Did the British doctrine of Parliamentary sovereignty allow viable alternatives to avoid conflict with rebellious colonists?

Viewpoint: Yes. Crown officials had viable alternatives before 1776 that could have preserved the essential claims of the contending parties and averted armed conflict.

Viewpoint: No. The firm position of the British government that Parliament should reign supreme throughout the realm prevented the Crown from considering the American position that the empire might be preserved without totally subordinating the colonies.

The dispute between Great Britain and America was an internal conflict, a civil war within the British Empire. As such, ultimate responsibility for resolving the crisis fell to the home government in London. Yet, why did Whitehall (the London thoroughfare where the chief government offices are located) fail to resolve the Anglo-American dispute? In answering this most basic question about the Revolutionary War (1775–1783), some historians have explained that the structure of British politics made the Revolution inevitable. They argue that after the French and Indian War (1754–1763), Whitehall, with support from the British people, was determined to replace its earlier policy of "salutary neglect" toward the colonies with a policy of strict administration. To that end Parliament enacted a series of measures designed to better regulate American trade and currency and to raise taxes to help defray the cost of managing the British Empire. The colonists made little protest against British measures regulating their trade, but they strongly opposed Parliamentary laws taxing Americans for the sole purpose of raising revenue. Parliament justified its authority to tax Americans on the doctrine of Parliamentary sovereignty, that the British legislature possessed complete authority over the colonies. The colonials obediently acknowledged Parliament's authority over external affairs (trade and defense) but violently denied its authority on internal matters (taxation) since the colonies were not represented in the British legislature. Instead, the colonists argued that only their elected representatives in the provincial assemblies had the right to enact legislation regulating internal colonial affairs. The Americans therefore viewed the British Empire as a confederation with political authority divided between central and local governments. The British ruling elite, however, ridiculed the American concept of empire. From their perspective one institution must have the final lawmaking authority, otherwise confusion, not order, would reign. Either Parliament possessed absolute authority over the colonies, or it possessed no authority at all. Thus, Whitehall boxed itself into an all-or-nothing position that left no room for compromise. Once the Americans had challenged one aspect of Parliament's authority over the colonies, the Crown was bound to defend that supreme authority and to consider colonial opposition as a threat to the British constitution and Empire. Unless the issue of sovereignty was first settled, there was no viable plan to resolve the Anglo-American dispute. Since neither contending party was willing to compromise on this issue, armed conflict was inevitable.

Other historians believe that such arguments, however, are mere excuses. Instead, the fall of the First British Empire was the result of human failure, the unwillingness of the home government to implement viable alternatives to sepa-
ration that were available to imperial officials. One can trace this human failure to the Crown, particularly young King George III and his inept ministers who implemented an inconsistent American policy from 1763 to 1774 that served only to encourage and inflame colonial resistance. Both American and British leaders offered several proposals to Whitehall to reconcile the imperial crisis, including plans to modify the British Empire along the lines of the Anglo-American relationship as it existed before 1763 and for the colonists to tax themselves in support of the empire. This solution was perhaps the best prescription for resolving the dispute, though British officials did not pursue it. Neither did Whitehall seriously consider suggestions made by royal officials granting America representation in Parliament. Instead, it answered this proposal with the argument that Americans were "virtually represented" in Parliament. When the colonists protested Parliament's tax on British tea in 1774, partly on the political doctrine of "no taxation without representation," Parliament reacted with the punitively motivated Coercive Acts (1774). Still, Americans hoped for reconciliation and petitioned the King for a redress of their grievances. If London hoped to resolve the imperial crisis the Coercive Acts had to be partly repealed. Instead, George III responded to the colonists' supplications by declaring them in "open and avowed rebellion" and sending an army of more than thirty thousand troops to America to crush Patriot resistance. In December 1775 Parliament took the imperial crisis to the point of no return by passing the Prohibitory Act, which suspended trade with the colonies and ordered the seizure of colonial ships and their cargo. With both the King and Parliament responding to their proposals for peace with disdain and anger, Americans were left with no other alternative but to create an independent government and military force.

