

Publisher's Note

Defining Documents in American History series, produced by Salem Press, consists of a collection of essays on important historical documents by a diverse range of writers on a broad range of subjects in American history. This established series offers twenty-three titles ranging from *Colonial America* to *The 1970s* and *Immigration to Environment & Conservation*.

This two-volume set, *Defining Documents in American History: Dissent & Protest (1635-2017)*, offers in-depth analysis of a broad range of historical documents and historic events that make up the vibrant and ever-evolving story of dissent and protest in the United States. It begins with testimony from the Massachusetts Bay Colony trial against Anne Hutchinson in which she defends herself and her break from the Church of England and continues Angela's Davis's speech at the Women's March on Washington in January 2017, the day following the inauguration of the forty-fifth president of the United States. Dissent and protest is, to many, one of the defining characteristics of the American way of life. The speeches, articles, essays, petitions, editorials, even laws and court orders over the span of this nation's history demonstrate the ways in which its citizens have exercised the right to free speech. The ninety-three articles in this two-volume title are organized into eight sections:

- **From Colonies to Nation**, beginning with Anne Hutchinson's testimony and continuing to a petition against the Excise Tax;
- **Slavery and Abolition** which includes such powerful documents as *The Confessions of Nat Turner* and *Twelve Years a Slave*;
- **Sectional Conflict, Civil War, and Reconstruction**, focusing on the great conflict over the continued practice of slavery in both the South and in new states including Kansas and Nebraska, the cessation of the southern states from the Union, and the Reconstruction era, that led to the Jim Crow era;
- **Native American Dissent**, which includes editorials concerning the Battle of Sand Creek and letters to the Army Corps of Engineers, asking for a reconsideration of the Dakota Pipeline;
- **African American Civil Rights** featuring the words of such inspirational writers and speakers as Ida B. Wells, W. E. B. Du Bois, James Lawson, Jr., Stokely Carmichael, Martin Luther King, Jr. and Malcom X;
- **Women's Rights** from the Seneca Falls convention and the Declaration of Sentiments to Angela Davis's speech at the Women's March on Washington;
- **Political and Social Protest**, with calls to action for those seeking social justice for the poor and underprivileged, laborers, and gays; and
- **Anti-War Activism**, with speeches against conscription during the World War I, John Kerry's 1971 testimony to Congress about atrocities during the Vietnam War, and Senator Robert Byrd's speech concerning the war in Iraq.

Historical documents provide a compelling view of dissent and protest, an important aspect of American history. Designed for high school and college students, the aim of the series is to advance historical document studies as an important activity in learning about history.

Essay Format

Dissent & Protest contains ninety-three primary source documents—many in their entirety. Each document is supported by a critical essay, written by historians and teachers, that includes a Summary Overview, Defining Moment, Author Biography, Document Analysis, and Essential Themes. Readers will appreciate the diversity of the collected texts, including treaties, letters, speeches, political and religious sermons, laws, pamphlets, diplomatic communications, government reports, and trial notes, among other genres. An important feature of each essay is a close reading of the primary source that develops evidence of broader themes, such as the author's rhetorical purpose, social or class position, point of view, and other relevant issues. In addition, essays are organized by section themes, listed above, highlighting major issues of the period, many of which extend across eras and continue to shape life as we know it around the world. Each section begins with a brief introduction that defines questions and problems underlying the subjects in the historical documents. Each essay also includes a Bibliography and Additional Reading section for further research.

Appendixes

- **Chronological List** arranges all documents by year.
- **Web Resources** is an annotated list of websites that offer valuable supplemental resources.
- **Bibliography** lists helpful articles and books for further study.

Contributors

Salem Press would like to extend its appreciation to all involved in the development and production of this work. The essays have been written and signed by scholars of history, humanities, and other disciplines related to the essays' topics. Without these expert contributions, a project of this nature would not be possible. A full list of contributor's names and affiliations appears in the front matter of this volume.

