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978-0-521-13230-5 - The Constitutional Origins of the American Revolution

Jack P. Greene

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The Constitutional Origins of the American Revolution

Using the British Empire as a case study, this succinct study argues that the establishment of overseas settlements in America created a problem of constitutional organization that elicited deep and persistent tensions within the empire during the colonial era and that the failure to resolve it was the principal element in the decision of thirteen continental colonies to secede from the empire in 1776. Challenging those historians who have assumed that the British had the law on their side during the debates that led to the American Revolution, this volume argues that the empire had long exhibited a high degree of constitutional multiplicity, with each colony having its own discrete constitution and the empire as a whole having an uncoded working customary constitution that determined the way authority was distributed within the empire. Contending that these constitutions cannot be conflated with the metropolitan British constitution, it argues that British refusal to accept the legitimacy of colonial understandings of the sanctity of the many colonial constitutions and the imperial constitution was the critical element leading to the American Revolution.

Jack P. Greene taught at Michigan State University, Western Reserve University, and the University of Michigan before he moved in 1966 to Johns Hopkins University, where he was a member of the Department of History for thirty-nine years, except for two years spent at the University of California, Irvine in 1990–2. A specialist in the history of Colonial British and Revolutionary American history, he has published and edited many books, chapters in books, articles, and reviews. Perhaps his best-known works are *The Quest for Power: The Lower Houses of Assembly in the Southern Royal Colonies, 1689–1776* (1963), *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States, 1607–1789* (1986), *Pursuits of Happiness: The Social Development of the Early Modern British Colonies and the Formation of American Culture* (1988), and *The Intellectual Construction of America: Exceptionalism and Identity from 1492 to 1800* (1993).

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Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore,
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32 Avenue of the Americas, New York, NY 10013-2473, USA

www.cambridge.orgInformation on this title: www.cambridge.org/9780521132305

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First published 2011

Printed in the United States of America

*A catalog record for this publication is available from the British Library.**Library of Congress Cataloging in Publication data*

Greene, Jack P.

The Constitutional Origins of the American
Revolution / Jack P. Greene.

p. cm. – (New histories of American law)

Includes index.

ISBN 978-0-521-76093-5 (hardback)

ISBN 978-0-521-13230-5 (pbk.)

1. Constitutional history – United States – States. 2. Constitutional history – Great Britain – Colonies. 3. Constitutional history – Great Britain. 4. United States – History – Revolution, 1775–1783. 5. United States – Politics and government – To 1775. 6. United States – Politics and government – 1775–1783. 7. Great Britain – Colonies – America – History. I. Title.

II. Series.

KF4541.G743 2010

342.7302'9–dc22 2010030377

ISBN 978-0-521-76093-5 Hardback

ISBN 978-0-521-13230-5 Paperback

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PREFACE

As the title announces, this is a book about the constitutional origins of the American Revolution as they were reflected in the unfolding debate over the distribution of authority within the British Empire during the late colonial era and the years of imperial crisis from 1764 to 1776. This subject has been of recurrent interest to me for almost sixty years. Through most of the 1950s and early 1960s, I was hard at work trying to sort out the institutional, constitutional, and theoretical dimensions of the development of representative government in four early modern British American colonies between the Glorious Revolution and the American Revolution. Among other things, I was endeavoring to understand the bearing of that development on the controversy that produced the American Revolution. Briefly put, the argument I developed about the Revolution had two main points. The first was that the new British taxation and coercive measures after 1748, some emanating from the Crown and some from Parliament, represented a formidable challenge both to the customary constitutions that the colonies, severally, had been working out for themselves over the previous century or longer and to the thoroughly English rights and principles that those constitutions had been constructed to preserve. The second was that colonial responses to that challenge, responses that drew heavily on the colonists' own customary constitutions, articulated a conception of the imperial constitution that diverged sharply from the one held at the imperial center, and that this disagreement over the nature of the imperial constitution had an important causal bearing on the American Revolution.