Visible alternatives to armed conflict were readily available to the home government. Its early policy of conciliation, as seen with the Stamp Act (1765) and Townshend duties (1767), quieted American protests and brought subordination. Instead of continuing to implement this successful conciliatory policy following the Boston Tea Party (1773), Parliament instituted draconian measures that were certain to galvanize American resistance to the mother country. In short, the British ruling elite, bent on preserving its political supremacy throughout the empire at all costs, failed to consider viable alternatives to separation that would have cost the mother country little financially.

The question of British inability to resolve the Anglo-American dispute illustrates the inherent problems in explaining the causes of the American Revolution, particularly the role played by political leaders. Although most historians saddle British officials with the blame in failing to resolve the imperial crisis, both British and American leaders refused to compromise on the main bone of contention: Parliamentary sovereignty. In examining such disputes, students frequently adopt the simplistic explanation that human conflicts are sometimes inevitable. However, inevitability is not an acceptable answer to any event because it implies that man's destiny is beyond human control and thus relieves individuals and societies of responsibility for their actions. Leaders on both sides of the Atlantic must be held responsible for their failure to peacefully resolve the imperial crisis. Assuming that the American Revolution was not inevitable, can British and American leaders be characterized as blundering politicians and irresponsible agitators who created a crisis that was highly artificial and that eventually led to a needless war by exaggerating the potential consequences of compromising on the issue of Parliamentary supremacy? Was Parliamentary supremacy absolutely necessary for Whitehall to govern the empire as British officials argued? Would Parliament really have lost all control over the colonies if it shared political authority with the Americans? Likewise, if Americans accepted Parliamentary supremacy would it naturally follow that Parliament would pass legislation "enslaving" the Americans as Patriot leaders claimed? In the end both British and American leaders, in dealing with the imperial crisis, were acting according to popular sentiments in their respective countries. Although this fact begs the question of whether political leaders shape or follow public opinion, perhaps it still points to "the people" as being ultimately responsible for the American Revolution and drives home the importance of a politically involved citizenry.

**Viewpoint:**
Yes. Crown officials had viable alternatives before 1776 that could have preserved the essential claims of the contending parties and averted armed conflict.

At first glance, students of the American Revolution might find persuasive the thesis that independence was inevitable. Three thousand miles separated British settlers from Europe. The colonists established self-governing communities from the start, and they would not submit to domination by England. The American Revolution illustrates that colonialism—during the eighteenth century and in later years—simply could not work. While these arguments are valid, they do not represent the last word on the conditions that provoked the British colonies to break away from the empire. Leaders of the Revolution remained loyal to the British Empire until at least 1776. They favored the consolidated political system in Britain and later imbued their own government with many of its features. While
Americans rightly hail their leaders as Founding Fathers, it is foolhardy to believe that their genius could only have been used for separating from Britain. Viable alternatives to separation were within reach, but inflexible leaders in the empire did not appropriate them. The demise of the First British Empire was the result of human failure—the unwillingness of key leaders to amicably resolve tensions that had accompanied its early success in America.

The Treaty of Paris (1763) was an ending and a beginning. It finally brought a bitter war between France and Britain to an end after many years of warfare on several fronts, including North America. It was also the beginning of a new outlook among royal officials on how to best manage the mainland colonies. They ignored customs and traditions in colonial affairs that had developed for more than a century. The old colonial system of Navigation Acts had demonstrated that the colonies would comply with policies that they considered consistent with their interests. Rigid enforcement of the Navigation Acts had never worked, and British officials
since the reign of William and Mary (1689-1702) recognized that this flexible arrangement would yield significant dividends for the colonies and Britain. When the French and Indian War (1754-1763) ended, British officials decided that it was time to impose the will of the Crown upon the colonies, lest they separate without cause. Their single-minded devotion to a new colonial system proved costly.