Editor's Introduction

The United States is, in many ways, a nation founded on both the ideal and the reality of dissent. This is particularly true of the English colonies. Religious dissent drove the Calvinists (both Pilgrims and Puritans) to New England, Catholics to Maryland, and the Society of Friends to Pennsylvania. Economic dissent or, at least, a desire to opt-out of a system that had no place for them led discharged soldiers, second-born sons of nobility, and indentured servants to Virginia. Political dissidents, such as those who fought for King Charles on the losing side of the English Civil War, the Scotch-Irish, and others came later. From the beginning, the colonies where the United States developed were a haven for those whose ideas were suppressed and those who did not, in some way, fit in. As the new nation emerged following the Revolutionary War, new debates rose and new points of resistance began to form. As dissent against theocracy and British tyranny faded, they were replaced with arguments over the nature of the new American state, protests against the existence and spread of slavery, and a new movement for women's political and economic independence. In the late nineteenth and into the twentieth centuries, the plight of the poor and laboring classes would become a subject of debate and protest as well, with permutations of these and other civil and economic rights issues dominating the twentieth century.

This collection of historical documents gathers a wide variety of examples of dissent and protest throughout American history. It is our goal that the depth and breadth of the sources we selected gives readers a sense of the variety of American opposition to the political, social, cultural, or economic status quo. While the documents we present here stretch across the seventeenth to the twenty-first centuries, they are all similar as examples of resistance to entrenched power structures. From the tyranny of Parliament to that of the slave owner, and from the faceless cruelty of corporate greed to that of the military industrial complex, these documents present a broad array of American responses to oppression. We have organized the documents topically, with the intention of illustrating how different facets of American dissent and protest have changed over time.

From Colonies to Nation

This section contains documents from the era of the British American colonies, through the Colonial crises

and War for Independence, and into the earliest years of the new American Republic. The documents collected here illustrate the religious conflicts in the colonial era, as dissenters from the Church of England found themselves facing the issue of dissent in their own midst. The evolution of the American protest over British taxation policy and the move toward independence is another key component of this section. These documents also reflect the struggles of national unity as the United States established itself in the 1780s and 1790s.

Slavery and Abolition

From the colonial era of the late 1600s to the eve of the Civil War in the 1850s, the debate over African American slavery and its abolition played a crucial role in the formation of American identity and the development of American ideals of liberty and equality. The documents in this section represent a number of different strands of abolitionist thought from a variety of viewpoints including white opponents of slavery, African American abolitionists, examples of slave narratives, and accounts of slave rebellions and uprisings. Taken together, these documents provide a window into how changes in American politics and culture shaped the development of the abolition movement and the movement's thinking about race in America.

Sectional Conflict, Civil War, and Reconstruction

As the nation's population grew and its borders expanded westward, divisions over the spread of slavery to new western territories overwhelmed political debate, becoming nearly all-consuming by the 1850s. The powers of individual states tested the sovereignty of the federal government leading, eventually, to the secession of southern states and four years of Civil War. The period of national reconstruction after the war, from 1865 to 1877 saw the rise of African-American political influence in the south. This influence, however, would fade in the face of oppression and violence. The documents in this section address the debate over slavery in the west, secession and the creation of the Confederacy, and the resistance of African-American political leaders resisting the resurgent white supremacy at the end of the reconstruction era.

Native American Dissent

From Tecumseh's attempts to unify the Native American tribes of the west to fight white settlement to the Indians of All Tribes' occupation of Alcatraz in 1969, the documents in this section illustrate Native American response to nearly two centuries of changing Federal policy and unrelenting oppression. Included here are the Cherokee response to the encroachment of Americans in Georgia, documents reflecting the White conquest of the Trans-Mississippi West and the development of policies aiming to "civilize" Native Americans, as well as Native perspectives on American military atrocities. The recent stand-offs over the building of the Dakota pipeline, which could impact tribal lands, was still a significant issue at the time of publication.

African-American Civil Rights

The story of African-American civil rights presented through these documents begins in the late nineteenth century, in the Jim Crow era of segregation that arose in the decades following the end of Reconstruction. Starting with Booker T. Washington's thoughts on economic uplift, continuing through the foundation of the Niagara movement and the ideas of W. E. B. Du Bois, on through the 1950s and the emergence of leaders like Martin Luther King Jr., and the 1960s emergence of Malcolm X, Stokely Carmichael, leaders continue to emerge for each new generation.

