2—Independence and Revolution

Issues:
- The effects of British v. Spanish or French settlement in North America.
- European colonists living in British North America find much that attracts them to the British Empire.
- That attraction changes dramatically in the period between 1763 and 1776.
- As a result of that change, colonists develop a rationale and rhetoric that will become the basis for not only their Declaration of Independence but also the formation of a new government.
- Colonists living in what will become the United States declare their independence from England and engage in a revolutionary war.

Expected Learning Outcomes:
- Students will understand why the British settle where they do in North America and how that legacy continues to resonate today.
- Students will understand why colonists living in British North America were happy and satisfied to be British subjects from 1607 to 1763.
- Students will understand why that relationship changes between 1763 and 1776.
- Students will understand the role of the patriot philosophers and patriot rebels in moving European colonists toward independence from England.
- Students will understand the rhetoric of independence.
- Students will be able to explain how the Declaration of Independence embodies the rhetoric of independence promoted by the patriot philosophers.
- Students will understand why the Declaration was written.

Note: First day’s reading: pages 1-11; second day’s reading: pages 12-17.

All students should come to class prepared to teach the other students in the class what they have learned through preparing for the class and be able to provide evidence to support their ideas.
Preparing a Revolutionary Generation

The history of colonial America provides a story of a people who became increasingly committed to liberty, to “republican principles,” and to protecting their rights and privileges. But starting an investigation of American history with independence is, in a way, reading history backward. Initially, it was unclear which European nation would establish dominance in North America. And even after England established control over the area that would someday become the United States, independence did not enter the minds of the colonists for over 150 years. Although most people came to the British colonies of North America for economic, social, political, or religious opportunity, they retained strong political and economic ties with England and most believed that the traditions of liberty were more developed in England than in any other nation of the world. They considered themselves to be subjects of the English crown, and they believed that they retained all the rights and privileges granted any Englishmen by the traditions and laws of England.

The Spanish and the French both began settlement in the Americas before the English. The nature and timing of British settlement produced a unique culture in that part of British Empire that would someday become the United States. The Spanish arrived first (early 1500s) and their settlement focused on the areas surrounding the Caribbean Sea and what is today Central and South America. The French came later (mid-1500s) and, seeking to avoid direct competition with the Spanish, settled in the area of the St Lawrence River and the Great Lakes region. English settlement, coming later still (early 1600s), developed geographically between the other two world powers around the Chesapeake and Massachusetts Bays.

While the Spanish and French brought with them a strong central government tradition, the British had already established the beginnings of a parliamentary system where the King (or Queen) was subject to constitutional restraints.

The Spanish and French brought with them a close connection between church and state. They had little sense of the term “separation of church and state.” By the time the British arrived Martin Luther and others had already begun the Protestant Reformation, and the Church of England had already broken away from the Catholic church. Although the King of England was the head of the Church of England, and the Church of England was the official, established church in England, several legal and illegal Catholic and Protestant groups were operating within the English religious culture.

While Spanish and French exploration and settlement in the Americas was for the most part done by single men seeking adventure, gold, and glory, a significant amount of the British experience was based on family settlement, especially in New England, and even in the Virginia colonies a pattern of family settlement developed quickly. And while most of the Spanish and French exploration was financed by the respective heads of state, much of the British settlement was financed by Joint Stock Companies made up of private investors, who, with the blessings of the crown sought to achieve economic success. Thus, most of the colonists that settled in British North America exhibited a stronger commitment to permanency, family settlement, protestant religion, and individual economic enterprise than other European colonial groups.

In addition to these general differences in settlement patterns, English settlers brought with them a unique political and legal heritage. The British political and legal system was in the process of evolution at the time of settlement, and generally it could be said that the political trend was away from an absolute monarchy and toward representative government. It was also moving away from a legal system based upon the arbitrary will of the monarch and judicial whim and toward a system based upon judicial precedents. These changes were reflected in the attitudes of the early colonists and the governmental and legal systems they established in the colonies.

From their English heritage British colonists in North America inherited an appreciation for a British Constitution that was not a single document, but consisted of many documents, acts, agreements, laws, declarations, and traditions that established the rights and privileges of Englishmen. Examples of these documents would be the Magna Charta of 1215, which prohibited taxation without representation, and the English Bill of Rights of 1689, which made monarchs subject to law and consent of parliament. Because of these documents English colonists believed that as English citizens they had the right to have their own governments, the right to be taxed only by their own consent, the right to have free and unfettered elections for representatives in their governments, the right to trial by jury, and the right to own and keep personal and real property.
From their British heritage the English colonists also inherited a commitment to the idea of a “balanced government” in which power was divided among the traditional social classes of the European world — the royal family, the aristocracy, and the common people. Each “part” of the government was supposed to control and check the power of the other two. The monarchy (inherited) represented the interests of the king, the House of Lords (inherited) represented the interests of England’s noble families, and the House of Commons (elected) represented the interests of everyone else. Out of this commitment to balanced government came the creation and acceptance of colonial governments in America where the Royal Governors (chosen by the King) represented the interests of the king, the Upper Houses of the colonial legislatures (chosen by governor) represented the interests of men of wealth and status in the colonies, and the Lower Houses of the colonial legislatures (elected) represented the interests of everyone else.

English colonists also inherited a commitment to a body of common law that took precedence over the will of the monarch. Judges were expected to make decisions on the basis of established precedents that established order and consistency in the law, trial by jury, and justice and fairness.

These political and legal traditions created among the colonists a “fierce and intractable” spirit of liberty, and “tenacious commitment” to self government and to civil freedom, and a strong commitment to “rule of law.”

