5-2 Virtual Representation (1765)

Thomas Whately

Beginning with their opposition to the Sugar Act of 1764, the colonists consistently employed a simple syllogism: They could be taxed only by their own representatives; they were not represented in Parliament; therefore, Parliament could not tax them. They did not, contrary to Benjamin Franklin’s comments before the House of Commons in 1766, distinguish between “internal” taxes generated and consumed largely within the colonies, and “external” duties aimed at regulating trade within the empire as a whole. Franklin claimed that the colonists were opposed to the former but would accept the latter, even if they found the distinction inconsequential because they were opposed to all forms of taxes not sanctioned by their own representatives. Thomas Whately, secretary of the treasury under George Grenville and the official primarily responsible for drafting the Stamp Act, agreed that the distinction between internal and external taxes was pointless. In his Regulations Lately Made Concerning the Colonies, however, Whately argued that the colonists were in fact represented in Parliament, and therefore that their objections were specious.


As to the Quota which each Individual must pay, it will be difficult to persuade the Inhabitants of this Country, where the neadlest Cottager pays out of his Pittance, however scanty, and how hardly sooner earned, our high Duties of Customs and Excise in the Price of all his Consumptions; it will be difficultly I say too great an Imposition, to those who see, who suffer, or who relieve such Oppression; that the West Indian out of his Opulence, and the North American out of his Competency, can contribute no more than it is now pretended they can with the Expense of Services, the Benefit of which, as a Part of this Nation they share, and as Colonists peculiarly enjoy. They have indeed their own civil Governments besides to support; but Great Britain has her civil Government too; she has also a large Peace Establishment to maintain; and the national Debt, tho’ so great a Part, and that the heaviest Part of it has been incurred by a war undertaken for the Protection of the Colonies, lies solely still upon her.

The Reasonableness, and even the Necessity of requiring an Amortization of Wealth, the public Funds; the Inhabitants of the Colonies, are founded upon no other Authority; they are not obligatory if a Stamp Act is not, and every Argument in support of an Exemption from the Subintendence of the British Parliament in the one Case, is equally applicable to the others. The Constitution knows no Distinction; the Colonies have never attempted to make one; but have acquiesced under several parliamentary Taxes.

The Instances that have been mentioned prove, that the Right of the Parliament of Great Britain to impose Taxes of every Kind on the Colonies, has been always admitted; but were there no Precedents to support the Claim, it would still be incontestable, being founded on the Principles of our Constitution; for the Fact is, that the Inhabitants of the Colonies are represented in Parliament; they do not indeed choose the Members of that Assembly; neither are Nine Tenths of the People of Britain Electors; for the Right of Election is annexed to certain Species of Property to pecu­lar Franchises, and to Inhabitancy in some particular Places; but these Descriptions comprehending only a very small Part of the Land, the Property, and the People of this island: All Copyhold, all Leasehold Estates, under the Crown, under the Church, or under private Persons, tho’ for Terms ever so long; all landed Property in short, that is not Freehold, and all mortised Property whatsoever are excluded; the Possessors of these have no Votes in the Election of Members of Parliament; Women and Persons under Age being their Property ever so large, and all of it Freehold, have none. The Merchants of London, a numerous and respectable Body of Men, whose Opulence exceeds all that America could collect; the Proprietors of that vast Accumulation of Wealth, the Inhabitants of the Inland of Lords, of Hallifiax, of Birmingham, and of Manchester, Towns that are each of them larger than the Largest in the Plantations; many of those high in your Notes that you incorporated; and that great Corporation the East India Company, whose Rights over the Countries they possess, fall little short of Sovereignty, and whose Trade and whose Fleets are sufficient to constitute them a maritime Power, are all in the same Circumstances; none of them choose their Representatives; and yet are they not represented in Parliament? The Inhabitants of America, are in exactly the same Situation: All British Subjects are actually, all are virtually represented in Parliament; for every Member of Parliament sits in the House, not as Representative of his own Constituents, but as one of that august Assembly by which all the Commons of Great Britain are represented. Their Rights and their Interests, however his own Borough may be affected by general Dispositions, ought to be the great Objects of his Attention, and the only Rules for his Conduct; and to sacrifice these to a partial Advantage in favour of the Place where he was chosen, would be a Departure from his Duty; if it were otherwise, Old Sarum would enjoy Privileges essential to Liberty, which are denied to Birmingham and to Manchester; but as it is, they and the Colonies and all British Subjects whatever, have an equal Share in the general Representation of the Commons of Great Britain, and are bound by the Consent of the Majoritie of that House, whether their own particular Representatives consented to or opposed the Measures there taken, or whether they had or had not particular Representatives there.

The Inhabitants of the Colonies however have by some been supposed to be excused, because they are represented in their respective Assemblies. As the Citizens of London, in their Common Council; and yet so far from excluding them from the national Representation, it does not impeach their Right to choose Members of Parliament: it is true, that the Powers vested in the Common Council of London, are not equal to those which the Assemblies in the Plantations enjoy; but still they are legislative Powers, to be exercised within their District, and over their Citizens; yet not exclusively of the great Superintendence of the great Council of the Nation: The Subjects of a By-Law and of an Act of Parliament may possibly be the same; yet it never was imagined that the Privileges of London were incompat­ible with the Authority of Parliament; and indeed what Contradiction, what Absurdity, does a double Representation imply? What difficulty is there in allowing both, tho’ both should not be vested with equal legislative Powers; if the one is to be exercised for local, and the other for general Purposes? and where is the Necessity that the Subordinate Power must derogate from the superior Authority? It would be a singular Objection to a Man’s Vote for a Member of Parliament, that being represented in a provincial, he cannot be represented in a national Assembly; and if this is not sufficient Ground for his being, neither is it for an Exemption, or for any Pretence of an Exclusion.

We value the Right of being represented in the national Legislature as the dearest Privilege we enjoy; how then would the Colonies complain, if they alone were deprived of it? They acknowledge Dependance upon their Mother Country; but that Dependance would be Slavery not Con­nection, if they bore no Part in the Government of the whole; they would then indeed be in a worse Situation than the Inhabitants of Britain, for these are all of them virtually, tho’ few of them are actually represented in the House of Commons, ... Happily for them, this is not their Condition. They are on the contrary a Part, and an important Part of the Commons of Great Britain they are represented in Parlia­ment, in the same Manner as those Inhabitants of Britain are, who have not Voices in Elections; and they enjoy, with the Rest of their Fellow-subjects, the inseparable Privilege of not being bound by any Laws, or subject to any Taxes, to which the Majority of the Representatives of the Commons have not consented.

Questions

1. What were the essential components of the doctrine of "virtual representation"? The colonists rejected it, but did they employ it within their own colonies?

2. The colonists claimed that their own individual legislatures alone could tax them. How did Whately answer this claim? Is his argument convincing? Why or why not?

3. Whately argued that necessity, precedence, and right were all on the side of those defending the stamp tax. Was he correct? Explain.

5-3 Declarations of the Stamp Act Congress (1765)

BOSTON was the scene of the first major crowd actions against the Stamp Act. Those acts; and others effectively blocked the implementation of the act. Also, it was Massachus­etts that suggested that each colony send delegates to a special intercolonial congress that...