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When I finally began to publish this work in the late 1950s and early 1960s,¹ few scholars of the origins of the Revolution paid much attention to this particular argument. Concerned principally with showing the many deficiencies of the Progressive interpretation of the Revolution as the product of internal conflict, a view that had enjoyed a brief vogue in the 1930s and 1940s, most students of the Revolution focused on analyzing the *ostensible* issues that divided metropolitans and colonials between 1763 and 1776 and manifested little concern with exploring the political and constitutional traditions or the patterns of assumptions that underlay and informed that division. When, in the late 1960s, Bernard Bailyn and others did begin to explore those traditions and assumptions in depth, they assigned little causative weight to the specifically constitutional dimensions of the conflict. In Bailyn's *ideological* interpretation of the Revolution, neither the early modern English jurisprudential tradition of political writing nor the related liberal and Whig traditions that had been largely constructed on that jurisprudential tradition received much emphasis, especially not in comparison with the fears of corruption and ministerial power that, for Bailyn, principally informed colonial protests of the pre-Revolutionary era.² The force of my protest that throughout the era before 1763 colonial legislators and polemicists had been infinitely more concerned about limiting prerogative than about preventing corruption was, it seemed to me, mostly lost on a historical community that was rushing to absorb and work out the implications of Bailyn's ideological interpretation.³

When I returned to the subject in the early 1980s, I discovered that over the previous decade few scholars had

¹ Summarized in Jack P. Greene, *The Quest for Power: The Lower Houses of Assembly in the Southern Royal Colonies, 1689–1776* (Chapel Hill: University of North Carolina Press, 1963).

² Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass.: Harvard University Press, 1967).

³ Jack P. Greene, "Political Mimesis: A Consideration of the Historical and Cultural Roots of Legislative Behavior in the British Colonies in the Eighteenth Century," *American Historical Review*, 75 (1969): 337–67.

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concerned themselves with the classic question of the causes of the American Revolution or with the years leading up to the War for Independence. Evidently, the Bailyn paradigm had closed off serious discussion in that direction. Beginning in the early 1970s, interest in the Revolution among historians and, increasingly, political theorists had turned to the years *after* independence and to the problem of working out the powerful contentions of John Pocock,⁴ built mainly on his reading of Bailyn and Gordon Wood,⁵ about the vitality of civic humanist political traditions and the limited relevance of Lockean liberalism among post-independence American political cultures.

Indeed, insofar as I could tell, when I did a survey of the literature in 1983 and 1984, only three scholars had sought to reopen for serious scholarly discussion the question of the origins of the American Revolution. Two of them were the political scientists Robert W. Tucker and David C. Hendrickson, whose 1982 book, *The Fall of the First British Empire: Origins of the American War for Independence*, offered a high Tory account that, in essence, saw the Revolution as the product of a drive for American nationalism.⁶ The third was the lawyer John Phillip Reid, who had published three monographs and at least a dozen articles on the legal dimensions of the contest between metropolis and colonies between 1763 and 1776.⁷ My reaction to these two sets of work, the one by Tucker

⁴ J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1975).

⁵ Gordon S. Wood, *The Creation of the American Republic 1776–1787* (Chapel Hill: University of North Carolina Press, 1969).

⁶ Robert W. Tucker and David C. Hendrickson, *The Fall of the First British Empire: Origins of the American War for Independence* (Baltimore: Johns Hopkins University Press, 1982).

⁷ The books by John Phillip Reid are *In a Defiant Stance: The Conditions of Law in Massachusetts Bay, the Irish Comparison, and the Coming of the American Revolution* (University Park: Pennsylvania State University Press, 1977); *In a Rebellious Spirit: The Argument of Facts, the Liberty Riot, and the Coming of the American Revolution* (University Park: Pennsylvania State University Press, 1979); and *In Defiance of the Law: The Standing-Army Controversy, the Two Constitutions, and the Coming of the American Revolution* (Chapel Hill: University of North Carolina Press, 1981).

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and Hendrickson and the other by Reid, could scarcely have been more different. Whereas I found the former analytically impressive but largely unpersuasive, Reid's work struck me as being of fundamental importance. Never having accepted Bailyn's contention that the American Revolution's sufficient cause was colonial absorption of opposition ideology,⁸ I found in Reid's work effective support for my long-standing contention that, to a very important degree, the American Revolution had derived out of a disagreement over the nature of the constitution of the British Empire.

