvania specifically reserved to Parliament the right of taxing the province by levying duties on commerce.
tured the belief that “John Adams’s view of this pivotal question seems somewhat more consonant with all the precedents I have been able to find than the opposing theory supported by Lord Mansfield in the eighteenth century, and now apparently held by a majority of American historians.”

Dr. Randolph G. Adams’ Political Ideas of the American Revolution appeared just prior to Dr. McIlwain’s essay; it was a vigorous and illuminating analysis of the political writings of some of the leading exponents of the American position, with particular emphasis on James Wilson, and Dr. McIlwain viewed it as, in general, confirming his conclusion that the “central problem of the American Revolution was the true constitution of the Empire.”

Just as this revisionist school of thought seemed about to be accepted by historians generally, Dr. Robert L. Schuyler advanced with a learned study entitled Parliament and the British Empire (1929). With fine scholarship and a felicitous salute to his opponent, he proposed to “test the validity of Mr. McIlwain’s thesis, to determine, if possible whether he should be acclaimed as an Athanasius contra mundum or cast into outer darkness as a belated heretic.”

His study led him to the conclusion that the origin of parliamentary authority lay not in any usurpation but in the original character of parliaments and that the ground on which Dr. McIlwain rested his case was a shaky foundation. In 1930 Dr. Randolph G. Adams, in an admirable introduction to the Selected Political Essays of James Wilson, returned to the thesis maintained in his earlier Political Ideas of the American Revolution, but he did not align himself definitely with either the Schuyler or McIlwain positions respecting the validity of the American constitutional argument.

The debate is not yet concluded, chiefly for the reason that the whole constitutional experience of the British Empire in America has not been sufficiently explored. The way is now invitingly open for an American Maitland or Pollock. Meanwhile, to add to the materials for such a study, the two Plans of Union drawn up by Joseph Galloway and submitted to a British minister about 1779-1780 are here-with contributed, for the first time, to the already voluminous materials on the subject.

13 McIlwain, op. cit., 198.
14 Ibid., x.
15 Schuyler, op. cit., 2.
II

Joseph Galloway, one of the ablest and most distinguished of that distressed group of refugees from America who thronged London toward the end of the Revolution, occupies a high place in the ranks of those who, during the constitutional controversies of the period, tried to work out some practical form of imperial government. During the whole period of the Revolution he exhibited an unflagging faith in the possibility of some means of cementing the British Empire, and when most others had given up such a hope, he was still writing of it, still changing and advancing his Plans of Union. He failed, but in his refusal to recognize failure he stamped himself permanently as one of the most ardent imperialists of the eighteenth century. The progress of his ideas—perhaps even the source of them—can best be found in his relations with another great imperialist and wise preceptor, his friend Benjamin Franklin.

Galloway succeeded Franklin in the leadership of the Pennsylvania Assembly when the latter went to London in 1757. The two men stood shoulder to shoulder in their fight against the Penns and in their efforts to convert Pennsylvania from a proprietary to a royal province. Franklin had caught the vision of grandeur and power that awaited the British Empire even before Pitt had roused the nation with such a vision, and he doubtless communicated his feelings on this subject to Galloway. "What an Accession of Power to the British Empire by Sea as well as Land! What Increase of Trade and Navigation! What numbers of Ships and Seamen!" he had written in 1751 in picturing the future of America. In 1760 he said that he had "long been of the opinion, that the foundations of the future grandeur and stability of the British empire lie in America; and though, like other foundations, they are low and little seen, they are, nevertheless, broad and strong enough to support the greatest political structure human wisdom ever

yet erected.” A similar hope for the future of the British Empire fired Galloway so greatly that it took a quarter of a century and the most afflicting misfortunes to cool his ardor. The humbling of France in 1763 and the growing power of America opened up a vast prospect of imperial greatness. But scarcely had the traditional enemy been conquered before Pitt’s eloquent direction of the empire was succeeded by the counsels of smaller men: men who looked less at the grandeur of the future than at the immediate necessity of settling bills of cost. When the consequence of this seemed inevitable in 1776, Franklin, growing old but looking at the commonsense of the matter, knew what choice to make. Galloway, trained in the law and fixed in his convictions, was unable to give up the hope of a great empire. To him it must have seemed a defection on the part of his good friend and wise teacher, a departure from the ideal he had taught, when Franklin joined the revolutionary party. To Franklin, who spent much of 1775 and 1776 trying to persuade Galloway that the future of America lay not in the path he had advocated but in its own direction as an independent nation, Galloway’s uncompromising refusal to abandon the British Empire was a bitter blow—scarcely less so than the similar attitude of his own son.

Though Franklin did not join with Wilson, Adams, and Jefferson in the constitutional dialectic of the period, we know now that his private views on the question of Parliamentary supremacy were fully as advanced as theirs long before they wrote in 1774. When the author of An Inquiry into the Nature and Causes of the Present Disputes wrote in 1769 that “Our right of legislation over the Americans ... is asserted by most, doubted by some, and wholly disclaimed by a few,” Franklin wrote in the margin: “I am one of those few, but am persuaded the time is not far distant, when the few will become the many; for Magna est Veritas, et prevalebit.” Even earlier he had definitely come to the view, later held by Wilson and others, that the empire was made up of “different states,” subject to the same crown, and that “The Parliament has Power only within the Realm.”