British officials at home and in the colonies insisted upon rigid enforcement of the new colonial policy on the premise that the colonies had never paid their fair share to the empire. This decision meant imposing what the colonies called internal taxes upon them as well as barring settlers from crossing the Appalachian Mountains. Britain claimed this policy was for their protection from Native Americans. For British policymakers, protecting the colonies meant sending soldiers to America, whom the colonists immediately associated with taking away their liberty. Moreover, royal officials in America advised the Crown of changes in colonial attitudes. Sir Francis Bernard, royal governor of Massachusetts, warned that it is "the proper and critical time to reform the American governments upon a general, constitutional, firm, and durable plan; and if it is not now, it will probably everyday grow more difficult, till at last it becomes impractical." George III and his advisers began to pay more attention to such warnings.

The reign of George III (1760-1820) turned the British Empire upside down. His predecessors had accommodated British policy to the colonial determination to selectively abide by the mercantile program of the state. When it was in their interest to trade directly with Britain they did so, but the colonies continued to transport goods outside the British Empire. Both Britain and the colonies had profited from this unofficial arrangement. George III brought in a new wave of advisers, whose views clashed with established leaders such as William Pitt and Isaac Barré, both of whom considered the new colonial policy provocative. The new King, overly self-conscious, was unprepared for leadership. Directed by John Stuart, Earl of Bute, King George III announced in his ascension address that he "gloried in the name of Britain." The King believed that the colonial policies of his predecessors were inadequate. Soon after his appointment as First Lord of the Treasury in 1762, Lord Bute began translating this attitude into policy. Though he had been in service with Frederick, Prince of Wales, and the father of George III since 1738, his tenure was ephemeral. Lord Bute made enemies for negotiating a treaty with France that many leaders in Britain considered inadequate. He had also appointed many of his countrymen from Scotland to political offices, an act that disturbed others. He resigned in 1763.

His resignation did not change the evolving imperial policy of Britain. Indeed, his successor had supported his peace negotiations with France and shared the belief that the colonies required better management. George Grenville was appointed Chancellor of the Exchequer, and he immediately introduced a bill for taxing the American colonies. Though he had been in service during the reign of George II (1727-1760), he held an antiquated view toward the colonies. "Great Britain protects America," Grenville boasted, "America is bound to yield obedience." However, the colonies had rejected this theory since Parliament had adopted the first Navigation Acts in the late 1600s. No administration had successfully compelled the colonies to submit to this imperial theory. In a succession of measures passed from 1763 to 1765, Parliament enacted laws that provoked colonial resistance and produced the theory that guided independence.

Of all the policies of Britain during this period, the Stamp Act (1765) was the most loathsome in America. The colonies interpreted this measure as an attempt to reduce them to servitude and to deprive British citizens of their property. The resistance that followed was an attempt to preserve colonial rights—not a call for independence. Imperial policies were also catalysts for the theory that ultimately led the colonies to sever ties with Britain. However, resistance began only as a means to prevent Parliament from abridging colonial rights. Had the colonies not acted, they would have unwittingly consented to foreign taxation and to whatever might follow. Ultimately, independence was a by-product of the new colonialism.

Amid the turmoil in America over the Grenville Acts, there were rapid turnovers in the English government. Charles Townshend succeeded Grenville in the Treasury Department. In the summer of 1766, George III wisely appointed Pitt as prime minister. Pitt, a friend to the colonies and an ardent opponent of the Stamp Act, argued that the colonists were entitled to all the rights of English citizens. The government quickly changed again when Pitt suddenly fell ill, and the Crown elevated Townshend to that office. Unlike his predecessor, Townshend was not concerned with colonial rights, and he acted hastily when exercising the powers of Britain. Parliament complied with his request in 1767 for special duties on lead, paint, paper, glass, and tea imported into the colonies, taxes that produced a new
wave of protest in America. In addition, Parliament suspended the New York legislature until it agreed to quarter British soldiers. By 1770 Parliament had bowed to colonial resistance and repealed all the revenue duties except for the one on tea.