In addition to these political and legal traditions English colonists brought with them a strong commitment to economic freedom. By far the most predominant reason for colonists to come to America was the economic oppression they faced in Europe. Most were prohibited from owning land, and because of that they had no way to raise their social and political status, nor, in fact, could they even vote. Colonists believed that economic opportunities existed in America that never would have been granted to them in Europe. All of the colonists, even those who came for religious freedom, expected to own their own property, reap the benefits of their own labors, and live their lives to their own advantage. Even though the English government attempted to regulate their economic affairs, the colonists experienced a greater dose of economic freedom and success than most people in Europe could have imagined possible. They were part of the British Empire, which meant that trade throughout the world was not only available to them, it was protected by the British Navy. In many ways, the colonists’ basic experience with expanded opportunities for prosperity and self-sufficiency gave them greater desires for a political system that would protect their economic as well as political liberties.

Several different types of economic systems have been practiced throughout the course of human history. Today socialism and capitalism are probably the two most familiar types of economic systems. The economic system practiced by most European nations during colonial times, however, was called mercantilism. English colonists living in British North America were very much a part of this system. Mercantilists believed that there was a limited amount of wealth in the world because wealth was measured in the limited terms of land, gold, and silver. The acquisition of the limited supply of the world’s wealth was important because it created national power through the purchasing and supplying of armies and navies. Mercantilists supported an international competition to acquire this wealth and sought to create colonies in an effort to funnel the world’s wealth into their national treasury. Thus the creation of colonies was for European nations an economic enterprise.

Mercantilism required a significant amount of government regulation to work. First the crown granted economic monopolies to companies who agreed to participate in the system. Some of the more famous of these were the Virginia Company, the Massachusetts Bay Company, and the British East India Company. Then the British Parliament regulated the flow of goods and wealth throughout the empire with the passage of Navigation Acts. Because of the Navigation Acts, raw materials flowed from the colonies to England, and finished goods flowed from England to the colonies. Because of the imbalance of trade between raw and finished goods, gold and silver naturally flowed from the colonies to England. Colonists were protected in their trade within the empire but if they wished to trade outside the empire they were required to first pay a duty in gold or silver to the British treasury. As much as the colonists were benefited by their participation in this economic system, they also chafed under the restrictions placed on them by the government. Overtime these restrictions would lead them to seek even more economic opportunity.

1. What do European colonists living in British North America find positive about their colonial experience? What are the negatives of that experience? What are the implications of these positives and negatives?
For over 150 years colonists in British North America were for the most part happy being part of the British Empire. They were especially pleased not to be part of the French or Spanish empire both because of national pride and because of the increased political and economic freedoms they enjoyed as a result of being British. Obviously this would change, but it was a change virtually no one saw coming. Breaking ties with England was a philosophical, psychological, and physical process which occurred between the years 1763-1776. To understand the forces that pushed the colonists to declare their independence from England, it is important to understand both the events that led to division and the principles which inspired people in the American colonies.

The precipitating cause of these changes was most certainly the French and Indian War (1756-1763). The French and Indian War was the culmination of a century-long struggle for North America between England and France, and was part of the Seven Years War, a struggle for power in Europe and for world empire. In America the issues revolved around religious differences (Catholic France vs. Protestant England), the right to lands west of the Appalachian Mountains, and the profits to be gained from the fur trade and fishing. In the spring of 1756, the struggle began in America over the ownership of the rich Ohio valley. It is important to note that colonial militia fought along side the British “redcoats” in this war and the colonists felt they made a significant contribution to the outcome of the war.

Because of the ultimate British victory in this war, the colonies became part of a greatly expanded British empire in America as French authority was expelled from North America—Canada and in the Ohio and Mississippi River valleys. The war left England with a staggering debt of 130 million pounds and the increased cost of defending an enlarged empire. As a result Parliament prohibited colonists from settling west of the Appalachian Mountains in hopes of reducing administrative and defense costs and sought new ways of increasing revenue through taxation. When English merchants and landowners in England balked at the suggestion of higher taxes on them, Parliament decided it was justifiable to require the colonists to contribute towards replenishing the treasury since they were directly benefiting from the victory. As a result England subjected the colonies to a swift succession of new tax policies and regulatory measures that have become famous in American cultural ideology and led to a strong suspicion that Parliament really wanted to deprive the colonists of their rights as Englishmen.

The Sugar Act (1764) was intended to raise revenue through a tighter enforcement of the Navigation Acts. In protest of this tax groups of colonists pledged themselves not to buy or use certain British goods. Enforcement of the tax in the face of this boycott actually ended up costing the British government more money and the act was repealed by parliament. The Stamp Act (1765) was the first attempt to raise money through a new tax. This act required the payment of a tax on purchases of all newspapers, pamphlets, almanacs, licenses, and commercial and legal documents. It was an obvious and annoying type of levy, and it affected the most influential and articulate members of the colonies. Because it was purely for revenue, was an internal tax, and the colonists had not been consulted beforehand, the colonists reacted with concerted hostility: The Sons of Liberty did all they could to intimidate royal officials, violence occurred in several colonies, a Stamp Act Congress issued a “Declaration of Rights and Grievances” acknowledging allegiance to the Crown but claiming that only colonial legislatures could tax the colonists, and Non-Importation Agreements were signed in order to hurt British trade. It was the first time the colonists used their economic power in an organized fashion for political purposes. The colonists literally nullified the Stamp Act by disregarding it.

“Benjamin Franklin, Examination Before the House of Commons, 1766”

This “examination” of Benjamin Franklin before the House on Commons in London took place during the debate in Parliament over repeal of the Stamp Act. It was first published in London in 1766 as “The Examination of Doctor Franklin.” The pamphlet was reprinted in 1766 in several American cities, including Philadelphia, New York, Boston, and New London. In Pennsylvania, the demand for it “in all parts of the province was beyond conception.” It firmly established Franklin as an American patriot who supported the rights and privileges of the American people.