To my surprise, a quick survey of the review sections of the major historical journals revealed little appreciation of the importance of Reid's work. Some journals that should have reviewed any work on the American Revolution had not reviewed his, and those that did review his work seem mostly to have assigned his books to people who, for whatever reasons – whether they were incapable of breaking out of the Bailyn paradigm, resented Reid's sometimes acerbic criticism of historians (which, as historians continued to ignore his work, became increasingly strident), or simply found his *legal* perspective uncongenial – failed to comprehend the salience of his findings. Both because I thought that Reid had an enormous amount to teach historians about the Revolution and because I myself needed to master his and other legal historians' work in connection with the book I was then writing on the constitutional development of the early modern British Empire, I wrote an article, entitled "From the Perspective of Law: Context and Legitimacy in the Origins of the American Revolution," published in 1986 in the *South Atlantic Quarterly*, in which I endeavored to translate for historians the works of Reid and other legal scholars, including Barbara Black, Thomas Grey, Hendrik Hartog, and William Nelson, on the origins of the American Revolution.⁹

⁸ In Bernard Bailyn, *The Origins of American Politics* (New York: Alfred Knopf, 1968).

⁹ Jack P. Greene, "From the Perspective of Law: Context and Legitimacy in the Origins of the American Revolution," *South Atlantic Quarterly*, 75 (1986): 56–77.

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In this highly appreciative translation, I pointed to a whole series of insights that, in my view, both called into question the adequacy of the reigning paradigm and constituted a powerful reinterpretation of the pre-Revolutionary controversy. These insights included (1) the centrality of legal and constitutional concerns in the politics of pre-Revolutionary America; (2) the disputants' law-mindedness and constitution-mindedness and the legal and constitutional nature of the argument; (3) the anachronism during the Revolutionary era of considering law as nothing but the command of the sovereign; (4) the continuing vitality in Britain itself of the jurisprudential conception of English government as limited government and of the English (British) constitution as a constitution in which law confined the discretion or will of monarchs, ministers, judges, and legislators; (5) the consensual nature of law throughout the English-speaking world; (6) the contractual basis of English – and, of course, colonial – legal and constitutional thought; (7) the fundamental and continuing importance of the doctrine of usage in British legal and constitutional thought; (8) the bicentric character of law within the early modern British Empire, specifically the distinction between what Reid called imperial law and local law; (9) the relative weakness of imperial law in the colonies; (10) the strength of local law and of local control over that law, in that whichever settler groups controlled the colony controlled the law; (11) the indeterminacy of the imperial constitution; and (12) the legitimacy, that is, the quintessential Englishness, of American constitutional arguments in the pre-Revolutionary debates.

Not all of these points were new, but no one, it seemed to me, had explored them as fully or argued them as cogently as Reid and his fellow legal historians had, in the impressive and substantial body of literature that they produced during the decade after 1975, a literature that few historians seemed to read and even fewer to appreciate. For this historian, however, their findings were extraordinarily resonant and useful. They formed a parallel and much more legally informed literature that, explicitly or implicitly, supported, informed, and amplified six points that I wanted to make in

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my 1986 book *Peripheries and Center*, a study of the constitutional development of the early modern English or, after 1707, British Empire and the influence of that development on the federal system created for the new United States in 1787–8: (1) that, in operational terms, that empire was a consensual empire; (2) that authority within it was not concentrated at the center but dispersed among the center and the peripheries; (3) that authority did not flow downward or outward from the center but was negotiated among the center and the peripheries; (4) that effective authority in the peripheries was local; (5) that both the many colonial constitutions and the emerging imperial constitution rested on a customary base (i.e., that custom was the most accurate guide to what these constitutions were); and (6) that the American Revolution *principally* resulted from a dispute over the nature of the constitution of the British Empire, a dispute in which both sides had a legitimate case.¹⁰

Yet, *Peripheries and Center* also departed significantly from Reid's and his colleagues' work. Whereas Reid was content to characterize the argument as a debate over two competing views of the British constitution, an older view emphasizing customary restraints on political institutions and a newer Blackstonian view stressing the omnipotence of the Crown in Parliament, I carefully distinguished the metropolitan British constitution from the constitutions of each of the several colonial polities, on the one hand, and from an implicit emerging imperial constitution, on the other. Even though all these "British" constitutions drew on the same legal principles, I argued, neither the colonial constitutions nor the imperial constitution could be conflated with the constitution of the home island, or metropolis, as earlier historians had supposed.

