

TRIMMING LIBERTY'S TREE:

JOHN DICKINSON BEFORE HE WAS "A FARMER"

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To my grandfather, Herbert Sidney Kulik (Z”L)

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Trimming Liberty's Tree
John Dickinson before he was "a Farmer"

"There is a natural aristocracy among men," wrote an aging Thomas Jefferson, "the grounds of this are virtue and talents."¹ Several years removed from his presidency, Jefferson had just reconnected with John Adams after a series of vicious public fights had led to a decade long estrangement between the old friends. Removed from politics and well into retirement, the two dignified veterans were free to reminisce on their shared journey and sojourn into the philosophy of nature, the state, and man. Their missives are graceful and sophic and there is a calming charm to their exchange. "There was a little Aristocracy among Us, of Talents and Letters," wrote Adams. "Mr Dickinson was *primus inter pares*; the Bell Weather; the leader of the Aristocratical flock."² "The natural aristocracy," responded Jefferson, "I consider as the most precious gift of nature, for the instruction, the trusts, and government of society."³ Citing their fading memories, neither Adams nor Jefferson were able to recall whether it was Richard Henry Lee of Virginia or John Dickinson of Pennsylvania that had written the 1774 Petition to the King in response to the Intolerable Acts. While recalling the merits of his fellow travellers, Adams' professed his admiration for Dickinson's talents, but he found, even in the comfort of retirement, little redemption in Dickinson's political career.

Adams, like many after him, fixated on one moment in Dickinson's long public life. Despite his recognition of Dickinson as first among equals, to Adams, Dickinson's legacy could be confined to little more than his momentous decision not to sign the Declaration of Independence. Adams had once praised Dickinson's vociferous assertion

¹ "To John Adams from Thomas Jefferson, October 28, 1813," *Founders Online*, National Archives, last modified October 5, 2016.

² "From John Adams to Thomas Jefferson, November 12, 1813," *Founders Online*, National Archives, last modified October 5, 2016.

³ "To JA from TJ, October 28, 1813," *Founders Online*.

for the cause of liberty in the widely acclaimed *Letters from a Farmer in Pennsylvania* (1767-1768). But, asserting a caprice in 1776, Adams suggested Dickinson betrayed both his conscience and countrymen by refusing to vote for Lee's Resolution on Independence. Adams cast Dickinson as a coward, others called him a cheat, and some went as far to charge him a charlatan preventing the confiscation of his wealth. Dickinson's contributions in the public arena, however, were not limited to 1776: he was repeatedly elected by his countrymen to advocate their interests in the Pennsylvania Assembly, the Stamp Act Congress, the First Continental Congress, the Second Continental Congress, and the Confederation Congress. He was chosen by his colleagues to represent the colonies to the crown and other nations of the world, and asked to pen the Declaration of Rights and Grievances (1765), the Petition to the King (1774),⁴ the Olive Branch Petition (1775), and the Declaration of the Causes and Necessity of Taking up Arms (1775),⁵ Model Treaty, or Plan of 1776, and the Articles of Confederation and Perpetual Union (1777). Dickinson had become the de facto voice of the colonies making his decision not to sign the Declaration of Independence all the more confusing. In an attempt to understand Dickinson's perplexing political decision-making, Dickinson's contemporaries, and scholars in succeeding years, have attempted to ascribe a singular motive or ideology to rationalize his decisions. In this process, historians have

⁴ Although Dickinson's precise contributions to the 1774 Petition were disputed, the final three quarters of the Petition undoubtedly comes from his own hand. While there exists the possibility that he worked from a transitional, missing draft, his contributions to the published Petition are now agreed upon. See Edwin Wolf, "The Authorship of the 1774 Address to the King Restudied," *The William and Mary Quarterly*, Vol. 22, No. 2 (1965): 189-224.

⁵ While the authorship remains disputed, it is evident that a significant portion of the version of the Declaration finally adopted by the Second Continental Congress was Dickinson's original work. There is an ongoing debate about Thomas Jefferson and John Rutledge's contributions and what portions Dickinson merely edited. See Julian Boyd, "The Disputed Authorship of The Declaration on the Causes and Necessity of Taking up Arms, 1775," *The Pennsylvania Magazine of History and Biography* (1950), 51-73.

formulaically offered a banal creed or vogue ideology to explain away a sequence of events from 1767 to 1776, ignoring the influence of Dickinson's preceding years. With this approach, experiences that were essential in the fashioning of Dickinson's worldview—his upbringing, his theology, his education, his legal practice, and early political career—are neglected and the important influences they had left unquestioned.

Instead, for historians, Dickinson's decision not to sign the Declaration confounded the meaning of his sobriquet, "Penman of the Revolution," and defined how his politics would be treated in the historiography of the Revolution. From the earliest histories of the Revolution, Dickinson's career was viewed from Adams' perspective: although a prodigious patriot in the 1760s, Dickinson's alleged political conservatism proved too strong, "conquering [his] patriotism" as one scholar framed it.⁶ Both the nineteenth-century Whig and the twentieth-century Progressive interpretations of the Revolution offered similar characterizations of Dickinson's politics, albeit providing different rationales for it. Both schools, however, are consonant in their questioning of his motives in 1776. The professed power to question Dickinson's patriotism comes from the privilege of the present. It seems difficult for modern scholars to divorce their study of the Revolution from their knowledge of its outcome, but teleological history, or reading present-day understandings back in history, should be avoided. A familiarity with the events caused by the signing of the Declaration, that is, the foundation of American democracy, colors the perception of Dickinson. By denying the Declaration, it was as if Dickinson denied the founding of the Republic, all it has accomplished, and all that it

⁶ H. Trevor Colbourn, "The Historical Perspective of John Dickinson," *Early Dickinsoniana* (The Boyd Lee Spahr Lectures in Americana, Dickinson College, 1951-1961, Carlisle, Pa., 1961), 37.

stands for. If Dickinson were really a patriot, was it not logical that he signed the Declaration?

A proper study of the 1760s and 1770s, however, does not reveal any natural course of events or guarantee a particular outcome. The tendentiousness of historical scholarship is thus to assume a motivation for an outcome that had not yet occurred. Thus, any Revolutionary debate ought to be examined in its historical context and viewed from that time forward. Perhaps Dickinson understood this better than those who studied him, predicting during his speech against Independence: “My Conduct, this Day, I expect will give the finishing blow to my once too great, and my Integrity considered, now too diminish'd Popularity.”

Dickinson’s popularity extended well beyond his *Farmer’s Letters* and began well before they were published. His success in the Delaware and Pennsylvania state houses followed his success as a solicitor where he quickly ascended to the highest echelon of his practice. In no small part did his successes come from the influence of his parents, his education, and legal practice—aspects of Dickinson’s life that have largely been ignored in treatments of his politics and his significance. The early historiography of the Revolution assured that Dickinson’s early life and career, and their effects on his decision-making, would be omitted, favoring a focus on his *Farmer’s Letters* and a perceived subsequent reversal on his advocacy for the American cause.

As he articulated the nineteenth-century Whig view of the Revolution, George Bancroft’s seminal ten-volume *History of the United States, From the Discovery of the American Continent*, published over the course of 40 years, helped establish how Dickinson’s life and work would be evaluated. Dickinson’s entrance in Bancroft’s work

is almost messianic, making his withdrawal appear all the more traitorous to his character and cause. Bancroft described a moment in time when the tyrannical Townsend Acts were bearing down on the colonies, opposition seemingly subdued by royal governors, and all hope lost, “But on the banks of the Delaware, the illustrious Farmer, John Dickinson, of Pennsylvania, who had been taught from his infancy to love humanity and liberty, came forth before the Continent as the champion of American rights.”⁷ Bancroft tamed Dickinson’s heroic entrance, however, casting doubt on his patriotic zeal: “He was an enthusiast in his love for England. . . . His words carried the more weight, because he argued . . . only as a conservative.”⁸ Bancroft’s branding of Dickinson as a “conservative” cautions his reader to reconsider Dickinson’s loyalty, noting his filial ties to England. His naivety and idealistic view of the British crown, wrote Bancroft sardonically, led to “his success in allaying the impassioned enthusiasm of patriotism.”⁹ This charge, that Dickinson’s conservative political ideology suffocated his patriotism, became his legacy.

The Progressive School, dominating the historiography in the twentieth century, saw Dickinson through the lens of economic self-interest and class conflict. Vernon Louis Parrington’s 1928 Pulitzer Prize winning *Main Currents in American Thought*, widely considered a defining moment for American intellectual liberalism, saw Dickinson as a highborn, propertied politician whose precarious position in the colonies put him out of touch with the common man, but in opposition to royal actions that would

⁷ George Bancroft, *History of the United States, From the Discovery of the American Continent* v. 6, 18th ed. (Boston: Little, Brown and Company, 1876), 104.

⁸ *Ibid.*, 104-105.

⁹ George Bancroft, *History of the United States, From the Discovery of the American Continent* v. 7, 12th ed. (Boston: Little, Brown and Company, 1875), 82.

affect his wealth. Dickinson thus typified what Parrington called “American Whiggery,” a party of “moderate men, the conciliationsits,” who were caught in between the extremes of the patriot radicals and the Tory loyalists.¹⁰ “As a large property owner,” levied Parrington, Dickinson “hastened to the defense of the principle of self-taxation.”¹¹ Parrington, however, miserably failed to begin to unpack any semblance of sophistication in Dickinson’s philosophy, wholly dismissing Dickinson’s argument for why Parliament had a right to regulate trade, but not raise revenues in the colonies.

To Parrington, Dickinson represented the myopia of a bygone era, naively unaware of his precarious placement as a propertied patrician, loyal only to the status quo that protected his property and the imperial patronage of Pennsylvania and the other colonies, and soon to be swept away in the tide of change. It was thus “inconceivable” that the writings of such a man “should have appealed to the rank and file of Americans.”¹² In fact, Parrington resolved, the cause of the rank and file Americans could not have appealed to Dickinson himself. Feigning pity, Parrington concluded that Dickinson

little understood the spirit of liberalism that was stirring in many minds; he did not sympathize with the turbulent forces that were driving towards a different social order; and in consequence his technical arguments seem today curiously old-fashioned, . . . Dickinson’s loyalty made him an idealist, incapable of understanding current economic forces either in England or America. The colonial was so ingrained in his habits of thought that it was hard for him to become American. So long as it was politic to profess loyalty to England while remonstrating against ministerial polices, John Dickinson was the man for the business . . . and in the new order which arose he probably never felt quite at home, or was free from a lingering regret. He belonged still in that older world in which he was bred.¹³

¹⁰ Vernon L. Parrington, *Main Currents in American Thought* (New York: Harcourt, Brace and Company, 1930), I, 219.

¹¹ Ibid., 225.

¹² Ibid., 231.

¹³ Ibid., 231-232.

Parrington got Dickinson wrong in nearly every important way. It is unfair simply to dismiss Parrington as a Progressive polemicist. His mischaracterization of Dickinson was plagued as much by circumstance as it was by his politics, and it is forgivable that he had access only to a fraction of the primary source material on Dickinson that is available today. But, Parrington was too quick to label Dickinson a self-interested partisan and buries any semblance of political philosophy in the process. It was easier for Parrington to reduce Dickinson's purpose to the primitive goal of self-preservation, rather than unravel the nuance of his argument.

Milton Flower, former professor of Fine Arts and Political Science at Dickinson College, took up the task of writing Dickinson's second biography—250 years after Dickinson's birth.¹⁴ Flower added much narrative detail to Dickinson's personal life and relationships. Where he excelled in storytelling, he lacked in scholarship, and the absence of a formal training in academic history is far too evident. Flower often omitted sources that should have substantiated his evidence and scarcely used citations, making discerning between literary license and historical scholarship difficult. While some of his claims are dubious, others, such as Dickinson's presence at the vote for Independence are outright false.¹⁵ Flower sequentially labels Dickinson a "radical," "a moderate," and a "conservative," despite maintaining a constancy in Dickinson's philosophy.¹⁶ As one historian reviewed the effort, "An ever-changing Dickinson, despite his own claims of principled consistency, was motivated to resist independence not by principle or

¹⁴ Milton E. Flower, *John Dickinson, Conservative Revolutionary* (Charlottesville: University Press of Virginia, 1983).

¹⁵ Jane E. Calvert, "Myth-Making and Myth-Breaking in the Historiography on John Dickinson," *Journal of the Early Republic* 34 (2014): 469.

¹⁶ Flower, *John Dickinson, Conservative Revolutionary*, chapters 6, 7, 8.

philosophy but by vague ‘conservative’ sentiments and a mild temperament. Built on sources that subsequent research cannot verify, Flower’s work is not just unsatisfying; it is inherently unreliable.”¹⁷ Flower’s biography and his titular representation of Dickinson, however, helped solidify one thing: Dickinson’s labeling as a conservative.

Dickinson’s complex political philosophy, which he nurtured over an active 40-year political career, is thus reduced to “conservative.” In historian Charles Stillé’s 1891 biography, Dickinson is described as an “intense conservative” and later, the “conservative of the conservatives.”¹⁸ In the same year, John Fiske classified Dickinson as both a “conservative” and a “Whig” in his two volume series, *The American Revolution*.¹⁹ “Both by nature and by culture, John Dickinson was a conservative,” wrote Moses Coit Tyler in his 1897 *Literary History of the American Revolution*.²⁰ “By temperament and breeding Dickinson was a conservative,” borrowed Parrington three decades later.²¹ Like a broken record, the automatic classifications of Dickinson as a conservative continued unabated. To list a few: Dickinson was “the leader of the conservatives” to Merrill Jensen in 1940; John Miller concurred in 1943, as did Richard Gummere in 1956; Dickinson was named the “spokesman for Philadelphia’s conservative element and arch foe of the democratic thrust in the state” by G.S. Rowe in 1976.²²

¹⁷ Calvert, “Myth-Making and Myth-Breaking,” *Journal of the Early Republic*, 469.

¹⁸ Charles Stillé, *The Life and Times of John Dickinson, 1732-1808 Volume I*. (Philadelphia: The Historical Society of Pennsylvania, 1891), 43, 279.

¹⁹ John Fiske, *The American Revolution* v. 2 (Boston and New York: Houghton, Mifflin and Company, 1891), 196, 13.

²⁰ Moses Coit Tyler, *The Literary History of the American Revolution, 1763-1783* (New York: G.P. Putnam’s Sons, 1897), 26.

²¹ Vernon Louis Parrington, *Main Currents In American Thought: An Interpretation of American Literature from the Beginnings to 1920* v. I (New York: Harcourt, Brace and Company, 1930), 222.

²² Merrill Jensen, *The Articles of Confederation: An Interpretation of the Social-Constitutional History of the American Revolution, 1774-1781* (Madison: University of Wisconsin Press, 1940), 83; John C. Miller, *Origins of the American Revolution* (Stanford: Stanford University Press, 1943), 418; Richard M.

The term “conservative,” like “moderate,” “revolutionary,” and “radical” carry myriad connotations that make as little sense in historical scholarship today as they would have 240 years ago. Their political meanings are too often confused with their descriptive meanings and using these terms would not only be anachronistic but also inconsistent, as their precise meanings—if such meanings can be deduced—and implications have evolved and continue to change every few years. “Conservatism in political method,” shrewdly noted one scholar “has too often been mistaken for conservatism in political belief.”²³ There certainly were times when Dickinson was conservative in his judgment, but it would do a disservice to Dickinson and the understanding of his political decision making to plainly define his subset of political ideas and thought as “conservative”—at least in a hackneyed use of that word. As noted colonial history professor Frederick Tolles once remarked in a lecture, “We must disabuse our minds of the popular concepts of ‘radical’ and ‘conservative,’ concepts that have tyrannized too long over our thinking and have confused our understanding of American political history. For years we have been trying to explain American politics in those seductively simple terms.”²⁴

Instead of trying to assimilate Dickinson’s distinctive political philosophy into a pre-existing label, Dickinson ought to be able to speak for himself through his own works. Instead of viewing Dickinson’s career from Adams’ perspective, it ought to be

Gummere, “John Dickinson, the Classical Penman of the Revolution,” *The Classical Journal* 52, no. 2 (1956): 87; G.S. Rowe, “Outlawry in Pennsylvania, 1782-1788 and the Achievement of an Independent State Judiciary,” *The American Journal of Legal History* v. 20, no 3 (1976), 235.

²³ H. Trevor Colbourn, “The Historical Perspective of John Dickinson,” *Early Dickinsoniana* (The Boyd Lee Spahr Lectures in Americana, Dickinson College, 1951-1961, Carlisle, Pa., 1961), 37.

²⁴ Frederick B. Tolles, “John Dickinson and the Quakers,” in *John and Mary’s College: The Boyd Lee Spahr Lectures in Americana* (Carlisle: Fleming H. Revell Company, 1956), 85.

viewed through his own eyes. When historians have tried to unravel Dickinson's philosophy beyond the label, they often dismiss it as too complicated, inconsistent or "a hodgepodge of contradictory ideas."²⁵ American historian John Harvey Powell, who for years struggled to write a biography of Dickinson exasperated, "Where in hell did Dickinson learn the complicated way of politics he tried to put into practice?"²⁶ The difficulty in understanding Dickinson left many scholars content with reducing Dickinson's political philosophy to a one-word label or ignoring topics they introduced. John Miller wrote, "American patriots had no reason to thank John Dickinson for his finespun theories and hair-splitting distinctions," without explaining those "finespun theories" and "hair-splitting distinctions."²⁷ Parrington claimed that Dickinson's "native bias was emphasized by his English training in the law," but he foregoes an exploration of that training or its effect on the mind of the young man.²⁸

The mid-to-late twentieth century New Whig interpretation of the American Revolution mainly focused on the era's ideological debates, which were infused with English history and characterized by the tenets of classical republicanism—fear of tyranny, opposition to corruption, and an embrace of civic virtue. Within the Whig interpretation, the power of the monarch and parliament is pitted directly against the liberties of people. Dickinson was seen a "good Whig," and part of the "Whiggish elite,"

²⁵ David L. Jacobson, *John Dickinson and the Revolution in Pennsylvania, 1764-1776* (Berkeley: University of California Press, 1965), 115.

²⁶ As quoted in Jane Calvert, "Myth-Making and Myth-Breaking in the Historiography on John Dickinson," *Journal of the Early Republic* 34 (2014), 468.

²⁷ John C. Miller, *Origins of the American Revolution* (Stanford: Stanford University Press, 1943), 259.

²⁸ Parrington, *Main Currents in American Thought*, 222.

before “step[ing] aside rather than be entangled in the drive for independence.”²⁹ Bernard Bailyn in *The Ideological Origins of the American Revolution* and *Pamphlets of the American Revolution* recognized great nuance in Dickinson’s political philosophy—noting his Quaker influences, education, and legal career as significant determinants in his political philosophy—yet still studied Dickinson in a rigid Whiggish frame.³⁰ Gordon Wood, one of Bailyn’s students, viewed Dickinson in a more republican Whiggish way than his mentor. “Everywhere in America,” wrote Gordon Wood, “republican values helped to shape the revolutionaries’ behavior.” Dickinson’s *Letters*, he continued, “is incomprehensible except with this classical tradition.”³¹ But, as Wood himself demonstrated, Dickinson cannot be understood through the Whig interpretation alone. “The situation in Pennsylvania in the 1760’s was very complicated. Because of the peculiarity of proprietary control of the executive, the sources of strain in the society could not easily be symbolized in a Whiggish conflict between Crown and people.”³² How could Dickinson, a principal player in 1760s Pennsylvania politics and the leading supporter of *proprietary control of the executive* in the 1764 campaign for royal government be thus viewed through a Whiggish lens?