These radical concepts Franklin held, for the most part, in private,

17 To Lord Kames, January 3, 1760; A. H. Smyth, ed., The Writings of Benjamin Franklin, IV. (1906), 4.
18 Verner Crane, Benjamin Franklin, Englishman and American (1936), 117–27.
19 Ibid., 125. Franklin's copy of this pamphlet is in the New York Public Library.
20 Ibid., 124–25.
confining them largely to marginal notations in contemporary pamphlets. But, if they were unknown to Galloway, Franklin’s parallel line of thinking—his advocacy of some form of imperial union from 1751 on—was known to Galloway as to all other informed Americans and doubtless exerted an influence over him. In 1764, when Galloway and Franklin were both defeated at the polls, the former was not yet filled with hope for a constitution for the British Empire: “There is,” he wrote, “no alternative between this measure [a military establishment in the colonies] and a general union to assure us protection against the foreign invader. Such a union has been already rejected and such a one we shall now never enjoy. Our superiors think it convenient to keep us in another state.”

In 1773 Galloway was still discouraged and thought of retirement from public life. Franklin sought to dissuade his younger ally: “You are yet a young man and may be greatly serviceable to your country. It would be, I think, something criminal to bury in private retirement so early, all the usefulness of so much experience and such great abilities.” By 1774 Galloway was determined to do all in his power to prevent the dissolution of his dream of grandeur for the British Empire. He plunged into the Revolutionary movement, hoping to restrain popular excesses and to direct that movement toward Franklin’s and his own conception of the Empire. Alone of all his contemporaries during the next ten years, he did not abate his efforts toward this end.

In 1774 the communication of the Pennsylvania Committee of Correspondence to Massachusetts, written by Galloway, insisted that “The great cause of American rights may be left to the management of the representatives of the people in every colony, as they alone are vested with the constitutional power of inquiring into and redressing those grievances, under which the subject may at any time be oppressed. Until this measure shall be fairly attempted, and a failure shall ensue, we cannot conceive the present dispute between Great Britain and the colonies can with any propriety or prudence be assumed by any other person whatever, or that in other hands any good consequences can be rationally expected. And as we are in a state of society where order, reason, and policy ought to prevail, every measure which can only serve to irritate and not convince, every act of violence or

21 Pennsylvania Magazine of History and Biography, XXVI. (1902), 292.
22 Franklin to Galloway, Jan. 6, 1773; Smyth, op. cit., VI. 6.
even appearance of it, should be carefully avoided, as they cannot, under our present circumstances, obtain us that relief we desire, and have a right to expect; but on the contrary, may involve all America in difficulties which no after wisdom or prudence can surmount. A Congress of delegates chosen either by the representatives in Assembly or by them in convention appears to us the first proper step to be taken. Nor are we dubious but that it may be happily effected in a short time, should calm and prudent measure be pursued to obtain it. In this Congress composed of the Representatives constitutionally chosen, of all concerned and who would of course act with weight and authority something might be produced, by their united wisdom, to ascertain our rights and establish a political union between the two countries with the assent of both, which would effectually secure to Americans their future rights and privileges. Anything short of this will leave the colonists in their present precarious state, disunited among themselves, unsettled in their rights, ignorant of their duties, and destitute of that connection with Great Britain which is indispensably necessary to the safety and happiness of both.23 This was the voice of a true friend of America and of one who believed in the orderly processes of law, who disbelieved with the utmost firmness in licentiousness and disrespect of duly-constituted authority.

Having chosen this course, Galloway caused the Pennsylvania Assembly to instruct its delegates to the Continental Congress to use their "utmost endeavors to form and adopt a plan which shall afford the best prospect of obtaining a redress of American grievances, ascertaining American rights and establishing that union and harmony which is most essential to the welfare and happiness of both countries."24 He informed Governor William Franklin and Governor Colden of his plans, drew forth the Albany Plan of Union of 1754, studied it, and prepared his own on the basis of it.25 The plan that he intended to submit to the Congress in 1774 was not in accord with his own ideas, but was such as he thought had some chance of being adopted. On the eve of the meeting of Congress he talked with the "elder Rutledge of Carolina, whose sentiments and mine differ in no

24 Pennsylvania Packet, Sept. 5, 1774; Examination ... by ... the House of Commons, 42-43.
25 Correspondence of Galloway and Franklin, 1775, in New Jersey Archives, first ser., X. 578, 585; Documents Relating to the Colonial History of New York, VIII. 513.
one particular, so far as I explained myself, and I was reserved in no point save that of a representation in Parliament. Benjamin Franklin in 1766, like Galloway in 1774, had thought it desirable, but too expensive to send representatives to Parliament, but, unlike Galloway, he saw with clear prescience that “when we are more able, we shall be less willing than we are now.”