... Q[uestion in Parliament]. Do you think it right that America should be protected by this country and pay no part of the expense?
A[nswer by Franklin]. That is not the case. The Colonies raised, clothed, and paid, during the last war, near twenty-five thousand men, and spent many millions... .
Q. Do you not think the people of America would submit to pay the stamp duty if it was moderated?
A. No, never, unless compelled by force of arms.
Q. What was the temper of America toward Great Britain before the year 1763?
A. The best in the world. They submitted willingly to the government of the Crown, and paid, in their courts, obedience to acts of Parliament. Numerous as the people are in the several old provinces they cost you nothing in forts, citadels, garrisons, or armies, to keep them in subjection. They were governed by this country at the expense only of a little pen, ink, and paper; they were led by a thread. They had not only a respect but an affection for Great Britain; for its laws, its customs, and manners, and even a fondness for its fashions, that greatly increased the commerce. Natives of Britain were always treated with particular regard; to be an Old England-man was of itself a character of some respect, and gave a kind of rank among us.

Q. And what is their temper now?
A. Oh, very much altered! . . .
Q. In what light did the people of America use to consider the Parliament of Great Britain?
A. They considered the Parliament as the great bulwark and security of their liberties and privileges, and always spoke of it with the utmost respect and veneration. Arbitrary ministers, they thought, might possibly, at times, attempt to oppress them; but they relied on it, that the Parliament, on application, would always give redress. . . .
Q. And have they not still the same respect for Parliament?
A. No; it is greatly lessened.
Q. To what causes is that owing?
A. To a concurrence of causes: the restraints lately laid on their trade, by which the bringing of foreign gold and silver into the Colonies was prevented; the prohibition of making paper money among themselves, and then demanding a new and heavy tax by stamps; taking away, at the same time, trials by juries, and refusing to receive and hear their humble petitions.
Q. Do you not think they would submit to the Stamp Act if it was modified, the obnoxious parts taken out, and the duty reduced to some particulars of small moment?
A. No; they will never submit to it . . .
Q. Considering the resolutions of Parliament, as to the right; do you think if the Stamp Act is repealed that the North Americans will be satisfied?
A. I believe they will . . .
Q. If the Act is not repealed, what do you think will be the consequences?
A. A total loss of the respect and affection the people of America bear to this country, and of all the commerce that depends on that respect and affection. . . .
Q. If the Stamp Act should be repealed, would it induce the assemblies of America to acknowledge the rights of Parliament to tax them, and would they erase their resolutions?
A. No, never!
Q. Are there no means of obliging them to erase those resolutions?
A. None that I know of; they will never do it, unless compelled by force of arms.
Q. Is there a power on earth that can force them to erase them?
A. No power, how great soever, can force men to change their opinions.

As a result of the colonial protests England repealed the Stamp Act but passed a Declaratory Act of 1766, stating that England’s authority to legislate for the colonies was complete in all cases. In their excitement over the repeal of the Stamp Act, most colonists failed to recognize the implications of the Declaratory Act. The Declaratory Act was followed by The Townshend Acts (1767) that suspended the New York Assembly, dissolved the Massachusetts General Court (legislature) for its “circular letter” of protest against the Stamp Act that was sent to the other colonies, affirmed the power of the courts to issue writs of assistance (general search warrants), and extended the list of imports subject to a revenue tariff. Once again, the colonists reacted with a series of protests: John Dickinson wrote his “Letters from a Pennsylvania Farmer” to attack the Townshend Acts as being unconstitutional, the Virginia Resolves (1769) were introduced into the House of Burgesses by George Washington and reiterated the belief that the colonists could not be taxed without their consent, and more Non-Importation Agreements were developed by the colonists.

Conflict between the colonists and British soldiers, quartered in Boston to keep the peace and enforce the statutes of the Townshend Acts, led to the so-called Boston Massacre of 1770, in which five colonists were killed by British soldiers. This intensified the spirit of protest. Patriot philosophers like Samuel
Adams made the most of this incident and fanned the flames of resentment and hatred. In 1773, the Tea Act granted to the East India Company a virtual monopoly of tea sales in the colonies and forced the collection of a Tea Tax. Angry colonists organized the Boston Tea Party in December of 1773. The Tea Act was abolished and it was replaced with the Coercive or “Intolerable” Acts (1774) that added new momentum to the conflict between England and the colonies. The act closed the Port of Boston until colonists paid for the tea dumped into Boston Harbor, declared British soldiers and officials immune from local courts, gave royal governor the power to appoint members of the Massachusetts legislature, and prohibited all town meetings. The British government felt that it must crack down on the colonists for their insubordination and used Massachusetts to set an example.

The Intolerable Acts did not cause the colonists to submit as was intended, but increased the mounting spirit of resistance and helped forge a sense of colonial unity. Prominent among the resisters was a group conveniently referred to as Patriot Rebels. These rebels passionately protested against the British policies through boycotts, tea parties, parades through the streets, and eventually even throwing snowballs at the British “redcoats.” Today these various groups of rebels are often linked together under the title of “sons of liberty.”

2. What were some of the specific policies enacted by the British government at the end of the French and Indian War?
Why would the British enact such policies?
How did the colonists react to those policies?

The colonial response to specific British policies and laws became a catalyst for an unprecedented discussion and debate in America about the nature of liberty and freedom and how the rights and liberties of the people might best be protected. In an amazingly short time - little more than a decade - an unbridgeable gulf developed between England and the colonies, climaxed by a colonial Declaration of Independence and a bloody war to secure that independence. This political discussion was led by a group of Patriot “Philosophers” or political theorists. Their role was enormously important. There were literally hundreds of men of letters and learning who shaped the appeal for liberty. Their essays, editorials, and speeches filled hundreds of pages with carefully and skillfully articulated arguments for liberty and self-government. Some of the more recognizable names were Samuel Adams, John Adams, Thomas Jefferson, Benjamin Franklin, and Thomas Paine, but many others were involved. The speeches and writings of these patriot philosophers created a revolution in the minds of American colonists even before the Revolution took place on the battlefield. John Adams described it this way in 1774. “I am surprised at the suddenness, as well as the greatness of this revolution. . . . Is not the change we have seen astonishing? Would any man two years ago have believed it possible, . . . to accomplish such an alteration in the prejudices, passions, sentiments, and principles of these thirteen little states as to make every one of them completely republican, and to make them own it? Idolatry to monarchs and servility to aristocratical pride was never so totally eradicated from so many minds in so short a time.”