To understand Dickinson’s *Farmer’s Letters*, his career in the Continental Congress and his decision not to sign the Declaration, one must appreciate the mechanisms that led him to those decisions. These mechanisms are not defined by one-

²⁹ Gordon S. Wood, *The Creation of the American Republic: 1776-1787* (Chapel Hill: University of North Carolina Press, 1998), 45, 84, 85.

³⁰ Bernard Bailyn, ed., *Pamphlets of the American Revolution, 1750-1776*. Vol. I. (Cambridge, MA: Belknap Press, Harvard University 1965), 660-667.

³¹ Gordon S. Wood, *The Radicalism of the American Revolution* (New York: Random House, 1991), 210.

³² Wood, *Creation of the American Republic*, 84.

word ideologies or singular motivations, but rather by a philosophical outlook that matured in his formative years.

The most recent and comprehensive treatment of Dickinson is Jane Calvert's 2009 *Quaker Constitutionalism and the Political Thought of John Dickinson*. Dickinson, she argues, was the foremost although imperfect champion of Quaker political thought, a philosophy of a civil constitution and an approach to civic engagement. Her work traces the practice and dissemination of this unique strain of political Quakerism characterized by a belief in a perpetual yet amendable constitution, popular sovereignty, and natural rights. Most importantly, while most Quakers shared many political goals with their contemporary English, non-Quaker brethren—protecting civil liberties, promoting a constitutionally limited government popular sovereignty, and advocating civic engagement—the manner in which they worked towards these goals differed greatly and was arguably more important to them than actually achieving them. Peaceful resistance to achieve Constitutional change, according to such Quaker theory, was the only way to balance the necessity of effecting change, with respecting the traditional principles upon which their present institutions stood.

Calvert likens Quakers' theory of approaching the polity to that of a "trimmer." It is their burden, writes Calvert "to strategically place the cargo or ballast on a ship to keep it stable and afloat." Calvert explains that these trimmers "acted on principle, espousing moderation and eschewing self-interest. . . . This sort of trimmer functions both relative to his immediate environment and apart from it. His job is to keep the ship of state from

listing right or left on a straight and true course to the desired destination.”³³ Calvert’s trimmer is that of noted English statesman George Savile, the Marquess of Halifax, who published *The Character of a Trimmer* in 1688. This concept of a trimmer dismissed the prevailing pejorative use of the term that was used to describe a political rival who trimmed a ship’s sails to steer course “with the prevailing winds.”³⁴

Dickinson certainly expressed a “commitment to preserving the constituted polity and its founding principles” and shared the belief that ultimately “power in the polity resides with the people.”³⁵ Dickinson also rejected the dichotomy that a constitution must “be either static or dispensable” and instead agreed with a “mode of constitutional interpretation that values original intent and requires written codification of them, but recognizes that a paper constitution is merely an expression of the founding ideals of liberty, unity, and peace. The constitution is a representation of the polity itself, which is a living entity.”³⁶ Calvert, however, for want of sources and space, does not discuss Dickinson’s early years—his boyhood, his tutoring, and his legal training, education, and practice. Yet his influences cannot be limited to Quaker thought or his later career.

The focus on his major published works and public life makes sense. The first biography of Dickinson was not written until a century after the Revolution. His second biography was written nearly a century later. Given Dickinson’s casting in the historiography of the American Revolution as a supporting actor and a foil to the more recognizable Founding Fathers, those scholars who choose to dedicate time to Dickinson

³³ Jane Calvert, *Quaker Constitutionalism and the Political Thought of John Dickinson*, (New York: Cambridge University Press, 2009), 13.

³⁴ Ibid.

³⁵ Ibid., 12.

³⁶ Ibid., 10-11.

immediately point to the most apparent and visible parts of his intellectual life: the *Letters from a Farmer*, his refusal to sign the Declaration of Independence, and the 1788 *Letters of Fabius* written in support of Constitutional ratification. But in order to understand Dickinson's writings and his decision not to sign the Declaration, it is necessary to look at his whole life, particularly his most impressionable years. While historians who have treated Dickinson focus on his classical, sophist, or literary influences, Dickinson's philosophy is surely more than the books he read. His political ideology was cultivated in London's centuries old libraries, tested as a twenty-seven-year-old assemblyman, and forged in the furnace of Philadelphia's Fifth and Chestnut Streets. The fashioning of Dickinson's worldview thus began well before he published the *Letters from a Farmer* in 1767. This is most evident in two critical moments during Dickinson's early legal and political career: his representation of colonial merchants in admiralty courts in 1760 and his battle against the anti-proprietary coalition in the Pennsylvania assembly in 1764.

With this context, a more coherent path can be traced from the germination of Dickinson's political philosophy during his studies at home and in London, to Philadelphia's courthouse, to the Pennsylvania Assembly, and to his ultimate decision on July 1, 1776 not to support independence. This study is aided by the exciting recent discovery of an unpublished c. 1761 treatise, titled "Reflections on the Flag of Truce Trade by an English Merchant," in which Dickinson, as a young lawyer, defended the rights and liberties of colonial merchants from royal libel. With this new context, a more thorough treatment of Dickinson's early political career, which culminated in his 1764 philippic against the leaders and ideas of the anti-proprietary politicians, is possible. This

thesis will show that Dickinson's formative experiences, particularly his education, early legal career, and experiences as a young politician led him to form a passion for the vigilant protection of English liberties and social harmony, characterized by an embracement of moderation, a wariness of political reckless, a theory of constitutional change, and a sense of duty to serve the public good. Together, these elements coalesced into a coherent and persistent ideas that help understand and unravel the consistent commitments underlying what too many have seen as Dickinson's shifting political course in the era of the American Revolution. It provides a novel theory for Dickinson's political philosophy, one that is constant and comprehensive, unencumbered by an association with any one political faction or definition.

CHAPTER ONE

“My heart Swells with Transports of Gratitude, to find I am so often rememberd by You: Nor ever will I forget my Duty to such tender & indulgent Parents. Nothing shall be wanting on my part to answer your fondest Hopes.”

John Dickinson to Mary Cadwalader Dickinson, January 19, 1754

Virginia Colony, 1654
Kent County, 1742
Philadelphia, 1750

“Amongst others I am putting in my little Oar, & exerting my small Strength,” vowed a twenty-one-year-old John Dickinson to his mother, shortly after his arrival in London.¹ It was the centennial of Walter Dickinson’s arrival to America, the start of a new life for the Quaker emigrant from London whose great-grandson would return to his ancestral homeland to finish his education. At this moment, young John Dickinson made a promise to his mother: that he would dedicate his life to working for a virtuous cause. He continued: “What will be the Event of my weak Endeavours, Time alone can discover: This however I am convinced of, that there cannot be upon Earth, a nobler Employment than the Defence of Innocence, the Support of Justice, & the Preservation of Peace and Harmony amongst Men.”² In the first two-and-a-half decades of his life, John set out to prepare himself for a life as a successful lawyer and an educated gentleman, but little did he realize that he would also be preparing himself to fight for the liberty and rights of his countrymen. John, like his great-grandfather, would become a malcontent, dissatisfied with the state of his government and the treatment of his landsman. John was a student of history, and actively sought knowledge of his heritage as an Englishman and a Dickinson. He would have been acutely aware of what Walter Dickinson and many of his countrymen sought in the New World, and the reasons they first felt forced to express their discontentment with their feet.

A century earlier, in 1654, three brothers Dickinson emigrated from their ancestral land in England and landed on the shores of the decades old Virginia Colony. One of the brothers, Walter, moved once more to Maryland in 1659, eventually settling

¹ John Dickinson to Mary Cadwalader Dickinson, August 15, 1754,” in Jane E. Calvert, *The Complete Writings and Selected Correspondence of John Dickinson* (Newark, DE: University of Delaware Press, forthcoming).

² Ibid.

on the Eastern Shore in Talbot County.³ Walter purchased 400 acres on the banks of the Choptank River and built a plantation he called *Croisadore*, or “Cross of Gold.” Walter was an enterprising settler and his story was concomitant with the century-long territorial dispute between the proprietors of Maryland, Pennsylvania and the Lower Counties of Delaware. The disagreement over the colonial borders and chartered lands began after King Charles II in 1664 granted land on the Delmarva Peninsula (bounded by the Chesapeake Bay to its West and Delaware Bay to its East) to his brother James, Duke of York, that Cecil Calvert, Lord Baltimore, claimed was given to him by King Charles I in 1632. In 1682, a year after William Penn was granted a charter for Pennsylvania, the Duke of York granted his land on the Delmarva Peninsula to William Penn, then titled “Three Lower Counties on the Delaware River.” The dispute between Lord Baltimore and the Duke of York, and later William Penn, would not be settled until the drawing of the Mason-Dixon line in 1767. With the conflicting claims of possession, Lord Baltimore encouraged the migration of Marylanders to the Delaware lands under his grants with the hope of bolstering his claims to the territory. Walter Dickinson “played Lord Baltimore’s Game” and in 1676, purchased two farms totaling 800 acres of lands on the peninsula.⁴ The purchase of these lands began a nearly three-century patrimony of Delaware property in the Dickinson family that would serve as the grounding for John in America.

At *Croisadore*, Walter raised his son William who would grow to raise his own son in the house, Samuel. Inheriting the wealth of his father, Samuel did not face the same hardships as his progenitors but worked hard to establish himself as a successful

³ Oswald Tilghman, *History of Talbot County Maryland: 1661-1861* Vol. 1 of 2 (Baltimore: Williams and Watkins Company, 1915), 357.

⁴ J.H. Powell, “The House on Jones Neck,” Friends of John Dickinson Mansion, unpublished (1961), 6.

businessman. “Samuel Dickinson conquered no wilderness, he only conquered himself” writes one historian.⁵ “He made a good, rich life, and in his prosperity prepared the same future for his children.”⁶ Married to Judith Talbot in 1710, Samuel built a small empire at *Croisadore* and became an impressive figure in the community. In 1727, Samuel had already fathered nine children, only seven of who were still alive. But, Samuel's life began to unravel in 1728. First his sons Walter and Samuel, both studying in London, died of smallpox. Then in following summer, in a matter of weeks, his two youngest daughters, Rebecca and Rachel, and his wife, all suddenly died. Shortly thereafter, his oldest living son William, also schooling in London, would meet the same fate. Samuel distracted himself from his sorrow by focusing on his business, continuously building his estate, purchasing new land, expanding his haul of tobacco, and expeditiously increasing his properties. In addition to the roughly 9,000 acres he held in Maryland, Samuel decided to purchase a 1,000 acre inheritance in Delaware from his cousin Walter, the grandson and namesake of the original purchaser. Samuel acquired 1,368 additional acres in Delaware under Maryland patents, and would spend much of his life, like his grandfather, quieting titles.

Still, Samuel was companionless and, with only two surviving children, felt a hole in his life. Mary Cadwalader, ten years his junior and the daughter of Philadelphia's high society, would fill this void. In March of 1731, Samuel's Third Haven (formerly Tred Avon) Friends Meeting approved of his marriage to Mary of the Monthly Meeting in

⁵ Ibid., 5.

⁶ Ibid.

Philadelphia, which took place on the fourth of November.⁷ Mary was born the daughter of John Cadwalader and Martha Jones, two devout members of the Religious Society of Friends—Quakers—and was herself an ardent member.⁸ Samuel had become disillusioned with his faith after the Third Haven Meeting would not consent to the marriage of his daughter, Elizabeth, to the Anglican Charles Goldsborough. While Samuel was not disowned by the Society, its disapproval of his daughter's marriage greatly wounded the once devoted Quaker, but it did not shake the faithful Mary. In November of 1732, almost exactly a year after her wedding, Mary Cadwalader Dickinson gave birth to her first child, John. Named for his mother's father, John Dickinson was born to two loving parents and would quickly build an abiding bond with them. If John's words expressed a mere morsel of his true feelings for his parents, his deep love and chaste reverence for his parents was self-evident. Just weeks into his first extended absence from them, Dickinson wrote home: "My heart Swells with Transports of Gratitude, to find I am so often remembred by You: Nor ever will I forget my Duty to such tender & indulgent Parents. Nothing shall be wanting on my part to answer your fondest Hopes."⁹

Born the fourth generation Dickinson in America, John had profited from the hard labor of his ancestors, but his father would not spoil him. John's tutoring began as soon as he was able and it was not long until he stood by his father in the crop fields and was running errands for his father. When John was seven, his brother Philemon was born and

⁷ Flower, *John Dickinson: Conservative Revolutionary*, 4.

⁸ Not to be confused with his grandson, the Revolutionary War General, John Cadwalader (1742-1786).

⁹ "John Dickinson to Mary Cadwalader Dickinson, January 19, 1754," in Calvert, *Complete Writings of John Dickinson* (forthcoming).

the following year Samuel moved his family to his recently acquired holdings just outside of Dover, in Kent County, Delaware. Samuel had pieced together enough adjoining lots to create a six-square-mile plantation. Poplar Hall, as Samuel called it, was situated on the plains of Jones Neck, and stretched from Dover to the bay of the Delaware River, bounded to the South by the twist and turns of the Jones River. The move to Delaware was financial in nature and was a compromise with Mary, who preferred the bustle of her hometown Philadelphia. The move was convenient for Samuel, as his forays into land and contract law—realized through his experiences quieting titles, purchasing patents, securing land deeds, bringing suits, defending countersuits, and procuring docking details—earned him an appointment as judge of the Court of Common Pleas in Kent County in 1738 and as a justice of the peace in 1744.¹⁰

Poplar Hall became the operational center of a “great agricultural enterprise.”¹¹ Kent County’s sandy soil was suitable for growing grain and allowed Samuel to enter the wheat and corn markets, diversifying his assets and securing his wealth before the price of tobacco tapered off in the 1740s and 50s. At Jones Neck the river was one mile-wide and six separate docks and wharves would soon dot the Dickinson side of the river. From the Dickinson piers, shallop could carry their grains upriver to Christiania, Wilmington, or Philadelphia where they could be ground into flour. Just 900 feet due North of the Jones River was a large wooden center door topped with transom glass that stood at the front of the Dickinson home.¹²

¹⁰ Flower, *John Dickinson: Conservative Revolutionary*, 8.

¹¹ Powell, “House on Jones Neck,” 3.

¹² The house still stands today and is maintained by the Friends of the John Dickinson Mansion.

The three-story Georgian mansion, with a pedimented roof, wood trim, and Flemish bond brickwork, was one of the finest homes in the Lower Counties. Located on the peaceful plains just out of reach from the river's marshes, "Homeplace," as John would call it, cultivated his love for nature, horseback riding, and husbandry. Here, where he as a child he would learn, play and grow, Dickinson planted his roots. Dickinson's steady state was at the farm, and just as the leaves return to the trees after winter's cold, so to Dickinson without fail would return to Homeplace. "Wherever he was, whatever the state of his public career," writes one scholar, "he always had to spend much of his time with his lands."¹³ Even throughout his tumultuous career, Dickinson would "interrupt his strenuous life for regular spring and fall visits."¹⁴ While he became a successful steward of the land after he inherited the property in 1760, through his labor, he was an owner of the land from a much younger age. By his teenage years, John was working along side his family's slaves in the wheat fields. Samuel put John to work and it was not long before John was riding into Talbot County on business for his father. A gifted horseman, John likely enjoyed his rides to *Croisadore* with instructions to the tenants from his father; including his trips with bills of exchange to pay Michaelmas quitrents to John Hanbury, a Dickinson agent in London; as well as expeditions to collector Thomas Bozman, with a detailed letter from his father listing all his land holdings and due rent; and an annual excursion to bring back upwards of £5,000 of London bills for Samuel.¹⁵ In a sense, this was John's first apprenticeship, and his exertion of labor on the lands only increased his love for it and his sense of ownership of it. It was thus not out of necessity alone that

¹³ Ibid., 23.

¹⁴ Ibid., 3.

¹⁵ Ibid., 23.

Dickinson would frequently seek refuge from the chaos and commotion of Philadelphia to find a blissful, charm.

In the midst of a critical election in Philadelphia he must turn his attention to listing the cows, oxen, horses, mules, sheep and hogs on one of his properties. From addressing the Pennsylvania Assembly he must retire to his study and write a soothing letter to his litigious and envious Jones Neck neighbor Thomas Rodney. He could not attend the Federal Convention of 1787 until he had spent a month in Kent on his regular spring trip. From his retirement in Wilmington, he must make a journey to Philadelphia to dicker with the insurance company over repairing the Mansion after it has burnt.¹⁶

At Homeplace managing operations of his crops, evaluating market demands, choosing which trees should be chopped down to build fences, draining swamps, erecting barns, rearing horses, raising livestock, and tending to the plentiful sundry problems facing the owner of such a land, John became a farmer.

Before he became “The Farmer,” John required an entirely different type of education. After already experiencing the heartbreakin loss of three sons in London, Samuel was weary of sending John across the Atlantic for his schooling, opting to follow the common practice of other wealthy Colonial families instead. As was the custom of the time, when John was old enough, Samuel enlisted a private tutor for his training. Some scholars suggest Francis Alison as Dickinson’s first private tutor.¹⁷ Alison was an Irish Presbyterian Minister who immigrated to Pennsylvania in 1735 and possibly lived with the Dickinsons. Some historians even proposed that Dickinson attended his famous New London Academy, before Alison became Rector of the Academy of Philadelphia in 1751 and later Vice Provost of the University of Pennsylvania from 1755-1779.¹⁸ This would be particularly interesting: Alison’s students included four signers of the

¹⁶ Ibid., 24.

¹⁷ Burton Alva Konkle, *Benjamin Chew* (Philadelphia: University of Pennsylvania Press, 1932), 10-11; Flower, *John Dickinson: Conservative Revolutionary*, 5.

¹⁸ Edward D. Neill, “Matthew Wilson, D.D., of Lewes, Delaware,” *The Pennsylvania Magazine of History and Biography*, Vol. 8, No. 1 (1884), 45-46.

Declaration of Independence, including Dr. Benjamin Rush, who founded Dickinson College, Thomas McKean, whose political accomplishments in Pennsylvania and Delaware were rivaled only by Dickinson, James Wilson, one of the original six justices of U.S. Supreme Court and George Read, President, Senator and Chief Justice of Delaware. Dickinson had a unique and important relationship with each of these men and with Alison himself. However, the lack of primary source evidence and the conspicuous poor scholarship of those who have made these assertions make this connection uncertain.¹⁹ There is also a suggestion that a young Irishman, James Orr, lived in the Dickinson home and taught John and Philemon for two years.²⁰ The evidence is scarce.

John's first tutor was doubtlessly his mother. Mary, a faithful Quaker, consistently attended meeting for worship at the local Quaker Meeting House in Delaware. Mary's father John Cadwalader (1677-1734) emigrated from the town of Bala, in Merioneth County, Wales, in 1697 in search of a place to freely practice his religion.²¹ Her mother was the granddaughter of Dr. Thomas Wynne (1627-1691), who emigrated from Wales and traced his lineage seventeen generations to Owain Gwynedd, King of All Wales and of Gwynedd.²² Wynne, as the personal physician of Penn and an original Philadelphia

¹⁹ For example, Flower cites Konkle as the earliest source for this claim. However, Neil's 1883 article predates Konkle by half-a-century and baffling, Flower hints he used Neil's article as a source. Konkle has prominent errors in his description of the Dickinson family, including the assertion that Samuel Dickinson had only two sons, a mistake that Flower does not repeat yet ignores in his citing Konkle as a source. In addition, Konkle's confusing language and his preference to refer to Samuel's children as the "older son" and the "younger son" in place of using their names, likely contributed to Flower's confusion. It appears that the two sons Konkle refers to are Henry Dickinson, from Samuel's first marriage, and John. As a consequence, Flower likely believed the "older son" referred to John and the "younger son" referred to Philemon, when in fact the "older son" was Henry, and the "younger son" was John, Henry's half-brother.