And there were other significant differences between Reid's position and mine. In my view, Reid had made a false contrast between the colonies and Ireland; ignored the extent to which

¹⁰ Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States, 1607–1788* (Athens: University of Georgia Press, 1986).

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nonrevolting British colonies in North America, the West Indies, and the Atlantic islands shared the constitutional ideas of the revolting colonies; and completely neglected the specifically colonial roots of colonial legal and constitutional arguments of the 1760s and 1770s. Peter N. Miller, in his book, *Defining the Common Good*,¹¹ may be right to suggest that metropolitan thinkers only began to think systematically about the nature and constitutional structure of the empire in the late 1740s and early 1750s, but colonists throughout the empire had been considering such matters almost from the first days of colonization, had produced a rich and extensive body of literature on the subject, and had built a solid and thoroughly internalized political tradition on which writers in the 1760s and 1770s could draw.¹² A consideration of the similarities of the constitutional and legal ideas of the Protestant ascendancy in Ireland, the earlier generations of colonists throughout the empire, and the spokesmen for nonrevolting colonies in the 1760s and 1770s, I argued in *Peripheries and Center*, considerably strengthened the broad general case I was trying to make.

Moreover, if, in its stress on the colonial emphasis on custom in formulating their constitutional arguments and the legitimacy of those arguments, *Peripheries and Center* reinforced and paralleled Reid's arguments as they had developed by the mid-1980s, it also moved beyond those arguments to make a number of important interpretive points that significantly challenged existing accounts of the origins of the Revolution. More specifically, the book emphasized Grenville's uncertainty over the constitutionality of the Stamp Act when he initially proposed it; the breadth of colonial opposition to the Stamp Act in 1764 and

¹¹ Peter N. Miller, *Defining the Common Good: Empire, Religion and Philosophy in Eighteenth-Century Britain* (Cambridge: Cambridge University Press, 1994), 195–213.

¹² Craig B. Yirush, "From the Perspective of Empire: The Common Law, Natural Rights and the Construction of American Political Culture, 1689–1774," unpublished doctoral dissertation, Johns Hopkins University, 2003, provides the fullest and most penetrating study of colonial British American political thought.

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1765, which extended not just to taxation but to legislation relating to the internal polities of the colonies; the strength of the conciliatory thrust on both sides of the Atlantic during the quarrel over the Townshend Acts and its immediate aftermath; and the colonial resistance to defining the controversy in terms of metropolitan conceptions of sovereignty as indivisible.

Over the two decades since the publication of *Peripheries and Center*, few students of the American Revolution have revisited the question of the origins of the Revolution, the principal exceptions being Eliga H. Gould,¹³ P. J. Marshall,¹⁴ and Reid. Focusing on the broader European and imperial context over the entire period from 1750 to the end of the Revolution in 1783, both Gould and Marshall acutely place the intrainperial debate of the 1760s and 1770s in a larger international and imperial perspective, but neither of them is principally concerned with constitutional issues. By contrast, Reid has published nine further volumes on these issues: two on the concepts of liberty¹⁵ and representation,¹⁶ published by the University of Chicago Press in 1988 and 1989; four on the principal issues of rights,¹⁷ taxation,¹⁸ legislation,¹⁹ and law,²⁰ published by the University of Wisconsin Press between 1986 and 1993 as

¹³ Eliga H. Gould, *The Persistence of Empire: British Political Culture in the Age of the American Revolution* (Chapel Hill: University of North Carolina Press, 2000).

¹⁴ P. J. Marshall, *The Making and Unmaking of Empires: Britain, India, and America c. 1750–1783* (Oxford: Oxford University Press, 2005).

¹⁵ John Phillip Reid, *The Concept of Liberty in the Age of the American Revolution* (Chicago: University of Chicago Press, 1988).

¹⁶ John Phillip Reid, *The Concept of Representation in the Age of the American Revolution* (Chicago: University of Chicago Press, 1989).

¹⁷ John Phillip Reid, *Constitutional History of the American Revolution: The Authority of Rights* (Madison: University of Wisconsin Press, 1986).

¹⁸ John Phillip Reid, *Constitutional History of the American Revolution: The Authority to Tax* (Madison: University of Wisconsin Press, 1987).

¹⁹ John Phillip Reid, *Constitutional History of the American Revolution: The Authority to Legislate* (Madison: University of Wisconsin Press, 1991).

