

The House of Commons, the British constitution and the end of the American War of Independence

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Abstract

Britain's defeat at Yorktown effectively ended the American War of Independence. Yet King George III, at least initially, refused to accept that the game was up. Recognizing the political difficulties involved in continuing what many British political figures now considered an unwinnable war, Prime Minister Lord North struggled to strike a middle ground between actively pursuing further military measures, and suing for peace. His attempt failed. During late 1781 and early 1782, MPs repeatedly demanded that the government admit the war was over. Ministers narrowly fended off an attempt to block the Army Estimates, but succumbed to General Henry Conway's Humble Address calling for an end to all offensive operations. George III resisted, and even considered abdication, but in the end bowed to parliamentary pressure and accepted a new government, one that negotiated an end to the war. This paper investigates the specifically constitutional dimension of the debates over the end of the war. Touching as it did on the Royal Prerogative, the House of Commons' efforts to override the ministry raised fundamental questions about where power properly lay. Participants in the debates knew this; questions of constitutional theory, precedent and propriety recurred throughout. North's defeat reflected his opponents' success in arguing that he could properly be defeated. His resignation set an early precedent for the convention that ministries must retain the confidence of the Commons in order to survive. Studying these debates consequently tells us something interesting about how fundamental constitutional questions both affect and reflect specific debates over immediate questions of policy.

Introduction

On 27 February 1782, the House of Commons endorsed a motion put by General Henry Seymour Conway demanding that the government accept defeat in the American War of Independence. Conway's motion marked the high point of a sustained opposition campaign that began after news of General Charles Cornwallis's surrender at Yorktown reached London on 25 November 1781. It triggered the downfall of Lord North, prime minister since 1770, nearly prompted King George III to abdicate, and helped create the conditions for the peace that followed.

Conway's motion explicitly and deliberately challenged the existing constitutional order. The power to make peace and declare war formed part of the royal prerogative, exercised by the monarch without recourse to parliament. In demanding that the King use his powers to conclude the American conflict, MPs encroached upon activities traditionally considered beyond the scope of the House of Commons' authority. Some saw this as an asset; they believed greater parliamentary oversight of foreign policy to be a good thing, and saw in both the triggering and the loss of the American war more than enough evidence that the Crown could not be left unsupervised to manage Britain's foreign relations. Others were more reluctant, accepting the general argument that the executive should wield the power of the state as it saw fit, even if the legislature retained the right to hold it to account after the fact, but believing that defeat in America – and the government's apparent refusal to acknowledge that the war was over – justified extraordinary action.

North's defeat and resignation reflected the gradual adoption by a majority of MPs of one of these positions. In this sense, the story of the end of his government, and of the American war,

is a story of a constitutional debate playing out. It also reflected the emergence of conventions around ministerial responsibility and confidence, an important step in making workable the ‘mixed’ constitution established after the Glorious Revolution to balance the respective claims to power of the monarch and the House of Commons. It was the first time that MPs explicitly forced the monarch to appoint a new prime minister, and only the second time that a prime minister lost power having lost the confidence of MPs. As the debates in late 1781 and early 1782 made clear, no government could function for long without the active backing of a majority in the House of Commons. Any monarch unwilling to accept this could choose to swallow their objections or give up their crown. This was far from clear before Yorktown, and elementary thereafter.

In this paper, I first review the constitutional and political contexts in which the debates over Yorktown played out. I then discuss, in turn, the immediate impact of news of Cornwallis’s defeat on parliamentary debates, the initial opposition efforts to force an end to the war, developments during and after the Christmas recess, General Conway’s first and second motions, and their aftermath. I identify the ways in which constitutional arguments shaped and defined the different debates, and how they contributed to the ultimate outcome.

The Constitutional Context

There are three essential facts worth knowing about the constitutional context for Lord North’s downfall. First, the Monarch remained a significant, independent political player, capable of appointing and dismissing ministers, summoning, proroguing and dissolving parliament, vetoing legislation, and managing foreign affairs on their own individual initiative. Though the term appeared occasionally in popular parlance, and Sir Robert Walpole, who held the office

of First Lord of the Treasury from 1721 to 1742, is generally regarded today as the first Prime Minister, no such post officially existed. The Hanoverian kings appointed their ministers individually and directly, with no expectation that a ministry should always act collectively (Keir 1969, 319-320, Dickinson 2011, 401). Lord North did not, in other words, choose his colleagues, and they recognised no duty to support each other (O'Shaughnessy 2013, 69). Each was responsible for his department, both to parliament and to the king (Thomas 1976, 107, Perry 1990, 71, Thomas 1998, 67, Wicks 2006, 61).

Second, the Crown and Lords combined exerted significant influence over the composition of the House of Commons. The majority of MPs owed their place on the pews of St Stephen's Chapel to royal or aristocratic patronage rather than election (Clark 1930, 218). Governments changed between rather than as the result of elections, not least because the Crown's influence generally ensured electoral success for the king's chosen ministry (Keir 1969, 297, 321).

Third, the Commons still possessed significant power, especially over the Crown. The Glorious Revolution guaranteed MPs the power of the purse. No monarch could govern for long without summoning parliament to approve the levying of taxes and the appropriation of funds for public purposes (Whiteley 1996, 205-206) – Tomkins (2005, 107) described this as “perhaps Parliament's greatest single victory in the constitutional struggles of the seventeenth century”. Even before the gradual expansion of the business of government and parliament that underpinned the constitutional transformations of the nineteenth and twentieth centuries, the bulk of what the British state did depended directly on the House of Commons. At a time when – in the absence of state-provided healthcare, education, or any of the other services expected of twenty-first century governments – the vast majority of public expenditure went to support the military establishment (Stone 1994, 9), MPs' power, enshrined in the Bill of Rights, to veto

the existence of the military and its funding, ensured that no government could exist without parliamentary support (Maitland 1948, 373).

This power mattered because the Crown's ability to influence the composition and behaviour of the Commons was never absolute. It was impossible to bribe everyone – the cost was prohibitive, and many of the “independent” country gentlemen elected in large rural seats were wealthy enough to be able to value their independence over any possible financial reward (Gibbs 1962, 18, O'Shaughnessy 2013, 7). Though a majority would generally support the ministry out of a sense of patriotic duty (Crick 1970, 20) – the notion of ‘loyal opposition’ was still emerging at this time (Dickinson 2011, 397) – no government could afford to rely on this passive acquiescence. MPs had to be managed actively (Christie 1958, 363, Gibbs 1962, 21, French 1990, 5), ideally by a leading minister who sat in the Commons rather than the Lords (Langford 2006, 384-385). North's elevation to the premiership (such as it was) in 1770 reflected this reality; he was an effective House of Commons man (Thomas 1998, 64-65). In the realm of foreign policy in particular, he understood the need not only to promote and defend the ministry's positions to MPs, but to devise positions that a majority would accept (Scott 1990, 19-20). He had to do this through constant attendance at and participation in debates in the Chamber, and in the absence of a formal party structure to delineate loyalties or ensure some measure of consistent support (Reid 1946, 217).