The plan included, briefly, the following features: an American legislature “for regulating the administration of the general affairs of America”; the retention by each colony of its existing constitution, and the power of regulating its “own internal police”; a president general, appointed by the King during pleasure; a grand council, chosen by colonial assemblies; annual meetings of the grand council and triennial election of members; the possession by the council of “all the like rights, liberties, and privileges as are held and exercised by and in the House of Commons of Great-Britain”; the assent of the president to be required to validate all acts of the council; the president and council to exercise all “rights, powers and authorities, necessary for regulating and administering all the general police and affairs of the colonies... as well civil and criminal as commercial”; the president and council to be “an inferior and distinct branch of the British legislature”; legislative bills to be introduced either in the Parliament at Westminster or in the legislature in America and all bills, in order to become law, to require the assent of both legislatures.

Galloway, in his examination before the House of Commons Committee on Papers in June, 1779, admitted that he did not propose this as a "perfect plan,

27 To Cadwallader Evans, May 9, 1766; Smyth, op. cit., IV. 456. “My private opinion,” wrote Franklin in the same letter, “concerning a union in Parliament... is that it would be best for the whole. But I think it will never be done.”
nor altogether as a plan of my judgment." He approved the plan as far as it went, but thought it would admit of "some very material additions." These additions were not included for fear it would drive the delegates away from "the ground of accommodation." He likewise told the Committee that "some of the best men [in the Continental Congress] . . . espoused the plan." In this he was correct: James Duane of New York seconded the resolution by which it was introduced, John Jay spoke in approval, and Edward Rutledge declared that he thought it "almost a perfect plan." Benjamin Franklin, by this time, had only this comment to make on it: "When I consider the extreme Corruption prevalent among all Orders of Men in this old rotten State, and the glorious publick Virtue so predominant in our rising Country, I cannot but apprehend more Mischief than Benefit from a closer Union." Franklin was now looking toward the future greatness of another empire.

The Congress rejected this Plan of Union and ordered it to be expunged from the minutes. Disappointed and perhaps driven into opposition by the treatment accorded his conciliatory proposal, Galloway then submitted it to the public in a pamphlet entitled A Candid Examination of the Mutual Claims of Great Britain and the Colonies. This pamphlet, according to the preface to the London edition of 1780, was "circulated throughout America, and had a considerable degree of influence on the minds of the people in general; but it was for that reason destroyed by the Independent party, wherever they could find it, and in several provinces it was burnt by the common executioner." The Candid Examination was answered in An Address to the Author of a Candid Examination, to which Gallo-

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29 Ibid., 46-47; see also E. H. Baldwin, op. cit., XXVI. 420-21. Galloway's plan avoided those matters of detail, such as the number of representatives to be allowed each colony, the place of meeting, methods of taxation, etc., which might have provoked controversy and made his Plan more exceptionable. Cf. Burnett, op. cit., I. 51-54.

30 Smyth, op. cit., VI. 311-12. "It seems like," he added, "Mezentius's coupling and binding together the dead and the living."

31 Galloway printed, but did not distribute, a pamphlet entitled Arguments on Both Sides in the Dispute between Great Britain and her Colonies. This was issued in order, as he said, to "prepare the minds of the people for it [his Plan of 1774], and put them in a proper train of thinking on the subject." New Jersey Archives, first ser., X. 474; Pennsylvania Magazine of History and Biography, XXVI. 422.

32 Candid Examination (London, 1780), v. This pamphlet was Galloway's A Reply to An Address to the Author of a Candid Examination (New York, 1775). It is reprinted in the London edition of Candid Examination.
way responded with a pamphlet printed by Rivington. On the day that this pamphlet came from the press "a party of the Independents came down on the day of its publication, destroyed and carried off his printing materials, drove him into exile, and finally suppressed the liberty of the press throughout America." 33

The first Plan of Union submitted by Galloway deserves to rank with the proposal of the Albany Congress of 1754 as one of the very important documents in the growth of American federalism if not of the British Empire. 34 Its disappointing fate and Galloway's enforced flight into exile might have been sufficient to discourage one less impelled by a statesmanlike attitude toward his native country from venturing to bring the two countries together under some constitutional bond. Other refugees there were who, like Galloway, had fled to England with a complete loss of fortune, but who thought chiefly in terms of military subjugation of the colonies, of repression of the democratic spirit burgeoning there, and of the restitution of their confiscated estates. It is to Galloway's credit that he gave more thought to the future of the British Empire than to his personal afflictions, which were many. In 1793 he wrote to Thomas McKean that his "plan of union between the two countries . . . was founded on the liberty and safety of both. Its great principle was, that no law should bind America without her consent. I wished it might be made the basis of negotiation and peace, and declared, as many must recollect, that if the principle should not be granted by the British State, I would embark my life and fortune to obtain it. . . . In the year 1777 [sic] on my arrival in London I exerted my utmost abilities with the Cabinet of this country to make peace with America and put an end to the horrors of war by passing an Act of Parliament declaratory that no laws should bind her but such as should be made by her own legislatures and upon that great and liberal principle to form a constitution between the two Countries of liberty and mutual protection. Nor did my exertions