²⁰ Flower, *John Dickinson: Conservative Revolutionary*, 9.

²¹ "Collection 1454: Cadwalader Family Papers," *The Historical Society of Philadelphia* (Philadelphia: unpublished, 2007), 1.

²² Thomas Allen Glenn ed., *Lloyd Manuscripts: Genealogies of the families of Awbrey-Vaughan, Blunston, Burbeck, Garrett, Gibbons, Heacock, Hodge, Houlston, Howard, Hunt, Jarman, Jenkin-Griffith, Jones,*

settler, was a most prominent Pennsylvania Quaker. Mary, a highly intelligent woman and pious in her Quaker convictions, was a beloved matriarch. John inherited all her grace, acumen, and affection.

Mary would have taught him the Quaker principles that she lived by and that pervaded every aspect of her daily activities. Throughout her life, she used Quaker Plain Speech, rejecting the plural use in addressing an individual.²³ Thus, “thou,” “thee,” and “thy,” took the place of “ye,” “you,” and “your.” The Quaker Testimony of Simplicity held plainness, clarity, and honesty as the gatekeepers of egalitarianism, for Plain Speech sought to eliminate the vanity in distinguishing conversational approaches to individuals of different social status, and the feigning of familiarity and honesty. She would have instilled in him the foundational Quaker values and concepts that cannot be sundered from a faithful adherent’s demeanor, ethics, or perspective, rather than teaching him ecclesiastical ideas. “His mother’s teachings, and the mysticism of the Friends, made an indelible impression upon him,” writes one historian.²⁴ Dickinson always spoke to his mother in the utmost terms of care and respect. In his first letter home to his mother, John wrote:

When I take my Pen to write to You, I am fixd in Doubt, what to say, or not to say. To pour out the Tenderness of my Soul is impossible; and I know not what to omit. I am now removd at a vast Distance from You, but so far from feeling any Slackness in my Affection, that it glows if possible, with encreased Warmth, . . . my Attention now comprehends in one View, that continual Series of Actions, which before engagd my Love and Admiration separately; or that my Mind now incapable of making Returns of

Knight, Knowles, Lloyd, Newman, Paschall, Paul, Pearson, Pennell, Pott, Pyle, Reed, Sellers, Smith, Thomas, Till, Williams, Wood (Lancaster: New Era Printing Company, 1912), 337-338.

²³ Quaker Plain Speech also eliminated frivolous greetings, honorific titles, oaths, Gregorian terms, Latin words and phrases, from daily conversation. There is only evidence of Mary’s rejection of the plural use when addressing a singular person. See Powell, “House on Jones Neck,” 22.

²⁴ Powell, “House on Jones Neck,” 22.

Duty in those Offices, which I shall ever esteem #t the Supreme Happiness of my Life to discharge, exerts itself in an unbounded Flow of silent Gratitude & Rapture.²⁵

While John's mother provided him with a spiritual perspective and lessons on how one should conduct oneself, she was not the only source of wisdom in the home. Samuel likely instructed him in the lessons he learned firsthand in business, politics and the law, both by candlelight at the dinner table and hearthside in their paneled, parlor room.

Samuel eventually hired a tutor whose contribution to John's education is unquestioned. William Killen, a young Irishman from Dover, was the man selected for such a task. Killen was just a boy when he immigrated to Maryland and was welcomed into the home of the Dickinsons. Stillé remarked that Killen "must have been a man of rare merit" to not only inspire Dickinson's genius when he himself was so young, but because he was simultaneously preparing himself for a successful legal career before becoming Chief Justice and Chancellor of Delaware.²⁶ Isaac Sharpless wrote that Dickinson's tutor "filled his mind with high ideals and aided him to secure an English style remarkably simple and elegantly effective" unrivaled in the colonies.²⁷ Killen made a lasting impression on John and was a lifelong friend. They would often correspond, and when Dickinson would return to Poplar Hall he would visit Killen on his nearby homestead, which Dickinson had sold him.²⁸ Killen would have been primarily instructing John in the classics. John was an exceptional Latinist and would soon

²⁵ "John Dickinson to Mary Cadwalader Dickinson, January 19, 1754 Calvert, *Complete Writings of John Dickinson* (forthcoming).

²⁶ Stillé, *The Life and Times of John Dickinson, 1732-1808*, 18.

²⁷ Isaac Sharpless, *A Quaker Experiment in Government: History of Quaker Government in Pennsylvania, 1682-1783* (Philadelphia: Ferris & Leach, 1902), 95.

²⁸ "Deed for Land Sold by John Dickinson to William Killen," O-SpahrB-1965-3, Dickinson College Archives & Special Collections.

demonstrate an extensive knowledge of English history and of the continent's greatest essayists.

It seemed only natural for John, the son of a judge, to pursue the law. When he turned eighteen in 1750, he was sent to Philadelphia, the “court center for the both Pennsylvania and the Lower Counties” and at the time one of the largest cities of the British Empire.²⁹ The city was not completely strange to Dickinson, as he had previously paid visits to his Philadelphia kin—notably the Cadwaladers. Amid the city’s bustle, he was placed under the tutelage of John Moland. Dickinson had the choice experience of being apprenticed for two-and-half years with the preeminent member of the Philadelphia bar. Moland, a London lawyer who was educated at the Inns of Court, attracted the talents of Pennsylvania and Delaware’s most able aspiring lawyers.³⁰ Dickinson’s training in Philadelphia afforded him the opportunity to acquaint himself with Philadelphia’s most prominent sons—young men who became Dickinson’s vital allies and sworn enemies during the dramatic events of 1764, 1776 and 1788. Dickinson forged meaningful friendships with some of these peers. In Moland’s office alone, Dickinson became close friends with George Read and Samuel Wharton, both from Delaware. Read would serve alongside Dickinson in the Continental Congress. When Wharton, a neighbor to the Dicksons in Kent County, was serving with Philemon as delegate to the Continental Congress from 1782-1783, John was a floor above in the Governor’s Council

²⁹ Flower, *John Dickinson: Conservative Revolutionary*, 10.

³⁰ Moland studied at the Inner Temple and not the Middle Temple like Milton Flower suggests in *John Dickinson: Conservative Revolutionary* or Trevor Colbourn and Richard Peters suggest in “A Pennsylvania Farmer at the Court of King George: John Dickinson’s London Letters, 1754-1756.” Moland does not appear in Middle Temple Admissions Records and there is no evidence of Moland’s attendance there or claiming that he did. Given the Inner Temple’s proximity to the Middle Temple, it is possible that Colbourn and Peters confused the two.

Chamber as he simultaneously served as President of both Pennsylvania and Delaware. (Both Pennsylvania and Delaware's 1776 constitutions had an Office of President instead of Office of Governor and did not opt to rename it until their new constitutions in 1790 and 1792, respectively). While a relatively small amount of correspondence has survived from Dickinson's time in Moland's office it is clear that Dickinson was a favorite among his peers.³¹

While little more is known about Dickinson's apprenticeship in Philadelphia and his decision to leave for London, examining the experience of a coeval with a similar curriculum vitae provides an idea and useful context for what Dickinson would have experienced. Edward Shippen IV's legal training and education parallels Dickinson's: like Dickinson, he apprenticed in Philadelphia to a prominent member of the bar, he had a patron who was born in Britain and studied law in London, he finished his legal studies at the Middle Temple, he returned to Philadelphia from England as soon as possible, and he was admitted to the bar upon his return. Shippen IV was just three years Dickinson's senior and became judge of the admiralty in 1755, was elected to the city's common council in 1758, joined Pennsylvania's Provincial Council in 1770, joined Dickinson in opposition to the 1776 Constitution of Pennsylvania, and became Chief Justice of the Pennsylvania Supreme Court in 1799. He came from an influential line of Shippen men who dominated Pennsylvania politics and government in the eighteenth century. His father, Edward Shippen III of Lancaster, was Mayor of Philadelphia (1744-1745), a powerful shipping merchant, patron to the Academy of Philadelphia, and a founder the

³¹ Stillé, *The Life and Times of John Dickinson, 1732-1808*, 20.

American Philosophical Society and Pennsylvania Hospital.³² His, great-grandfather, Edward Shippen I, was Speaker of the Pennsylvania Assembly in 1695, Chief Justice of the Pennsylvania Supreme Court in 1699, first Mayor of Philadelphia (1701-1703) under Penn's 1701 Charter and then President of Council of Pennsylvania (1703-1704).³³

After turning seventeen in 1746, Edward IV began to study law under Tench Francis Sr., then Attorney General of the Province of Pennsylvania (he served from 1741-1755) and his future father-in-law. Francis was a founding Trustee of the College, Academy, and Charitable Schools of Philadelphia, the precursor to the University of Pennsylvania. His prestige at the bar was matched only by John Moland, Dickinson's preceptor, and John Ross, member of the Pennsylvania Assembly from Philadelphia (1762-1765), husband of Betsy Ross, and half-brother of Declaration signer George Ross.³⁴ A nineteenth-century historian notes that in Francis's office

Mr. Shippen had an excellent opportunity to become acquainted with the practical details of his intended profession. We have his own authority for the statement that at some time during this period he drafted with his own hand the first 'common recover' ever suffered in Pennsylvania, and it was no doubt by just such practical experience as this that he laid the foundation of that extensive and useful knowledge of Pennsylvania precedents for which he was afterwards so justly noted.³⁵

Like Shippen's tie to his master, when it came to Dickinson's actual assignments as a law clerk in Moland's office, he depended on the everyday work of his instructor. Dickinson benefited from being employed in the important work that a master of Moland's eminence would have administered. His tasks for Moland would have varied from

³² One of the partners in his father's mercantile enterprise was James Logan, maternal grandfather of Dickinson's future wife Mary Norris (m. 1770), whom together founded the firm Logan and Shippen

³³ Thomas Willing Balch, *The Historical Collection of the Shippen Family to the State*, The Pennsylvania Magazine of History and Biography vol. 50, no. 1 (1926), 24.

³⁴ Lawrence Lewis Jr., "Edward Shippen, Chief-Justice of Pennsylvania," *The Pennsylvania Magazine of History and Biography*, Vol. 7, No. 1 (1883), 16.

³⁵Ibid., 12.

researching cases to completing assigned readings, to scrivening, and to whatever other work his esteemed teacher would have needed. Moland impressed on John the value of a London education for an aspiring lawyer and as John would soon learn, his work for Moland adeptly prepared him to maximize the utility of a London education. Recalling his three sons who had died during their studies in London, Samuel did not easily acquiesce to John's repeated requests to study in London. Perhaps it was John's intellectual maturity and his demonstration of responsibility or simply an aversion to hindering his potential growth that made Samuel relent and agree to let another son sail to London. For even in a city like Philadelphia, there was a ceiling that capped the development of bright and ambitious aspiring lawyers like Dickinson and Shippen.

Writes one colonial scholar,

however thoroughly the practical details of a lawyer's business might be acquired in Pennsylvania, there was at that time little or no chance for a student to become familiarly acquainted with the more abstruse parts of his profession, the great underlying principles of English jurisprudence, and their applications to controversies between man and man. Books were scarce, and well trained lawyers were few. . . . Nor was the bench much better supplied, so that cases were too frequently settled according to the untutored dictates of natural justice rather than by the fixed and immutable principles of law.³⁶

Dickinson had, until 1753, received the best legal education that the middle colonies could afford. But there was still something more to be obtained in his pursuit of the legal profession. Experience was limited in America to books and the ordinary cases that members of the bar encountered. Dickinson, as he would note, felt his practical experience working in Moland's office gave him an advantage that other students in the law did not receive through study alone.

³⁶ Ibid., 12.

The first twenty-one years of his life, Dickinson was exposed to valuable lessons and experiences that informed his worldview. Before Dickinson could employ himself in the “Defence of Innocence, the Support of Justice, & the Preservation of Peace and Harmony amongst Men,” he needed to learn its importance. The Quaker values instilled in him by his mother and community, taught Dickinson that social unity and consensus brought peace and harmony. His lessons in English history and his readings of the classics showed him the dangers, which could imperil innocence and justice—consonant with Quaker principles. And his training in the law not only sharpened his analytical mind, but gave him the skills and language to he would need to engage in his pursuits. There was a whole world, however, outside of Philadelphia and the Lower Counties, which he had yet to explore.

CHAPTER TWO

“More is learnt of mankind here in a month than can be in a year in any other part of the world.”

John Dickinson to Samuel Dickinson, February 19, 1755

London, 1753

On October 20, 1753 the anchor was weighed and Dickinson set sail for London. It was a long fifty-nine days to traverse the Atlantic for Dickinson, who spent a tormenting thirty-five days ill, confined to his bed in his cabin.¹ Three days after his December 18 arrival, Dickinson officially enrolled as a student in the Honourable Society of the Middle Temple in London, one of the four Inns of Court. Dickinson's learning in London was threefold: through his studies at the Middle Temple, consisting of keeping commons (dining with students, barristers, and judges of the Middle Temple), mooting, attending lectures, completing legal exercises, and utilizing the Temple's grand libraries; through introductions to and relationships with peers, kin, and the intellectual, political and social elite; and through his frequent attendance at Westminster courts—the Court of King's Bench, the Court of Common Pleas and the Court of Chancery—and the parliamentary sittings of the House of Commons and House of Lords. Each of these domains played an important educational role for Dickinson in London and framed his worldview. Seeing much to learn, Dickinson wrote to his father a few months after his arrival, "London is the place, where a person may learn Truth, where unless he is an absolute fool, he may see human Nature in all Shapes. . . . He learns every thing that will be useful hereafter."²

At the Middle Temple, Dickinson was instantly captivated by the richness of its past and the powerful role it played in English history. As Dickinson trod down Middle Temple Lane, he looked beyond the beauty of its gardens and the bricks of its elegant architecture. He saw such sophistication and distinction as an expression of something far

¹ "John Dickinson to Samuel Dickinson, January 18, 1754," in Calvert, *Complete Writings of John Dickinson* (forthcoming).

² "John Dickinson to Samuel Dickinson, August 15, 1754," in Calvert, *Complete Writings of John Dickinson* (forthcoming).

more beautiful. “I tread the Walks frequented by the Antient Sages of the Law” Dickinson wrote in his second letter to his father after arriving in London.³ “Perhaps I Study in the Chambers, where A Coke or Plowden has meditated: I am struck with Veneration, & when I read their Works, by these familiarising Reflections, I almost seem to converse with them,” he continued.⁴ Dickinson’s enchantment with the Middle Temple can be considered one product of his studies with Killen and Moland. As he became well acquainted with the Middle Temple’s history, Dickinson was provided an opportunity to see the intersection of law and politics, and its immense influence on history. And this history cannot be overlooked.

To appreciate the significance of Dickinson’s formal legal education, the history of the Middle Temple warrants more than a casual reference or footnote to his studies, for it fueled his passions with a fury. Dickinson related poetically,

When I view the Hall, where the most important Questions have been debated, Where a Hampden, and a Holt have opposd encroaching Power, and supported declining Justice, in short upon whose Judgments, the Happiness of a Nation has depended, I am filld with Awe & Reverence. When I see Men advancd by their own Application, to the highest Honours of their Country—My breast beats for Fame! Such are the Rewards of Diligence: The same means are in my Power: Why do I loiter? I sicken at their Glory, I turn from their Sight, I fly to Books, to Retirement, to Labour, & every Moment is an Age, till I am immersd in Study.⁵

The history of the Middle Temple is inextricably linked with the history of the English speaking peoples and is inseparable, beginning in the twelfth century, from the history of England and the founding of America. Understanding the history of the Middle Temple is not only imperative to the study of American and English history, but provides a fundamental context for Dickinson’s education and perspective.

³ “John Dickinson to Samuel Dickinson, March 8, 1754,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁴ Ibid.

⁵ Ibid.

For more than half of the past millennium, the Inns of Court in London were in charge of calling prospective barristers to the Bar of England and Wales. Two of the Inns, the Inner Temple to the east and Middle Temple to the west, occupied the Temple area in central London. The Order of the Temple of Solomon, or Knights Templar, was the Catholic Church's Military order during the first crusades and it settled the area in London sometime before 1144.⁶ Heraclius, the Patriarch of Jerusalem, consecrated the historic Temple Church in 1185 in the presence of King Henry II, officially beginning the storied history of the Temple. When King John was in the Temple, his west London headquarters on January 7, 1215, he was confronted by a group of barons demanding confirmation of their ancient and accustomed liberties. When he refused, the barons threatened war and forced the King to sign the Magna Charta at Runnymede that June. The Temple would continue in importance, housing Simon de Montfort's rebellious Council in 1260 and two Parliaments in 1272 and 1299.⁷ By 1312, the Knights Templar had created a number of influential enemies and their order was abolished, passing control of the Temple over to the Knights Hospitaller of St. John of Jerusalem. When the King's central courts, which had been at York for several years under Edward I, moved to Westminster in London, a group of lawyers took up as tenants of the Knights Hospitaller. As the Courts remained in Westminster, so too did the lawyers remain as tenants at the Temple. As increasingly more lawyers established residency at the Temple, two legal societies were formed. These two societies, the Middle Temple and Inner Temple, became distinct and were granted complete ownership of the Temple property

⁶ Richard O. Haverty, *History of the Middle Temple* (Portland: Hart Publishing, 2011), 5.

⁷ Ibid., 7.

by the fourteenth century.⁸ By the sixteenth and seventeenth centuries, England's finest students and most famous sons joined the Middle Temple. The likes of the swashbuckling Sir Martin Frobisher, the explorer Sir Walter Raleigh, the Virginia Company founders Sir John Popham and Sir Edwin Sandys, the scholar Sir Edmund Plowden, and the jurist Sir William Blackstone, are counted among the Middle Temple's long list of illustrious alumni.

When Dickinson arrived at the Temple, he took up lodgings with a relative from Maryland, Robert Goldsborough, who had joined the Temple one year earlier.⁹ Dickinson became close friends with Goldsborough, telling his mother, "He behaves with all the affection of a brother towards me."¹⁰ The two would be called to the bar together three years later and after returning to America, Goldsborough was appointed Attorney General of Maryland and eventually served alongside Dickinson in the Continental Congress.

Dickinson's legal studies differed greatly from the type of education a law student would receive today. To be called to the bar, the Temple required that a student kept commons for two years, "dining in term time with the barristers and students of the Society in the public hall," and completed a set of proscribed legal exercises.¹¹ A recent discovery in the Middle Temple's archive, a discarded pile of forty-three small scraps of parchment that have fortuitously survived 250 years, reveals the types of exercises

⁸ Ibid., 33.

⁹ Recall that Dickinson's stepsister, Elizabeth, married Charles Goldsborough, Robert's brother. It was this marriage that drove Samuel Dickinson away from his local Friends' Meeting after they refused to sanction the wedding.

¹⁰ "John Dickinson to Mary Cadwalader Dickinson, January 19, 1754" in Calvert, *Complete Writings of John Dickinson* (forthcoming).

¹¹ "John Dickinson to Samuel Dickinson, May 25, 1754," in H. Trevor Colbourn, "A Pennsylvania Farmer at the Court of King George: John Dickinson's London Letters, 1754-1756," *The Pennsylvania Magazine of History and Biography*, Vol. 86, No. 4 (Jul., 1962).

required of the students as part of the process to be called to the bar. In these “candlelight exercises,” students would scrawl a hypothetical case on a piece of parchment, which would have been discussed and mooted by students in the Great Hall.