It is also worth noting that three major changes were under way even before the British defeat at Yorktown. To begin with, the earlier eighteenth century model in which parliament resolved itself into ‘court’ and ‘country’ factions was giving way to a more recognisable ‘party’ model (Page 2015, 180). More importantly, the earlier notion that the King had the right to use the resources of the Crown as he saw fit to support his government was coming under threat (Crick

1970, 20) while the concept of a ‘loyal opposition’ was beginning to emerge (Dickinson 2011, 397). On 20 March 1780, Edmund Burke tried unsuccessfully to get MPs to agree to tighter parliamentary regulation of the civil list. Though his arguments focused on ensuring accountability for public spending, his deeper motive was to limit the Crown’s ability to buy support for the ministry (Christie 1958, 19, O’Shaughnessy 2013, 37). Two weeks later, on 6 April, the House endorsed John Dunning’s motion “that the influence of the Crown has increased, is increasing, and ought to be diminished” by a majority of 233 to 215 (Christie 1958, 21-22). Clearly it was no longer considered unpatriotic to criticize the role of the Crown in politics, though the government defeated all of the opposition’s substantive follow-up motions (Thomas 1976, 125, Perry 1990, 107).

Next was the fact that politics ‘out of doors’ was becoming more significant. Bickham (2009, 7) described the American war as “the first time in modern history that a literate public sustained a major, widespread critique of their government’s use of military force as a tool of public policy”. Rising prosperity and literacy fuelled the rapid expansion of newspapers in the years leading up to Yorktown (Bickham 2002, 105, O’Shaughnessy 2013, 358), with the events of the American war providing a steady flow of popular copy (Page 2015, 10). From 1771 it was no longer illegal for newspapers to publish details of parliamentary debates – a practice previously prohibited to preserve the deliberative nature of the two chambers, though the ban was widely evaded (Bickham 2002, 106, Page 2015, 186). The result was an increasing understanding within the House of Commons in particular of how arguments made in debate might play out in public (Fraser 1960, 446).

Finally there was the gradual emergence of a concept of collective cabinet responsibility. The absence of clear lines of accountability for foreign policy complicated international diplomacy,

as the Secretaries of State pursued their own international relationships, as did both the King and the prime minister (Scott 1990, 10, O'Shaughnessy 2013, 357) (O'Shaughnessy 2013, 357). That the whole cabinet resigned with North helped cement the idea of collective responsibility, which developed further under Pitt (Wicks 2006, 61) and was firmly entrenched by the time Liverpool came to power (Dickinson 2011, 403).

Each of these developments both fuelled, and was further fuelled by, the way the events of November 1781 to March 1782 played out.

The Strategic and Political Context

At its outset, the American war was a popular war in Britain, at least among the political class. Both the ministry and the main opposition faction led by the Marquess of Rockingham agreed that parliamentary sovereignty was at stake (Cannon 1970, 9, Perry 1990, 96). Over time, the king came to view victory as indispensable to British power in the world (O'Shaughnessy 2013, 28-29) and to assume a greater personal role in driving the conflict forward. Opponents later claimed that North and George III sought to use the war as the basis to overthrow Britain's mixed constitution. Such claims were exaggerated (O'Gorman 1998, 114). But at its outset, though he approved of the war, the king was far from its only advocate, and key politicians across both Commons and Lords agreed that the real threat lay in the challenge the American rebellion posed to parliamentary sovereignty, and the associated threat of democratic mob rule (Conway 1998, 155-156).

On 2 February 1775, the House of Commons declared – by a majority of 190 – “we consider it as our indispensable duty, humbly to beseech his Majesty, that his Majesty will take the most

effectual measures to enforce due obedience to the laws and authority of the supreme legislature” (Parliamentary Register 1775, 134). In this way, MPs not only explicitly endorsed but actively encouraged the use of force against the American colonies. For this reason, the government enjoyed domestic security in the early years of the war. While significant figures – including the Earl of Chatham, former prime minister William Pitt the Elder – defended the rebels and blamed the government for provoking rebellion through unjust taxation – the central claim that the war was being fought for parliament’s authority carried considerable weight (O’Shaughnessy 2013, 52).

Saratoga changed things, though not yet decisively. General John Burgoyne’s surrender to a superior American force commanded by Horatio Gates on 17 October 1777 marked the first major British defeat of the war. It not only proved to the British that the American forces were willing and able to succeed on the battlefield, but also triggered French intervention on the American side. Edmund Burke had already begun to ask whether the original British goals in the war could still be fulfilled. After Saratoga, the whole Rockingham faction began to adopt similar arguments (Perry 1990, 103). Rockingham himself moved for the withdrawal of British troops in March 1778. Though most MPs held back from attacking the ministry too directly, fearful of aiding (or of appearing to aid) the enemy (Whiteley 1996, 173), the size of North’s majority began to shrink, from 190 in February 1775 to 80-90 in February 1778 and 34 in March 1779 (Thomas 1976, 115-116). The government was not yet beaten – it defeated one opposition motion on America in March 1778 by 263 to 113 (O’Gorman 1998, 117) – but its position was weaker than it had been. Even the snap general election of 1780 failed to improve things, leaving the balance of power in the Commons much as it had been before.

The last major debate on America before the summer recess of 1781 took place on a motion from Charles James Fox, the leading opposition figure in the Commons, for a committee of inquiry into the war. It failed by 172 votes to 99 (Cobbett 1814, 435). During the debate, some members touched on the constitutional implications of what Fox proposed to do. This was relatively unusual; as Black (1987, 47) put it, “eighteenth-century debates over foreign policy rarely took a constitutional form”. Though constitutional questions lay at the heart of the American war, they concerned the relationship between Britain’s colonies and parliament, not between parliament and the Crown. Yet it was difficult to separate the wider constitutional context and the immediate political and strategic situation, especially as the king assumed a greater personal role in directing the war (O’Shaughnessy 2013, 30). Critics of the war effort began to argue that only the illegitimate use of the Crown’s patronage and influence kept the ministry in power to continue the American war. Reducing the Crown’s power became a necessary step along the way to ending the conflict.