33 Ibid., v–vi.
34 The Pennsylvania Journal for April 3, 1775, published Franklin's Albany Plan of 1754, pointed out the resemblance of Galloway's Plan to it, and sought thus to "take the child from its putative and restore it to its real parents." This was answered by a writer—doubtless Galloway himself—in the Pennsylvania Gazette for April 26, 1775, who pointed out the differences between the two Plans: that of 1754 was a union for the colonies only, providing for an inferior legislature without any connection with the British Parliament. The writer also said that the Albany Plan was carried into Congress by Galloway for comparison and in order to have improvements made. Cf. Burnett, op. cit., I. 51n.
cease until Sir Guy Carlton was sent over to negotiate a peace upon that ground. Thus during my opposition my attachment to the liberty of America was unabated." These later efforts made by Galloway to bring about some form of constitutional union between the two countries have not heretofore been explored by scholars.

III

Less than a month after George III had extolled the beauties of the British constitution to Lord North, he received from John Robinson, Secretary to the Treasury, the following communication: "Mr. Robinson has the Honour to transmit for your Majesty's perusal some papers which he has this Day received from Mr. Galway [sic], late Speaker of the late legal Assembly of Pennsylvania, and a warm friend of this Country, who has lately arrived from America, and has lost his all in the Service of this Country. Mr. Robinson presumed to think it might not be disagreeable to your Majesty to be informed of the Sentiments of such a person, and therefore Mr. Robinson has ventured to send the papers, and anxiously hopes he shall not have done amiss." These papers apparently consisted of a statement of the American debt, a "Proposal for Covering and Reducing the Country as the British Army shall pass through it," and "A State of the Circumstances of Philadelphia when Sir William Howe took Possession of it." The two Plans of Union printed below were almost certainly not among these papers which Galloway put in the hands of Robinson so soon after arriving in London. Two weeks later Gallo-

Joseph Galloway to Thomas McKean, March 7, 1793; The Historical Society of Pennsylvania, McKean Papers, II. 108. John Adams' notes of Galloway's Speech in Congress contain the following: "I am as much a friend of liberty as exists; and no man shall go further in point of fortune, or in point of blood, than the man who now addresses you." Burnett, op. cit., I. 52.

Robinson to the King, Dec. 9, 1778; Fortescue, op. cit., IV. 230.

Ibid., IV. 244.

Ibid., IV. 245-47.

Ibid., IV. 247. According to Galloway's survey, of the 6057 houses in Philadelphia during the British occupation, only 597 had been "deserted by the disaffected" patriots. Lord Amherst examined this document and wrote to the King that he thought it "very exact as to the Houses, Inhabitants, the well affected and the ill affected"; ibid., IV. 247.

The "Plan for Reducing the Colonies in the most Expeditious Manner and at the Least Expense" (ibid., IV. 542-49) may also have been Galloway's, for its emphasis on the importance and supposed loyalty of the Middle Colonies was very similar to the ideas expressed at various times by him.
way furnished Robinson other copies of the previous documents, which were laid before Lord North, and at the same time he transmitted to the King, through Robinson, two additional papers. It is not known what these additional papers were, but it is very doubtful if they were the Plans of Union.

The Plans of Union were addressed to Charles Jenkinson, Secretary at War, in the form of a letter, undated and containing some indication in its careful footnotes and in a reference to a non-existent appendix that it was intended for publication. While it is not known just when Galloway wrote the letter to Jenkinson, it is clear that he had formulated the ideas and even a preliminary statement of the Plans of Union contained in it shortly after his arrival in England. For on March 18, 1779, he addressed a lengthy communication to Lord George Germain setting forth the reasons that led him to "throw together the Hints or Plans of an Union between G [reat] B [ritain] and her Colonies." With this communication he sent a briefer and doubtless an original version of the document that he later sent to Jenkinson. A year later he appears to have permitted Major John Morrison to join him in submitting another version of the Plans of Union to Germain, similar to the first document with the exception of the addition of a provision for permitting the British and the American parliaments to exchange commissioners. Apparently receiving no encouragement from these approaches to Germain, Galloway then turned to Jenkinson, perhaps late in 1780 or early in 1781. The date of the document, after all, is a relatively unimportant matter: the ideas that Galloway was concerned with were the important thing—and they had no more likelihood of being adopted in 1781 than in 1779. It is worth noting, however, that at the same time he was approaching Germain and Jenkinson with these Plans of Union, Galloway was advocating, in public, the considerably different Plan of Union of 1774. This he did in his examination before the House of Commons in 1779 and in the 1780 edition of *Candid Examination*.