Shippen IV, who had entered the Middle Temple five years before Dickinson, wrote to his father about an unfortunate predicament necessitating an extension of his stay in London, explaining the requirements of the student exercises:

I am sorry that I have to inform you that I am disappointed in my expectations of being called to the bar at this term; the occasion of it I could not possibly prevent. Every student before he comes to the Bar is obliged to perform six vacation exercises, three candle-light exercises and two new-inn exercises which he is not allowed to do alone but must join with another student. I had calculated matters so as to have performed them all before the end of this term; but, unluckily for me, the gentleman who was my companion in the exercises, having some engagements in the country, could not attend at the time appointed for the performance of one of the vacation exercises, which obliged me to defer that duty until next vacation, so that it will be Easter Term before I can be possibly called, unless I consent to compound for vacation exercises, which would cost me near twenty pounds.¹²

Of note in the Middle Temple’s discovery are the candlelight exercises of Charles Cotesworth (C.C.) Pinckney and his study partner, Thomas Heyward—both of South Carolina. Heyward served as a delegate to the Continental Congress and signed the Declaration of Independence and Articles of Confederation; Pinckney rose to the rank of Major General under George Washington’s command and signed the Constitution, later becoming Washington’s Minister to France, and losing to Jefferson in 1804 and Madison in 1808 as the Federalist Party’s nominee for President. While C.C. Pinckney and Heyward entered the Temple a decade after Dickinson, the exercises they completed were likely similar to those Dickinson would have completed. One of their exercises reads:

¹² Edward Shippen IV to Edward Shippen III in Lancaster from London, January 23, 1749, in Lawrence Lewis Jr., “Edward Shippen, Chief-Justice of Pennsylvania,” *The Pennsylvania Magazine of History and Biography*, vol. 7, no. 1 (1883), 17.

Case

A seized of Lands for another's life demised them to *B* for years, sending Rent. *A* dies the Rent being in arrear.

1st Quer. Whether this arrear does not go to the heir of *A* as appertaining to the reversion?

2. Quer. Whether the Exctrs. shall not have an Action of Debt upon the contract for it?

C Dewes
John Casey
John Jones
E Tighe

T. Heyward
*C. C. Pinckney*¹³

Over dinner, in the library, or in their chambers, the group members would gather to discuss and debate these hypothetical cases coming from various areas of the law. After preparing for the case and formulating their pleadings, they would pair off to moot the case and argue them “*viva voce*, not read.”¹⁴ Also called “case-putting,” these type of exercises have long been used to train aspiring lawyers. As described by a scholar of the Middle Temple, “The argument of hypothetical scenarios and complex points of law in moots, at readings and more informally over dinner in hall, provided a particularly valuable training in advocacy and argument.”¹⁵

Occasionally, a servant called the “Exercise Butler” recorded in his “moot book” the results of the exercises. The “moot book” was not always kept separate from the “buttery book” which kept the rolls of the members. While the admission of members was “entered in the treasurers’ minute-books,” the Middle Temple’s chief butler kept his own record book in the buttery (hence the name).¹⁶ In the buttery book, the chief butler was responsible for recording when members dined in Commons—to ensure members

¹³ Middle Temple, Box 28, Bundle 6, no. 40.

¹⁴ Richard O’Havey ed. *History of the Middle Temple*, 100.

¹⁵ Ibid., 96.

¹⁶ Ibid., 41.

attended the adequate number of dinners needed to be called to the bar and paid their dues accordingly—but would sometimes include miscellaneous information such as minutes from the Middle Temple’s parliamentary sessions, what was being served for dinner, and the outcomes of the student exercises like those recorded in the moot book.

One buttery book records the futile efforts of Clifford Jackson, the son of a lawyer from Limerick, Ireland, to pass his exercises and reports his repeated failure. After flunking the exam four times in fifteen days at the end of Trinity term (the Summer academic term) despite his partner’s passing, Jackson is given a new partner for the exams during Michaelmas term (the Autumn academic term). The buttery book records on November 15, 1753: “Whereas M^r. Jackson :R: and M^r. Beatniffe :R: two of the utter Barristers of this Society were summoned to perform the exercises of this House this day M^r. Jackson :R: and M^r. Beatniffe :R: Both failing are therefore fined in five marks each.”¹⁷

The exercises covered all areas of the law and varied in difficulty. Some were straightforward:

Case

A deer belonging to *A*. strays on the land of *B*. *B* chases her with his dogs, w^{ch} pursues & kills the her in the park of *A* [illegible].

Qu. Has *B* a right to hunt the deer?

Qu. [illegible] Is *A* justifiable in shooting the dogs?¹⁸

Other exercises were complicated and challenged not only the student’s understanding of the law, but of the morality behind it. The discovery of these exercises reveals some fascinating cases and contemporary problems the students worked on. Completed by

¹⁷ MT.7 / bub / 1—buttery books

¹⁸ Middle Temple, Box 28, Bundle 6, no. 35.

several of Dickinson's peers, one case confronts the legality of runaway slaves. *Somerset v Stewart*, a case that dealt with this very issue, was a watershed moment in the abolition of slavery and only a decade removed from the student exercise.

[Obverse side]

Let this be recorded

J. Whalley
JW. Delafont

[Front side]

A purchases a negro in the West Indies and brings him over to England; the negro escapes from the service of *A* and goes to *B*, who employs & maintains him in his service.

1st. Q^y. Whether *A* can have an action of trover against *B*?
2nd. Q^y. If not whether trespass will lie?

Geo. Children.
John Jones.¹⁹

Three of Somerset's lawyers were members of the Middle Temple. One of them, the twice Solicitor General and future Chief Justice of the Common Pleas (1799-1814) Sir James Mansfield, attended the Middle Temple and even dined with Dickinson on several occasions.²⁰ The candlelight exercises—the conversations with the Empire's brightest and most capable peers, the preparations to articulate a defense of an argument, and the verbal moot—prepared these men for great trials whose outcome would reverberate throughout the English speaking world. Their value was immense and as Recorder of London and Middle Temple member Anthony Benn (1568-1618) asserted, as “Iron whetteth Iron, conversation ripeneth a man’s Judgment.”²¹

While Dickinson certainly profited from such exercises, the true benefit lay in the practice with his peers. The conversation alone preparing for such an exercise, debating

¹⁹ Middle Temple, Box 28, Bundle 6, not sequenced.

²⁰ MT.7 / bub / 1—buttery books

²¹ Cambridge University Library, MS D.d.5.14, fo. 8 in O’Havey ed. *History of the Middle Temple*, 96.

and dissecting the finer points of the law, must have been worth the experience. While it is not known who Dickinson's partners were, he himself thought the experience most valuable. Writing advice some years later to a prospective Middle Temple Student, Dickinson wrote,

It will be well worth your while to make very intimate connections with those you observe to be the most industrious. You will find conversation corrects a thousand errors that laborious reading may blunder into. It would still be better, after you have read sometime you cou'd form a little Society of 8 or 10 persons to meet at each other's apartments once a week; and argue points of law that were proposed the week before. I belonged to such a set in the Temple and am convinced that nothing would be of greater service to a young lawyer.²²

The exercises provided an opportunity for students to collaborate in their learning of various aspects of the law, but they certainly were not the only time students were actively engaging in a shared learning experience.

Dining in the Commons was a brilliant display. The magnificent Middle Temple Hall, still used today, was completed in 1572 during Sir Edmund Plowden's tenure as Treasurer of the Inn. The awe-inspiring double hammer beam oak roof spans the length of the room and is nonpareil Tudor architecture. Black plaster busts of the Caesars, the lawgivers, lined both walls and oversaw the students work. Seating was arranged in a simple hierarchy. At the front of the room sat the benchers—no more than fifteen or twenty. Sitting at the Great Table, elevated above the rest in the Hall, and eating the finest foods London offered, they held commanding presence.²³ The table, built of three thirty foot planks of single oak, was reported a gift from Elizabeth I, floated down the Thames from where it was chopped down in Windsor Forest.²⁴ The benchers were separated from the rest of the hall by an open-hearth pit. When lit, the fire's smoke would

²² Draft of a letter, "Advice to a young man," in Flower, *John Dickinson: Conservative Revolutionary*, 16.

²³ Sometimes referred to as the High Table.

²⁴ Stockdale and Holland, *Middle Temple Lawyers*, 4.

waft up to the ceiling and escape through the fissured glass windows in the Hall's cupola. On the other side of the pit, the ancients, readers who had yet to be called to the bar, sat parallel to the benchers. Then, perpendicular to the ancients and benchers, sat the students. Dickinson would enter the Hall through one of the two double-leaved doors and behold such a fine scene.

A few months after his arrival in London, Dickinson told his mother of "two or three Americans, & as many Englishmen, all young fellows of good parts and remarkable Industry" who studied with him and who found "great Benefit from Our Acquaintance."²⁵ The buttery book records not only what days of the week Dickinson dined in the Hall, but the company of men with whom he dined. Among the esteemed men Dickinson sat next to and broke bread with was Edmund Burke, the leader of the Whigs, political theorist, and eventual great friend of America; William Burke, the parliamentarian and pamphleteer; Lloyd Kenyon, the Lord Chief Justice; John Hatsell, the clerk of the House of Commons; William Cowper, the poet; John Dunning, 1st Baron Ashburton, Solicitor-General, and supporter of America in Parliament. As for Americans, Dickinson dined with John Banister, a Continental Congressman from Virginia and signer of the Articles of Confederation; John Blair, a Virginian and one of the original six Supreme Court Justice appointed by Washington; Charles Carroll, Maryland Delegate to Continental Congress and cousin of the Declaration signer by the same name; William Drayton, Chief Justice for the Province of East Florida and Supreme Court Justice in South Carolina; William Hicks, son of the Philadelphia lawyer Edward Hicks; John Hammond of

²⁵ "John Dickinson to Mary Cadwalader Dickinson, May 25, 1754," in Calvert, *Complete Writings of John Dickinson* (forthcoming).

Maryland, son of Colonel Phillip Hammond; Joseph Jones, delegate to the Continental Congress from Virginia and uncle of James Monroe; and Thomson Mason, Chief Justice of the Supreme Court of Virginia and younger brother of George Mason IV.²⁶ The Hall was a perfect setting to learn with these men. As Keeper of the Library of the Middle Temple (1909-1921) C. E. A. Bedwell described, this experience gave students “an understanding of men and of principles which were of inestimable value in their after lives.”²⁷ For many of these men, the connections they made in London were as important as the formal instruction they received, for the conversations they had were an education in its own right. One cannot help but speculate the effect dining with their fellows from America had on the Burkes and Dunning, who would emphatically defend the rights of colonists in front of Parliament just two decades later. While Dickinson did not specify to his parents which half-dozen of his English and American peers had formed his coterie (after all, in the 1750s these names signified nothing more than a list of families who could afford to send their sons to study at the Temple) the caliber of the men with whom Dickinson studied and conversed with daily cannot be doubted, and their influence on him cannot be underestimated.

Dickinson seemed careful in selecting the men he associated with and was fastidious in choosing his company at the Temple, at least telling his father that “Good Company is a better Security to our Morals—than Guards to a King.”²⁸ Surrounding himself with good people not only protected his integrity and honesty, but also facilitated

²⁶ MT.7 / bub / 1—buttery books

²⁷ C. E. A. Bedwell, “American Middle Templars,” *The American Historical Review* vol. 25, no. 4 (1920), 681.

²⁸ “John Dickinson to Samuel Dickinson, March 29, 1754,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

his education. To his father once more, “Virtuous company is the strongest guard to a person's morals; he not only reaps a benefit from their conversation, but by them he is preservd from falling into bad, & defended from attacks on his innocence; and I hope to return to you, not only pure in my morals, but improvd in every thing you desire, especially in my business.”²⁹ Like a student today, Dickinson was surely assuring his parents that their money was being well spent and that he was avoiding such troubles that could be found in the “Vicious Pleasures of London.”³⁰ Students too were characters in Hogarth’s London and were seduced by familiar vices: drinking, smoking, gambling, promiscuity with women, and indolence. Drinking at taverns, alehouses and clubs was common, but it did not make alcoholism any more appropriate. Smoking, introduced by Templar Raleigh upon his return form Virginia, was still frowned upon by many.³¹ Gambling was all too common among students—some played backgammon in private chambers, while others played dice as was evidenced by the discover of hundreds of dice under the floorboards in the Great Hall, apparently having slipped through cracks.³² As for lechery, it might not be surprising that Benjamin Franklin’s son William Franklin, who was enrolled concurrently with Dickinson, fathered a child at the Temple; he named him William Temple Franklin.³³ But for Dickinson, the vice he so actively avoided was perhaps that of idleness.

²⁹ “John Dickinson to Samuel Dickinson, January 18, 1754,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

³⁰ “John Dickinson to Mary Cadwalader Dickinson, March 8, 1754,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

³¹ Stockdale and Holland, *Middle Temple Lawyers*, 41.

³² Ibid., 42.

³³ Ibid., 5.

He consumed himself with work and his studies: “I rise, eat, read & sleep, & sleeping, reading, eating & rising repeated over & over, produce that Consumption of Time, w[hic]h is calld Life.”³⁴ When Dickinson was not reading in the libraries or his quarters, he could be found in the galleries of Westminster’s courts or in Parliament. “Here we are not always plodding over books,” Dickinson told his father. “Westminster Hall is a School of Law, where We not only hear what We have read, repeated, but disputed & sifted in the most Curious & learned Manner; nay frequently hear things quite new, have our Doubts cleard up, & Our Errors corrected.”³⁵ Perhaps the greatest advantage of his chamber at the Middle Temple was its proximity to the Courts of Westminster. The Thames was no more than a hundred yards from Dickinson’s quarters, where he could board a small barge and cruise up to the steps of Westminster. Sitting in the balconies of the Courts of Justice, House of Commons, and House of Lords was as important part of his educational experience as was reading and studying with his peers. Through these means, Dickinson would glean the principal lessons he learned in London.

He was acutely aware that he would likely never have so many opportunities afforded to him as he did in London. Some experiences were once in a lifetime, but all experiences were educational to those who dedicated time to be observational.

At present I am taken up chiefly with tending in Westminster Hall. . . . At the beginning of this Term, Sir Dudley Rider took his seat as Chief Justice of the King’s Bench, which he fills with great credit. Every judge must be a sergeant, so that he was obliged to take this degree upon him, and as it was a ceremony which I thought I might never have an opportunity to see again, I prest into the room where it was to be performd, but was a

³⁴ “John Dickinson to Samuel Dickinson, August 15, 1754,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

³⁵ “John Dickinson to Samuel Dickinson, April 22, 1754,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

little surprized, when I had entrd, to find myself surrounded by judges & sergeants, & not above two or three private gentleman with me.³⁶

Evidently, Dickinson's enthusiasm for learning was not shared by all of his colleagues. His frequent attendance at Westminster provided him with a distinctive perspective on the law and its application in England. To Dickinson, the courts were a school in their own right. He noted, "The Barr is a perfect Comment upon the Written Law, & every great Man at it, is in some Measure a Master & Instructor to these young Students, who have the Wisdom to attend there."³⁷ Dickinson, however, was shrewd in his observations and often learned as much from those he did not admire as from those he did. "We see how the Courts of Justice are crowded, by people who know nothing of the Law; how much more agreeable then must it be to Us, who understand every thing that is said."³⁸ Dickinson felt his experiences in Moland's office in Philadelphia and his readings and exercises at the Middle Temple, uniquely prepared him to understand and practice law, and occasionally boasted of his ability to best his colleagues.

In one amusing aside, Dickinson related to his mother an evening at the home of Anthony Bacon, a Maryland expatriate and merchant in London soon to become a Member of Parliament. At Bacon's home, Dickinson recalled a contest he had with Tench Francis Sr., Edward Shippen IV's preceptor who had come to London after Benjamin Chew had succeeded him as Pennsylvania's Attorney General. In polite conversation Dickinson had raised, much to Francis's surprise, that he had recently

³⁶ "John Dickinson to Samuel Dickinson, May 25, 1754," in H. Trevor Colbourn, and Richard Peters, "A Pennsylvania Farmer at the Court of King George: John Dickinson's London Letters, 1754-1756," *The Pennsylvania Magazine of History and Biography*, Vol. 86, No. 3 (Jul., 1962), 270.

³⁷ "John Dickinson to Samuel Dickinson, April 22, 1754," in Colbourn and Peters, "John Dickinson's London Letters" (1962).

³⁸ "Ibid."

finished reading the works of Tacitus. Francis considered himself a classicist and doubted Dickinson's abilities, citing only "3 or 4 men in Phila[delphia] coud read it."³⁹ In a challenge, Francis retrieved his copy of *Bellum Catilinae* (The Conspiracy of Catiline) and quizzed Dickinson's knowledge of Roman history and law after he had professed his admiration for Sallust's work. "We turnd to Caesars famous speech for the conspirators, but we soon differd in our parphraze," recalled Dickinson. "An argument be[gun] on the Roman laws, in which your son '*omne tulit punctum,*'" that is, he "carried every point." Dickinson related the mercy he showed on the aging Francis, noting humorously, "tho I had manifestly the advantage of him, yet I observd so well the respect due to his age that I afforded him a decent retreat, & he said after I was gone that I was the most polite scholar of my years he had met with."⁴⁰ Dickinson was skeptical of Francis's abilities as a lawyer. Dickinson thought of Francis: "His notions are extremely confusd, by perpetual altercation he has got a knack rather than a method of arguing, he has such an important way of hesitating & travelling round a thing that if he spoke less he woud speak better, but if he spoke better he woud not appear so wise to common people as he does."⁴¹

It was normal for Dickinson to comment on the abilities of the lawyers he encountered, evaluating both their oratory and reasoning abilities. He was of course preparing for what he termed the "militia forensis," that is, the battle of court debate that lay in his future, but confessed to his mother, "that my courage, I believe, is a little false, like a young soldier in his first regimentals, & I fancy I shoud be apt to tremble at the

³⁹ "John Dickinson to Mary Cadwalader Dickinson, August 2, 1756," in Colbourn and Peters, "John Dickinson's London Letters" (1962).

⁴⁰ Ibid.

⁴¹ Ibid.

signal of battle.”⁴² However, Dickinson knew that his adventure in London was the moment to ready for such battles. “He that never climbs, can never tumble. This is very true,” wrote Dickinson, “but there is another unlucky truth: he that never climbs, can never rise.”⁴³ So, Dickinson was determined to cloak himself in the lessons he could learn from the “seeing and hearing the most learned lawyers & the finest speakers.”⁴⁴

Dickinson was particularly impressed with the eloquence of William Murray, Lord Mansfield. Mansfield, the Solicitor General, would become Attorney General in April 1754 after Dudley Rider was appointed Lord Chief Justice—the earlier ceremony that Dickinson witnessed. After Rider died in 1756, Mansfield succeeded him on the bench and is, among many other things, remembered for his decision in *Somerset v Stewart*. Dickinson watched with awe as Mansfield tried perhaps his last case at Whitehall as Solicitor General in March of 1754. Dickinson’s accounts to his father of England’s great lawyers at the bar were detailed and nuanced, commenting on style, affect, and content. His description of Mansfield was by far the most vivid and trenchant:

I might call my own judgment in question, should I dare to disapprove of the Sollicitor’s eloquence, and perhaps, human universal character may influence me in his favour, but whatever be the cause, I cannot forbear subscribing with all my heart to his established fame: he enjoys from nature all the advantages an orator can wish for; his person is very good, and his voice is musick itself. His language is not only easy & flowing to captivate the ear, but so refind as to delight the mind, & his arguments so nervous as to force the assent of the judgment. His speeches don’t please only while warbled from his tongue, but have such purity & strength that they would bear the strictest examination of the nicest criticks, & just as they are deliverd by him would prove delightful, but not so delightful as when enforced by his engaging address. In this, he undoubtedly has attain’d the height of perfection. Every action speaks. Every attitude has charm. His action has

⁴² “John Dickinson to Mary Cadwalader Dickinson, August 2, 1756,” in Colbourn and Peters, “John Dickinson’s London Letters” (1962).