The 1760s ended quietly, but unresolved questions of British authority in America remained. In the years before the Declaration of Independence (1776) it was not a certainty that the immediate past would determine the course of Anglo-colonial existence. There is no evidence that the colonials were convinced that reconciliation was impossible. Indeed, after the Boston Tea Party (1773) and the Coercive (Intolerable) Acts (1774) that followed, prominent colonists held the conviction that the British Empire could survive. At the First Continental Congress (1774) in Philadelphia, colonial leaders—including George Washington, James Madison, and John Dickinson—favored reforming the empire. Led by Joseph Galloway of Pennsylvania, they made compromise the first order of business. Galloway proposed creating an American Parliament, composed of colonial and British representatives. Delegates representing New York, New Jersey, and Pennsylvania considered the proposal attractive; however, upon the arrival of the Suffolk Resolves in Philadelphia the majority rejected the Galloway Plan on a vote of six to five. The colonies decided to follow the Suffolk conference, calling for boycotting British goods until Great Britain repealed the Intolerable Acts.

A grave failure of British leaders was their inability to see the empire in a new light. The imperial policy adopted by the administration of George III was not working. There were profound differences in Britain and America over colonial administration. British policymakers missed an opportunity in 1774 to resolve the dispute. Although the colonies turned down the Galloway Plan, there remained five states that considered it a workable solution. It is also reasonable to assume that the six states voting against it might have reconsidered if the plan was modified to accommodate more of their interests. However, the empire was unwilling to modify its imperial policy. This decision was made by men, and was not some fatal flaw in managing a united kingdom.

The interest in reconciliation in America was not fleeting. Not even hostilities in Lexington and Concord in April 1775 or at Bunker Hill in June doomed the prospect of peace. The colonies bolstered themselves by forming an army and a navy, but there was no official policy of war. On the contrary, the colonies submitted an olive branch to the King, who further breached their trust with the declaration that they were in “open and avowed rebellion.” Clearly, the imperial policy had collapsed in America; yet, the British government did not pursue alternatives. London evidently considered “peace” to mean “capitulation,” and it exacerbated conditions in colonial affairs by turning the rebellion into a world war. What accounted for the course of action that produced a new nation? Was it, as one historian declared, “That of the men most responsible for British policy in 1774 none . . . comprehended the nature of the crisis that confronted the empire.”

Indeed, London made critical blunders during at least two phases of colonial resistance. During the 1760s the colonial argument was a simple one: the colonies believed that only their local assemblies had the constitutional authority to tax them. They articulated these arguments clearly when they convened the Stamp Act Congress (1765). Though colonial representation in Parliament was not a popular subject, English officials would have been wise to consider it. They instead countered with the notion that since Parliament legislated for the entire empire, all British subjects wherever they resided were virtually represented even though they did not help elect members of Parliament. This argument was not persuasive among the colonists; yet, few of them openly talked about independence. They evidently saw themselves as Britons, and they wanted to preserve the rights that belonged to them.

One decade later the war of words degenerated into armed conflict. It was not the disaster in Lexington and Concord that made military struggle a reality—it was the way British officials handled the crisis involving tea. The Coercive Acts drew a line in the sand and were the catalyst for American unity. Congress quickly assumed the duties of a national government for the colonies. If London officials wanted to hold on to the colonies, they had to neutralize the crisis. Instead, they made matters worse by passing such measures as the Prohibitory Act (December 1775), suspending trade with the colonies, and seizing colonial ships and confiscating their cargo. Aggrieved by such acts, Americans readily adopted the reasoning in Common Sense (1776), in which political philosopher Thomas Paine suggested that they were poised to create a new republic of liberty.