In the letter to Germain of March 18, 1779, Galloway revealed the motives that impelled him, over a period of several years, to advance

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40 Robinson to the King, Dec. 23, 1778; Fortescue, *op. cit.*, IV. 236.
41 These two documents are in the Stopford-Sackville Manuscripts in the William L. Clements Library.
42 Major John Morrison to Charles James Fox, July 10, 1782, in the Library of Congress; also, see below, note 50.
the idea of imperial union. By 1779 he thought that the American people, worn down by "Congressional Tyranny and the Distress of three years ruinous war" would cheerfully embrace such a proposal. "Indeed," he added, "this seems to be the critical period pointed out by all circumstances for effecting so important a work." He urged that some system of government be prepared, digested, and held ready for establishment in any colony "as soon as it is reduced to his Majesty's peace." Once this apparently sure goal was reached, the colonies would "in Respect to Government become a Chart Blanch. Their old form being given up and totally effaced by the People themselves, and the new by the Power of the British Arms, Nothing will remain to be considered but the Proposals made by Government. . . . Civil government of some kind must therefore be established to preserve the Peace, to punish the Factious and Seditious, and to form a System of military Defence within itself." Thus Galloway hoped to accomplish two of his heart-felt desires at once: to abolish the old proprietary forms that he and Franklin had opposed so long and at the same time to establish a "Perfect Union between the Countries, such an one, as promises Duration and lasting Existence . . . founded as near as possible upon those principles of Policy upon which the Constitution of the Principal State is founded." But, above all, Galloway thought the prerogatives of the crown should be preserved inviolate and "every principle of Democracy and Aristocracy interfering with them, to be found in the old Forms of the Colonial Governments should be carefully avoided; because it is to them principally, that all the Seditious in America, and the present Rebellion in particular owe their Origin." All this, however, depended on restoring the colonies to His Majesty's peace—and Galloway's bitter attacks upon Howe and Burgoyne were evidence both of his intensity of purpose and of this primary obstacle in the way of his imperial plans.

It is not known by what connections or circumstances Galloway was led to submit his ideas on colonial government to Charles Jenkinson, though it may have been due to the minister's well-known efforts to put vigor into North's prosecution of the war in North America, efforts with which Galloway would have sympathized.43 More prob-

43 "No one attributed our failure [to subdue the colonies] to any want of energy on Mr. Jenkinson's part, who had been unwearied in his efforts to furnish the army with reinforcements and supplies"; C. D. Yonge, The Life . . . of Robert Banks, Second Earl of Liverpool (London, 1868), I. 5.
ably, it may have been due to the fact that Jenkinson was popularly supposed “to possess immense secret influence at court, and, although he and Lord North always denied it, to have largely controlled Lord North’s relations with the throne. . . . During the American War, when his office made him little more than the chief official obliged to carry out his colleagues’ orders without responsibility or concurrence, this credit for indefinable influence was at its highest.”44 This misconception of Jenkinson’s power, while it may have influenced Galloway and other contemporaries, is dispelled by the very real friendship entertained by George III for North as exhibited, for example, in their correspondence. Jenkinson, while befriended by the King, never became so intimate with his sovereign as did North. The fact that Jenkinson was the recipient of Galloway’s ideas, perhaps going so far as to request such a letter, as the opening sentence indicates, is likewise relatively unimportant. For even if Jenkinson had had all the influence and authority popularly ascribed to him, he still could not have induced his sovereign, his Prime Minister, or the Parliament to accept the Plans of Union.

A careful examination of the Plans of Union will indicate that Galloway made liberal use of arguments advanced in his various pamphlets, occasionally even making verbatim borrowings from them. In all of those pamphlets published between 1779 and 1782 he continually emphasized some basic arguments that appeared to him sound.45 His first premise was that nine-tenths of the people in America looked with abhorrence upon any idea of independence. In this, of course, he was completely mistaken: but that he was sincerely mis-

44 J. A. Hamilton’s sketch of Jenkinson in the Dictionary of National Biography, XXIX; Doran, Walpole’s Last Journals, II. 322, 516, 606; Memoirs of the Public Life . . . of the Right Honourable the [Second] Earl of Liverpool (London, 1827), 6–7; Jenkinson (1727–1808) was made Baron Hawkesbury of Hawkesbury in 1786 and in 1796 was created the Earl of Liverpool.