⁴³ “John Dickinson to Samuel Dickinson, September 6, 1754,” in Colbourn, “John Dickinson’s London Letters” (1962).

⁴⁴ John Dickinson to Samuel Dickinson, March 8, 1754,” in Colbourn, “John Dickinson’s London Letters” (1962).

nothing affected, nothing forced in it, but forms a confirmation of his words, & if I may use the expression, they are twins.⁴⁵

Dickinson noted, however, many like Tench Francis who did not know the law, but rather compensated with hyperbolic bluster. Dickinson would note many throughout his career who hid their ignorance behind a façade of bombast. This was problematic for Dickinson who held a very precise view of the law and its purpose. To his parents, he felt it necessary to express the explicit “ends & intent of my profession, & my particular designs in it.” To Dickinson, the law had one purpose, for there be “no consideration of equal weight with defending the innocent & redressing the injurd. That seems to me the noblest aim of human abilities & industry.”⁴⁶

The common law, however, was beholden to the lawyers who applied it and the judges who interpreted it and subsequently struggled in its ability to protect the most vulnerable. Dickinson then would have distrusted an application of the law bound by the abilities of someone like Francis. Dickinson held great respect for the tradition of the common law and placed great trust in its practice, but he understood its limitations. Dickinson saw both common and statutory law as imperfect expressions of a greater law. “The most fond admirer of our common law must allow that there are some cases in which the severity of its rules requires some little softening,” wrote Dickinson. “The necessities of human nature are greater than our foresight, & that the most excellent institutions may be extremely just & reasonable in ninety nine instance, & quite defective

⁴⁵ Ibid.

⁴⁶ “John Dickinson to Mary Cadwalader Dickinson, January 22, 1755,” in Colbourn, “John Dickinson’s London Letters” (1962).

or improper in the hundredth.”⁴⁷ That hundredth case worried Dickinson and was enough to dislodge Dickinson’s full faith in the common law. It contradicts many scholars portrayal of Dickinson, repudiating, for example Parrington’s characterization of Dickinson’s blind faith to the common law. It thus dispels the notion that Dickinson’s methods, and the methods of those like him, were “too strictly legal to suffer them to stray into the domain of extra-legal political speculation” and only appealed “to the law and constitution; never to abstract principles.”⁴⁸

In London, Dickinson had witnessed a repeated failure of the law in the courts, and saw the necessity for a crutch to support the body of liberty, supplement the Common Law, and supplant iniquitous laws—he found the crutch in the Court of Chancery. The Court of Chancery was born from a necessity to provide relief in cases that common or statutory law could not adequately redress or be fairly applied. By the fifteenth century, the law had become increasingly rigid and inelastic, prompting the Lord Chancellor to establish a supplementary judicial body that would adhere to reason and the spirit of the law. The Court thus presided over rules of equity and conscience, creating a system to mediate the rigor of common and statutory law, and yield to natural justice in cases for which the law did not expressly provided. “The laws of England abstracted from the courts of equity are like a body consisting only of bones & muscles, strong & hardy in the greatest degree but void of that beauty & harmony it has when cloathed with flesh, which, in adorning it, does not detract in the least form its former qualities.”⁴⁹ Dickinson became so enamored with the chancery reports and cases that he sent home copies to his father

⁴⁷ “John Dickinson to Samuel Dickinson, August 2, 1756,” in Colbourn and Peters, “John Dickinson’s London Letters” (1962).

⁴⁸ Parrington, *Main Currents in American Thought*, 222.

⁴⁹ “John Dickinson to Samuel Dickinson, August 2, 1756.”

with the hope of one day returning to study them with him. Dickinson personally transcribed volumes of reports for his own use.

I shall always reckon it one of the greatest losses that part of America & myself in particular ever met with, that these books did not belong to my grandfather rather than to me . . . I shall be often oblidgd to quote them in court, if I can obtain the favour, for the advantage of them is inconceivable. I have a great many points resolv'd which I have not met with elsewhere, & a great many I have met with are in these contradicted & denied.⁵⁰

The lasting effect the Court of Chancery had on Dickinson is exemplified through his service as the President of Delaware's 1791-1792 Constitutional Convention, where Dickinson's influence ensured that body produced its own Court of Chancery in its late Constitution with William Killen, Dickinson's former tutor, appointed its first Chancellor (1793 to 1801).⁵¹ The Court of Chancery, to Dickinson, was an opportunity for justice to prevail when the law could not adequately provide it.⁵² The hundredth case, demonstrated a limitation in the law that could only be rectified through diligence and a just effort by the courts.

Dickinson, accordingly, felt it necessary to not only have laws that protected rights, but to ensure that there was a just application of them. As Dickinson wrote his father,

Laws in themselves, certainly do not make Men happy—they derive all their force & Worth from a vigorous & just Execution of them—& where there is any Obstruction to this, from Ignorance, Villainy or Cowardise—People are just in the same Condition {as if they had no Laws}—& the preserving the forms of Judges Juries, Sheriffs or without

⁵⁰ "John Dickinson to Samuel Dickinson, February 19, 1755," in Colbourn, "John Dickinson's London Letters" (1962).

⁵¹ William Quillen and Michael Hanrahn, "A Short History of the Delaware Court of Chancery—1792-1992," *Delaware Journal of Corporate Law* vol. 18, no. 3 (1993): 829.

⁵² It is interesting to note that Dickinson, while he was in London, argued that chancery law in Pennsylvania would be unnecessary, because "every court there is a court of equity, for both judges & juries think it hard to deny a man that relief which he can obtain no where else." From "John Dickinson to Samuel Dickinson, August 2, 1756," in Colbourn, "John Dickinson's London Letters" (1962).

Knowledge, Honesty & Resolution is like a Mill, which after a material Wheel is broken, may run giddily round—but will never make a Grain of Flour.⁵³

Samuel, recall, was judge of the Court of Common Pleas and a justice of the peace in their home county of Kent. He would send his son accounts of the “state of the law” in Kent, who, in addition to reading the Pennsylvania and London papers, often received the latest gossip and news from his parents to keep abreast contemporary events.⁵⁴ From his readings and the reports of his parents, Dickinson worried over the judiciary in Delaware, lamenting their lack of honesty. Even “all the law of Coke & Eloquence of Cicero” could “never influence Men who dont understand You, or . . . were determind in their Opinions—before they heard You.”⁵⁵ Without such honesty and without open-mindedness, there could be no justice. And an unjust law, or a law unjustly applied, was just as bad as having no law at all. Justly applied laws only occurred when there were just men to apply them, and a people demanding they were justly applied.

Dickinson soon learned in London that even good laws were not sufficient for public happiness, but that a free and harmonious society required a good people—vigilant and virtuous. Writing to his father, “It is a grown vice here to be Virtuous. We have a Maxim in the Law that ‘The People is unhappy—when the Laws are unsettled’ But I think with much more Truth it may be said—‘When Religion is unsettled.’”⁵⁶ While

⁵³ “John Dickinson to Samuel Dickinson, February 19, 1755,” in Colbourn, “John Dickinson’s London Letters” (1962).

⁵⁴ Ibid. For examples of Dickinson’s discussions of the “Pennsylvania papers” see “John Dickinson to Samuel Dickinson, May 25, 1754” and “John Dickinson to Mary Cadwalader Dickinson, August 2, 1756,” in Colbourn and Peters, and Colbourn, “John Dickinson’s London Letters,” (1962).

⁵⁵ “John Dickinson to Samuel Dickinson, February 19, 1755,” in Colbourn, “John Dickinson’s London Letters” (1962).

⁵⁶ “John Dickinson to Samuel Dickinson, January 21, 1755,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

Dickinson at this age loathed organized religion, he found great merit in faith and the virtue it often produced.

People are grown too Polite to have an old fashioned Religion, & are too weak to find out a new—from whence follows the most unbounded Licentiousness, & utter Disregard of Virtue which is the unfailing Cause of the Destruction of all Empires for it is as impossible for Publick Dignity & Security to exist w[ith]out private Virtue & Honesty.⁵⁷

The people, according to Dickinson, had become incapable of traditional religion and hoped that virtue would supplement it. He frequently described to his parents the “Noise, Dirt & Business” of London, and provided a similarly Hogarthian sketch of the city’s moral state.⁵⁸ The ubiquity of the baseness found in London was numbing and Dickinson saw “Gin Lane” as a one-way street toward decay. He learned as much in London from the public’s vices as he did from its virtues and regretted the sad condition of the city in front of him:

The weak shew him, as in a glass, the faults and follies he ought to avoid. Here a man learns from the example of others what in another place nothing but his own sufferings & experience coud teach him. London takes off the rawness, the prejudices of youth & ignorance. He finds here that he has been frequently deceived; he ceases to gaze & stare.⁵⁹

Dickinson witnessed such a state of moral corruption that he concluded, “nothing is really admirable but virtue.”⁶⁰

In these sentiments, admonishing the depravity of the times, Dickinson echoed some his favorite early-century writers as mentioned by New Whig scholars like Bailyn and Wood. It was a common refrain among the great malcontents who preceded Dickinson, the likes of Bolingbroke, Pulteney, Trenchard, Gordon, and Molesworth—

⁵⁷ Ibid.

⁵⁸ “John Dickinson to Samuel Dickinson, March 8, 1754,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁵⁹ “John Dickinson to Samuel Dickinson, May 25, 1754,” in Colbourn and Peters, “John Dickinson’s London Letters” (1962).

⁶⁰ Ibid.

united in their opposition to the administration of Sir Robert Walpole—to lament the corruption of the age. Many of these men formed a country party, or a coalition consisting of both Tories and freethinking Whigs consonant in their opposition to Walpole and critical of the moral state of England. John Trenchard and Thomas Gordon represented the Commonwealthmen and published the *Independent Whig* from 1720 to 1721 and *Cato's Letters* from 1720 to 1723, the latter of which was the most prominent source of political inspiration for many of the founders.⁶¹ Henry St. John, 1st Viscount Bolingbroke published *The Craftsman* from 1726-1752 along with William Pulteney, 1st Earl of Bath, but far surpassed his colleague in ability and celebrity. Bolingbroke earned great attention for his *Dissertation Upon Parties* (1733), *The Idea of a Patriot King* (1738), and his position at the heart of a literary circle that included Alexander Pope, Jonathan Swift, and John Gay.⁶² Robert, 1st Viscount Molesworth, died in 1725 before the true realization of Bolingbroke's country party, but Molesworth was the patriarch of the Old Whigs and led the coterie of disaffected Whigs opposing Walpole—Trenchard and Gordon included. His *An Account of Denmark as it was in the year, 1692* (1694), chronicling that free state's decent into tyranny, and his 1698 vituperation against the Williamite proposal to garrison foreign mercenaries in England after the Treaty of

⁶¹ Clinton Rossiter, *Seedtime of the Republic: the origin of the American tradition of political liberty* (New York: Harcourt Brace, 1953), 141.

⁶² For a more thorough discussion on Bolingbroke, his friends and his influence see Isaac Kramnick, *Bolingbroke and His Circle: The Politics of Nostalgia in the Age of Walpole*, (Cambridge MA: Harvard University Press, 1968).

Ryswick (1697)—ending the Nine Years’ War—particularly impressed upon both the Whigs and Dickinson.⁶³

With these men and their writings, Dickinson shared a common apprehension for the moral decay of England that, as in Rome, presaged ruin. To Dickinson, the “unbounded Licentiousness, & utter Disregard of Virtue” he saw in London was “the unfailing Cause of the Destruction of all Empires.”⁶⁴ Likewise, Bolingbroke wrote, “the fate of Rome will be renewed in Britain.” And Pulteney warned, “A spirit of Baseness, Prostitution and Venality, . . . by the Influence of lazy Habits . . . was the Case of the *Roman Common-wealth* of old.”⁶⁵ No where was this more salient to Dickinson than in the general election of 1754, which chose members of the House of Commons for the 11th Parliament of Great Britain. This polluted election was printed on the young, impressionable mind of Dickinson who would be able testify to its horrors years later. The election was rife with corruption, replete with bribery, and filled with every egregious example of extortive electioneering imaginable.⁶⁶ Dickinson observed the event with such dismay that if it was not an omen of deluge, it was still “One of the greatest proofs perhaps of the corruption of the age.”⁶⁷ The opprobrium of the occasion was marked and popularized by scenes in Hogarth’s *The Humours of an Election* (1755), which Dickinson found to be not so satiric.

⁶³ For a thorough discussion of Molesworth and his inner-circle see Chapter IV, “Robert Molesworth and His Friends in England, 1693-1727” in Caroline Robbins, *The Eighteenth-Century Commonwealthmen*, Cambridge, MA: Harvard University Press, 1959).

⁶⁴ “John Dickinson to Samuel Dickinson, January 21, 1755,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁶⁵ Henry St. John, *Dissertation on Parties* (London, 1754), 213; No. 56, July 29, 1727, *The Craftsman: Being a Critique on the Times* vol. 2, (London, 1731), 73.

⁶⁶ See Chapter V in Joseph Grego, *A History of Parliamentary Elections and Electioneering: From the Stuarts to Queen Victoria* (London: Chatto & Windus, 1892), 125-156.

⁶⁷ “John Dickinson to Samuel Dickinson, January 21, 1755,” in Colbourn “John Dickinson’s London Letters” (1962).

It is astonishing to think what impudence & villainy are practizd on this occasion. If a man cannot be brought to vote as he is desird, he is made dead drunk & kept in that state, never heard of by his family or friends till all is over & he can do no harm. The oath of their not being bribd is as strict & solemn as language can form it, but is so little regarded that few people can refrain from laughing while they take it.⁶⁸

Amidst the staggered elections, Dickinson reported to his father that more than £1,000,000 had already been dispensed by the city to contrive the votes of an enfranchised and that in a borough up north, votes were auctioned at a starting price of 200 guineas.⁶⁹ With the same forlorn language to be found on the sheets of *The Craftsman* or printed on the pages in *Cato's Letters*, Dickinson wrote with a paraphrase of Sallust, "I think the Character of Rome will equally suit this Nation: 'Easy to be bought, if there was but a Purchaser.'"⁷⁰ The farce, Dickinson reported months later, was only exacerbated with a dispute in over seventy elections. The problem was pervasive and systematic, and relieving only one part of the body cannot cure a metastatic cancer.

Bribery is so common that it is thot there is not a borough in England where it is not practisid, & it is certain that many very flourishing ones are ruind, their manufactories decayd & their trade gone by their dependance on what they get by their votes. We hear every day in Westminster Hall leave movd to file informations for bribery, but it is ridiculous & absurd to pretend to curb the effects of luxury & corruption in one instance or in one spot without a general reformation of manners, which every one sees is absolutely necessary for the welfare of this kingdom. Yet Heaven knows how it can be effected.⁷¹

Dickinson was not alone in his observations. The *London Evening Post*, commenting on the events, noted "it was Virtue that supported the Freedom and Glory of Rome; but it was Bribery and Corruption which forged that Chain of Slavery, which all their Efforts were never able to break."⁷² Perhaps only the willfully blind were unable to see the

⁶⁸ "John Dickinson to Samuel Dickinson, April 22, 1754," in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ "John Dickinson to Samuel Dickinson, January 21, 1755," in Colbourn "John Dickinson's London Letters" (1962).

⁷² *London Evening Post*, April 13, 1754.

crookedness, but it would be improper to suggest that all foresaw the potential consequences or worried such improprieties would recur. Dickinson, however, was ardent to never repeat that mistake. Decades later, as his countrymen sought to create their own Republic, he reminded them, “History tells us, that, corruption of manners sink nations into slavery.”⁷³

Although horrified with how Members of Parliament were elected, Dickinson relished the opportunity to frequent both houses in the Palace of Westminster. Dickinson did not sit in Parliament for the novelty of the experience or its entertainment value—he spent much of his time at Westminster diligently taking notes on debates, speakers’ oratory abilities, ministerial politics, and the current affairs. Dickinson often transcribed speeches he thought admirable or persuasive and would send copies home to his father. He would dedicate much space in his letters to providing his own analysis of the great debates in Britain at the time. After the chaos of 1754’s elections had settled, a new ministry, headed by the Duke of Newcastle, emerged after the death of Henry Pelham and was immediately challenged by a number of daunting problems. Newcastle and his ministry were largely incompetent and unprepared for the challenges ahead, most notably the trajectory towards war with France. While the War of the Austrian Succession had ended in 1748, France and Britain were once again maneuvering for favorable position on the American continent. To deal with the French threat, the divided Newcastle administration decided upon “an enormously ambitious military program with virtually

⁷³ John Dickinson, “Letters of Fabius” in *The Political Writings of John Dickinson, Esquire, Late President of the State of Delaware, and of the Commonwealth of Pennsylvania* vol. 2, (Wilmington: Bonsal and Niles, 1801), 101.

no provision for its implementation.”⁷⁴ Newcastle dispatched General Edward Braddock to the Ohio Valley to repossess it from the French, but instead, found himself on a disastrous expedition advancing straight to his death in western Pennsylvania.⁷⁵ “It was a sorry cabinet to undertake the responsibility of conducting a great war,” commented one historian, “without a man in it fitted to take the direction of affairs.”⁷⁶

Dickinson thus, was afforded a rare opportunity to witness firsthand Britain’s slow tumbling descent into war with France—the Seven Years’ War. He stood in a country on the brink of battle and gradually watched preparations be made, always observant of new developments. To his parents, he transmitted war reports with analysis of the latest skirmishes with the French, related troop movements, revealed the mobilization of new units, described the politicking of the ministry, and narrated the Crown’s grand strategy. Dickinson was no passive eyewitness. To learn more about the impending war, Dickinson conversed with “gentleman of the navy,” attended the King’s pre-war address to Parliament, saw Men of War being outfitted with artillery, watched arms loaded on conveys, read the papers, and spoke to “indubitable sources” within the city. Dickinson was gradually watching Great’s Britain become that “vast Empire, on which the sun never sets.”⁷⁷

But what Dickinson would soon realize was he was also chronicling the collision of both his worlds: his home in Pennsylvania and the Lower Counties, and his home

⁷⁴ Colbourn, “John Dickinson’s London Letters,” 417.

⁷⁵ Walter Bornerman, *The French & Indian War: Deciding the Fate of North America*, (New York: Harper Collins Publishing, 2006), 55.

⁷⁶ Basil Williams, *The Whig Supremacy: 1714-1760* (Oxford: Clarendon Press, 1939), 326.

⁷⁷ George Macartney, 1st Earl Macartney (1737-1806) made the remark following the end of the war.

within the British Empire.⁷⁸ As he witnessed the Newcastle ministry's political fumbling lead to compromised security, he perceived the same thing happening in Pennsylvania. As the French were amassing forces on the Mediterranean port of Toulon, French and Indian forces had already amassed on Pennsylvania's western frontier. And as the Newcastle government was divided over taxes, war provisions, and control, so too was Pennsylvania divided over "currency, taxes, and authority of the Penns."⁷⁹ The assembly and proprietor were in a venomous fight over the power of appropriation; "Neither he nor the Assembly have any great Reason to boast" wrote Dickinson, as the Assembly proposed funding bills of credit through a property tax that included the proprietor's formerly exempt estate.⁸⁰ The appropriation proposed £20,000 in bills of credit in support of General Braddock's western excursion, but Governor Robert Morris vetoed the bill under the instructions of Thomas Penn, the proprietor. Morris cited the bill's omission of the suspending clause, which he claimed was required by royal order in 1740, and forbade him from assenting to particular laws passed by the assembly.⁸¹ The assembly was furious, not least because they were increasingly blamed for a negligent failure to provide for their western defenses, and appealed to the Lords of Trade.