The colonies, however, did not want a revolution in the truest sense of the word. They repeatedly asked for a reversal of Parliament’s laws and an agreement that they would be taxed by their elected representatives. On 1
July 1775 Congress officially denied “any designs of separation from Great Britain and establishing independent states.” In 1821 former U.S. president and Revolutionary statesman John Adams wrote that a commitment to independence during the 1770s was “as far from the truth as the zenith is from the nadir. For my own part, there was not a moment during the Revolution, when I would not have given everything I ever possessed for a restoration to the state of things before the contest began.” The British government was unwilling to return to the state of affairs that existed before 1763. Only the unwillingness of London to compromise best explains why the colonies ultimately took the path of separating from England.

It requires little imagination to see that human failings were primarily to blame for the collapse of the American wing of the British Empire. Protests against the Stamp Act fell silent following its repeal. This reaction suggests that a Crown conciliatory policy was a sure way to disarm the colonies. Even the partial repeal of the Townshend Acts in 1770 achieved a cessation of colonial boycotts. British officials, however, ignored this policy following colonial destruction of tea in Boston in 1773. Certainly the owners of the cargo deserved compensation for the loss of their property; yet, the draconian policy that followed was miscalculated. The evidence shows that reconciliation, or at least a conciliatory policy, might have achieved the same results as repealing the internal taxes in the 1760s. No one can say that the British Empire would have lasted forever, but no certainty existed that the political arrangement that had survived for more than 150 years would have collapsed during an 8-year war. Given this reality, there can be little doubt that London did not give peace a fair chance and shoulders the blame for losing the colonies in 1776.

The self-righteous imperial policy of Britain drove the colonies to separate from the empire. The inflammatory conduct of royal authorities established a national American identity in politics and law. The Declaration of Independence stated in clear terms that the colonies were so aggrieved that it was their duty to separate from British tyranny. The arguments in the document might have been exaggerated, but they accurately enumerated acts of British aggression. For more than a decade, it implies, George III had consistently abused his authority over the colonies. The Declaration made it unlikely that Britain would ever again control the colonies. Until then, a change in British policies would have ended the contest in America.

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Viewpoint:
No. The firm position of the British government that Parliament should reign supreme throughout the realm prevented the Crown from considering the American position that the empire might be preserved without totally subordinating the colonies.

On 19 April 1775, on the town green in Lexington, Massachusetts, British and American soldiers exchanged the first shots in the American War for Independence (1775–1783). In another sense, however, the conflict between America and Britain already had been raging for more than a decade. The crisis began in earnest in 1763, when the British thoroughly routed the French in the French and Indian War (1754–1763) and seized possession of Canada and the eastern Mississippi valley. While valuable, these newly conquered lands required protection. Parliament responded by deploying an army of ten thousand redcoats to America at great expense to protect the new territory. Moreover, Britain’s national debt had doubled during the war. New sources of revenue were needed to meet these financial burdens. The Grenville administration (1763–1765) responded by proposing to levy a series of taxes on the American colonists. Parliament enacted the new taxes, with its members basing their power to tax on the doctrine of Parliamentary sovereignty. By invoking Parliamentary sovereignty, however, British leaders adopted a position that subsequently prevented them from accepting any political innovations that might have allowed a peaceful resolution to the crisis with the American colonies.

The first of these taxes came when Parliament passed the Sugar Act (1764), which altered the tariffs charged on foreign (non-British) molasses imported into the American colonies. The colonists objected to the act, but they did not challenge Parliament’s legal authority to issue it. The law could be interpreted as an effort by Parliament to regulate trade in the empire rather than as a tax law aimed at raising revenue. Strictly speaking, the Sugar Act revised the Molasses Act (1733), which also had levied a duty on the importation of molasses into the colonies. While the colonists argued that the Sugar Act was bad policy, they almost universally agreed that Parliament had the lawful authority to regulate trade for Great Britain.