The discussion on Fox’s motion offered early indications of the wider debates that would follow. Lord Westcote accused Fox of seeking to “improperly entrench on the rights of the sovereign” while William Adam claimed “it had been a constant rule for the legislature not to interfere with the exercise of the executive power”. Thomas Townshend, responding to Westcote, insisted “there were many instances on the Journals, of parliament having interposed upon extraordinary and pressing occasions” (Cobbett 1814, 451, 482). There were two key questions at stake, in other words. Did the House of Commons ever have the right to interfere with the Crown’s executive power? And, if so, did the situation in America warrant that interference? In June 1781, the response of most MPs to one or other question was “no”. Then came Yorktown. “Only then”, as Perry (1990, 94) put it, “did King and Parliament really lose touch with each other”.

Yorktown

“I have the mortification to inform Your Excellency”, wrote General Charles Cornwallis (1781) to Sir Henry Clinton, Commander-in-Chief of British force in North America on 20 October 1781, “that I have been forced to give up the Posts of York and Gloucester, and to Surrender the Troops under my Command”. Even before receiving this confirmation, Clinton (1781a) had already written to Lord George Germain, the minister responsible for overseeing the war as Secretary of State for the Colonies, that “we cannot entertain in the least Doubt of his Lordship having capitulated”, noting that the defeat “will in its Consequences be exceedingly detrimental to the King's Interest in this Country”. In a letter date 5 November, Clinton (1781b) confirmed that Cornwallis definitely had surrendered and forwarded Germain a copy of his letter of 20 October. The news reached London on 25 November, two days before the King was due to open a new session of parliament.

Cornwallis’s defeat at Yorktown heralded the beginning of the end, both of the war and of the North ministry. Yet neither came quickly. The ministers disagreed amongst themselves about whether it was finally time to accept that the American war was lost, and even if it was, what to do about the wider conflict Britain was then waging against France, Spain and the Netherlands. The King, meanwhile, remained determined to fight on (Christie 1958, xii, Weintraub 2005, 306), something he made clear in a defiant Speech from the Throne on 27 November. The *Annual Register* (1781, 128) – a publication closely associated with Edmund Burke – implied that the King had been “made to declare” a hard line, and Charles James Fox told the Commons that “the speech from the throne was not to be considered as the speech of the King, but of his ministers” (Cobbett 1814, 688). Later historians concluded that George III rejected advice from Germain and North to tone his rhetoric down. (O’Shaughnessy 2013, 41).

The only reference the king made to Cornwallis's defeat was the acknowledgement that "events of war have been very unfortunate to my arms in Virginia" (Annual Register 1781, 291). Otherwise, he made clear, the war would continue as before.

The Opposition, demoralised by Cornwallis's earlier victories and the defeat of Fox's motion in June, failed at first to rally its parliamentary forces (Ferling 2007, 542). With most of the independent Country Gentlemen habitually absent from the House during the pre-Christmas session (Whiteley 1996, 189), and the Opposition leaders themselves divided over what to do (O'Gorman 1998, 121), the government easily won the division on its proposed Address thanking the King for his speech and calling the war "just and necessary", by 218 to 129 (Annual Register 1781, 294) – a majority "virtually identical with that of the year before" (Thomas, Lord North 1976, 128).

This apparent early success was, however, somewhat illusory. The news of Cornwallis's defeat was still fresh, and the question of what it meant far from easily answered. North insisted that "the question [of continuing the war]... was in no shape before the house; and that therefore no gentleman voting for the address, would, as the necessary result of such a proceeding, pledge himself to assent either to any specific mode of operations, or to the support of war at all against the colonists" (Annual Register 1781, 129). All the Address, he insisted, "only declared to his Majesty, that they would support the measures which should be undertaken, or continued, for the preservation of the essential rights and permanent interests of the empire" (Cobbett 1814, 715). Many MPs, moreover, felt under normative pressure to support the Address as an act of loyalty to the King, regardless of their views on the substantive policies set out his Speech. As Henry Dundas, the Lord Advocate for Scotland, put it in the House of Commons on 28 November, "'That the king could do no wrong', was a sacred maxim of the constitution..."

whatever was wrong in the administration of the state, was to be ascribed to his ministers” (Annual Register 1781, 131). “This maxim”, he went on, “secured to those ministers the confidence of parliament, because parliament knew that the servants of the crown were not ignorant that they, and not the sovereign, were responsible for the acts of state” (Cobbett 1814, 737). Any criticism, or hostility, generated by Yorktown should be reserved for the ministry, in other words, and not directed at the King.

The problem, however, was that the King was increasingly emerging as the sole voice within the ministry resisting the idea that the American war was over. The same day, he wrote to North that “with the assistance of Parliament I do not doubt if measures are well concerted a good end may yet be made to this War” (Fortescue 1928, 303) and later insisted “I have no doubt when Men are a little recovered of the shock felt by the bad news...they will then find the necessity of carrying on the War, though the mode of it may require alterations” (Fortescue 1928, 304). This was not in fact what happened. Against a backdrop of rising press clamour, both polemical and satirical, the ministry’s position gradually began to unravel, even as the King himself stood firm (Ferling 2007, 542). It is unsurprising that some authors have characterised what came next as a “constitutional crisis” (Page 2015, 188).

First Moves

The opposition made its first move on 30 November. For the first time since the Glorious Revolution cemented the House of Commons’ power over military expenditure, an MP – Thomas Pitt, cousin of William Pitt the Younger – tried to block debate on the Army Estimates by opposing the Order of the Day to resolve the House into the Committee of Supply (Christie 1958, 271). Although the move was primarily symbolic – Pitt sought to delay, not prevent

entirely, the granting of supply – and relatively easily defeated by a majority of 172 to 77 (Cobbett 1814, 761), it still raised significant constitutional questions. To begin with, Pitt's action indicated that at least some opposition MPs were willing at this point to use the House of Commons' control over the public finances to prevent the continuance of the American War. This was something of a 'nuclear option'; blocking the estimates meant immediately defunding the entire military in a time of war. It was always unlikely that a majority of MPs would approve of undermining commanders at sea and in the field in this way, especially given the general understanding that even if the fight to prevent American independence was over, the war against the Bourbon powers might yet continue. The power, however, was real; the move posed a genuine threat.