The French and their Native Americans allies had clashed over British claims to frontier territory near the Forks of the Ohio, near present day Pittsburgh. Violence broke out in 1754 during the Jumonville affair when Lieutenant Colonel George Washington—

⁷⁸ Remember that at this time Pennsylvania and Delaware were still not entirely distinct entities. They were administered by the same Governor and Proprietor until 1776.

⁷⁹ Colbourn, "John Dickinson's Letters," 419.

⁸⁰ "John Dickinson to Samuel Dickinson, June 6, 1756" in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁸¹ Winfred Trexler Root, *The Relations of Pennsylvania with the British Government, 1696-1765* (New York: University of Pennsylvania, 1912), 198-201.

the same age as Dickinson—led an ambush of Virginia militia against a small French unit. The attack quickly spawned more French and Indian raids on Pennsylvania’s frontier and Braddock was dispatched to quiet the mess. As the European theater of the war emerged, the acts of the ministry and of the province were concomitant. While Dickinson had originally received news of the disputes in Pennsylvania from his parents, the roles were quickly reversed, and he began reporting to his parents of the developments in their backyard. Dickinson wrote to his parents as the Lords of Trade rejected the remonstrance of the assembly and as Lord Halifax assembled the agents of the colonies to inform and instruct them of new developments. Dickinson related to his parents that Richard Partridge, the assembly’s agent in London, defended the legislature from ministerial accusations of fecklessness. Partridge cited the “conscientious persuasion” that subdued the province, a reference to their Quaker pacifism, which was the determinant reason for their emigration from England in the first place. “For the peaceable enjoyment,” summarized Dickinson, “they removd to that province, then a desert, in hopes to live undisturbed under it.”⁸² Recalling Halifax’s callous response, Dickinson regretfully reported to his parents, “Halifax replied that if they were left to themselves they were not like to live but to dye under it.”⁸³

As Dickinson continued to straddle the Atlantic with each foot in a different part of the empire, the effect on him was double. At once, Dickinson was able to see the synchronal effects both his homes and identities had on each other. The decisions of his King and the ministry affected governance of his home. And the decisions of the

⁸² “John Dickinson to Mary Cadwalader Dickinson, March 17, 1756,” in Colbourn, “John Dickinson’s London Letters” (1962).

⁸³ Ibid.

proprietor, the governor, and the assembly, affected how the King and his Ministers governed them. It was thus possible for Dickinson to chastise how England was administering “publick affairs” and on the same day to lament, “It is really melancholy to think of returning to one’s Country groaning under the double Miseries of War & Discord—Fire & Slaughter raging round, & Parties & Dissensions weakening & distracting Us within.”⁸⁴

The war unfolding through Dickinson’s letters provides a unique insight to the sentiments in London as it developed. He heard that the Duc de Richelie left with 15,000 men on an expedition to seize the British Fort St. Phillip on Minorca. Although skeptical why the ministry did not discharge its superior naval force to harass the French coast, Dickinson remained confident in the poweress of Britain’s “very considerable force in the Mediterranean.”⁸⁵ When Dickinson heard of a siege at the fort on Minorca, he saw Admiral John Byng leave with 1,000 men, thirteen ships, three or four frigates, and great pomp to reinforce the British forces there. Dickinson’s hope quickly soured, as the admirable Byng became an infamous admiral, remembered as a treasonous truant for abandoning the British forces on the island. Likewise, Dickinson’s faith in the ministry went from promise to skeptical, to disappointing, to so troublesome that it became “disagreeable saying any thing about them.”⁸⁶ However, more distressing than the ministry’s conduct in war, was their conduct in peace.

⁸⁴ “John Dickinson to Samuel Dickinson, August 2, 1756,” and “John Dickinson to Mary Cadwalader Dickinson, August 2, 1756,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁸⁵ “John Dickinson to Samuel Dickinson, May 10, 1756,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁸⁶ “John Dickinson to Mary Cadwalader Dickinson, August 2, 1756,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

In one memorable episode, Dickinson watched with discouragement as the House of Lords rejected “a militia bill” in May of 1756 to provide for a national defense.⁸⁷ Dickinson had sympathized with the cause of the elder William Pitt, “a discontent statesman, who is the patriot of the times,” as he fought the overwhelming might of the ministry representing the will of the King.⁸⁸ It was a “great offence,” Dickinson urged, that the ministry would defeat a bill “putting this kingdom into state of defence by an internal power.”⁸⁹ Instead, the Hanoverian King, George II, relied on the 8,000 Hessian and 3,000-4,000 Hanoverian mercenaries garrisoned in England to defend a possible French invasion.⁹⁰ “If this is not perpetuating the necessity of our defence by foreign troops,” Dickinson wrote of the militia bill’s opponents, “I dont know what is.”⁹¹ He was dumbfounded and “astonishd to hear from Englishmen” the kinds of arguments made against such vital provision for the defense and security of their countrymen.⁹²

Dickinson came to realize that opposition to the militia bill characterized a larger, more serious moral corruption among the political and ministerial establishment. He learned to distrust the ministers and doubt their ability to restrict the power of the King. Dickinson decried the adulation and apathy of the King’s ministers. “Such is the complacency,” wrote Dickinson, “these great men have for the smiles of their prince that they will gratify every desire of ambition & power at the expence of truth, reason & their

⁸⁷ “John Dickinson to Samuel Dickinson, June 6, 1756,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ “John Dickinson to Mary Cadwalader Dickinson, June 6, 1756,” in Colbourn, and Peters, “John Dickinson’s London Letters” (1962).

⁹¹ “John Dickinson to Samuel Dickinson, June 6, 1756,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁹² Ibid.

country.”⁹³ So great was their sycophancy and so infirm was their resolve, Dickinson wrote, “ridiculously weak are we with all the Means of Strength in our hands.”⁹⁴ The whole affair affected Dickinson greatly and left him with a rotten impression of Parliament and the powerful machinations of the ministry. He saw powerful men willing to endanger their own countrymen to appease their prince.

It “must be very disagreeable to all men Who value their Liberties & Constitution,” wrote Dickinson repeating a similar argument from decades earlier, “by setting a Precedent, which in Cases of the Crown has ever been found an immutable Law, for the Increase of the Regal Powers, the strides of which since the Revolution have been gigantic.”⁹⁵ When it came to issues of a standing army and mercenaries, Dickinson no doubt had the influence of Molesworth, Pulteney, Trenchard, and Gordon on his mind. John Trenchard’s *An Argument, Shewing that a Standing Army is Inconsistent with a Free Government* (1697) and *A Short History of Standing Armies in England* (1698; reprinted as part of *Cato’s Letters* in 1731) were the principal texts for a critique of and warning for the standing armies and mercenary forces which Dickinson saw march right in front of him. It was a classic concern that the ancient rights of Englishmen and the privileges of the Commons could be suspended if a would-be despot had a personal army at his command to enforce his wishes. If the prince holds the purse of the army than it follows that its first loyalty is to him. A national militia, however, has no loyalty other than to their own land and countrymen. As Gordon wrote in *Cato’s Letters*, “In free

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ “John Dickinson to Mary Cadwalader Dickinson, June 6, 1756,” in Colbourn, “John Dickinson’s Letters from London” (1962).

countries, as people work for themselves, so they fight for themselves.”⁹⁶ The concern of foreign mercenaries loyal only to their beneficiary was only more relevant in 1756 as a Hanoverian prince had placed Hanoverian mercenaries on English soil. With the Jacobite risings only ten years removed and still fresh in the minds of many Englishmen, it was treasonous to question the allegiance of a Hanoverian King. Still, Dickinson found a way to suitably criticize the presence of Hanoverian and Hessian troops writing, “This is a Piece of Policy that has disobligrd the Nation extremely, for instead of raising a Certain Natural & Sufficient Power by a Militia, a Whole People are to depend for Protection on the Precarious External & Slender force of Foreign Troops, Who must be instantly recalld, if the Politicks of Germany shoud take the least Turn.”⁹⁷ Again, Dickinson expressed similar sentiments as Trenchard, who wrote that a militia would defend their home “with as much vigor and courage as mercenaries who have nothing to lose, nor any other tie to engage their fidelity, than the inconsiderable pay of six-pence a day, which they may have from the conqueror.”⁹⁸

Dickinson’s view was thus parallel to Whiggish ones espoused thirty and fifty years prior, but it does not follow that he was a Whig. He was a student of Bolingbroke, Molesworth, Rapin, Pulteney, and the Commonwealthmen, and while his reasoning for opposing standing armies and mercenaries was the same, it should not be assumed that

⁹⁶ Thomas Gordon, *Cato's Letters: Or, Essays on Liberty, Civil and Religious, And Other Important Subjects* vol. 2, ed. 6, (London: 1755) 278; for the source of Gordon’s sentiments see John Trenchard, *An Argument Shewing, that a Standing Army is inconsistent with A Free Government, and absolutely destructive to the Constitution of English Monarchy* (London: 1697), 24: “My Lord Bacon in several places bears his testimony against a standing army, and particularly he tells us, that a mercenary army is first to invade a country, but a militia to defend it; because the first have estates to get, and the latter to protect.”

⁹⁷ “John Dickinson to Samuel Dickinson, June 6, 1756,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁹⁸ John Trenchard, *An Argument Shewing, that a Standing Army is inconsistent with A Free Government, and absolutely destructive to the Constitution of English Monarchy* (London: 1697), 21.

his goals were. He agreed with many of their arguments, for he saw the dangers they had warned of begin to play out in front of his eyes. Dickinson feared that this path led to tyranny but his true grief was not with the prince, but those who enabled him.

He mordantly berated the gluttony of the ministry and their readiness to sacrifice the good of their countrymen for their own enrichment. His argument is clear and layered: If the British possessed the mightiest navy (“the French dare not look us in the face at sea”) then they ought to meet the French in the English Channel (“notwithstanding their agility cannot yet skip from Calais to Dover”). But, if they should so absurdly choose to fight ashore (“rather than on that Element which Nature has so kindly spread round her”), they ought not to place the trust of the defense of their countrymen in the hands of Hanoverian and Hessian mercenaries (“Slaves & Foreigners rather than to Freemen & Natives”). The King may have been Hanoverian, but most Englishmen felt no connection to the Electorate of Hanover nor felt any safer by its mercenaries presence. Such madness, to Dickinson, had only one conclusion and from it, one consequence. It was the same conclusion and same consequence that both Bolingbroke and Pulteney, and Trenchard and Gordon had come to a short few decades ago. The ministry and their stooges in Parliament, according to Dickinson, act for one reason: “that it pleases the King.”⁹⁹ And when good men bow to the King, the result is a nascent autocracy. Dickinson lamented such a conclusion, “Nor can the most ingenious Artists in cloathing Imperial Desires with Specious Pretences give one Reason for its pleasing, but such a one, as even their Modesty will never suffer them to give; That it will increase his

⁹⁹ “John Dickinson to Mary Cadwalader Dickinson, June 6, 1756,” in Colbourn, and Peters, “John Dickinson’s London Letters” (1962).

Power.”¹⁰⁰ Such conditions, Dickinson worried, was indicative of an insipient tyranny—the warning signs he knew too well. Finishing his jeremiad, Dickinson related:

When Concessions are made to Princes, this as ridiculous to think of Stopping, as for a Master of a Ship to guess at the Depth of Water in an Ebb Tide, which every Moment decreases, till he is convinced of his Folly by running aground: There indeed the Comparison ceases, for the Vessel, if She does not split with Striking, will be reliev'd with the next flood—But there is no Flood in Power: When it has got a Turn one way, there is no means in Nature for altering its Course but Violence: & I think a moderate Acquaintance with the English History, will teach one this Truth: & also that most of our Civil Wars have been Claims {& Complaints} made in the Field in a Lump together—which had either been given up singly or winks'd at in Parliament: So dangerous is what Some People call Complaisance & Trust in their Prince.¹⁰¹

For all his cautions of the path to oppression, Dickinson still trusted the King. He felt, more so than not, that the guilt lay with the intrigue of the King's ministers. But, the intention of Dickinson's jeremiad was not to excuse the King nor simply blame the ministry. Instead, Dickinson was partaking in the practice previously assumed by *The Craftsman* and *Cato's Letters*: the art of vigilance. Although vigilance did not make one a Whig it resulted from a keen awareness of history. Rome had fallen because the people had grown careless and complacent. The Whigs of yore in Dickinson's “English history” had assumed the roles of sentinels, warning their countrymen at every slight deviation from the road of liberty. It was a lesson Dickinson would well learn and carry with him throughout his life. Indeed a decade later, Dickinson would warn of complacency in his eleventh *Letter from a Farmer* expounding, “When an act injurious to freedom has been once done, and the people bear it, the repetition of it is most likely to meet with submission. For as the *mischief* of the one was found to be tolerable, they will hope that

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

of the second will prove so too”¹⁰² Perhaps recalling the challenge from Tench Francis, Dickinson ended his lesson with a quote from Sallust’s *Bellum Catilinae*, “*Omnia mala exempla ex bonis initiiis orta sunt*” that is, *every bad precedent originated as a justifiable measure*¹⁰³ With an ominous sobriquet invoking Vergil’s Caeleano, he signed the *Farmer Letter*, ““*Infelix vates,*’ A direful foreteller of future calamities.”¹⁰⁴

Dickinson had stayed in London two years longer than he had originally planned. He had enumerated its worth to his parents time and again, imploring them to extend his stay:

If the adding practice to study will be more likely to fix the law strongly & clearly in the memory, if the seeing & hearing the finest speakers at the barr contribute anything to improving & if polishing one’s address, & if frequent conversations on your studies with numbers engagd in the same will instruct one in controversy, then those advantages are to be acquired here.¹⁰⁵

Dickinson knew there was no better place than London to enlighten himself through experience and polish his abilities as an aspiring lawyer and politician. He had success in both endeavors and much more: he had learned his principal lessons about the practice of law, the application of justice, the functioning of the British polity, and the persistence of English history. “My stay in England will strengthen my Constitution,” he wrote to his mother, “& confirm it, for the future part of my Life.”¹⁰⁶

On February 8, 1757, Dickinson was finally called to the bar. He walked past the tables in the Great Hall and approached the Benchers’ Great Table. Dickinson stepped to

¹⁰² John Dickinson, Letter XI, “Letters from a Farmer,” in Paul L. Ford ed., *The Writings of John Dickinson: Volume I: The Political Writings* (Philadelphia: The Historical Society of Pennsylvania, 1891) 389.

¹⁰³ Ibid., 397.

¹⁰⁴ Ibid.

¹⁰⁵ “John Dickinson to Samuel Dickinson, May 25, 1754” in Colbourn and Peters, “John Dickinson’s London Letters” (1962).

¹⁰⁶ “John Dickinson to Mary Cadwalader Dickinson, March 8, 1754,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

the “cupboard” and pressed his hand to that small round table. It was crafted from the hatch cover of Sir Francis Drake’s famed *Golden Hind*, the English galleon used to circumnavigate the globe, and now on it Dickinson signed his name.¹⁰⁷ Departing the Great Hall, Dickinson passed under a lantern from the aft of Drake’s *Golden Hind*, and not before long found himself once more standing on the docks of Woolwich. It had been three and half years since he left America, a place to Dickinson whose name alone “produces a thousand pleasing Images” and is “endeard by my past Pleasures there, by my future Prospects.”¹⁰⁸ Embarking on the ship home, he carried a suitcase replete with new ideas, experiences, and thoughts. He learned many lessons in London, and learned them well. He saw “private passion” begetting intemperate debate to the public’s detriment. He observed what factionalism and partisan strife wrought. He beheld the might of the Royal Navy, but saw a King’s unwillingness to protect his people. He saw the dangers in a standing army and of foreign mercenaries. He saw necessity in a willingness to fight. He had gazed down the short road to tyranny. He saw law at the vanguard of the rights of Englishmen and corruption on its flank. He met men of vice and saw nothing “admirable but virtue.” He had walked the Temple gardens where red and white flowers were plucked spawning the Wars of the Roses. He had visited rotting monuments to princes and the humble grave of Francis Bacon.¹⁰⁹ He knew not what lay ahead, but had learned from whence he came. He had been “preparing for such busy and tumultuous scenes” that he might face on his return. These principal lessons and

¹⁰⁷ Stockdale and Holland, *Middle Temple Lawyers*, 4.

¹⁰⁸ “John Dickinson to Mary Cadwalader Dickinson, May 25, 1754,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

¹⁰⁹ “John Dickinson To Mary Cadwalader Dickinson, August 15, 1754,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

experiences formed the substance of his passion for the vigilant protection of English liberties and social harmony. He was prepared for the turbulent waters that lay ahead and the precise balancing that a trimmer required to keep the ship of state afloat. With “tempests and wars breeding” on the distant horizon, he boarded and set sail for Philadelphia.¹¹⁰

¹¹⁰ “John Dickinson to Mary Cadwalader Dickinson, January 22, 1755” in Colbourn, “John Dickinson’s Letters” (1962).

CHAPTER THREE

“Freedom may be compard to a sound, but delicate Tree in some happy Climate, that is perpetually putting forth fresh Flowers, & new Fruits. It’s Vigour may indeed over load it; But no little Skill is requird in relieving it from its Burden. The Pruning Hook is not to be trusted to every hand; Least the Force designd to guide it’s Growth, shoud destroy some noble Branch.”

John Dickinson, *Reflections on the Flag of Truce Trade in America From An English Merchant*, 1760

Philadelphia, 1760

In the spring of 1757, Dickinson returned safely to America. He had a chaise, sent by his father, awaiting his arrival at the docks in Dover. His first stop was to his parents at Homeplace. In her old age, one of the family's former slaves, Violet, recalled the occasion fondly. As John's carriage rode along the lane up to the house, the family's slaves lined either side, cheering his homecoming. The children, clean dressed and grasping cookies to celebrate their young master's return, bowed and curtsied, with Violet recalling how John had "noticed them kindly."¹ It was a joyous moment on the Dickinson plantation and one Samuel worried would never come. But John was no longer a boy and had business to tend. He soon travelled to Philadelphia and was quickly admitted to the Pennsylvania Bar. While little is known about Dickinson's early legal career, his surviving correspondence, journals, essays, and notes reveal a theory of rights that combines his reverence for natural law, divine law, and man-made law and predates his ascent to the international stage. It also illustrates earlier origins for the renowned arguments Dickinson proposed in the *Farmer's Letters* and for Dickinson's theory of government. This worldview helps explain Dickinson's political philosophy and the significant decisions he made later in his political career. In these documents, we are able to see the essence of Savile's trimmer in Dickinson. Most of these documents had long been scattered in numerous archives, libraries and private collections and were only recently rediscovered and collated by the John Dickinson Writings Project.² For this

¹ Powell, *House on Jones Neck*, 21.

² The John Dickinson Writings Project, funded by the National Endowment for the Humanities and private donors, is an attempt to collect the entire corpus of Dickinson's political works "into an estimated six printed volumes, a college-level course reader, and a Web-based digital version." The Project's Director and Chief Editor is Dr. Jane E. Calvert of the University of Kentucky. For more details, see: <http://dickinsonproject.rch.uky.edu/about.php>.

reason, this formative part of Dickinson's life has been unavailable to the scholars who have tried to understand his political philosophy and how it took form.