Some of the “first principles” or “fundamental ideas” articulated by these patriot philosophers were that legitimate power to govern must arise from the people, that true liberty only comes when freedom is balanced with the demands of order and stability, that man has sufficient virtue of character to make self-government possible, that natural laws exist to direct human conduct in both the public and private sphere, that power has the potential to corrupt, and that demagogues and factions will arise from conditions of anarchy.

The sources and traditions of revolutionary thought revealed a deep and rich heritage for the philosophers of the American Revolution. They were at a crossroads in history, a time when an enormous amount of political thought and experience was accessible in the thousands of books and texts which were readily available in the colonies as well as in Europe. The patriot philosophers truly had an unquenchable desire to preserve their liberty, to justify their rebellion against England, and eventually to create new forms of government. They desired to learn from the “ancients” and the “moderns” all the lessons and theories about government that they possibly could. And they desired to quote in all of their writings any “authority” who had discoursed on the principles which they sought to clarify, illuminate, and expound. They consulted all the literature on English law, history, and political philosophy including the Radical Whig Literature arriving in America from England that argued that there was a difference between the theory of British government and its practice, the Bible and the writings of Christian philosophers and historians, the writings of Classical Antiquity—Homer, Plato, Aristotle, Cicero, Cato, Justinian, and
Tacitus, and the political philosophers of the Enlightenment—Newton, Bacon, Locke, Montesquieu, Voltaire, and Rousseau.

3. What role did the Patriot Rebels and Patriot Philosophers play in the move toward independence? What were the major issues or “first principles” they sought to understand and define?

As the patriot philosophers attempted to justify their rebellion and resistance to British policies, they were greatly concerned about the ever-present problems of tyranny and anarchy. They knew that people had struggled under various tyrants throughout the world’s history. They also knew that when people had attempted to throw off the tyrants and gain their freedom, they had generally rushed head-long into a state of anarchy without finding true liberty at all. The patriot philosophers believed that they could stop the unending cycle of these forces, but they were realists. They knew that it is a difficult problem to control the power of those who govern without unleashing the people’s potential to destroy themselves by their own excesses and passions. Their conclusion was that true liberty was not the ability to act totally without restraint, but the ability to balance freedom of action with restraint. They also recognized that unless most of this restraint was self imposed, any government would be tempted to enact more and more laws until freedom disappeared and tyranny was reinstated.

4. What, for the patriot philosophers, was the relationship between tyranny and anarchy? How could tyranny and anarchy be avoided and “true liberty established”?

It was important to the patriot philosophers to understand the true nature of people. Were people in fact virtuous enough to restrain themselves and live within the bounds of freedom, or did they need some form of repressive government to protect them from their own passions. The prevailing view of human nature was that people were not sufficiently virtuous to govern themselves and that view justified the establishment and maintenance of absolute monarchs around the world. Their own experience taught them that people demonstrated both virtuous and corrupt character traits. But which side of their nature would prevail and why? In the end they concluded that people did have sufficient virtue to govern themselves, and would do so, especially when self-government was in their own self-interest.
A more balanced, realistic, composite view of the Nature of Man

The patriot philosophers understood that there was sufficient evidence for a pessimistic view of man’s nature. Laziness, licentiousness, passion and corruptibility seemed to exist in all people to some degree. The world’s history gave sufficient evidence for that. But they also understood that certain good qualities and characteristics have been implanted in the human soul. There also seemed to be sufficient evidence for these characteristics in some of the world’s history. And for the Patriot Philosophers these positive characteristics seemed particularly evident in the lives of the American colonists.

The patriot philosophers’ view of the nature of man justified their belief in government by the people and their broad faith in what they called “republican principles.” But it also convinced them that governments must be carefully structured to thwart the corrupting potential of ambition and self interest.
5. How did the patriot philosophers understand the nature of man? How did that understanding influence their ideas on the structure of good government?

The patriot philosophers agreed that any government must be based upon republican and democratic principles. These principles included the sense that good government must arise from the popular will of the people so that it would protect their rights and principles, that good government ought to have a sense of equality and operate for the “common weal” or common well-being of the people, and that good government must be motivated by a spirit of simplicity and virtue. For them, a government based on republican and democratic principles would best protect the liberties of the people. For the patriot philosophers, however, there were important distinctions between a republican form of government and a democratic form of government.

When the Founders spoke of a republic as a specific “form” of government, they meant a “Popular Government” (based on the principles given above), but a government with authority given to wise and frugal representatives. In other words, in a republican form of government virtuous people chose virtuous representatives, and allowed those virtuous representatives to make the law. When the patriot philosophers spoke of a democracy as a “form” of government they meant that it was a popular government but the people had more direct control over making the laws. In other words, the people made the laws directly. In either case they believed that these governments must be small geographically and demographically, otherwise differences would arise, factions would develop, virtue would decline, and eventually the government would collapse. In the end they determined that republics offered the best opportunity for success because they could better filter and control the passions of the people and prevent the formation of factions.

6. What is meant by the idea that government should be established on the basis of “democratic and republican” principles? What is meant by the term “republican” form of government? What is meant by the term “democratic” form of government? Which form did the patriot philosophers feel was best and why?