Women's Rights

From its roots in the mid-nineteenth century, the organized women's rights movement in the United States was intently focused on suffrage (the right to vote) until the passage of the nineteenth amendment in 1920. Different proponents of women's suffrage advanced different arguments for why the right to vote should be extended to women around the country. The documents in this section reflect those different arguments as well as they way these arguments differed based on the intended audiences. The women's movement in the 1960s, like many other aspects of the civil rights movement during that time focused on political and economic opportunity in addition to the right to cast a ballot. As a movement, it continues to shape the national dialogue with events such as the Women's March on Washington in 2017.

Political and Social Protest

The documents on political and social protest, dating from the late nineteenth to the late twentieth centu-

ries, address a number of concerns from a variety of points on the political spectrum. From left of center, the collection includes class conscious labor activists like Eugene V. Debs and Samuel Gompers as well as pioneers of social welfare and reform movements such as Jane Addams and Jacob Riis. From the right, the words of figures like Henry Cabot Lodge and the anti-integration signers of the Southern Manifesto illustrate that political and social developments do not exist in isolation but, rather, are part of an often complex and passionate political dialogue.

Anti-War Activism

While the twentieth century did not see the first anti-war sentiments in American history, it did see larger anti-war movements than ever before. As the documents in this section demonstrate, often the anti-war movements were one aspect of a broader social or political trend that was manifesting itself at the time. In the case of American entry into the First World War, anti-war activists identified with political radicalism brought a class-conscious argument against military conflict. Protests against the Vietnam War presented here fit within the wider context of the "new left" movements of the 1960s.

The documents in this collection represent a variety of materials, such as petitions to legislative bodies, manifestos and public declarations, excerpts from book chapters, legislation and newspaper articles. While many are presented in full, some have been edited for reasons of space. Each document is accompanied by commentary that helps the reader gain a deeper understanding of the document, its author, and the historical context of its creation. The Summary Overview gives the reader a bird's-eye view of the document and its significance in American History. The Defining Moment section provides the historical and cultural background necessary to fully understand the document and the brief biography of the document's author (or authors) is intended not only to provide an overview of their life and work but also to provide additional context and background to the document itself. In cases where the author is unknown, or a group of people, the biography discusses a representative member of the group (if known) and the movement or cause that produced the document. Each document is followed by a glossary that provides definitions for four to ten archaic words or usages that may be unfamiliar to modern readers. We did not define terms that have alternative spellings, unless those spellings were so different as to impede un-

derstanding. The Analysis section is an in-depth look at the document which examines, in detail, the intricacies of the author's argument. It also will provide additional historical context, clarify and explain obscure references, and ensure that readers have the tools necessary to fully comprehend and appreciate the significance of the source. It is followed by the Essential Themes section, which emphasizes the one or two most significant aspects of the document and reiterates the most fundamentally important things readers should take away from their study of it. The documents' bibliography provides a number of sources—including books, journal articles, or websites—that inform the analytical materials and provide opportunities for additional study

and understanding. Websites listed were operational when this volume was published but, given the nature of the Internet, may eventually be unavailable or their addresses might change.

We hope this collection provides readers, whether they are students or others with a more general interest in history, a broader and deeper insight into the history of those who pushed back against the political, religious, economic, gendered, or racial power structures of their times. These documents represent an important part of centuries-long, and still ongoing, conversation.

Aaron Gulyas

■ The Rights of the British Colonies Asserted and Proved

Date: 1764

Author: James Otis

Genre: Pamphlet

Summary Overview

For those who are even only slightly familiar with the history of the United States, the cry of “no taxation without representation” is synonymous with the colonial crises of the 1760s and 1770s and the subsequent American Revolution. James Otis of Massachusetts was the man who crafted the political argument that launched this catchphrase of independence. Otis’s *The Rights of the British Colonies Asserted and Proved* had its roots in the increasingly draconian measures taken by the British government against the colonies beginning in the early 1760s and responds to them with a detailed explanation of the origins of government, the importance of legislative bodies, particularly the “subordinate” legislatures, such as the Massachusetts General Court or other colonial law-making assemblies.

Otis, in this pamphlet, also promoted the argument that the colonies should have representation in the British Parliament. His reasoning for this—thoughts that would be taken up by other revolutionary-era thinkers and writers—was that the British subjects born on the colonies were equal to those subjects born in Britain itself. The vast distance separating the colonists from their mother country was immaterial to their legal and political standing. They were entitled to the same rights, privileges and representation as any other British citizen.