Charles Stillé speculated that Dickinson "spent much of his time during the next few years in the study of English constitutional history and of what we should now call political science."³ While Stillé only had access to a fraction of Dickinson's earliest writings, recently discovered letters, journals and books confirm Stillé's assumption. Always a student, Dickinson was an avid reader and purchased a share in "Franklin's Library" (eventually the Library Company of Philadelphia) for £17 and was chosen as director within a year.⁴ In Philadelphia, Dickinson immediately opened a legal practice. From the earliest years of the practice, he busied himself in work and study. Missing Robert McKean,⁵ an old friend from London, Dickinson wrote in 1758:

*Me multis negotiis occupatum silere, noverit mirandum; sed cui causæ ditior, quod
obliviscaris Amici tui amantissimi. Dulce est Absentiam relevare, absentiam
reminiscendo; & absentibus quid magis placet quam reminisci? Non parvi honoris mihi
est, quod in strepore deliciarum {diversitate}, vociferatione forensi & incantationibus
incantantibus, horam tibique amicitiaeque seponar*

Busy with many tasks, I have been surprisingly quiet; but I have been productive for this reason, as you have forgotten your most beloved friend. It is sweet to uncover Absence, by remembering absence; and what is more pleasant than remembering those absent? It is no small honor for me that among the crowd {variety} of delights, the clamor of the courts, and other enchanting charms, I may set aside some time for you and our friendship . . .⁶

³ Charles Stillé, *The Life and Times of John Dickinson, 1732-1808* Volume I, (Philadelphia: The Historical Society of Pennsylvania, 1891) 36.

⁴ "John Dickinson to Mary Cadwalader Dickinson, March 7, 1763," in Calvert *Complete Writings of John Dickinson* (forthcoming); H. Trevor Colbourn, "John Dickinson, Historical Revolutionary." *The Pennsylvania Magazine of History and Biography* vol. 83 (1959): 278.

⁵ Robert McKean was the brother of Thomas McKean (1734-1814), the signer of the Declaration of Independence and Articles of Confederation, and like Dickinson, the only other man to serve as President of two states (Pennsylvania and Delaware).

⁶ "John Dickinson to Robert McKean 175[8]," trans. Calvert in Calvert *Complete Writings of John Dickinson* (forthcoming). For more on Dickinson's relationship with Robert McKean see David McKean, *Suspected of Independence: The Life of Thomas McKean, America's First Power Broker* (New York: PublicAffairs, 2016), 12.

By 1760, Dickinson was already regularly presenting cases in front of the Pennsylvania Supreme Court, arguing three in April alone.⁷ He was trying cases against the best of Philadelphia Bar's best including John Moland, his former instructor and the bar's premier, and Benjamin Chew, a family friend and the Attorney General. In one of the earliest recorded cases, Dickinson and Joseph Galloway—a member of the First Continental Congress, loyalist leader, and bitter political rival of Dickinson—defeated Chew and Moland (1 Dallas 4) in a question regarding whether rum sent to clear a debt should be considered payment or only security.⁸ In another early case of the same year, Dickinson and Moland went up against Chew regarding the execution of a will (1 Dallas 5).⁹ The twenty-eight-year-old Dickinson quickly earned a reputation as an astute thinker and a worthy legal opponent.

His success in the courts translated into the public arena. In October 1759, he was elected to the Delaware Assembly and took his seat the following year. Within a year, he ascended to the Speakership and was promptly re-elected. In October 1762, a year that coincided with the peak success of his private legal practice, Dickinson won a special election to fill a vacant seat in Philadelphia County—joining the Pennsylvania Assembly. Dickinson wrote to George Read, a signer of the Declaration, “I took the liberty a few days ago to make you a trouble, by asking you to try two causes between [parties named in Delaware], as I shall be prevented from attending by several cases of consequence in our Supreme Court to be tried at the same time.”¹⁰ Unfortunately, as is common with many colonial court reports, poor recordkeeping prevents a complete examination of

⁷ Stillé, *The Life and Times of John Dickinson* v. I, 36.

⁸ Konkle, *Benjamin Chew*, 119.

⁹ Ibid.

¹⁰ Stillé, *The Life and Times of John Dickinson*, 37.

Dickinson's early occupation. It is clear that by the mid-1760s, Dickinson had established one of the largest legal practices in Pennsylvania.¹¹ Some of Dickinson's most notable cases included a defense of Quaker pacifists during the French and Indian War; an infanticide case, *Dominus Rex v. Rachel Francisco*;¹² a murder; and a defense of the Reverend William Smith, an ally of Dickinson who served with him on the Philadelphia Committee of Correspondence in 1774 and became the first Provost of the University of Pennsylvania.

Two of Dickinson's earliest cases involved the defense of colonial American merchants whose vessels and precious cargoes were seized and condemned for involvement in trade with the French West Indies. Dickinson defended a pair of American ship captains and crews, the *Brigantine Ospray* and *Schooner Elizabeth*, from libel—a suit brought in admiralty court. While Dickinson's legal notes outlined his thinking for his public representation of both the *Ospray* and the *Elizabeth*, a recently discovered document allows modern scholars to understand Dickinson's position on the matter with acuity. To build the framework for his argument defending the merchants, Dickinson is compelled to clearly and directly articulate his jurisprudence and his views on liberty, constitutionalism, and good government. “Reflections on the Flag of Truce Trade in America. By an English Merchant” is a remarkable unpublished treatise written by the young Dickinson in 1760. While Dickinson's intentions for this exposition are unknown, the existence of myriad notes, earlier drafts, significantly edited portions, and added segments sealed with wax, suggest Dickinson spent a significant amount of time

¹¹ Konkle, *Benjamin Chew*, 116-117.

¹² Laura T. Keenan, “Reconstructing Rachel: A Case of Infanticide in the Eighteenth Century Mid-Atlantic and the Vagaries of Historical Research,” *The Pennsylvania Magazine of History and Biography* vol. 130, no. 4 (2006), 361–85.

working on it. Assuming the identity of an English merchant, Dickinson defended the controversial flag of truce trade, delineating the boundary of British authority to intercede in colonial affairs and questioning the constitutionality of British laws governing colonial trade. This is the earliest polished example of Dickinson challenging British governance and authority, and in earnest, the roots of his dissent. It constitutes the beginning of Dickinson's debate over British jurisdiction over the American colonies, which lasted through the Imperial Crisis. The principal lessons he learned in London at the Middle Temple and at Westminster, and the influences of his earliest tutors, are found throughout the treatise. Those ideas, no longer singular or abstract in nature, are finally formed into clear positions and a coherent perspective, constituting his political philosophy. It is these same ideas that Dickinson would articulate in Pennsylvania's 1764 constitutional debate, in his 1768 *Farmer's Letters*, and his 1776 decision not to sign the Declaration. This composition thus serves as a bridge from Dickinson's education to his later political career and is perhaps one of the most important documents in understanding such a complicated man and his political ideology.

The flag of truce trade is a little known and researched topic, but it greatly affected the colonies path towards American independence. The term “flag of truce trade” arose during King George’s War (1744-1748), the American theater of the War of the Austrian Succession (1740-1748), although the origins of the practice date back as early as 1485.¹³ The flag of truce trade was born from a dependency among the Atlantic economies that coincided with the European struggle for control over their American and West Indian colonies. The British South and West Indian colonies were limited in their

¹³ Richard Pares, *War and Trade in the West Indies*, 1739-1763 (Oxford: Clarendon Press, 1936), 446.

purchasing power compared to the large supply of products from their northern colonies.

Thus, the “empire was over balanced on its temperate zone side.”¹⁴ Conversely, the French were “overweighted on its tropical side” for their northern colonies were limited in production capacity by a smaller population and wealth of resources.¹⁵ Thus, the “economic equilibrium” lay in a balance of trade of between the British and French Atlantic colonies, so much so that their “livelihood depended on it.”¹⁶ In times of peace it was accepted as a beneficial and natural practice, but in times of war the laws were unclear and often contradicting. Prohibitions were imposed or relaxed by both French and British administrative and ministerial authorities depending on the level of demand in the colonies.¹⁷ French ministers had tried to end the trade during times of peace, but colonists and local communities disrupted these plans.¹⁸ British West Indian planters, their colonial administrators and agents in London, thought cheated by this trade and fought assiduously to forbid all commerce with non-British West Indies—meeting only mixed success. Instead, Parliament passed the Sugar and Molasses Act of 1733—the predecessor of the infamous 1764 Sugar Act—which instead of proscribing the sugar trade with the French West Indies, established a duty of six pence per gallon.¹⁹ While the Flour Act (Provisions Act of 1757) forbade the export of provisions from British dominions to

¹⁴ Frank W. Pitman, *The Development of the British West Indies: 1700-1763* (New Haven: Yale University Press, 1917), 189.

¹⁵ Ibid.

¹⁶ Ibid; Pares, *War and Trade in the West Indies*, 404.

¹⁷ Pares, *War and Trade in the West Indies*, 415.

¹⁸ Ibid, 388

¹⁹ Ibid., 398.

foreign ports, by the start of the Seven Year's War it was unclear if other trade with the French was unlawful.²⁰

To avoid confusion during times of war, colonial Governors opted to issue flags of truce to American merchants under the guise of conducting prisoner swaps. In application, flying the flags of truce provided safe passage to ships desiring to trade with the enemy despite the hostilities. For the British in the eighteenth century, this enemy was first and foremost the French. "It is well known that the French are our Natural Rivals," wrote Dickinson. "They never can be said to be at Peace with Us; no more than a Tyrant, when he is sleeping; can be said to be a Good Prince. For peace with them is nothing but a preparation & recruiting for War."²¹ Despite overt war with the French, smuggling, illicit purchasing of French goods, and the flag of truce trade flourished in the late 1750s and early 1760s. In New York, the merchant elite was unsurprisingly the major party in the trade. Unbeknownst to many were the active involvement of the political and social elite, and the tacit support of many in the provincial government. In New York City alone, "The mayor, several alderman, the families of Supreme Court justices, in-laws of two lieutenant-governors, members of the provincial assembly and the Governor's Council, two provincial grand masters of the Masons, . . . four of the five New York Delegates to the Stamp Act Congress (1765) and two signers of the Declaration of Independence" were involved in the flag of truce trade.²²

²⁰ The board of trade led an inquiry into this trade in 1757, but dropped the investigation without an conclusion. See *ibid.*, 445.

²¹ John, Dickinson, "Reflections on the Flag of Truce Trade, in America. By an English Merchant," Unpublished manuscript, [c. 1760], JDLP/LCP in Calvert, *Complete Writings of John Dickinson* (forthcoming).

²² Thomas Truxes, *Defying empire: trading with the enemy in colonial New York*, (New Haven & London: Yale University Press, 2014), 3.

New York was not the only colonial city involved in trading with the enemy.

“The greatest part of the vessels belonging to the ports of Philadelphia, New York and Rhode Island,” wrote a British officer in 1760, “are constantly employed in carrying provisions to and bringing sugars &c. from Monte Cristi; or the enemy’s islands.”²³ Philadelphia’s docks were teeming with illegal traders and flag of trade trucers. Writing to William Pitt the Elder, Secretary of State during the war, Pennsylvania’s proprietary Thomas Penn recorded that the Delaware River “swarms with shallop unloading these illegal cargoes, brought at their return, and cheating the King of his dutys, besides carrying provisions and ready money to the Enemy.”²⁴ While smuggling was common in all the colonies, it was Philadelphia that was the premier and unequivocal leader in the American flag of truce trade. Under the tutelage of Governor William Denny (1756-1759) Pennsylvania witnessed the “golden age of flag-trucing.”²⁵ Denny earned a reputation as an entrepreneurial man, or rather a corrupt politician, for the eagerness with which he sold flags of truce to merchants across the mid-Atlantic. Denny had begun to sell the flags for a high price but as he realized that his tenure as governor would not last long, he began selling them wholesale.²⁶ It became so pervasive that Philadelphian merchants would bid against one another for prisoners in order to obtain a flag of truce from Denny. Not everyone, however, approved of the trade. Denny’s successor, Governor James Hamilton, demonstrated his loyalty to Pitt by confessing the

²³ Ibid., 4.

²⁴ Curtis Lionel, *The Commonwealth of Nations: An inquiry into the nature of citizenship in the British Empire, and into the mutual relations of several communities thereof. Part I.* (London: Macmillan and Co., 1916), 440.

²⁵ Truxes, *Defying Empire*, 4.

²⁶ Lawrence Henry Gibson, *The Coming of the Revolution 1763-1775* (New York: Harper & Brothers Publishing, 1954), 31.

transgressions of his predecessor. “Towards the end of his administration,” Hamilton wrote of Denny, “the matter was carried to such a pitch, that he scrupled not to set his name to, & dispose of great numbers of blank flags of Truce, at the low price of twenty pounds sterling or under; some of which were selling from hand to hand at advanced prices, several months after my arrival.”²⁷ It was clear to Hamilton that although transporting French prisoners was a legal responsibility of the governor, Denny was enthusiastically abusing the system, for it was “known we have not had more [prisoners] during the whole War than might have been conveniently embarked in one, or at most, two small ships.”²⁸

The trade began to wind down in 1760, as privateers and Admiralty Courts posed an increasing hazard to those who ventured into the trade.²⁹ British colonial authorities too took a more active role in cracking down on the trade and in the process revealed Philadelphia’s dominance in the flag of truce industry. In the summer of 1760, the *New York Gazette* issued a list of the names of 37 flag of truce ships, 26 of which were American, seized by the Royal Navy and brought to Port Royal, Jamaica. More than half of the captured North American ships hailed from Philadelphia.³⁰ By the time of print, at least 17 had gone to trial, with ten convictions and seven acquittals.³¹ Like New York, Philadelphia’s flag of truce trade also included its social and political elite. “We have

²⁷ “Governor Hamilton to Pitt, November 1, 1760,” in Gertrude S. Kimball ed., *Correspondence of William Pitt When Secretary of State With Colonial Governors and Military and Naval Commissioners in America*, (New York: The Macmillan Company, 1906), 351-52.

²⁸ Ibid.

²⁹ Pares, *War and Trade in the West Indies*, 487.

³⁰ Truxes, *Defying Empire*, 104.

³¹ Ibid.

divided the [tea] . . . for fear of an information being lodged,”³² wrote an anxious Philadelphia merchant to his colleague in New York. This Philadelphian merchant was none other than Thomas Wharton Jr., future President of Pennsylvania and Dickinson compatriot on the 1774 Committee of Correspondence. George Bryan, Wharton Jr.’s successor as President of Pennsylvania and a future Continental Congressman, was also active in the trade, as was many of the city’s wealthiest patrons.

In 1760, Dickinson was asked to defend the owners of the *Brigantine Ospray* and *Schooner Elizabeth*, both of which had been involved in the trade. The outcomes of the cases are unknown, but Dickinson’s diligent and detailed notes preparing for them have survived at the Library Company of Philadelphia and the Historical Society of Pennsylvania. The notes are full with cluttered annotations, legal quips, and references to numerous decisions held in cases across the province and throughout the several centuries. Dickinson collected his thoughts and compiled these notes into one long fifty-two-page essay.³³ This unpublished treatise is the “Reflections on the Flag of Truce Trade.”

The treatise demonstrated the influences Quaker thought, the philosophy of the Commonwealthmen, and a legal education had on Dickinson. In this process, his theory of rights, conception of sovereignty, and his jurisprudence are revealed. Dickinson began the treatise by first defining the trade and second, demonstrating its economic worth. He then determined the relevant legal questions and began to prove his case. He first argued

³² Ibid., 46.

³³ This is evidenced by phrases, quotes and longer passages directly transcribed from his notes into the essay. These notes were found separately at the Historical Society of Pennsylvania in the Logan family papers, box 54, folder 8. The “Reflections on the Flag of Truce Trade” and an additional document titled “Flag of Truce Case Notes,” were both found at the Library Company of Philadelphia.

the trade's legality through absence of a positive law proscribing it. He then examined precedents of the trade by exploring various acts of Parliament, decrees by the crown, and ministerial conduct in preceding wars. He finished by listing and responding to a number of counterarguments to his case.

Dickinson prefaced the treatise with a moral for his reader: "It is certain that Popular Opinions are often wrong; and yet nothing is more difficult, & sometimes nothing more dangerous than to oppose them."³⁴ Using this lesson as a rhetorical tool in his introduction, Dickinson asked his readers to be open-minded and consider an idea with which they probably disagree. Recall that he had written to his father from London that even "all the law of Coke & Eloquence of Cicero" could "never influence Men who . . . were determined in their Opinions—before they heard you."³⁵

"I hope the Public will hear with this Temper of Moderation," Dickinson wrote as he invoked the Christian virtue toward the end of the treatise's introduction.³⁶ To begin in such a manner is evidence Dickinson applying a lesson he learned in London. Public debate, as he had witnessed, is often fraught with an excited and agitated disposition, and the first casualty of such intemperate debate is often the public's interest. "How soon do men lose sight of Publick Good, when under the Influence of Private Passion," Dickinson wrote to his mother from London, "which Side shall an honest Man espouse where both

³⁴ John, Dickinson, "Reflections on the Flag of Truce Trade," in Calvert, *Complete Writings of John Dickinson* (forthcoming).

³⁵ "John Dickinson to Samuel Dickinson, February 19, 1755," in Colbourn, "John Dickinson's London Letters," (1962).

³⁶ John, Dickinson, "Reflections on the Flag of Truce Trade," in Calvert, *Complete Writings of John Dickinson*.

are in the wrong, as constantly is the Case when such Passion is raisd.”³⁷ It was a lesson and style that would characterize Dickinson throughout his career. “I hope, my dear countrymen, that you will, in every colony, be upon your guard against those, who may at any time endeavor to stir you up . . .” Dickinson wrote in his *Farmer’s Letters*, “Hot, rash, disorderly proceedings, injure the reputation of a people, as to wisdom, valour, and virtue, without procuring them the least benefit.”³⁸ It was indeed a worthy lesson that Josiah Quincy would repeat years later in the defense of the British soldiers following the Boston Massacre. Dickinson felt it necessary to stress this point and added a stark warning:

Even Men, whose Diffidence woud distrust their own Judgments, grow fiercely positive, when they find their Sentiments all around them, . . . they vent their Notions with great Vehemence. The opinion still strengthens as its spreads, till at last, like a Flood swelled with Rains, it breaks all Banks & bears down every Thing before it. But this violence destroys itself.³⁹

The lesson seems obvious: with a clear mind and balanced temper a rational person could reach the fairest conclusion. Only when “Passion subsides . . . Men will then listen with Calmness to Truths, that appeared a little before the most flagrant falsehoods.”⁴⁰

If this lengthy introduction seems gratuitous even for the most gifted writer, its inclusion perhaps demonstrates the public’s overwhelming opposition to the flag of truce trade. Despite this trade’s prevalence, it encountered serious opposition. This opposition was strongest in the British West Indies and was met with hostility in England as well. Since the treatise was never published it is difficult to be certain whom Dickinson

³⁷ “John Dickinson to Mary Cadwalader Dickinson, July 2, 1756,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

³⁸ John Dickinson, *The Political Writings of John Dickinson, Esquire, Late President of the State of Delaware, and of the Commonwealth of Pennsylvania* vol. I (Wilmington: Bonsal and Niles, 1801) 168-69.