Pitt justified his action on two constitutional grounds. In presenting his motion, he called back to the original medieval purposes of a parliament; to present taxpayers' grievances to the Crown for redress, and only then to secure their approval for further taxation. Pitt described the notion "that the redress of grievances should invariably precede the opening of the public purse" as "a principle on which stood the existence of the constitution" (Annual Register 1781, 133). This claim involved a degree of sleight of hand. As an account of how the medieval constitution worked (at least in theory), it worked. But it overlooked two crucial points. First, the 'grievances' historically addressed by the Crown ahead of a grant of supply involved conflicts between taxpayers' material interests and those of the state. Decisions about foreign policy – such as the decision to continue the American war – remained firmly beyond the remit of a medieval parliament. In redefining a policy dispute as a 'grievance', Pitt sought to establish a new constitutional principle by clothing it in the garb of earlier precedent. Second, Britain no longer operated under its medieval constitution. As Grey Cooper pointed out on behalf of the ministry, the Glorious Revolution not only cemented the Commons' control over extraordinary

supply, it also eliminated the Crown's right to raise extra-parliamentary revenues. A medieval monarch might be unable to launch a new offensive war without first addressing the Commons' grievances. But they would be able to meet the everyday costs of government. That was not the case for George III. He could not even support his own household without supplies being granted. Blocking supply had become a much more significant act in 1689, which was why – despite a great deal of wrangling during the reign of William III – it had not happened since. Cooper warned Pitt, and the House, not to “set so bad a precedent” by breaking with post-revolutionary practice (Cobbett 1814, 753).

Pitt made his second constitutional claim in wrapping up the short debate on his motion. It was perfectly proper, he argued, for the Commons, as the “deliberative power” in the constitution to “to exert its important privilege, by shutting up the purse with which it is entrusted” at any point “when the crown, when the executive power, shall be ill-advised and ill-administered” (Cobbett 1814, 761). Whereas his first claim sought to repurpose earlier practices for the 18th Century context, this one fit the post-1689 context better. If the King was badly advised, or his ministers unable to conduct his affairs effectively, the House of Commons had a duty to step in. Again, this was clearly true. The problem here lay in the method Pitt proposed. As William Adam, a minor government office-holder, put it, if Pitt was right, “the sole purpose of the question...was to turn out the ministers. There were many other methods of doing that” (Cobbett 1814, 758). Rather than directly petitioning the King to change his ministers, Pitt instead sought to prevent them from acting in the manner set out in the Speech from the Throne. That, Adam insisted, was constitutionally improper. If the House lacked confidence in the ministers it should press for their replacement. Though Charles James Fox, citing the threat to the constitution itself from the government's continuation, did suggest North's impeachment (Cobbett 1814, 754), it was clear that MPs were not yet ready to see the prime minister

overthrown. For this reason, the King told North on 1 December that he was “happy so injudicious a measure has been pursued”, believing it would undermine the opposition’s case (Fortescue 1928, 305).

On 12 December, the opposition tried a different tack. Sir James Lowther moved “that it is the opinion of this House, that the war carried on in the colonies and plantations of North America, has proved ineffectual”, promising if the motion carried to put a second stating that “all further attempts to reduce the revolted colonies to obedience are contrary to the true interests of this kingdom” (Christie 1958, 271). Ferling (2007, 543) called this “the first really serious threat to North’s government”. As the Annual Register (1781, 142) explained, the motion was carefully calibrated “to discover the number of those in the house, who, without respect to their general political sentiments agreed in opinion with them [the opposition] upon the prosecution of the war”. It might successfully win over MPs who otherwise supported the government, but felt unable to ignore facts. Even the strongest ministerial support of war – Germain – was wavering by this point, writing to Clinton begging that “whatever Ground of Hope there may be remaining of better success should be made known as speedily as possible”, making particular reference to the potential role of loyalists (Germain 1781). On 8 December the Cabinet wrote collectively to the King that “under the present circumstances it would not be expedient to send to North America any more Force than what is necessary to recruit the regiments there” (Fortescue 1928, 310). Given Sir Henry Clinton (1781c) had written to Germain just days earlier that he could not hold New York without exactly those reinforcements, the situation was clearly critical.

Referring to the earlier debate on Pitt’s motion, Thomas Powys supported Lowther by insisting that this new effort did not cross any constitutional boundaries; “it did not refuse a supply; it

did not clog the wheels of government... it did not encroach upon the prerogatives of the executive power; it did not take away from the Crown the right to distribute the forces of the state...it only asserted a fact, which nobody could dispute” (Parliamentary Register 1781, 121). Fletcher Norton disagreed, but concluded that the war had gone so badly “that the constitutional interference of that House was absolutely necessary” (Parliamentary Register 1781, 130), while General Burgoyne framed the war as part of a broader ministerial effort to disrupt the constitution itself (Parliamentary Register 1781, 138-139).

North himself responded to Powys. Acknowledging his disavowal of any designs on the prerogative, he nevertheless asked “was he clear, that the hands of executive power would not be tied up by the second resolution?”, warning of the “madness” and the risk of “an unpardonable piece of absurdity” were it in fact to prevent the government acting even defensively (Parliamentary Register 1781, 124, 126). It was extremely difficult, North insisted, for the House to restrict ministers in the way Lowther and Powys envisaged without undermining the Crown’s legitimate role in ensuring national defence. This was clearly true, and was a major reason why these initial opposition attacks failed. North then played his trump card. Lowther’s motion was unnecessary, he insisted, since – as he understood it – it sought only to prevent fresh offensive campaigns, and not to give up the defence of positions the British still held. The government had no intention of launching any further offensive operations, and had rather decided that “the form of the war should undergo a total change”. There would be no more armies and no more campaigns – as the Cabinet had indeed advised the king four days earlier. As proof of his sincerity, he pointed to the Estimates themselves; “by those estimates the house would see, that government had not provided itself with the means of carrying on the war in the manner it had hitherto been conducted” (Annual Register 1781, 143, cf. Cobbett 1814, 808, Parliamentary Register 1781, 127).

North's announcement worked. His motion for the orders of the day to be read passed 220-179, meaning Lowther's motion was lost automatically (Cobbett 1814, 831). But although the immediate danger had been avoided, and – as we have seen – North had not yet been forced to agree to anything in public that he was not already urging on the King in private, the danger signs for the ministry remained clear. Lowther might have succeeded without North's intervention (Christie 1958, 278, Thomas 1976, 129). The *Annual Register* (1781, 144) reports that “several of the country gentlemen declared themselves satisfied with the assurances given by ministers, considering them as tantamount to the propositions before the house, unless those propositions were designed to go a length which they thought neither constitutional, prudent, safe, nor honourable”. Lowther's efforts to avoid the accusations of unconstitutionality that undermined Pitt's motion had paid off, in other words. Both Sir Edward Deering (Parliamentary Register 1781, 133), a past critic of the ministry, and Henry Dundas (Cobbett 1814, 826), a member of it, announced that North's words were all that stopped them supporting Lowther. Even so, in winning by only 41 votes, the government had seen its majority drop by more than half in the two weeks since parliament opened.