45 Letters to a Nobleman on the Conduct of the War in the Middle Colonies (London, 1779), 6–8, 22, 23, 24; Cool Thoughts on the Consequences to Great Britain of American Independence (London, 1780), 13–14, 18, 25, 33–34, 36, 46–47; Historical and Political Reflections on the Rise and Progress of the American Rebellion in which the Causes of the Rebellion are pointed out and the Policy and Necessity of Offering to the Americans a System of Government founded in the Principles of the British Constitution are Clearly demonstrated (London, 1780), 24–28, 47, 117, 122, 123–24, 125, 127, 129–30 (this pamphlet contains, at p. 70–81, a summary of the Plan of 1774); Plain Truth: or, a Letter to the Author of Dispassionate Thoughts on the American War (London, 1780), 4, 5, 15, 29, 33, 40, 54, 58, 60, 63.
taken is evident from the fact that most of the people he knew entertained such opinions—by his own official tabulation only one-tenth of the houses in Philadelphia had been vacated in 1777 because their occupants were identified with the revolutionary party. His second premise was based on his devotion to what appeared to him the true interests of America and the future greatness of the Empire. He drew his ideas of government from the same great fountainheads as Mansfield and Blackstone: from Hobbes and Locke and Coke and Hooker. But, an experienced colonial legislator and lawyer, he looked with more realistic and less myopic eyes at the immediate future of the empire. He firmly believed—and iterated and reiterated his opinion in pamphlet after pamphlet—that the empire was doomed if it lost 3,000,000 of its inhabitants, the greater part of its territory, and a large proportion of its total commerce. He singled out the Dean of Gloucester for attack because that influential personage had advocated letting the colonies go out of the empire. "It does not seem to require more than a plain understanding to perceive," he wrote, "that while the other powers in Europe shall retain those nurseries of people, those sources of industry, commerce, wealth, and power, it will not only be sound policy, but absolutely necessary for Great Britain, in order to preserve her independence among nations, to retain in like manner her Colonies in due subordination." This theme Galloway came back to again and again: and if he was wrong in his prophecy of the immediate decline of the British Empire as a power among nations, he was, by the apparent fervor of his reiteration, firmly convinced that he was right. Being so convinced, he could neither accept the position of the Dean of Gloucester nor the rigid legalism of the

46 Supra, note 39. In Plain Truth, p. 16, Galloway asserted that he stood ready to prove that "five out of six of its [America's] whole inhabitants sincerely wish for a perfect union in polity with this country." Again, in Letters to a Nobleman, p. 22, he said that the "Congress . . . are not the representatives of one-tenth part of the community . . . They are, in reality, the usurpers of a despotic power over nine-tenths of the people, which [power] the honour of Government is bound to destroy."

47 Plain Truth, 5; "America independent!" he exclaimed, "the West Indies conquered by France or annexed to America! our fisheries on the banks of Newfoundland, and the American Coasts, with all the trade of the West Indies and America, cut off from the British commerce! where are our nurseries of seamen? . . . Our navy, the great bulwark of our safety, will be sunk into contempt, and the British Flag will be no more respected in the British seas, than the lug-sail of an oyster-boat." In short, he added, Great Britain would not long maintain "her Independence among nations"; Cool Thoughts, 33-34, 36.
reigning jurisconsults. Instead, he proposed what he hoped would be a practical solution of a baffling problem. He realized at the time these plans were proposed that America was then a substantial reason for England's power and wealth; he predicted with confidence that in half a century her growth would be such as no one then dreamed of. The issue, he said, was "the most important controversy that ever was agitated between a State and its Members," and he threw himself into the struggle with a vigor and firmness of conviction that contrasted strongly with the apathy and indecision exhibited in high places.

In these same pamphlets he also consistently emphasized a few principles of government that appeared to him basic: that the state was, as distinguished from a mere multitude of people, a body politic having a single will or sovereignty, indivisible and inalienable; that inferior members or parts of the state should be governed by those same principles with which the state itself is governed; that the subordinate members or parts are bound to yield obedience to the supreme will and direction of the state; that this supreme will is vested in the legislative authority. From these principles Galloway reasoned that the colonies could be brought into the most perfect union with the British state by representation in the Parliament at Westminster as in the cases of Scotland, Wales, Durham and Chester, and this he proposed as the chief feature of his first Plan. In order further to perfect the union, he thought it was essential that all of the colonies be reduced to a similar status, that the varying degrees of prerogative that had been surrendered to the royal, proprietary, and charter colonies—surrendered without legality, he claimed—should be restored to the supreme authority of the state. A division of the legislative power he regarded as an absurdity in political theory: the interdependent character of agriculture, industry, commerce, taxes, and the national safety would cause any divided regulation of them by legislative authority to be attended with "infinite mischief and confusion." There, of course, he named the price that federal governments inevitably must pay for the privileges and advantages of federation.

This first plan was distinguished from the second only in the radical principle of colonial representation in Parliament. In defense of his Plan of Union of 1774, Galloway had argued for an American
legislature, similar to that proposed at the Albany Congress of 1754, rather than for the scheme he preferred—representation in Parliament—because he thought there was "an universally prevailing opinion [in the colonies] that the Colonies cannot be represented in Parliament." Yet at the time Galloway wrote to Jenkinson, he apparently thought there was some reason to hope for its favorable consideration. At least, he argued, its practicability could not be tested until some effort had been made to have it discussed in both countries. If proposed, and if found impracticable, then he suggested that his alternative plan be brought forward.