Defining Moment

From the founding of England’s North American colonies in the early 17th century, there existed something of a parallel governmental structure. Each colony had a legislature that regulated its internal taxes and laws along with a royal governor appointed by the government in London to ensure that these laws conformed with those of the motherland. In the mid 1600s, a series of laws called the Navigation Acts attempted to regulate commerce between the colonies and mother country. The colonists were notorious for subverting these laws and, eventually, enforcement began to slacken. England treated the colonies with what historians have termed “salutary neglect,” a policy to let enforcement of many regulations slide.

However, during the French and Indian War and, especially after its end in 1763, the relationship between the North American British colonies and their mother country fundamentally changed. The war and its aftermath brought the two entities into much closer and more frequent contact than ever before. During the war, thousands of British troops flooded into the colonies. Other policies, such as the use of “writs of assistance,” which allowed for warrantless searches and seizures by authorities began as an effort to control smuggling but would continue to exist after the wars end. At the close of the war, in an effort to prevent conflict between Native American tribes and acquisitive westward moving settlers, Britain issued the Proclamation of 1763 which prohibited colonial settlement west of the Appalachian mountains and required those already living there to move back east.

In 1764, the year in which Otis wrote this essay, the British government would embark on the first of its many attempts to raise revenue from the American colonies. The political and philosophical concepts presented here by Otis would form the foundation of the arguments that colonists raised about the legality and constitutionality of these measures.

Author Biography

James Otis Jr. was born on February 5, 1725 in West Barnstable, Massachusetts. Otis attended Harvard University, graduating in 1743. He practiced law in Boston and, in the 1760s, began to challenge the British use of “writs of assistance.” These gave the authorities the right to enter a home or business and search for unspecified contraband and smuggled goods. In 1761 he resigned in protest from his position as an attorney in the vice admiralty court and turned his efforts to the defense of merchants against renewal of writs of assistance. Otis lost the case, but he brought the matter to public attention, became something of an instant celebrity.

Soon after, Otis was elected to the Massachusetts General Court (that is, the colonial legislature), where he became an outspoken opponent of onerous British rule. After writing *The Rights of the British Colonies Asserted and Proved*, he became a member of the Massa-

chusetts Committee of Correspondence (which communicated with other legislatures) and of the Stamp Act Congress. Although not as radical as Samuel Adams, the two worked together to lead the resistance to the Townshend Revenue Act of 1767. Sadly, Otis endured a vicious beating in 1769 at the hands of a British tax offi-

cial, leaving him mentally unstable until his death from a lightning strike on May 23, 1783. During the years between 1769 and his death, his efforts in support of American independence were largely forgotten, despite figures like John Adams promoting Otis's pamphlets as being foundational to the revolutionary cause.

HISTORICAL DOCUMENT

...Let no Man think I am about to commence advocate for *despotism*, because I affirm that government is founded on the necessity of our natures; and that an original supreme Sovereign, absolute, and uncontrollable, *earthly* power *must* exist in and preside over every society; from whose final decisions there can be no appeal but directly to Heaven. It is therefore *originally* and *ultimately* in the people. I say this supreme absolute power is *originally* and *ultimately* in the people; and they never did in fact *freely*, nor can they *rightfully* make an absolute, unlimited renunciation of this divine right. It is ever in the nature of the thing given in *trust*, and on a condition, the performance of which no mortal can dispense with; namely, that the person or persons on whom the sovereignty is conferred by the people, shall *incessantly* consult *their* good. Tyranny of all kinds is to be abhorred, whether it be in the hands of one, or of the few, or of the many. And though "in the last age a generation of men sprung up that would flatter Princes with an opinion that *they* have a *divine right* to absolute power;" yet "slavery is so vile and miserable an estate of man, and so directly opposite to the generous temper and courage of our nation, that it is hard to be conceived that an *Englishman*, much less a *gentleman*, should plead for it." Especially at a time when the finest writers of the most polite nations on the continent of *Europe*, are enraptured with the beauties of the civil constitution of *Great Britain*; and envy her, no less for the *freedom* of her sons, than for her immense *wealth* and *military* glory.