The King wrote to North the following day, noting the government's shrinking majority “with disappointment but not evidently with understanding” (Whiteley 1996, 197) and approving of what the minister had done (Fortescue 1928, 312). Yet two days later, following the passage of the Army Estimates, he insisted the tide was turning in the government's favour (Fortescue 1928, 313). This was apparently not North's view (Christie 1958, 276), but without the King's permission he could offer MPs no more assurances (Thomas 1976, 129). Christie estimates that, among the ministers, only Germain, Daubeny and Wrottesley still believed in an attempt to re-conquer America by this point, while North, Ellis and Dundas believed in continuing the

war with a renewed focus on France and Spain, and Rigby and others believed it was time to give up on America immediately, regardless of the consequences for the wider conflict (Christie 1958, 277-278). While the king stood firm, however, there was little the ministry could do.

Over the recess

Against this backdrop, the first cracks began to show in the ministerial edifice. On 14 December, Germain told the House of Commons that he would never accept the loss of British sovereignty in North America. Hearing this, North stood up and moved to a seat behind the Treasury bench, as if to signal his disagreement (Christie 1958, 276, Thomas 1976, 129). That same day, Richard Rigby – nominally a member of the government as Paymaster of the Forces – joined the opposition (Valentine 1962, 449). Henry Dundas had, meanwhile, decided that only Germain's removal from office could save the ministry. Alongside Rigby, in late January he pledged that neither he nor his supporters would attend the House while Germain remained a member of the government (Valentine 1962, 453, Thomas 1976, 130). It was unclear whether the government could survive the resulting reduction in its majority. Not only did Dundas and Rigby between them influence 10-20 votes, their withdrawal threatened to inspire other independent members to break with the government (Christie 1958, 296).

Aware that a storm was brewing over Germain, North suggested to the King that they consider accepting the end of the American war in a meeting on 21 December. It was the first time the prime minister raised the possibility so directly, and George III was unimpressed. He was willing to appoint a new Colonial Secretary; both he and North agreed that Sir Guy Carleton should succeed Sir Henry Clinton, and Carleton and Germain were sworn enemies. But he

wanted someone every bit as committed to retaining sovereignty in America as he was (Valentine 1962, 445). As a concession, the King permitted North to meet with Lords Stormont and Hillsborough, the Secretaries of State for the Northern and Southern Departments respectively, to consider how Britain might approach peace negotiations – though he insisted that North keep his views private from the wider cabinet (Fortescue 1928, 317). Stormont told the King on 23 December that North told him that he believed in “the little Importance of such sovereignty as could now be retained over the Colonies”, though he would refrain from saying as much in public because he knew the King disagreed. George III followed up on this exchange with a letter to North on 26 December reiterating that “getting a Peace at the expense of a Separation from America...is a step to which no difficulties shall ever get me to be in the smallest degree an Instrument” (Fortescue 1928, 326). The impasse continued.

Historians disagree over why exactly the King eventually agreed to Germain’s removal. Ferling (2007, 543) describes it as an attempt “to take some of the heat off North’s ministry”, implying that George III acted essentially on his own initiative. O’Shaughnessy (2013, 42), by contrast, emphasises the King’s insistence that Germain’s views mirrored his own, and his willingness to grant Germain his long hoped-for peerage to signal that his resignation reflected no change in strategy. On 21 January, the King wrote to North to complain about the latter’s failure to reach a settled decision on what to do with Germain, and insisting that “on one material point, I shall ever coincide with Lord G. Germain, this is against a separation from America” (Fortescue 1928, 334). North responded the same day. For the first time he placed in writing the opinion he first expressed to the King in person a month before; “Peace with America seems necessary, even if it can be obtained on no better terms than some Federal Alliance, or perhaps even in a less eligible mode”. If the King agreed more with Germain than with North, the prime minister went on, perhaps it should be North who resigned (Fortescue 1928, 335).

That the King refused to take North up on this offer reflected Germain's personal unpopularity, as well as the lack of a credible alternative prime minister other than the opposition leader Rockingham. North might be wobbling on the question of continuing the war, but he had wobbled in the past, always steadying himself eventually. Charles Jenkinson, the Secretary at War who maintained a back-channel line of communications with the King, wrote on 22 January that "at this season of the year, Lord North has always one of these sorts of Fits, which are really like the paroxisms of a disease, and ought as such to be treated" (Fortescue 1928, 338). Dundas and Rigby walked out of Parliament that same day, while North held a crisis summit with Germain. The two men remained far apart on the question of America (Guttridge 1927, 40-41). But for all the King's agreement with Germain, his only hope of avoiding an explicitly anti-war government lay in standing by North. Germain, meanwhile, was willing to stand aside provided he got his peerage. He duly became Viscount Sackville, in the face of howls of protest in the Lords (Valentine 1962, 453). Welbore Ellis assumed the American secretaryship, which at least meant North was not left alone in the Commons.

Conway's motions

The three months following the end of the Christmas recess witnessed both "parliamentary crisis" (Christie 1958, 299) and "one of the high points of parliamentary history" (Thomas 1976, 130) as the opposition slowly pried the ministry from power against the wishes of the King. On 24 January, Fox moved for an inquiry into naval failures. The motion passed without a vote as North stated he did not object to it (Cobbett 1814, 881). When, however, Fox moved a censure motion against Sandwich the following week (on 7 February), it was defeated 205 to 183, a majority of 22 (Annual Register 1782, 157). Fox tried again on 20 February, losing 236

to 217, a majority of 19 – with some indications that had he not proposed to call for Sandwich’s immediate removal, he might have won more support (Annual Register 1782, 167). Both ministers and the opposition leaders recognised that the ministry’s position was weakening further (Christie 1958, 319, Ferling 2007, 544).

Germain’s removal had marked the beginning rather than the end of the ministry’s difficulties. That it had taken so long to remove a minister so inextricably connected to a policy that few in parliament now believed in raised growing doubts about the government’s ability to accept reality. That the King rewarded Germain’s service so handsomely – making him not just a Baron but a Viscount – illustrated a key issue that convention dictated could not be openly discussed in parliament. The monarch himself was the main barrier to peace. As the *Annual Register* (1782, 167-168) put it, far from signalling a change of course, the opposition interpreted Germain’s removal as a clear sign “that there still existed a secret and obstinate attachment in the court to the prosecution of the war against the colonies”. For this reason “it was resolved to make another attempt in the House of Commons, to bind up the hands of the executive government by a strong and explicit declaration of the opinion of parliament”.