For the patriot philosophers, the existence of natural law was accepted without reservation or question. Its implications gave them confidence that their quest for liberty was based on truth and was God’s will for all mankind. They believed that natural laws stood above and were superior to all man-made laws and the man-made laws were invalid if contrary to natural laws, that only governments that recognized and complied with natural laws would ultimately achieve success because it was only through living the principles of natural law could people and nations achieve success, and that God had imbued human nature with the reason and instinct to discover natural laws.

The following statement by Sir William Blackstone, which was read and referred to often by the patriot philosophers, illustrates the definitions given above.¹

Man, considered as a creature, must necessarily be subject to the laws of his creator, for he is entirely a dependent being. . . And consequently, as man depends absolutely upon his maker for every thing, it is necessary that he should in all points conform to his maker's will.

This will of his maker is the law of nature. For as God, when he created matter, and endued it with a principle of mobility, established certain rules for the perpetual direction of that motion; so, when he created man, and endued him with freewill to conduct himself in all parts of life, he laid down certain immutable laws of human nature, whereby that freewill is in some degree regulated and restrained, and gave him also the faculty of reason to discover the purpose of those laws.

[Since God is] a being of infinite wisdom, he has laid down only such laws as were founded in those relations of justice, that existed in the nature of things. . . These are the eternal, immutable laws of good and evil, to which the creator himself in all his dispensations conforms; and which he has enabled human reason to discover, so far as they are necessary for the conduct of human actions. Such among others are these principles: that we should live honestly, should hurt nobody, and should render to every one it’s due. . . .

... As therefore the creator is a being, not only of infinite power and wisdom, but also of infinite goodness, he has been pleased so to contrive the constitution and frame of humanity, that we should want no other prompter to enquire after and pursue the rule of right, but only our own self-love (self-interest), that universal principle of action. For he has so intimately connected, so inseparably interwoven the laws of eternal justice with the happiness of each individual, that [happiness cannot be attained but by observing the [laws of justice] . . . . In consequence of which mutual connection of justice and human felicity, he . . . has graciously reduced the rule of obedience to this one paternal precept, “that man should pursue his own happiness.” (Men are that they might have joy) This is the foundation of what we call ethics or natural law... [Which] amount[s] to no more than demonstrating, that this or that action tends to man’s real happiness, and therefore very justly concluding that the performance of it is a part of the law of nature; or, on the other hand, that this or that action is destructive of man’s real happiness, and therefore that the law of nature forbids it.

This law of nature, being coeval with mankind and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe in all countries, and at all times: no human laws are of any validity, if contrary to this.

The principles of natural law were readily accepted by the colonists because they were a recurring theme of the enlightenment period in which they lived, they had a strong belief in the will of God, in eternal truth, and in the whole idea of a “higher law,” and they seemed reasonable, logical, and historically evident to them. For the patriot philosophers Natural Law justified both their resistance and rebellion and their belief in the people’s basic right to govern themselves. Natural law revealed the true moral principles of human conduct and human association that are the basis of true liberty because they are the foundation of those civil laws which are made to restrain “immoral” behavior. It was only through living within the bounds set by natural law that true liberty and happiness for individuals and societies could be found. Natural law explained the true origin and necessity of civil government. It was the “social contract” theory of government that was based on truth (not the “divine right of kings” or any other idea used to justify tyranny), or the idea that men would voluntarily agree to form a government only if that government would protect and secure their rights and privileges.

(Note: the social contract theory had traditionally argued that the contract was between the people and the king. The people agreed to be ruled by the king if the king agreed to rule with benevolence. The discussions of the patriot philosophers created a subtle but significant variation on this traditional understanding. For them, the social contract was an agreement among the people whereby they agreed to delegate enough political authority, held collectively by the people, to a government that agreed to protect the natural rights and liberties of the people.)

Natural law also proclaimed man’s basic rights to be self-evident, self-existent, and unalienable from the people. These basic rights were not the gifts of government but were something the people have by their very nature. If government went beyond its authority to protect and secure the rights of mankind, resistance and rebellion were justified. These basic natural rights included life, liberty, happiness, property, conscience, and equality. For the patriot philosophers, without natural law there would be no foundation or justification for these rights.

7. How did the philosophy of natural law justify rebellion from Great Britain and also guide the process of understanding good government?

Rule of Law is one of the three underlying principles for this course and we have discussed its important implications before, but for the patriot philosophers, Rule of Law was a simple concept—laws should be made by the consent of the governed and not the arbitrary will of a tyrant, and all the people in that society ought to freely submit themselves to be governed by those laws. But for rule of law to truly exist in a free, self-governing society, the people, including those who are given power to govern, must have a tradition of respect for certain basic principles and common values. The belief in and practice of these principles and values created an atmosphere of fairness and justice in which the people act and the government must operate. The principles of Rule of Law are obviously related to natural law—to that important idea that there are immutable laws of human nature which act to restrain and control the freewill of man. Obviously, most of the ideas that we have already discussed in class are part of the collection of principles we call Rule of Law.
If rule of law is to exist and survive within a society, the people must embrace and live by three important principles. First, there is no way to force liberty. Obviously if you try to force people to be free, they are not truly free, but what this really means is that people must live by the true principles of self-restraint that allow liberty to exist. This becomes most important in times of conflict or disaster. If the people cannot control their passions, they will probably lose their freedoms. Second, liberty is a balance between freedom and restraint. The majority (who should honor and uphold the general rights of all the people) must impose some restraint through written laws, but there will always be some in society who will willfully ignore basic rules of right and wrong and must be punished by the dictates of written laws. In most societies all of the people, at one time or another, must be deterred from harming someone or compelled to certain duties by the dictates of written laws. Most restraint in a free society must be self-imposed, however, otherwise, the majority will continue to enact more and more restraints through written laws, and the people will lose their freedom because the written laws will become numerous and oppressive. And third, people must conduct their public and private activities in a spirit of honesty, fairness, equity, and justice otherwise, the majority will lose faith in each other and the system of government will become less stable. Factions arise, as minorities with unjust agendas will become more powerful and divisiveness will increase. Eventually the system of government will collapse as mutual trust is destroyed.