But let the *origin* of government be placed where it may, the *end* of it is manifestly the good of *the whole*. *Salus populi suprema lex esto*, is of the law of nature, and part of that grand charter given the human race (though too many of them are afraid to

assert it) by the only monarch in the universe, who has a clear and indisputable right to *absolute* power; because he is the *only* ONE who is *omniscient* as well as *omnipotent*....

The British constitution in theory and in the present administration of it, in general comes nearest the idea of perfection, of any that has been reduced to practice, and if the principles of it are adhered to, it will, according to the infallible prediction of *Harrington*, always keep the *Britons* uppermost in *Europe*, 'till their *only* rival nation shall either embrace that perfect model of a commonwealth given us by that author, or come as near it as *Great Britain* is. Then indeed, and not till then, will that rival and our nation either be eternal confederates, or contend in greater earnest than they have ever yet done, till one of them shall sink under the power of the other, and rise no more....

Every British Subject born on the continent of America, or in any other of the British dominions, is by the law of God and nature, by the common law, and by act of parliament, (exclusive of all charters from the crown) entitled to all the natural, essential, inherent and inseparable rights of our fellow subjects in Great-Britain.

1st. *That the supreme and subordinate powers of legislation should be free and sacred in the hands where the community have once rightfully placed them.*

2dly. *The supreme national legislative cannot be altered justly till the commonwealth is dissolved, nor a subordinate legislative taken away without forfeiture or other good cause.* Nor then can the subjects in the subordinate government be reduced to a state of slavery, and subject to the despotic rule of others. A state has no right to make slaves of the conquered. Even when the subordinate right of legislature is forfeited, and so declared, this cannot effect the

natural persons either of those who were invested with it, or the inhabitants, so far as to deprive them of the rights of subjects and of men. The colonists will have an equitable right, notwithstanding any such forfeiture of charter, to be represented in parliament, or to have some new subordinate legislature among themselves. It would be best if they had both. Deprived, however, of their common rights as subjects, they cannot lawfully be, while they remain such.

Representation in Parliament from the several colonies, since they are become so large and numerous, as to be called on not only to maintain provincial government, civil and military, among themselves, for this they have cheerfully done, but to contribute towards the support of a national standing army, by reason of the heavy national debt, when they themselves owe a large one, contracted in the common cause, cannot be thought an unreasonable thing, nor if asked, could it be called an immodest request) *Qui sentit commodum sentire debet et onus*, has been thought a maxim of equity. But that a man should bear a burthen for other people, as well as himself, without a return, never long found a place in any law-book or decrees, but those of the most despotic princes. Besides the equity of an American representation in parliament, a thousand advantages would result from it. It would be the most effectual means of giving those of both countries a thorough

knowledge of each others interests; as well as that of the whole, which are inseparable.

Were this representation allowed; instead of the scandalous memorials and depositions that have been sometimes, in days of old, privately cooked up in an inquisitorial manner, by persons of bad minds and wicked views, and sent from America to the several boards, persons of the first reputation among their countrymen, might be on the spot, from the several colonies, truly to represent them. Future ministers need not, like some of their predecessors, have recourse for information in American affairs, to every vagabond stroller, that has run or rid post *through* America, from his creditors, or to people of no kind of reputation from the colonies; some of whom, at the time of administering their sage advice, have been as ignorant of the state of this country, as of the regions in Jupiter and Saturn.

No representation of the colonies in parliament alone, would, however, be equivalent to a subordinate legislature among themselves; nor so well answer the ends of increasing their prosperity and the commerce of Great Britain. It would be impossible for the parliament to judge so well of their abilities to bear taxes, impositions on trade, and other duties and burthens, or of the local laws that might be really needful, as a legislative here.