At the same time that news of the Sugar Act arrived in the colonies, however, word also spread that Parliament was considering a stamp tax for the colonies. The proposed tax would
I have been charged with giving birth to sedition in America. They have spoken their sentiments with freedom against this unhappy act, and that freedom has become their crime. Sorry I am to hear the liberty of speech in this house, imputed as a crime. No gentleman ought to be afraid to exercise it. It is a liberty by which the gentleman who calumniate it might have profited, nay which he ought to have profited. He ought to have disisted from this project. The gentleman tells us, America is obstinate; America is almost in open rebellion. I rejoice that America has resisted. Three million of people so dead to all feelings of liberty, as voluntarily to submit to be slaves, would have been fit instruments to make slaves of the rest. I come not here armed at all points, with law cases and acts of parliament, with the statute book doubled down in dog’s-ears, to defend the cause of liberty: if I had, I myself would have cited the two cases of Chester and Durham. I would have cited them, to have shown that even under former arbitrary reigns, parliaments were ashamed of taxing a people without their consent, and allowed them representatives. Why did the gentleman confine himself to Chester and Durham? He might have taken a higher example in Wales; Wales, that never was taxed by parliament till it was incorporated. I would not debate a particular point of law with the gentleman. I know his abilities. I have been obliged to his diligent researches; but, for the defense of liberty, upon a general principle, upon a constitutional principle, it is a ground on which I stand firm; on which I dare meet any man. The gentleman tells us of many who are taxed, and are not represented. The India Company, merchants, stock-holders, manufacturers. Surely many of these are represented in other capacities, as owners of land, or as freemen of boroughs. It is a misfortune that more are not equally represented: but they are all inhabitants, and as such, are they not virtually represented? . . . they have connections with those that elect, and they have influence over them. The gentleman mentioned the stockholders: I hope he does not reckon the debts of the nation as a part of the national estate. Since the accession of King William, many ministers, some of great, others of more moderate abilities, have taken the lead of government. . . .
require the use of specially stamped paper (for which a fee or tax would be charged) for legal documents, diplomas, property deeds, newspapers, advertisements, and playing cards. The colonists correctly perceived the bill to be a tax measure, and word of the proposal raised ominous warnings from them. The proposed tax, one colonist warned the Grenville ministry, “would go down with the people like chopped hay.” Despite the warnings, Parliament enacted the legislation by overwhelming margins. The colonists responded by instituting an economic boycott against British merchants, rioting, and writing public protests challenging Parliament’s legal authority. What had been for decades a stable and unquestioned relationship between Great Britain and the American colonies was suddenly thrown into doubt.

The colonists based their resistance to Parliamentary taxes on the principle of “no taxation without representation.” In voicing their objections to the Stamp Act (1765) in these terms, the colonists were drawing on a well-established political (and, they believed, legal) principle. Essentially, the colonists claimed that legitimate political authority is based on the consent of the governed. They further assumed that consent is expressed through representation; and, they maintained, representation is grounded on possession of the franchise. The colonists, however, were legally barred from voting in Parliamentary elections. In no way, they reasoned, could they be considered represented in Parliament. Therefore, Parliament lacked legal authority to tax them. Only the colonial legislatures, in whose elections they participated, could legally impose taxes on them.

Parliament’s defenders offered two responses to the colonists’ claim to a legal exemption from Parliamentary taxes. First, they contended that one need not possess the franchise in order to have representation in Parliament. Few citizens in England could actually vote, because few residents there could meet the legal voting qualifications. However, British leaders explained, nonvoters were still represented in Parliament. Whereas voters were “actually” represented in Parliament, subjects who did not have the suffrage were “virtually” represented there. Essentially, the idea of virtual representation assumed a compatibility of interests between voters and nonvoters. Nonvoters were purportedly represented because they shared common interests with citizens who possessed the vote. While representing the interests of voters, members of Parliament would simultaneously pursue the interests of nonvoters.