On 22 February 1782 General Henry Seymour Conway rose in the House of Commons to move “that an humble Address be presented to his Majesty...that the war on the continent of North America may no longer be pursued for the impracticable purpose of reducing the inhabitants of that country to obedience by force” (Cobbett 1814, 1030). Even more so than Pitt’s or Lowther’s efforts before Christmas, this represented a direct attempt to override the executive in the name of the House of Commons. As a result, much of the debate turned on the constitutionality, or otherwise, of Conway’s approach. Welbore Ellis repeated two arguments used in those earlier debates.

The first argument concerned, not so much the constitutionality, as the appropriateness of Conway's approach, given the context. Though he insisted that "the executive part of government was vested undoubtedly by the constitution, in the servants of the Crown", he conceded that "the House was no doubt competent to interfere in the executive department, if it should think it expedient so to do" even as he "hoped that the legislature would never interfere on slight grounds" (Parliamentary Register 1782, 265). Instead of meeting the constitutional argument head on, in other words, Ellis deliberately conflated it with the question of whether parliamentary intervention was truly necessary. In the process he again called attention to the lack of provision made in the Estimates presented in November for the troops that would be needed to launch fresh North American campaigns.

William Adam expanded on this in his own contribution. Calling Conway's proposal "unconstitutional", he argued that "the House had an indisputable right to examine into the past; but they could not dictate the measures to be adopted, without encroaching on the rights of the executive power" (Parliamentary Register 1782, 273). In other words, he believed there was a meaningful distinction between *ex post facto* parliamentary accountability, which lay at the heart of the British constitution, and *ex ante* parliamentary direction, which lay beyond its limits. This argument had some impact. Rigby, fresh from helping Dundas to drive out Germain, announced that "he should vote against the present motion (although he wished for peace) as it interfered with the executive power, and left Ministers in a situation of not knowing what to do" (Parliamentary Register 1782, 280). Not everyone was convinced, however. Isaac Barre, an ally of Shelburne whose pro-American speeches earlier in the conflict had coined the term 'Sons of Liberty', responded to the suggestion that Conway's measure was unprecedented (a serious criticism in Britain's precedent-based constitutional order) by arguing that "the

situation of our country is unprecedented” and warning against resorting to the “search for precedents...when the nation is verging on absolute ruin” (Parliamentary Register 1782, 275).

The second argument echoed a point Adam had made in response to Pitt. If the House of Commons withdrew its confidence from the ministry, the ministers “ought to retire”. But “if confidence was given to them, the consequence of that confidence ought to be, that they should be left to act to the best of their judgment” (Parliamentary Register 1782, 266). If a majority of MPs agreed with Conway, in other words, the more constitutionally appropriate route open to them was to press for the removal of ministers, not to try to tie the hands of the existing ministry. North underlined this point in his own contribution, describing it as “the best method, and the likeliest to be attended with advantage to the state” (Parliamentary Register 1782, 279). Edmund Burke responded with incredulity: “Confidence! Could we have confidence in the men who still determined to prosecute this mad and impolitic war? It was impossible” (Cobbett 1814, 1039).

Conway’s motion failed by a single vote, 194 to 193. The *Annual Register* (1782, 168) reports that this “was considered, by opposition as a complete victory over the minister” given the number of likely supporters not present, and the fact that some known critics of the war – such as Rigby – had been put off supporting Conway by the form but not the substance of his motion. Fox immediately announced that the motion would be reintroduced shortly, and in the exchanges that followed the normally unflappable North lost his temper with Barre and found himself apologising to the House for having used unparliamentary language (Cobbett 1814, 1048). North wrote to the King on 25 February to warn that Conway’s second attempt was likely to succeed. Even nominal government supporters could no longer be relied upon to back the ministry (Fortescue 1928, 373). The King replied that he would “certainly till drove to the

Wall do what I can to save the Empire”, insisting that Conway’s proposal risked “the destruction of the Honour of the Country” (Fortescue 1928, 374).

Conway tried again on 27 February. Recognising how doubts about the constitutionality of his approach had undermined his position five days before, he opened his speech with a long explanation of why he considered what he now proposed perfectly constitutional. He offered two specific grounds. First, he listed a long series of precedents, going back to the reign of Edward III, for parliament offering its opinions and advice on matters of foreign policy and war (Annual Register 1782, 168, Parliamentary Register 1782, 312-313). Far from representing a novel extension of normal parliamentary practice occasioned only by the extremity of the situation, he argued, his proposal was perfectly ordinary. Second, implicitly conceding that he may have overreached on the earlier occasion, Conway declared he had changed the form but not the substance of his motion. He now proposed, not a direct Address to the Throne, but an ordinary resolution of the House (Parliamentary Register 1782, 316). Whereas the former was conventionally considered a binding judgement, intended to force the King’s hand, the latter would simply express an opinion, leaving the King greater freedom to decide how to respond.

North nearly missed the chance to speak, as a clamour for a vote nearly preempted his speech (Parliamentary Register 1782, 321). When he stood up, he once again argued that if the House lacked confidence in the ministry it should say so explicitly. Taking an additional step, he indicated that, in his view, defeat on Conway’s motion implied that broader loss of confidence. Were the motion carried, he suggested, he would have no choice but to resign (Annual Register 1782, 170). Having essentially declared a confidence vote, North then urged his own supporters “to oblige him only by voting according to the dictates of their own judgment, and totally to lose sight of every personal consideration to him” (Parliamentary Register 1782, 324). They

should not, in other words, save the ministry at the cost of prolonging the war, if they sincerely believed the war should end. These twin statements ensured that the debate on 27 February would be decisive. Victory for North would stabilise his position. Defeat would finally enable him to stand down with dignity.

That is not to say that ministers offered no political defence. Attorney General James Wallace followed up on North's speech by pointing out that peace was unattainable without significant legislative amendment. Circumventing Conway's motion, Wallace proposed to adjourn parliament to 13 March to permit time to draw up a bill to this end and to seek a truce during which peace could be negotiated. This intervention had an impact on some wavering members (Annual Register 1782, 171). Though Conway dismissed it as "paltry subterfuge.../... the desperate attempt of a tottering ministry, and the happy forerunner of their speedy annihilation" (Parliamentary Register 1782, 329-330), Sir William Dolben and Henry Rosewarne both stated that although they had previously supported Conway they preferred the Attorney General's plan (Parliamentary Register 1782, 328-329). North followed up on Wallace's intervention by resuming Ellis's argument from the earlier debate. Avoiding the constitutional question by conceding it, he questioned whether it was expedient to seek to override ministers who were in fact already acting in line with his announcement on 12 December (Cobbett 1814, 1079).