8. Why was Rule of Law so important in the minds of the patriot philosophers as they moved toward independence?

As the colonists moved closer to an official break with England the pace of events quickened. All of the colonies except Georgia sent delegates to the First Continental Congress that met at Philadelphia in September, 1774. The fifty-five delegates were narrowly divided between radicals who favored resistance to English policies, and moderates who advocated conciliation. When radical control was established, the members adopted a Declaration of Rights and Grievances and took other actions to prohibit the importation of British goods. Congress then adjourned to meet again in May, 1775, if its grievances were not redressed.

In April of 1775, the British army set out to arrest the leaders of the Massachusetts rebels and to destroy their store of munitions near Concord. Warned by Paul Revere and William Dawes, a group of local “minutemen” were waiting for the “redcoats” at Lexington and Concord. Who fired the “first shot” is unknown, but the events of April 19, 1775, ended most hope for reconciliation. Many who had been moderates on both sides of the Atlantic now rallied to their respective causes. On the road back to Boston from Concord, the royal troops were routed by angry colonial militiamen. These battles marked the first direct conflict between British troops and colonial militia.

In May of 1775 the Second Continental Congress, with representatives from all 13 colonies, convened in Philadelphia. The following actions were taken: Congress established a Continental Army, and George Washington was chosen as commander-in chief. On July 6 the Congress drew up a “Declaration of the Causes and Necessity of Taking up Arms” which stated that the British government had forced the American people to choose between submission to tyranny or resistance by force. They chose to resist and “resolved to die free men rather than to live slaves.” And an Olive Branch Petition embodying a “hope for reconciliation” was sent to the Crown.

In June of 1775 another engagement, the Battle of Bunker Hill, was fought across the Charles River from Boston. King George III of England spurned the Olive Branch Petition, issued a proclamation branding the Americans as rebels, began to hire Hessian mercenaries to help England in the coming war, and banned all trade with the colonies. Despite these events, most Americans may still have been willing to reconcile differences with England, but events were moving quickly, and colonial opinion favoring independence was moving with them. Radical leaders like Sam Adams, Patrick Henry, Thomas Jefferson, John Adams, and Richard Henry Lee kept agitation for independence alive.

[End of first day’s readings.]
Common Sense and the Declaration of Independence

At the critical moment, following the battles of Lexington and Concord and Bunker Hill but before separation from England had been accepted, the case for American independence was clearly and dramatically stated by Thomas Paine in his brilliant pamphlet Common Sense. It appeared early in 1776 and promptly sold more than 100,000 copies. Paine ridiculed the idea that a continent ought to be governed by an island, referred to the king as a “royal brute,” and concluded simply that “‘tis time to part.”

“Thomas Paine, Common Sense, 1776”

Thomas Paine (1737-1809) came to America in 1774 after some unsettled beginnings in England. He became an editor of the Pennsylvania Magazine and soon became champion of the revolutionary cause and of the rights of the common man. He first published his electrifying pamphlet, Common Sense, in January of 1776. His reasoned and impassioned plea for America to separate itself from England went through four editions and was widely read by the colonists. Even Washington agreed that it wrought a “powerful change” on the minds of the colonists and had great impact on the movement toward independence. Paine went on to write the famous sixteen pamphlets entitled The American Crisis during the War for Independence. Although he eventually falls out of favor with religionists and revolutionaries alike, he remains one of the most quotable pamphleteers in American history.

INTRODUCTION

PERHAPS THE SENTIMENTS CONTAINED IN THE FOLLOWING pages are not yet sufficiently fashionable to procure them general favor; a long habit of not thinking a thing wrong gives it a superficial appearance of being right, and raises at first a formidable outcry in defense of custom. But the tumult soon subsides. Time makes more converts than reason.

As a long and violent abuse of power is generally the means of calling the right of it in question … and as the King of England has undertaken in his own right to support the parliament in what he calls theirs, and as the good people of this country are grievously oppressed by the combination, they have an undoubted privilege to inquire into the pretensions of both and equally to reject the usurpation of either. . . .

The cause of America is in a great measure the cause of all mankind. Many circumstances have and will arise which are not local but universal, and through which the principles of all lovers of mankind are affected and in the event of which their affections are interested. The laying a country desolate with fire and sword, declaring war against the natural rights of all mankind, and extirpating the defenders thereof from the face of the earth is the concern of every man to whom nature has given the power of feeling . . . .

AUTHOR OF THE ORIGIN AND DESIGN OF GOVERNMENT IN GENERAL. WITH CONCISE REMARKS ON THE ENGLISH CONSTITUTION

. . . I know it is difficult to get over local or long-standing prejudices; yet if we will suffer ourselves to examine the component parts of the English constitution, we shall find them to be the base remains of two ancient tyrannies, compounded with some new republican materials:

First, the remains of monarchical tyranny in the person of the king.
Secondly, the remains of aristocratical tyranny in the persons of the peers.
Thirdly, the new republican materials in the persons of the Commons, on whose virtue depends the freedom of England. . . .

To say that the constitution of England is a union of three powers, reciprocally checking each other, is farcical; either the words have no meaning or they are flat contradictions. . . .

There is something exceedingly ridiculous in the composition of monarchy; it first excludes a man from the means of information, yet empowers him to act in cases where the highest judgment is required. The state of a king shuts him from the world, yet the business of a king requires him to know it thoroughly; wherefore the different parts, by unnaturally opposing and destroying each other, prove the whole character to be absurd and useless. . . .

The prejudice of Englishmen in favor of their own government by king, lords, and Commons arises as much or more from national pride than reason. Individuals are undoubtedly safer in England.
than in some other countries; but the will of the king is as much the law of the land in Britain as in France, with this difference, that instead of proceeding directly from his mouth, it is handed to the people under the more formidable shape of an act of Parliament.