3dly. *No legislative, supreme or subordinate, has a right to make itself arbitrary.*

GLOSSARY

omnipotent: All powerful

omniscient: All knowing

Salus populi suprema lex esto: Latin phrase meaning “Let the good of the people be the supreme law”

Qui sentit commodum sentire debet et onus: Latin phrase meaning “He who enjoys the benefit, ought also to bear the burden”

Document Analysis

In these excerpts from *The Rights of the British Colonies Asserted and Proved*, Otis begins by taking a very eighteenth-century Enlightenment view of the nature of government. He asserts that the nature of man makes government necessary and that this government needs to be “an original supreme Sovereign, absolute, and un-

controulable, *earthly* power.” He immediately makes clear, though, that he is not advocating despotism. This power, he says, is “*originally* and *ultimately* in the people.” Thus, the “person or persons on whom the sovereignty is conferred by the people, shall *incessantly* consult *their* good.” He goes on to argue that the end of government “is manifestly the good of *the whole*” and

that the “law of nature” is *Salus populi suprema lex esto*, or “Let the good of the people be the supreme law” (incidentally, the state motto of Missouri). In this way, Otis appeals to principles of natural law and natural rights. These ideas were almost a commonplace among political philosophers during this era of the Enlightenment, which thrived in Britain and France during the late seventeenth and eighteenth centuries. British writers such as John Locke (1632-1704) and French writers like Jean-Jacques Rousseau (1712-1776) promoted the idea that government was based, in some way, in the sovereignty of the people themselves.

Otis extols the British constitution, referring to the political philosopher James Harrington and his prediction in *The Commonwealth of Oceana* (1656) that the British constitutional form of government would reign supreme in Europe. He also expresses the opinion that the people of the “polite” nations of Europe are as jealous of Britain’s form of government as they are of Britain’s wealth or military strength. He then makes a clear—and what to some would have been a controversial—assertion: “Every British Subject born on the continent of America, or in any other of the British dominions, is by the law of God and nature, by the common law, and by act of parliament, (exclusive of all charters from the crown) entitled to all the natural, essential, inherent and inseparable rights of our fellow subjects in Great-Britain.” It should be remembered the colonies were formed by charters from the Crown, and many colonists tried to assert their rights by appealing not to Parliament but to the king. This notion would become a critical part of colonial arguments against Parliamentary attempts to tax the colonists. Otis then states three arguments about the nature of legislative bodies.

First, he asserts that the power to legislate must be placed in the hands of the people. In his second point, the longest, he asserts that the legislature cannot be dissolved unless the “commonwealth,” or the entire nation is dissolved. He also states that subordinate legislatures (like the colonial legislative assemblies) cannot be “taken away” without justification. In later years, this concern would prove to be somewhat prophetic as the British government limited the powers of the Massachusetts General Court. Otis, on the basis of this argument, calls for representation of the American colonies in the British Parliament. He cites the Latin maxim *Qui sentit commodum sentire debet et onus* (“He who enjoys the benefit, ought also to bear the burden”) and turns it

around to argue that a people should not be required to bear a burden without enjoying a corresponding right. At the same time, Otis recognizes that Parliament might not be the best judge of what is good for the colonies. He argues, therefore, for the sovereignty of the “subordinate legislatures” he mentioned earlier by stating: “It would be impossible for the parliament to judge so well of their abilities to bear taxes, impositions on trade, and other duties and burthens, or of the local laws that might be really needful, as a legislative here.” His third, and final, point is that no legislative body—whether the “supreme” one or a lower body—is allowed to “make itself arbitrary.” That is to say, it must operate within the bounds of established law and precedent.

Essential Themes

James Otis’s ideas drew heavily on the ideas of political philosophers and theorists whose names would become synonymous with the Enlightenment era. Otis explicitly rejects the notion of arbitrary government and, while he believes that government is necessary, he does not accept that government must be tyrannical to be effective. One of the important themes that shines through in these excerpts from Otis’s work is the primary position of representative legislative bodies in his vision of just government. The power of these legislatures must be, in Otis’s words “free and sacred.” Otis’s assertions about the importance of “subordinate” legislatures represents a distinctive colonial view of the British system of government. The colonial assemblies were closer to the people they represented and, because of this, would have greater insight into the needs of those people.

Another important aspect of Otis’s work that is a bit less obvious but is no less significant. Otis, at least in 1764 when he wrote this pamphlet, is not a radical or a revolutionary. Not only does he proclaim the British constitution to be close to “perfection” in theory but also “in the present administration of it.” The British system of legislative government and the political philosophy that underlies it are not the problem. The problem, according to Otis, is that the American colonists are not fully able to enjoy the benefits of this near-perfect political system. That second-class status leads to abuses like the writs of assistance that Otis fought in court and, in months and years to come, would lead to conflicts over taxation and, eventually, war.

—Michael J. O’Neal, PhD

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