None of this proved enough. Christie (1958, 330-331) identified twenty nominal government supporters who voted with Conway on 27 February, including four who voted against him five days earlier and ten who had abstained. Among these men, and another twenty who abstained on 27 February, a majority had either abstained or voted with the ministry against Lowther in December. Wallace's proposal failed by a majority of 234 to 215. Conway's motion, and a

subsequent Humble Address based upon it, then passed without a formal division (Annual Register 1782, 171). The government was beaten.

After Conway

At first it appeared that Conway's motion would prove decisive. Burke wrote to Benjamin Franklin on 28 February, "I congratulate you, as the friend of America...It was the declaration of two hundred and thirty four; I think it was the opinion of the whole" (Woods 1963, 419). Newspapers ran headlines heralding "PEACE WITH AMERICA" (Weintraub 2005, 317, Bickham 2009, 162). North wrote to the King advising "that as the House of Commons seems now to have withdrawn their confidence from Lord North, it will be right to see, as soon as possible what other system can be found" (Fortescue 1928, 374). Whiteley (1996, 200) argued that North had designated Conway's motion as a test of confidence precisely "to force the King's hand" in this way. Finally, he hoped, the King would allow him to stand down.

George III, however, continued to hope that the independent members – many of whom seemed not to have fully grasped the significance of a defeat on Conway's motion for the future of the ministry (Christie 1958, 334-335) – would return to support North. As Ferling (2007, 545) put it, however, "they did not". Against this hope, the King tried to shore up the prime minister's confidence even as he permitted Lord Chancellor Thurlow to begin sounding out opposition leaders, beginning with Lords Gower and Weymouth rather than the distrusted Rockingham and Shelburne (Fortescue 1928, 375). The problem, however, was that many independent members took the opposite view to the one the King expected. Having long lost confidence in the ministry, they had continued to support it until February 1782 because it seemed the only

bulwark against the surrender of America. With that hope now clearly lost, they had no other reason to return (Christie 1958, xiii, Thomas 1976, 131).

On 4 March the King responded favourably, if vaguely, to Conway's motion. Conway, in response, proposed a further motion "that the house would consider as enemies to his majesty, and the country, all those who should advise, or by any means attempt, the further prosecution of offensive war, on the continent of North America" (Annual Register 1782, 171). North responded that "it was scarcely possible that a minister should be found hardy, daring, infamous enough to advise his sovereign to differ in opinion from his parliament, so he could not think that the present motion...could be at all necessary" (Cobbett 1814, 1090). Conway's fresh motion was misguided, in other words. If there was a barrier to the government acting on the advice issued on 27 February, the prime minister was not it. North left unspoken the implication; that the barrier was the King himself. Fox asserted the opposite; pointing out that North had not in fact resigned, he accused him of putting non-committal words in the King's mouth (Cobbett 1814, 1093-1095). The motion passed, again without a vote.

The following day, North appeared to backtrack on his earlier pronouncements, stating that "as long as parliament should not think it necessary to remove him either by vote, or by totally withdrawing their confidence...he should resolve to retain his situation" (Cobbett 1814, 1108). The withdrawal of confidence implied by defeat on 27 November was apparently no longer enough. Though, as Fox's speech the previous day implied, North faced some personal criticism for taking this stance, the *Annual Register* suggests it was by this point widely understood that he had been "prevailed on to continue in a situation, that was neither honourable to himself, nor without injury to the country" until the King was totally convinced that no alternative remained open (Annual Register 1782, 172-173).

On 6 March, Thurlow wrote to George III confirming that he had entered into negotiations with Shelburne (Fortescue 1928, 377). Charles Jenkinson meanwhile told the King that North was trying to negotiate with Grafton via either Weymouth or Gower, either because he did not know of Thurlow's earlier approach (this is possible) or because he thought he might succeed where Thurlow failed (Fortescue 1928, 378). This implies that even North still hoped he might find a way to stay in power, despite his protestations to the contrary. Either way, these negotiations came to nothing. As the King had feared, it was becoming clear that the only alternative to North was Rockingham, a man committed to American independence.

Two days later, Lord John Cavendish – who North told the King was “more in the confidence of Lord Rockingham than any other person” (Fortescue 1928, 380) – sought directly to censure the ministry. The government survived by a majority of ten, by 226 votes to 216. In debate, North alluded vaguely to circumstances beyond his control that he could not openly explain and that were preventing his resignation. Most observers considered this “a coded reference to the King's refusal to face facts” (Whiteley 1996). The majority of those nominal supporters who had voted with Conway against North now voted with North against Cavendish (Christie 1958, 349, Thomas 1976, 130-131). Although this result implied that George III's interpretation of the situation might yet prove correct, North sought to disavow him of the notion. On 9 March he told the King that “the question was, in fact, whether the Ministry should be immediately removed or not, and yet they were saved only by ten votes. After such division, Lord North is obliged to repeat his opinion that it is totally impossible for the present Ministry to conduct His Majesty's business any longer” (Fortescue 1928, 381). On any issue less immediate and stark than an immediate attempt to throw the ministers out, there was little hope of success. And the government could not function without a reliable majority.

The opposition tried yet again on 15 March, when “the whole strength of both parties was mustered”. Sir John Rous moved explicitly "that, the house could have no farther confidence in the ministers". The government survived by a majority of just nine (Annual Register 1782, 175, Cobbett 1814, 1171). Again, North referred to “certain circumstances in the way of his going out just at that moment, which he could not farther explain” (Cobbett 1814, 1193) in justifying his conduct.

One notable feature of the debate on 15 March is that constitutional questions featured less than they had. Much of the focus was instead on culpability for the defeat, something several MPs refused to attribute entirely to North. Behind the scenes, however, a constitutional crisis had been narrowly avoided. On 13 March, Thurlow told George III that he had spoken to Rockingham directly and ascertained his conditions for accepting office (Fortescue 1928, 383). A letter from the King to Thurlow, written in Queen Charlotte’s handwriting and dated 18 March, summarised Rockingham’s demands, which included the recognition of American independence and the passage of Burke’s Bill to regulate the Civil List. George III outright rejected Rockingham’s demands, and told Thurlow that he “cannot direct any further conversation to be held with the Marquis" (Fortescue 1928, 392). The previous day, he had indicated to North that he might abdicate rather than accept an end to the war, stating “if things go as they seem to lead [I] know what my conscience as well as honour dictates as the only way left for Me” (Fortescue 1928, 391). Around this time he in fact drafted a statement to parliament ceding the throne to his son, though this was never actually sent (Fortescue 1928, 425).