OF MONARCHY AND HEREDITARY SUCCESSION

[There is a] distinction for which no truly natural or religious reason can be assigned, and that is the distinction of men into kings and subjects. Male and female are the distinctions of nature, good and bad the distinctions of heaven; but how a race of men came into the world so exalted above the rest, and distinguished like some new species, is worth inquiring into, and whether they are the means of happiness or of misery to mankind.

In the early ages of the world, according to the scripture chronology, there were no kings, the consequence of which was there were no wars; it is the pride of kings which throws mankind into confusion.

Government by kings was first introduced into the world by the heathens, from whom the children of Israel copied the custom. It was the most prosperous invention the devil ever set on foot for the promotion of idolatry. The heathens paid divine honors to their deceased kings, and the Christian world has improved on the plan by doing the same to their living ones. How impious is the title of sacred majesty applied to a worm, who in the midst of his splendor is crumbling into dust!

As the exalting one man so greatly above the rest cannot be justified on the equal rights of nature, so neither can it be defended on the authority of scripture; for the will of the Almighty, as declared by Gideon and the prophet Samuel, expressly disapproves of government by kings.

To the evil of monarchy we have added that of hereditary succession; one of the strongest natural proofs of the folly of hereditary right in kings is that nature disapproves it; otherwise she would not so frequently turn it into ridicule by giving mankind an ass for a lion.

However, it is needless to spend much time in exposing the folly of hereditary right; if there are any so weak as to believe it, let them promiscuously worship the ass and lion, and welcome. I shall neither copy their humility nor disturb their devotion.

In short, monarchy and succession have laid (not this or that kingdom only) but the world in blood and ashes. ‘Tis a form of government which the word of God bears testimony against, and blood will attend it.

In absolute monarchies the whole weight of business, civil and military, lies on the king; the children of Israel in their request for a king urged this plea, “that he may judge us, and go out before us and fight our battles.” But in the countries where he is neither a judge nor a general, as in England, a man would be puzzled to know what is his business.

The nearer any government approaches to a republic, the less business there is for a king. It is somewhat difficult to find a proper name for the government of England. Sir William Meredith calls it a republic; but in its present state it is unworthy of the name, because the corrupt influence of the crown, by having all the places in its disposal, has so effectually swallowed up the power and eaten out the virtue of the House of Commons (the republican part in the constitution) that the government of England is nearly as monarchical as that of France or Spain.

In England a king has little more to do than to make war and give away places, which, in plain terms, is to impoverish the nation and set it together by the ears. A pretty business indeed for a man to be allowed eight hundred thousand sterling a year for, and worshiped into the bargain! Of more worth is one honest man to society, and in the sight of God, than all the crowned ruffians that ever lived.

THOUGHTS ON THE PRESENT STATE OF AMERICAN AFFAIRS

In the following pages I offer nothing more than simple facts, plain arguments, and common sense; and have no other preliminaries to settle with the reader than that he will divest himself of prejudice and prepossession, and suffer his reason and his feelings to determine for themselves; that he will put on, or rather that he will not put off, the true character of a man, and generously enlarge his views beyond the present day.

Volumes have been written on the subject of the struggle between England and America. Men of all ranks have embarked in the controversy, from different motives, and with various designs; but all have been ineffectual, and the period of debate is closed.

The Sun never shined on a cause of greater worth. ‘Tis not the affair of a City, a County, a Province, or a Kingdom; but of a Continent of at least one eighth part of the habitable Globe. ‘Tis not
the concern of a day, a year, or an age: posterity are virtually involved in the contest, and will be more or less affected even to the end of time, by the proceedings now. Now is the seed-time of Continental union, faith and honour. The least fracture now will be like a name engraved with the point of a pin on the tender rind of a young oak; the wound would enlarge with the tree, and posterity read it in full grown characters.

By referring the matter from argument to arms, a new era for politics is struck - a new method of thinking hath arisen. . . .

As much hath been said of the advantages of reconciliation, which, like an agreeable dream, hath passed away and left us as we were, it is but right that we should examine the contrary side of the argument, and enquire into some of the many material injuries which these Colonies sustain, and always will sustain, by being connected with and dependant on Great-Britain, To examine that connection and dependence, on the principles of nature and common sense, to see what we have to trust to, if separated, and what we are to expect, if dependant.

I have heard it asserted by some, that as America has flourished under her former connection with Great-Britain, the same connection is necessary towards her future happiness, and will always have the same effect. Nothing can be more fallacious than this kind of argument. . . . America would have flourished as much, and probably much more, had no European power taken any notice of her. The commerce by which she hath enriched herself are the necessaries of life, and will always have a market while eating is the custom of Europe.

But she has protected us, say some. That she hath engrossed us is true, and defended the Continent at our expense as well as her own, is admitted; and she would have defended Turkey from the same motive, viz, for the sake of trade and dominion.

. . . We have boasted the protection of Great Britain, without considering, that her motive was interest not attachment; and that she did not protect us from our enemies on our account; but from her enemies on her own account, from those who had no quarrel with us on any other account. . . .

But Britain is the parent country, say some. Then the more shame upon her conduct. Even brutes do not devour their young, nor savages make war upon their families; Wherefore, the assertion, if true, turns to her reproach; . . . Europe, and not England, is the parent country of America. This new World hath been the asylum for the persecuted lovers of civil and religious liberty from every part of Europe. Hither have they fled, not from the tender embraces of the mother, but from the cruelty of the monster; and it is so far true of England, that the same tyranny which drove the first emigrants from home, pursues their descendants still. . . .

. . . Reconciliation is now a fallacious dream. Nature hath deserted the connection, and art cannot supply her place. For, as Milton wisely expresses, “never can true reconcilement grow where wounds of deadly hate have pierced so deep.”. . .