²⁰ John Phillip Reid, *Constitutional History of the American Revolution: The Authority of Law* (Madison: University of Wisconsin Press, 1993).

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the *Constitutional History of the American Revolution*, with a one-volume abridged version published by the same press in 1995,²¹ and two on the English concepts of the rule of law²² and the ancient constitution,²³ published by the Northern Illinois University Press in 2004 and 2005 – all together more than 2,500 pages of text and supporting materials!

This truly monumental body of post-1986 work makes three general contributions to our understanding of the origins of the Revolution. First, as an aggressive advocate for working out and paying close attention to the contemporary meaning of words, Reid has thoroughly deconstructed key concepts in late eighteenth-century British–American discourse: constitution, law, sovereignty, liberty, slavery, arbitrary rights, rule of law, custom, precedent, analogy, consent, representation, property, and contract, among others. More deeply than any previous scholar, this inveterate foe of anachronism has dissected such terms and convincingly elaborated the ways they were understood by participants in the pre-Revolutionary debates. This achievement alone makes Reid's work fundamental to the understanding of the Revolutionary era. No serious scholar of that era can possibly ignore this aspect of his work.

Second, Reid richly elaborates on, expands, and gives added cogency to many of the more significant points that he made about the Revolution in his pre-1986 work. Thus, he persuasively reiterates his observation about the extent to which “the revolutionary controversy was conducted like a common-law litigation even though there was no tribunal to which the parties could appeal except the court of public opinion.”²⁴ Considerably more fully and persuasively, he

²¹ John Phillip Reid, *Constitutional History of the American Revolution: Abridged Edition* (Madison: University of Wisconsin Press, 1995).

²² John Phillip Reid, *Rule of Law: The Jurisprudence of Liberty in the Seventeenth and Eighteenth Centuries* (DeKalb: Northern Illinois University Press, 2004).

²³ John Phillip Reid, *The Ancient Constitution and the Origins of Anglo-American Liberty* (DeKalb: Northern Illinois University Press, 2005).

²⁴ Reid, *Constitutional History of the American Revolution: Abridged Edition*, 34.

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emphasizes the pervasiveness of a common culture of constitutionalism that made the entire transatlantic English-speaking world into a single discursive community with a common vocabulary, if not always a common definition of crucial concepts within that vocabulary. Similarly, he greatly adds to his cases for (1) the centrality of rights and the rule of law in the pre-Revolutionary controversy; (2) the legitimacy of the colonists' insistence that their rights as Britons dictated that they not be governed by laws without their consent and, moreover, of their demand for restraints on Parliamentary power (as Reid puts it, in the colonists' view Parliamentary supremacy over the Crown did not mean Parliamentary sovereignty over law and the constitution); (3) the continuing authority of custom and precedent in British *and* colonial constitutional thought; (4) the relative unimportance of natural law theory for the colonial case; and (5) the extraordinary consistency of and lack of novelty in the colonial case throughout the years of controversy. Again and again, Reid's work demonstrates the extraordinary learning in legal and constitutional matters displayed by colonial polemicists and leaders, and their remarkable adroitness as political tacticians, whose pursuit of the strategy of constitutional avoidance enabled them to head off an open rupture for almost a decade. Repeatedly, he demonstrates the anachronism of the view that an authoritative center had unilateral authority to define the imperial constitution. The list of Reid's contributions on this level could be stretched out to enormous length.

Third, in his latest body of work Reid develops two important theses about the origins of the Revolution to which his earlier work paid relatively little attention. Put simply, the first thesis is that the dispute, not over Parliament's authority to *tax* the colonies, but over its authority to *legislate* for the colonies, was what "took the constitutional quarrel to the point of armed conflict" and thereby "cast the constitutional die for rebellion."²⁵ In this point, he strongly reinforces one of my central points in *Peripheries and Center*. His second thesis

²⁵ Reid, *Authority to Legislate*, 4–5.

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is that the colonial appeal to the Crown for support against Parliament, by raising the specter of a resurgent prerogative, alarmed British Whigs and significantly shaped metropolitan responses to colonial demands. Although neither of these points is new, Reid perhaps offers the most systematic exposition of them.