Many colonists ridiculed the idea of virtual representation. Other colonists argued that even if virtual representation were a valid political principle, it did not apply in their case. English nonvoters might share common interests with voters in England, but American colonists had interests at odds with those of English voters and nonvoters alike. For example, English voters (and hence members of Parliament) would support legislation that raised colonial taxes precisely because such policies would likely ease the tax burden on English residents. Several members of Parliament sided with the colonists in the debate over the Stamp Act. Most famously, Henry Conway, Isaac Barré, and William Pitt made speeches in the House of Commons challenging the claim that the colonists were represented in Parliament.

A potentially devastating problem—both theoretical and practical—thus emerged. If the colonists were not represented in Parliament, on what basis could Parliament claim authority to govern the colonies at all? If lack of representation precluded Parliament from taxing the colonists, why did it not also place the colonists beyond Parliament’s authority altogether? Not surprisingly, some of Parliament’s defenders believed that secession was what the colonists had in mind all along. Meanwhile, British merchants, reeling from the colonial boycott, lobbied Parliament for relief. By early 1766 Parliament was moving to repeal the Stamp Act. Members of Parliament insisted, however, that the repeal be accompanied by the Declaratory Act (1766), a statute reaffirming Parliament’s plenary authority over the colonies. Parliament thus reasserted its authority to tax the colonists while choosing not to exercise that power.

Most members of Parliament asserted their authority primarily by invoking the doctrine of Parliamentary sovereignty. The insistence on Parliamentary sovereignty was the second and more important response to the colonists’ claim that Parliament lacked the authority to tax them. Advocates for Parliamentary sovereignty argued that in every society there must be a final, indivisible, supreme lawmaking authority. Subordinate governments might exist with the power to enact by-laws for local populations. These subordinate governments might exist with the power to enact by-laws for local populations. These subordinate governments, however, remain subject to the superior power. The alternative—a nation with two (or more) lawmaking powers exercising supreme power over the same people—would necessarily result in confusion, conflict, and ultimately the dissolution of society. It would, British leaders asserted, create a political monster, an imperium in imperio (empire within an empire). From the British perspective the dispute over Parliament’s authority was simple. Either Parliament possessed complete authority over the colonies or it possessed no authority at all.

Initially, the colonists resisted this either-or proposition. The colonists distinguished between
the power to legislate and the power to tax. They argued that when their ancestors immigrated to the colonies they did so with the understanding that Parliament would retain limited authority over them. They further argued that the American colonists could not be represented in Parliament and therefore it did not have the authority to tax them. Additionally, since members of Parliament could not be sufficiently familiar with conditions peculiar to distant, individual colonies, it was also agreed that the colonial legislatures would exercise legislative authority over their individual internal affairs. Yet, the colonists also acknowledged Parliament's authority in external affairs. They recognized the need for a single, superintending authority in the empire to govern matters of general welfare, chiefly in trade and defense. Local colonial governments were inherently incapable of governing for the general welfare of the empire. Only Parliament was situated to govern in general affairs.

The colonists' argument was based on several interconnected innovations in political thought. First, in formulating their claim that authority in the empire was divided between different legislative bodies, the colonists conceptualized modern federalism. Political authority could be divided between central and local governments as long as those governments did not exercise supreme authority in the same jurisdiction. By 1787 Americans were fully committed to federalism, embodying it as a core political principle in the U.S. Constitution. Moreover, when the Framers of the Constitution debated how to make federalism practicable, they turned to the colonial experience for guidance. Recognizing that in theory the colonial legislatures might pass laws that exceeded their authority or that were harmful to the welfare of the empire, colonial theorists such as Connecticut cleric Samuel Hopkins and Maryland lawyer Daniel Dulany argued that there existed an institutional mechanism for keeping the local governments in check. Colonial governors, they pointed out, were appointed by the King and possessed veto power. The governor represented the King (and hence, presumably, the welfare of the empire) and would use the veto to nullify objectionable colonial legislation. Moreover, they noted that colonial laws were temporarily suspended until they had been sent to England for the King's approval. If the King wished, he, too, could veto colonial legislation. In other words, actions by the colonial legislatures were subject to a double veto, and Parliament's authority was thereby secure from encroachments by the colonial legislatures.