This second plan had as its distinguishing feature the same basic principle that characterized the Plan of 1774: the establishment of an American legislature "for the general purpose of American regulation only," although, unlike the plan laid before the Continental Congress, the legislature was to be composed of two houses, the upper one to correspond to the House of Lords and the lower to the House of Commons. This plan also provided that "no law should bind America without her consent," for the assent of both the British and the American parliaments was required for all legislation. It also differed from that of 1774 in providing for two "Commissioners" from each of the American houses of the legislature to represent them in Parliament, but without the right to vote. A further important difference between this Plan and that of 1774 was that, in time of war, the representative of the King in the American parliament (the president or governor-general) could, by temporary authorization of the British Parliament, enact laws to grant aid to the Crown. The colonies, as in the Plan of 1774, were to retain their control of the police power. The peace establishments of the various colonies were to be maintained by each colony, but aids granted to the Crown in time of war were to be proportioned with respect to the relative values of the British and American exports. Perhaps the most significant difference between these two plans and that of 1774 lay in the commercial provisions, which Galloway wished to attach to whichever plan was adopted: all control over the navigation and trade of America was to be vested exclusively in Parliament, but American commerce was to lie under the

48 Cf. Historical and Political Reflections (also published in 1780), 125: "It is much to be regretted, that neither country seems to approve of an American representation in Parliament."
same regulatory restrictions, privileges, and principles as that of Great Britain.

Here, obviously, were proposals such as, from the American point of view, caused Galloway to be regarded as a conservative, but from the imperial point of view, could only stamp him as a radical.

Many writers in England at this time, forced at last to think in terms of rebuilding the empire and not in terms of making concessions to "our colonies," sought as did Galloway to draw up the specifications for the new structure of empire. William Pulteney's *Thoughts on the Present State of Affairs with America and the Means of Conciliation* offered practically what the Carlisle Commission of 1778 was authorized to concede: home rule. An anonymous radical of 1778, in a *Proposal for a Plan toward Reconciliation and Reunion with the Thirteen Provinces in America, and for a Union with the Other Colonies*, advocated complete local autonomy for colonies linked together, not by the Crown, but by an administrative Great Council of State. A yet more radical author, likewise clothed in anonymity, drew up in 1780 a rough plan of an imperial commonwealth, *A Plan on Articles of Perpetual Union, Commerce, and Friendship between Great Britain and her Colonies*, which had much in common with the plans which Galloway submitted to Jenkinson. John Fenton Cawthorne is credited with having written in 1782 another set of plans for the new empire in *A Plan of Reconciliation with America: consistent with the dignity and interests of both countries*. This plan rejected representation in Parliament and advocated an "American Parliament, whose powers shall resemble those of the Parliaments in Ireland and Great Britain." A plan similar to this, *The Alarm, or a Plan of Pacification with America*, appeared in New York in 1780 and was obviously written by an Englishman.49

Thus Galloway's letter to Jenkinson was but one of a number of suggestions thrown out futilely by English writers at a time when all

49 See Charles F. Mullett's excellent "English Imperial Thinking," *Political Science Quarterly*, XLV (1930), 548–79, for a discussion of these authors. It is worth noting also that in the Etting Collection of The Historical Society of Pennsylvania there is a broadside signed *Amor Patriae* entitled "A Plan of Union, by Admitting Representatives from the American Colonies, and from Ireland into the British Parliament." It is dated Dec. 12, 1770, and provided for 50 representatives from the colonies in the House of Commons and for the creation of 10 American lords. There is no indication who *Amor Patriae* was, but Galloway certainly would have agreed with his proposal.
possibility of liberal imperialism was rapidly fading. Nor was this letter to Jenkinson the end of Galloway’s effort or influence in promoting the idea of imperial union. The plan that he first submitted to Germain in 1779 and 1780 furnished the ideas for a similar Plan of Union proposed for the Southern colonies by his associate, John Morrison, in 1782. And on March 7, 1788, Morrison revived the second Plan of Union sent to Germain in 1780 and submitted it to Henry Dundas, later Lord Melville, with the statement that “The above plan I had the honour, with Mr. Galloway, to lay before my Lord George Germain in March 1780; and had it then been adopted, the Colonies would have now been united with Great Britain.” This plan provided that there be established an American legislature consisting of “a perfect representation of the Crown in the character of a Lord Lieutenant, an Upper House, and a representation of the People—and that it be considered as an inferior branch of the British Legislature”; that the jurisdiction of the American legislature be confined to “such regulations as relate to the general policy of the Colonies”; that each house of the American legislature elect two commissioners to sit in the two houses of the British Parliament; that the British Parliament likewise send two commissioners to sit in the American legislature; that various regulations be adopted respecting taxation, commerce, and the appointment of American bishops of the Anglican Church;