Even though this large body of work confirmed, reinforced, and amplified the interpretation I put forward in *Peripheries and Center*, it did not revise it in any fundamental way. Hence, when, earlier in this decade, Christopher Tomlins and Michael Grossberg, as editors of *The Cambridge History of Law in America*, approached me about writing a chapter on the subject of “Law and the Origins of the American Revolution,” I produced what was mainly a distillation of the central chapters of that book. When, as editors of the new series the Cambridge History of Law in America, Tomlins and Grossberg again approached me earlier this year about writing a short volume that would amplify my contribution to *The Cambridge History of Law in America*, I reminded them that in the central chapters of *Peripheries and Center* I had already covered that subject at roughly the same length as the proposed volume. Knowing that I seldom change my mind about problems once I have dealt with them, I have always been reluctant to revisit them, and even though *Peripheries and Center* had been out of print for the better part of a decade, except for an on-demand edition available through the American Council of Learned Societies, my immediate inclination was to decline the invitation. Besides, Reid’s abridged edition of his 1995 *Constitutional History of the American Revolution*, a volume of approximately the same length and scope, though with a topical organization, was still in print.

As I pondered the matter more thoroughly, however, I realized that neither *Peripheries and Center* nor Reid’s massive body of work had managed to persuade scholars of the American Revolution to assign more weight to constitutional and legal issues in explaining that event. Both Reid and I had offered constitutional interpretations at a time

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when constitutional history was no longer at the forefront of scholarly interest in the American Revolution. Wrapped within a text that spanned the entire era from 1607 to 1788 and within an argument that concentrated on demonstrating the colonial roots of U.S. federalism, the interpretive force of those chapters of *Peripheries and Center* that offered a constitutional explanation for the Revolution had been lost on a generation more concerned with exploring the character than the causes of the Revolution, whereas Reid's work, notwithstanding its extent and compelling persuasiveness, had been almost entirely neglected by mainstream historians.

Three recent examples can be cited to illustrate this neglect. First, at a John Carter Brown Library seminar in 2007 on a paper on why there had been no significant work done on the origins of the Revolution since the mid-1970s, when I objected that the paper's author had left out any reference to Reid's voluminous writings and by implication to my own *Peripheries and Center*, the author and two other senior historians of the Revolution present at that seminar responded that they did not take Reid's work as seriously as I did. Indeed, I heard no evidence that they or anybody else at that seminar had even read, much less mastered, it. Second, at the 2008 annual meeting of the American Historical Association in Washington, a panel of historians, participating in a session the underlying premise of which was that virtually nothing of importance had been done on this subject since 1976 and that the main lines of interpretation now remained essentially where the scholarly discussion had brought them by that date, considered the question of whether the origins of the American Revolution was a subject that, after so many decades of neglect, was worth revisiting. That constitutional questions, including Reid's extensive contribution, got not even a mention at this session powerfully underlines the extent to which mainstream historians have failed even to acknowledge, much less to absorb, this impressive literature. Third, in a forum now being considered by the *Journal of American History* on the origins of the Revolution, not one of the six contributions

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emphasizes the legal and constitutional dimensions of the underlying contest.

The almost total neglect of this point of view by mainstream historians would be an interesting subject for scholarly speculation in itself. Is it because the body of Reid's work is so formidable that scholars are reluctant to try to come to terms with it? Because the boundaries between history and law are so impermeable? Because early American historians have yet to come to a full appreciation of the fundamental importance of law in the formation of colonial British American identities throughout the early modern era, a subject about which Reid himself has relatively little to say?²⁶ Because the whole thrust of Reid's work, which suggests that the Revolution was a British revolution that has to be understood as an episode in British imperial history and not as the first step in the creation of the American nation, runs powerfully against the grain of revolutionary scholarship since the late 1960s? Or because of some other reason altogether?

Legal historians have been somewhat more attentive to constitutional issues. Although such issues did not figure in Christopher L. Tomlins and Bruce H. Mann's impressive 2001 collection of new work in early American legal history, *The Many Legalities of Early America*,²⁷ none of the seventeen chapters taking up the origins of the American Revolution or building on Reid's arguments, two recent and impressive legal history monographs focus directly on the constitution-making process in the early modern British overseas world, one by Mary Sarah Bilder on Rhode Island²⁸ and the other by Daniel J. Hulsebosch on New York.²⁹ Primarily interested in

²⁶ On this subject, see Jack P. Greene, "‘By Their Laws Shall Ye Know Them’: Law and Identity in Colonial British America," *Journal of Interdisciplinary History*, 33 (Autumn 2002), 247–60.