A government of our own is our natural right: and when a man seriously reflects on the precariousness of human affairs, he will become convinced, that it is infinitely wiser and safer, to form a constitution of our own in a cool deliberate manner, while we have it in our power, than to trust such an interesting event to time and chance. . . .

. . . The Almighty hath implanted in us these unextinguishable feelings for good and wise purposes. They are the Guardians of his Image in our hearts. They distinguish us from the herd of common animals. The social compact would dissolve, and justice be extirpated from the earth, or have only a casual existence were we callous to the touches of affection. . . .

O! ye that love mankind! Ye that dare oppose not only the tyranny but the tyrant, stand forth! Every spot of the old world is overrun with oppression. Freedom hath been hunted round the Globe. Asia and Africa have long expelled her. Europe regards her like a stranger, and England hath given her warning to depart. O! receive the fugitive, and prepare in time an asylum for mankind.

9. What issues does Thomas Paine Raise in Common Sense?

Why do you think this document would be so effective in moving the colonists toward independence?

On June 7, 1776, Richard Henry Lee of Virginia introduced a resolution into the Second Continental Congress stating “That these United Colonies are, and of right ought to be, Free and Independent States.” The Congress appointed a committee to draft a Declaration of Independence. Thomas Jefferson was chosen to write the document. Lee’s motion was approved on July 2, and Jefferson’s Declaration, with some changes in the wording, was given final approval on July 4.
“Declaration of Independence, 1776”

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature’s God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these, are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving: their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established, should not be changed for light and transient causes; and, accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. . . .

10. What principles were used in the opening paragraphs of the Declaration of Independence to justify separation from England and the establishment of republican governments? Notice the relationship between these and the “First Principles” discussed by the patriot philosophers.

The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world:

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature; a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining, in the meantime, exposed to all the danger of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose, obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He had obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in time of peace, standing armies, without the consent of our legislatures.
He has affected to render the military independent of, and superior to, the civil power.
He has combined, with others, to subject us to a jurisdiction foreign to our Constitution, and
unacknowledged by our laws; giving his assent to their acts of pretended legislation:
For quartering large bodies of armed troops among us:
For protecting them by a mock trial, from punishment, for any murders which they should commit
on the inhabitants of these States:
For cutting off our trade with all parts of the world:
For imposing taxes on us without our consent:
For depriving us, in many cases, of the benefit of trial by jury:
For transporting us beyond seas to be tried for pretended offences:
For abolishing the free system of English laws in a neighboring province, establishing therein an
arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit
instrument for introducing the same absolute rule into these colonies:
For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the
powers of our governments:
For suspending our own legislatures, and declaring themselves invested with power to legislate for
us in all cases whatsoever.
He had abdicated government here, by declaring us out of his protection, and waging war against
us.
He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our
people.
He is, at this time, transporting large armies of foreign mercenaries to complete the works of
death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely
paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.
He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their
country, to become the executioners of their friends, and brethren, or to fall themselves by their hands.
He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants
of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished
destruction of all ages, sexes, and conditions.
In every stage of these oppressions, we have petitioned for redress, in the most humble terms; our
repeated petitions have been answered only by repeated injury. A prince, whose character is thus
marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

11. What was the purpose of the second section of the Declaration?

Nor have we been wanting in attention to our British brethren. We have warned them, from time
to time, of attempts made by their legislature to extend an unwarrantable jurisdiction over us. We have
reminded them of the circumstances of our emigration and settlement here. We have appealed to their
native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to
disavow these usurpations, which would inevitably interrupt our connections and correspondence.
They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in
the necessity which denounces our separation, and hold them as we hold the rest of mankind, enemies
in war, in peace, friends. In every stage of these oppressions, we have petitioned for redress, in the
most humble terms; our repeated petitions have been answered only by repeated injury. A prince, whose character is thus
marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

We, therefore, the representatives of the United States of America, in general Congress assembled,
appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by
the authority of the good people of these colonies, solemnly publish and declare, that these united
colonies are, and of right ought to be, free and independent states: that they are absolved from all
allegiance to the British Crown, and that all political connection between them and the state of Great
Britain is, and ought to be, totally dissolved; and that, as free and independent states, they have full
power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and
things which independent states may of right do. And, for the support of this declaration, with a firm
reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our
fortunes, and our sacred honor.
12. In the last section of the Declaration, what things did the signers “solemnly publish and declare” to the world?

The Revolutionary War was fought from 1775 until 1783. Much could be learned about the American character by a careful study of the war. For most patriots, it seemed evident that the American people had risen to the highest pinnacle of public virtue by laying their lives on the line for principles rather than an actual threat to life or property. They spoke openly of the people’s virtue and the “spirit of the revolution.” For others, it seemed obvious that Americans could also become mean-spirited and vengeful if circumstances invited such behavior. Americans were deeply divided during the War; about one-third were committed revolutionaries, about one-third remained loyal to the King, and about one-third could go either way. It seemed unlikely when the war began that Americans could actually unite sufficiently to fight a war long enough to wear the British down and win. The leadership of George Washington and a strategic alliance with France helped to make the difference. After a long (eight years) and bitter struggle between American and British forces and between neighbors and former friends in communities throughout America, the colonies officially separated from England. Among other things, the Treaty of Paris signed in 1783 with England, granted independence to the thirteen American states and granted to them all of the territory east of the Mississippi River.

13. What surprises you, seems noteworthy, or do you learn from this narrative of American settlement and Independence that applies to you today?

14. Why do the colonists declare their independence? How do the colonists justify their rebellion? What was it that made their victory possible? What are some of the major components of spirit and attitude do the colonists carry with them out of the revolutionary period?

15. What are the legacies of this “road to independence” in American life today? Has independence allowed Americans to leave behind the issues that precipitated independence?

[NB: Some of the material herein may be the work of Gary Marshall and Eric Walz. Marshall’s content may appear in a forthcoming publication.]