North wrote two significant letters to the King on 18 and 19 March. Whitely described the first as “a remarkable tour de force for a busy, harassed man” that “set out the constitutional position

in clear, firm and unambiguous terms” (Whiteley 1996, 201). North informed the King that a significant body of country gentlemen had resolved to withdraw support from the administration. Without their support, there would be no further government victories (Perry 1990, 108). As Robinson wrote to Jenkinson on 20 March, “with small majorities – if we even have them...it is impossible to carry thro’ the taxes and Public Business” (Fortescue 1928, 402). “The fate of the present Ministry is absolutely and irrevocably decided”, North wrote on 18 March. “Your Majesty is well apprized”, he went on, “that, in this country, the Prince on the Throne, cannot, with prudence, oppose the deliberate resolution of the House of Commons”. George’s immediate predecessors had “found it necessary to sacrifice their private wishes, and even their opinions to the preservation of public order, and the prevention of these terrible mischiefs, which are the natural consequence of the clashing of two branches of the Sovereign Power in the State”. Though parliament had initially supported the American war, “The Parliament have altered their sentiments, and as their sentiments whether just or erroneous, must ultimately prevail, Your Majesty having persevered, as long as possible, in what You thought right, can lose no honour if you yield at length”. The King had to face hard facts: “there are no persons capable and willing to form a new Administration, except Lord Rockingham and Lord Shelburne” (Fortescue 1928, 394).

The King’s initial response, on 19 March, was somewhat petulant: “if you Resign before I have decided what I will do, You will certainly for ever forfeit my regard” (Fortescue 1928, 397). Though North’s follow-up betrayed the emotional strain he undoubtedly felt, it remained firm and direct. “If by remaining in office I could serve your Majesty, I would run any risk”, he said. But there was no chance. He would be forced out by the motion proposed for the following day, and would “remain in the Journals for ever stigmatized upon record by a Vote of

Parliament for my removal, which I believe has seldom, if ever, happened to a Minister before”. He begged the King to save him from that last indignity (Fortescue 1928, 397).

Exactly what influence North’s arguments had on the King is unclear. What is clear, however, is that George III pulled back from provoking an outright constitutional crisis. He did not abdicate. Nor did he force North to endure an explicit censure. As the Earl of Surrey sought to move a further no-confidence motion on 20 March, North finally succeeded in interrupting him to announce that the government had already resigned and that another would shortly be formed (Annual Register 1782, 176, Cobbett 1814, 1214). One week later the King, having agreed terms with Rockingham, wrote to North that “at last the fatal day is come which the misfortunes of the times and the sudden change of sentiments of the House of Commons have drove me to” (Fortescue 1928, 421).

Conclusions

The American War of Independence was itself a conflict about the British constitution – or, more accurately, about the constitution of the British Empire. Had cooler heads prevailed in London earlier in the dispute, the American colonies might have adopted a version of the Dominion status later granted to Canada and Australia. It seems more reasonable to conclude, however, that parliament’s later willingness to cede its own authority over Britain’s overseas colonies, even as they remained formally under the sovereignty of the British Crown, reflected the recognition – demonstrated conclusively at Yorktown in 1781 – that the country lacked the capacity to prevent determined settler-colonist efforts to pursue self-government.

That defeat brought down the North ministry was far from unusual. Most eighteenth century governments fell because of perceived or actual geopolitical failings (Ahn and Simms 2010, 80). What *was* unusual, however, was the determined resistance offered by the King. George III clearly believed that Britain's power and prestige could not survive the loss of America. Like Germain, he seems also to have under-estimated the degree of popular support for British rule amongst the American colonists, feeling a sincere responsibility for loyalists who might suffer retribution – something Cornwallis had failed to prevent in his surrender agreement with Washington. These beliefs prevented him from seeing, let alone accepting, that the war was over. And although in the final analysis he proved unwilling to sacrifice his crown to his principles, things might well have turned out otherwise.

The King's resistance forced the ministry to fight longer and harder than it otherwise might have done. Exactly how far this is true is difficult to ascertain; North was clearly less willing actually to resign than he was to promise to do so (Perry 1990, 94, Whiteley 1996, 170). But it certainly is the case that the opposition, acting through the House of Commons, forced the King to accept a change of government against his wishes. Having done so for the last time in 1781, George III never again attended cabinet; by the time George IV ascended the throne, no monarch had participated directly in the government's inner deliberations for more than a generation. Though it took the expansion of the franchise in the 19th and 20th centuries to democratise British government, the King's decision to accept defeat in 1782, and parliament's insistence that he must change his ministers, helped cement the convention that the government must retain the confidence of the Commons; a critical piece missing from the Revolution settlement nearly a century earlier (Keir 1969, 299). Black (1987, 47) was right to point out that, with the exception of the debates in 1781-72, "eighteenth-century debates over foreign

policy rarely took a constitutional form”. But constitutional crises are rare, and this clearly was a period of, at least, constitutional tension.

As Lord Norton (2011, 1) has argued, “the constitution has changed, at times dramatically, because of the desires of, and conflicts between, particular individuals; the path of constitutional history could conceivably have been very different”. This is evidently true. But perhaps the greatest constitutional lesson of Lord North’s fall from power is that it was *necessary* for the House of Commons to be able to override the King *in extremis*. Without that convention, the constitution could not function (Wicks 2006, 58).. It might have come about differently. Walpole had begun the process of creating it in 1742 (Langford 2006, 393). It might not have come about for some considerable time to come. But it probably would have happened eventually. If it hadn’t been American independence, another issue would have prompted it.

The participants in the debates after Yorktown recognised their constitutional significance. Both government and opposition at different times played up or down the constitutional implications of individual proposals. The opposition framed the American war as part of a wider plot to subvert the mixed constitution in favour of untrammelled Crown authority (O’Gorman 1998, 114). The ministry described efforts to end the war as an unconscionable (not to mention impracticable) assault on the legitimate functions of government. Opponents of the war balked at establishing constitutional precedents that seemed unwise to them. Supporters accepted that parliament had a legitimate interest in holding ministers to account. Above all, the Commons’ control over revenue and expenditure, and the government’s inability to command stable majority support in a period before modern political parties, ensured that no minister could ignore concerted opposition for long.

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