Eventually, the Framers would place this veto power in the national judiciary, whose power of judicial review enables it to strike down state laws that encroach on the jurisdiction of the general government. The notion of a written constitution, a binding body of laws, is, like the idea of federalism, an American creation that has immediate roots in the colonial dispute with England. When pressed to identify the legal basis for their claim that authority in the empire was divided federally, the colonists replied that this arrangement was laid out in the colonial charters. They further argued that these charters, issued to them by the king when they settled the colonies, were legally binding. This contention about the charters was consistent with their argument about representation. The colonists were not represented in Parliament; nonetheless, because they recognized a role for Parliament in regulating the general affairs of the empire, they consented (through the charters) to limited Parliamentary rule.

Another innovation in colonial political thought is implicit in the idea of a constitution as a fixed, binding body of law. By suggesting that Parliament derived its authority from the charters the colonists were in fact claiming that there is a lawmaking power superior to Parliament. If sovereignty implies the power of a superior to make and enforce rules for an inferior (as leading political and legal philosophers assumed), and if Parliament was subject to a superior rule of law, then Parliament could not be sovereign. So just where did this superior power reside? According to the colonists, sovereignty rested with the people. A constitution is a body of law issued by the people acting in their capacity as sovereign. It expresses the will of the people and is thus binding on the government it creates (a constitution literally creates the institutions of government) to carry out their will. If they see fit, the people in their sovereign capacity can divide power federally between central and local governments. Moreover, because a constitution defines and limits governmental power, one might argue that when government exercises power inconsistent with the sovereign's (that is, people's) will, that exercise of power is unlawful and without legal force. That is precisely how later American constitutionalists, such as New York Federalist Alexander Hamilton and future Supreme Court Chief Justice John Marshall, would defend the power of judicial review as a democratic institution.

The claim that the people are sovereign and that a constitution, as an expression of that sovereignty, binds the institutions of government, was directly at odds with the doctrine of Parliamentary sovereignty. By 1765 the doctrine of Parliamentary sovereignty had become an axiom in English political thought and practice. Moreover, the doctrine held that Parliament's authority in the empire was not merely indivisible, it was illimitable too. There were no legal limits to
Parliamentary authority other than those that Parliament imposed upon itself. The British conceived of a constitution as an organic (as opposed to a fixed) body of law. Governmental powers and individual rights change over time, in accordance with changes in custom, judicial rulings, and legislative statutes. In other words, under British law there is no difference between a Parliamentary statute and the British constitution. A Parliamentary statute is by definition constitutional. Of course, Parliament in practice might not govern arbitrarily. There exist forces capable of restricting Parliament's use of power, including electoral pressure (which again highlights the colonists' objection to their disenfranchisement) and respect for tradition, precedent, and the rule of law. Still, there are no legal limits to Parliament's authority. As leading jurists of the day liked to say, Parliament can do anything but make man a woman.

Because British leaders asserted the doctrine of Parliamentary sovereignty, a federal solution to the British-colonial crisis was impossible. Federalism assumes that political authority is limited and divided among multiple, autonomous governments. The claim that Parliament's authority was unlimited was at odds with colonial claims that its authority did not include the power to tax. In short, British leaders offered an all-or-nothing proposition. British adherence to the doctrine of Parliamentary sovereignty prevented Britain from conceiving political innovations, like those suggested by the colonists, that might have preserved the empire without totally subordinating the colonies to Parliament.

Seen in this light, war was probably inevitable. Parliament was certain of its power and was determined to assert it. The colonists, believing that their rights were being violated, were determined to resist the offending power. True, until 1775 the conflict was predominantly intellectual (the Boston Massacre of 1770 involved bloodshed, but it did not involve conflict between armies). The historic repercussions of the intellectual contest, however, would be of far greater importance than the physical battle. In fact, one might reasonably claim that without the intellectual conflict a war for independence might never have occurred. Above all else, the movement toward American independence proves that ideas do have consequences.

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