On July 10, 1782, while stationed at Charleston, South Carolina, Morrison submitted the following plan to Charles James Fox: “The two Floridas, Georgia, and the two Carolinas, to form one large Government, and to be Governed by a Lord Lieutenant, to have two Houses of Parliament, but that they should be a Branch of the British Legislature, that is to say, no Law should be Valid, before it had past the British and American Houses of Parliament ... (I mean those Laws only, which have Reference to both Countrys), that they will pay their proportion towards the Expences of the State. When Great Britain pays the Southern District of America will pay and as the Trade of either Increase, or Decrease, so shall their Quotas, Increase or Decrease, which may be easily known from the Custom House Reports of each Country.” This, obviously, is mere repetition of Galloway’s ideas and even phraseology. Indeed, Morrison added, “In the year 1780 I arrived in England and laid before my Lord George Germain a Plan similar to the above. The only copy I had, I lent to General Leslie, his Present Illness, prevents my getting it from him, which I am extremely sorry for, as by this safe opportunity I would have sent it, Sir, to you, and I am very certain from your Wisdom, and decisive manner you appear in, it would have mett a Different Reception from what it did in the Year 1780”; letter in the Library of Congress. In 1788, when he sent the substance of Galloway’s Plans of Union to Dundas, Morrison used similar phraseology but he was more generous in including Galloway’s name.
and "That full Liberty of Conscience be tollerated in America, but that all General Ecclesiastical Committees, Assemblies and Synods, consisting of more Society’s or Congregations than one, and all standing Conventions, not authorized by any Law, be declared unlawful and seditious"; and that the colonies be divided into a northern district, consisting of seven colonies, a middle consisting of six, and a southern consisting of five, with a constitution for each district in accordance with the foregoing plan.51

Though he declared in 1793 that his efforts in the direction of imperial unity ended at the time of the appointment of Sir Guy Carleton, Galloway nevertheless drew up, even after the establishment of the independence of the thirteen colonies, a Plan of Union for those that retained their allegiance to the Crown. This plan, reflecting the growing conception of a stricter imperial control which, as Lord Durham pointed out in 1839, was one of the results of the American Revolution, gave to the governor-general almost unlimited power over the colonial governors, militia, and laws. All officials, heads of colleges, students, and lawyers were required by it to take an oath to obey the laws of Parliament and this oath was to be put "in as strong terms as the English language can furnish." Always convinced that the Presbyterians had had a large part in inculcating the principles of the Revolution in the minds of their followers, he suggested that "in all colleges and other public seminaries of learning caution ought to be taken to prevent the principal trusts being lodged in the hands of gentlemen whose religious tenets point them decidedly to republicanism."52

51 A copy of this plan in the handwriting of Major John Morrison is now in the possession of Maggs Brothers of London.

52 This Plan of Union, evidently differing from the one sent to Germain, is cited by E. H. Baldwin in The Pennsylvania Magazine of History and Biography, XXVI. (1902), 398, as being in the Library of Congress. The present Chief of the Manuscripts Department of the Library of Congress, Dr. St. George L. Sioussat, informs me that the Division was "unable to locate a document which seems to justify the footnote in the Baldwin article"; letter to me, Aug. 21, 1940. However, it is apparent from the exactness of his description that Baldwin had seen such a document, whether in the Library of Congress or elsewhere, and we may therefore, without full knowledge of its contents, credit Galloway with such a Plan of Union differing both from the Germain plan and from the two printed below. I am also indebted to Dr. Sioussat for calling my attention to the letter from Galloway to Germain of March 18, 1779, and for permitting extracts to be copied from a description of the Morrison document now in the possession of Maggs Brothers.
Thus, if we include the Plan of Union of 1774, the two Plans of Union submitted to Jenkinson, the two submitted on two occasions to Lord George Germain, and the one drawn up after American Independence, it will be seen that Galloway made no less than five separate attempts to secure an imperial constitution. Though all of these plans contain varying and sometimes conflicting provisions, it is nevertheless apparent that, of all his contemporaries in England or America, none thought so continually about the subject, wrote so much about it, or refused so long to give up hope for it.

"By what means," asked Lord North, "is authority to be maintained but by Establishing that Authority from Parliament?" His colleagues in Parliament knew that the question was rhetorical, and it took more than a century of development in imperial control to provide a different answer. Galloway, along with Benjamin Franklin, James Wilson, Thomas Jefferson, James Madison, and a few others, grasped the germ of that answer in the eighteenth century: that authority based on the sanction of force is impotent unless accompanied by what might be called moral sanctions. "It is this identity of Policy [in a great Empire]," wrote Galloway, "that gives the same Spirit to the Laws and Creates the same mode of thinking and acting in the people and establishes the same customs, Manners, prejudices, Attachments and Habits throughout the Empire, so as to form as it were, one People of the same Mind, in respect to their subordination and obedience as well as to their own safety and happiness. It is the true source from whence Spring all national attachments." James Wilson, in denying the authority of Parliament, spoke of "allegiance to the same Prince [which] ... naturally produces a union of hearts [and] ... a union of measures through the whole British dominions." Edmund Burke declaimed in gorgeous periods against the fallacy of trusting to paper government and urged the cultivation of those "ties which, though as light as air, are as strong as links of iron." This sort of language would be understood and received with applause at any Imperial Conference of the twentieth century, where men from New Zealand and from Canada unite in declaring that they are

55 Speech on Conciliation with America. Works, II. 140-41.
bound together in a moral rather than a political entity. The most recent volume on the British Empire, published in 1940, opens with these sentences: “The Empire is united not by force but by goodwill. It means co-operation, not compulsion. In it we live as free men.” Galloway, Franklin, Wilson, Madison, and Burke would have understood that. Mansfield and Blackstone would have called it a dissolution of government. Lord North and George III would have called it impossible.

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