²⁷ Christopher L. Tomlins and Bruce H. Mann, eds., *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001).

²⁸ Mary Sarah Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Cambridge, Mass.: Harvard University Press, 2004).

²⁹ Daniel J. Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664–1830* (Chapel Hill: University of North Carolina Press, 2005).

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the colonial era and, particularly in the Hulsebosch study, the way colonial constitutional developments informed those of the national era, neither of these works focuses on the origins of the American Revolution *per se*.

To an important extent, both Bilder and Hulsebosch concentrated on two aspects of imperial governance: the legal, as in the extension to and modification of British common law culture in the colonies, and the judicial, as in the operation of the British Privy Council as a final court of appeals within the empire. Inasmuch as neither aspect became a central issue in the debate of the 1760s and 1770s, colonists regarding them as protective of the rights they were trying to defend, Bilder and Hulsebosch pay relatively little attention either to the disputes over the distribution of authority between the Crown and colonial legislatures that had been the principal focus of constitutional debate during the colonial era or to the debate over the competing legislative jurisdictions of Parliament and the assemblies, the principal issue behind the crisis that led to the secession of thirteen out of the thirty-two American colonies from the British Empire in 1776. Nevertheless, each of these studies makes an important contribution to understanding the legal dimensions of the origins of the Revolution in the colony it studies by showing how after 1750 legal disputes became entangled with the larger debate over the reach and nature of metropolitan authority, and each provides much new detail about the ways antagonists used the law to argue whatever case they were trying to make.

Moreover, these two works, having thoroughly absorbed and endeavored to move beyond the central insights in Reid's work and in *Peripheries and Center*, powerfully reinforce my arguments about the distinction among the British, colonial, and imperial constitutions and the indeterminacy and contested nature of the colonial and imperial constitutions. Excellent examples of what needs to be done for all the colonies to achieve a comprehensive history of colonial constitutional development from the ground up, these path-breaking studies highlight the returns that can be gained from close

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study of colonial legal and constitutional history and, we can hope, herald a new era of interest in and investigation of that subject.

This hope encouraged me to conclude that a succinct volume on the constitutional and legal dimensions of the controversies that led to the American Revolution might both accomplish the avowed aims of the series in providing a volume that would be suitable for students in legal and general history at the undergraduate level and encourage both students and interested scholars to move beyond the interpretive orthodoxies we have inherited from the last great flowering of historical literature on the origins of the Revolution. I began to think about a volume that would revolve around the relevant chapters from *Peripheries and Center*, augmented by some new research I have been doing on the polemical literature of the 1760s and 1770s and lightly revised to reflect the insights of Reid and others who have published on this subject over the past quarter century. When I suggested this possibility to the editors, they agreed to take it up with the editors at Cambridge University Press, who, once I determined that the University of Georgia Press would allow me to republish in extenso material from the earlier book, offered to move ahead with it. I put together the basic text of the manuscript while I was teaching in the John F. Kennedy Institute at the Free University of Berlin during the summer term of 2009 and completed it during the early weeks of my tenure as a Fellow at the National Humanities Center in Research Triangle Park, North Carolina.

I offer this relatively brief narrative account of the constitutional origins of the American Revolution in the conviction that the debate it analyzes is central to any satisfactory explanation of that event. For a more legally informed study of the same subject, I refer the reader to the abridged edition of John Phillip Reid's *Constitutional History of the Revolution*, a short and accessible guide to that author's many penetrating insights and arguments.

I am grateful to several people who helped in the preparation of this volume. RST Stoermer provided computer

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and database advice and did the index. Amy Turner Bushnell scrutinized the prose text and footnotes, caught many errors, and sometimes persuaded me to shorten some long sentences. Marianne Wasson helped with the dust jacket illustrations. Series editors Christopher Tomlins and Michael Grossberg offered much useful advice. Newgen Imaging Systems did an excellent job of copy editing. Eric Crahan and Jason Przybylski at Cambridge University Press guided the manuscript smoothly through production.

Research Triangle Park

November 15, 2009