³⁹ John, Dickinson, “Reflections on the Flag of Truce Trade,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁴⁰ Ibid.

intended for his audience. It can be assumed, however, that by seeking to absolve the trade and its participants, Dickinson was trying to convince the trade's dissenters of its legality and of its benefits. The length dedicated to plead for open-mindedness in the treatise is likely the best evidence that Dickinson had the flag of truce trade's most petulant opponents in mind when he was writing. Dickinson's target audience is further suggested by his assumption of the pseudonym "An English Merchant." Consequently Dickinson's next step after calling for open-mindedness was acknowledging the frustration and anger of his English colleagues instead of dismissing it as irrational or prejudiced. By taking his opponent's side, he is also able to focus on the debate from their point of view:

Many severe Reflections have been thrown on these People, & a great Clamour raisd against them, for assisting our Enemies to support this unjust War, by trading with them contrary to the Laws of our Country. I must acknowledge, that this Charge seemd to proceed from such a Respect for the General Good, and was enforced with so much Zeal [*illegible phrase*],⁴¹ that I was catchd by it, and ~~greatly~~ condemned this [*Intercourse?*] {Trade}⁴²

Dickinson's attempt to establish his credence as an Englishmen extended to the minute details of his grammar. When Dickinson began the treatise, he spoke of a seemingly just anger at the American merchants for violating the "Laws of **our** country" [emphasis

⁴¹ A note on the editorial devices used in this thesis: the text of the treatise is copied exactly as it appears in Calvert, *Complete Writings of John Dickinson* (forthcoming). The devices are used as follows:

Word inserted by author:	{Government}
Word deleted by author:	Government
Editorial notes in brackets and italics:	[<i>illegible</i>]; [see left margin:]
Illegible word deleted by author:	[<i>illegible</i>]
Word added by editors, very certain:	[Government]
Very unclear word, guess by editors:	[Government?]
Unclear word inserted and deleted by author:	{[Government]}
Abbreviated word, expanded by editors:	Gov. ^t becomes Gov[ernmen]t

⁴² John, Dickinson, "Reflections on the Flag of Truce Trade," in Calvert, *Complete Writings of John Dickinson* (forthcoming).

added].⁴³ This comes at the beginning as Dickinson is trying to establish himself and his authorship as English. After the introduction when Dickinson began to present his first primary contention, however, he referred to the American merchants accused of violating the “Laws of **their** country” [emphasis added].⁴⁴ This is an important juxtaposition that is central to Dickinson’s. After establishing his credibility as an Englishman and stating that he too initially found himself swept by the public’s zeal against this trade, Dickinson reminded his reader that the American merchants are Englishmen by nature and blood, and that England is their country too. Accordingly, not only must American merchants abide by English law, but they also endowed with English rights.

Dickinson used this pivot to justify his interest in the cause of the American merchants and his defense of the flag of truce trade as a whole. He wrote, “as it was a matter of some Curiosity, & Importance to the Rights of Englishmen; I took the trouble of enquiring what trade had been carried on by the Colonies, & how they justified their Conduct.”⁴⁵ Only after establishing this, can Dickinson reveal his true intention in writing the treatise. “On making these Enquiries, I was quite satisfied, that the Americans have been very much injured by the Representation made [*illegible*] of their Behaviour; and I think it a Piece of Justice due to them, to lay before the Public their Vindication, & the Reasons which convincd Me of my Error.”⁴⁶ With this, Dickinson finally laid out his proposition: that the American merchants were innocent, that they had been unfairly denounced in the court of public opinion, and that their actions, intentions, and culpability had been misrepresented by the Royal government.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

Dickinson was then able to define the trade on favorable terms, suggesting that his readers were not *per se* wrong in their anger, but were simply misled by an incorrect characterization of the American merchants who were “accused of injuring Great-Britain by this trade . . . and assisting ‘our enemies.’”⁴⁷ The Americans, wrote Dickinson, were not supplying the French with any “warlike or naval stores” and in fact were net positive forces for the British economy. A naval store, according to Malachy Postlethwayt’s much referenced *The Universal Dictionary of Trade and Commerce* (1757), are all the particulars used for “navigation: as timber and iron for ship building, also pitch and tar, hemp, cordage, sail-cloth, gun-powder, ordnance, and fire-arms of every sort; also all ship-chandler wares, &c.”⁴⁸ And simply enough, a “warlike store” is a naval store during wartime. Instead, the Americans traded various British and Irish manufactures, East-Indian commodities and Spanish Pistoles (a former gold currency in the Spanish empire) for sugars in the French East Indies. This new market had, pointed out Dickinson, created “extraordinary Demands,” that “have raisd the Prices of several articles in our Manufacturers very considerably. This must be an Encouragement & Promotion of them: Besides the Employment of many Ships & Seamen in this trade.”⁴⁹ The argument was quite simple: as demand increased so did prices. And as prices increased British manufacturers and workers collected higher revenue, received higher wages, and saw higher employment—all thanks to the increased trade that the American merchants had engendered with their flags of truce. In the process, Americans’ paid their duties on the

⁴⁷ Ibid.

⁴⁸ *The Universal Dictionary of Trade and Commerce* is an English translated and adapted version of Jacques Savary des Brûlons's *Dictionnaire universel du commerce* (1723); Truxes, *Defying Empire*, 223.

⁴⁹ John, Dickinson, “Reflections on the Flag of Truce Trade,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

sugar (as required by the Molasses Act) and the profits they made because of the trade afforded them a greater credit to purchase a larger quantity of British goods.

Ever a student of history, Dickinson reminded his reader that this was neither a revolutionary concept, nor one they should be unfamiliar with. In the past, argued Dickinson, Englishmen had benefited from similar trade with the enemy:

These Advantages are [*illegible phrase*] {not visionary.} Molloy in his Treatise of the Dominion of the Sea, speaking of the Trade that was opened with France, in Queen Ann's Time, says; 'It was thought expedient to suffer the Trade between Us & our Enemies, to be carried on in English Bottoms, to the no small Satisfaction of our Manufacturers, & of great Numbers of Poor employd in preparing the Wool.'⁵⁰

This discussion should be understood in the context of the mercantilist policies and theories that dominated the era. As a corollary to any discussion of foreign trade in the eighteenth century, it is important to appreciate that “international trade was thought of as a warfare”—that is, an economic means of war that could be waged against foreign empires.⁵¹ Within this frame, Dickinson argued that the flag of truce trade could be weaponized against the French.⁵²

While these two powerful imperial economies were already inextricably linked on the European continent, Dickinson explained that the trade only made the more French dependent on American and British markets. “What greater Advantages coud we derive from the most successful War, than that the French shoud toil for Us at the scanty Pittance of eight shillings a Hundred, for their Sugars?”⁵³ Dickinson continued, elucidating how the dependence of the French West Indies on the flag of truce trade forced them to sell their sugar for humiliatingly low prices. “How miserable must be their

⁵⁰ Ibid.

⁵¹ Pares, *War and Trade in the West Indies*, 411.

⁵² Ironically, Dickinson would become as much a Francophile as Jefferson at the turn of the 19th century.

⁵³ John, Dickinson, “Reflections on the Flag of Truce Trade,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

Subsistance at this Price. . . . Will Humanity suffer Us to wish, or can Avarice desire, that they should be ground down lower? Can [the French] be more our Slaves? While they are thus [*illegible*] labouring, & We are gathering all the Sweets; What Part of his Majesty's Dominions {can} be injured by it?"⁵⁴ Dickinson was arguing that the market value of British goods were not only a positive indicator of British success against the French in the Seven Years War, but evidence that the war could be waged as much in the ports of Monte Cristi in Hispaniola as on the Plains of Abraham in Quebec.

During his administration of Guadeloupe, Governor Campbell Dalrymple wrote a memorandum to Pitt using the same argument professed by Dickinson. Dalrymple, who led the British suzerainty of the Island from 1760-1763, stood in opposition to the prevailing opinion of the other British West Indian governors. While most governors—and the planters they represented—feared losing their market share to the enemy, the idea of supporting trade with the French to maintain economic hegemony, had been widely discussed in communiqués between the governors. Dalrymple suggested the ministry supply the French with North American products "in order that we might keep control of that trade and, if necessary, reduce the French islands, grown dependent upon it, to instant starvation by sudden suspension."⁵⁵ The origin of Dickinson's argument dated back to his experience in London and mirrored logic espoused in Parliament a decade earlier in a debate over conducting business with the French during the War of the Austrian Succession. During that war, English companies provided insurance to French ships despite the hostilities between the two nations. While many accused these English

⁵⁴ Ibid.

⁵⁵ Pares, *War and Trade in the West Indies*, 407.

firms of treachery and subversion, others argued that it made commercial sense and allowed the British to maintain a competitive advantage over the French in Europe. Two speeches in particular may have inspired Dickinson's argument: those of Solicitor General Mansfield and Attorney General Rider. Mansfield was the Middle Templar of whom Dickinson wrote, "The eye & ear are absolutely his captives, and even in a bad cause, the judgment with difficulty rejects what is so powerfully recommended, & can scarce perswade itself he is in the wrong."⁵⁶ And Rider was the Middle Templar who Dickinson had witnessed become Chief Justice of the Kings Bench .

In a speech before the House of Commons, Mansfield articulated:

To carry on trade for the mutual benefit of both nations, is not aiding and assisting the enemy, nor is it such a correspondence as was intended to be prohibited by his Majesty's declaration of war, especially when it is such a trade as must always leave a large balance in ready money here in England.⁵⁷

While Dickinson did not personally witness Mansfield's speech, he was well familiar with Mansfield's political arguments and stances. Dickinson similarly argued that the flag of truce trade, while beneficial to both the British and French, was so disproportionately beneficial to the British that it could not be defined as aiding and assisting the enemy. Also in an address before the Commons, Rider echoed his colleague in warning the body of the unintended consequences of outlawing the insurance trade:

What then will be the consequence? Like the dog in the fable, by snatching at the bone we fancy we see in the water, we shall lose that which we now hold in our mouth. That the trade of insuring is a trade which we now hold almost without a rival, and that it is a profitable trade, is, I find, Sir, granted even by the most zealous patrons of this regulation,

⁵⁶ "John Dickinson to Samuel Dickinson, March 8, 1754," in Colbourn, "John Dickinson's London Letters," *The Pennsylvania Magazine of History and Biography* (1962).

⁵⁷ J. Debrett, *The history, debates, and proceedings of both houses of Parliament of Great Britain, from the year 1743 to the year 1774. Containing the most interesting motions, speeches, resolutions, reports, petitions, evidence, protests, and papers, laid before either house. Together with the supplies and ways and means of each session. Also lists of each Parliament, and of the divisions upon the most important questions. In seven volumes.*, volume 2 (London: J. Debrett, opposite Burlington House, Piccadilly, 1792), 172.

though they have endeavored to extenuate the profits of it as much as they could; and therefore I must beg leave to give a new state of the profits of this trade, before I attempt to shew, that by this regulation you may drive the whole trade of insuring from this country, and transfer it to the French, who are our most dangerous rivals in every branch of business.⁵⁸

Rider expected the prohibiting of insuring French ships to send business out of Britain and subsequently weaken British dominance over the French in much the same way Dickinson believed ending the trade would hurt Britain's economy and empower French commerce elsewhere. Dickinson also realized the necessity to trade with the French to maintain British demand and keep the price of sugar low. He understood that the British West Indies had produced enough sugar for the Empire since the end of the War of the Spanish Succession.

It is hoped the Reason before given, will satisfy any [*illegible*] man, that Great-Britain, Ireland, or the Continent of America cannot. Indeed it cannot be pretended that this Trade will be injurious to any Part, but our West-India Islands; & only so to them, as {it} may relieve [Us?] {Great Britain or the Continental Colonies} from the Necessity of paying any Price they may ask for their Sugars. It is well known, that the Sugars raised in the Islands are not sufficient for the Consumption of our own Dominions; & yet the Gentlemen of the Islands are dreadfully alarmed at the {any} Extension of the Sugar Trade.⁵⁹

Dickinson contended that the only part of the British Empire that could suffer because of the flag of truce trade was the British West Indies and in essence, Dickinson was arguing against strict protectionism. Indeed many British citizens suspected the West Indian planters of trying to establish a monopoly over sugar.⁶⁰ Instead, Dickinson was hinting at the advantages of a system of free ports between the nations and their colonies. Freedom of commerce and freedom of the seas were ideas championed by the Commonwealthmen that Dickinson had read in London and in Philadelphia. While Trenchard was only a

⁵⁸ Ibid., 183.

⁵⁹ Ibid.

⁶⁰ Robbins, *Eighteenth-Century Commonwealthmen*, 109. For more on the antimercantilism of the Commonwealthmen see ibid., 131-132, 138, 139.

moderate critic of mercantilism, some of his colleagues were fiercely opposed to such a mercantilist system and denounced monopolies in every form. Anthony Ashley-Cooper, 3rd Earl of Shaftesbury, of whom Dickinson read, argued that “impositions and restrictions reduce trade to a low ebb. Nothing is so advantageous to it as a *Free Port*.⁶¹” Dickinson, in a similar manner, only saw benefit in increased trade, but was quick to stress the benefit to be gained by the whole Empire: when the colonies succeeded, the whole empire succeeded. Dickinson, articulated:

The Inhabitants of the Colonies on the Continent are Englishmen, or their Descendants: Encouraging their Trade adds a real strength to the State: Enables them to supply their Mother-Country with greater Quantities of Naval Stores, the very Sinews of her Maritime Force; & in a little Time woud make her Independent on any other Part of the World for them: The Flag of Truce Trade particularly, is a Source of Riches.⁶¹

Through this theory of trade, Dickinson is able to remind his reader that the colonists were Englishmen and had as much to offer the Empire—and had as much stake in its success—as any other Englishmen. This also plays an important transition point to the core of Dickinson’s legal argument, for unless it is true “an Englishman ceases to be an Englishman” when he goes to sea, he is entitled to the same rights as all his brethren.⁶²

After stressing the economic contributions of the colonial merchants, Dickinson had enough momentum to stress their case for public acquittal. Public sympathy for the Americans is thus justified by a filial love to the Crown. “Besides these prodigious Importations by the Continental Colonies,” wrote Dickinson; “they have involved themselves in immense Debts, thro a noble Zeal for the Glory of the King, the Service of

⁶¹ John, Dickinson, “Reflections on the Flag of Truce Trade,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁶² Ibid.

their Country.”⁶³ They are loyal Englishmen, he argued, and have followed the will of the King and his law when it has been made clear.

Whenever the Royal Requisitions have been made known to them, & they have been call'd upon to assist the Efforts of their Parent-Country, they have constantly exerted their utmost Forces, and tho they followed ‘non passibus aquis’, yet they [*illegible*] sufficiently demonstrated their {Loyalty} & Affection.⁶⁴

Conceding the Americans followed *non passibus aquis* (from Virgil’s *Aeneid*, *He follows his father with unequal steps*), Dickinson professed the loyalty of Americans and their deserving to be treated as loyal subjects.⁶⁵ But, Dickinson argued, they have not received reciprocal respect and have been unfairly treated by both the public and the Crown. Dickinson subsequently accused the ministry of being more focused on punishing American traders than on defeating the enemy. “Our Men of War in the West Indies, leaving the Enemies Ships to slip quietly into their Ports, were wholly employd in distressing the American Traders. Without the least Warning, without a single Injunction against this Trade, they were seizd & condemnd.”⁶⁶ Why then, Dickinson questioned, have these loyal Englishmen been stripped of their possessions, had their cargoes seized and condemned, “without the least Warning” or “without a single Injunction against this trade?”⁶⁷

Dickinson’s answer lay in yet another lesson from London. He had written extensively to his parents about the troubles with the common law and how it was practiced. If the common law were unwritten, its prosecutors could not be held accountable for protecting the rights of the people. The happiness of Englishmen,

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

Dickinson wrote, was “to have their Property as well as their Lives & Liberties secured by plain & public Laws.”⁶⁸ Dickinson thus advocated that in the absence of positive laws, the prosecution of the American merchants was a usurpation of their ancient rights. Quoting an uncited maxim, Dickinson related, “The people, whose Law is uncertain, endure the most miserable slavery.”⁶⁹ Dickinson then pointed to the history of Parliament that at times had thought it necessary to establish “Statutes merely to explain the Common Law, or other Statutes” or “‘explain’ the Doubtfullness” of others.⁷⁰ The rule of law must be explicitly delineated in a free and just society and Dickinson made it clear that it was the duty of the government to guarantee the statutory clarity that Dickinson contended was lacking in association with the flag of truce trade. Dickinson concluded:

These instances of Wisdom and Tenderness in our Parliaments are convincing Proofs that they have ever thought it their Duty to remove every {material} Doubt {fullness} in a Law; & that to prevent the Subjects suffering, was an ample Reward for their Trouble in removing [*illegible*] {them}. A Sentiment! Which must be acknowledged to be worthy, the Representatives & Guardians of a Free People.⁷¹

The colonists therefore had the right to trade and were entitled to the goods acquired from the trade since the law did not specifically proscribe their behavior. It would be otherwise unjust to prosecute a man when the law is so nebulous. The law was restricted by the powers it was expressly given and as such could not prosecute a person for an act not delineated by the law. But, in the same breath, Dickinson continued that the rights of the people are expansive and the law is merely an articulation of those rights, not an establishment of them. “My Lord Coke says frequently, that Magna Charta was not a Grant of new Rights to the Subject; but only an Affirmation or Explanation of those, to

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Ibid.

which they were before entitled.”⁷² The concept of rights “having existed from time immemorial” again runs contrary to Parrington’s belief—as it did when Dickinson sat in awe at the Court of Chancery in London—that Dickinson never appealed to “abstract principles.”⁷³

Dickinson maintained this conception of rights throughout his career, exemplified by his essay on the Constitutional power of the crown in 1774, where he professed that “Rights may exist before they are acknowl[edge]d by Laws.”⁷⁴ Dickinson was indeed appealing to a *greater law*—one he thought imperfectly expressed by the common law. It was not a rarity for later American thinkers to speak in such terms. Bailyn writes, “Such God-given, natural, inalienable rights, distilled from reason and justice through the social and governmental compacts, were expressed in the common law of England, in the statutory enactments of Parliament, and in the charters of privileges promulgated by the crown.”⁷⁵ The New Whig historians in 1950s-70s frequently promoted this idea and attempted to delineate a theory of rights espoused by the founders that was affected by both common and natural law. Writes Wood, “What is truly extraordinary about the Revolution is that few Americans ever felt the need to repudiate their English heritage for the sake of nature or of what ought to be.”⁷⁶ Wood, like many of his colleagues, saw Dickinson as one of the foremost mediators of common and natural law. The problem with this Whiggish characterization, however, is that it oversimplifies Dickinson’s

⁷² Ibid.

⁷³ Wood, *Creation of the American Republic*, 10; Parrington, *Main Currents in American Thought*, 222.

⁷⁴ John Dickinson, Set Two of Notes for An Essay on the Constitutional Power of Great Britain, [1774]. R. R. Logan Collection, Historical Society of Pennsylvania, in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁷⁵ Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, MA: Harvard University Press, 1967), 77-78.

⁷⁶ Wood, *Creation of the American Republic*, 10.

integration of a common law, which he knew flawed, and a *greater law*, which he knew immutable.

Dickinson believed in a “sacred law,” consonant with many principles of natural and divine law.⁷⁷ The distinction may be fine, but is nonetheless important, for Dickinson’s sacred law was based on neither reason nor scripture alone. Rather, these ideas of natural and divine law ran parallel to this sacred law, or as Dickinson put it, the “common sense of mankind agrees.”⁷⁸ His belief in a “sacred law” bulwarked his fondness of the Chancery Courts. In *Quaker Constitutionalism*, Calvert posits that Dickinson adopted a Quaker view of rights that resulted from the influence of his family, his community, and his active exploration of Quaker theology in the later years of his life. Most Quakers distinguished between the natural and divine, but like many other thinkers “on occasion, conflated the languages of rights and referred interchangeable to natural or God-given rights.”⁷⁹ Instead, Calvert articulates, Quakers “spoke in terms of Providence” and believed that revelation was progressive, with God never revealing the “whole law to man at once.”⁸⁰ Indeed, Dickinson often spoke in terms of providence and claimed rights, “from a higher source—from the King of kings, and Lord of all the earth.”⁸¹ This is not to suggest that Dickinson’s ideas did not parallel or was wholly dissimilar from great natural rights theorists like Locke. Rights, according to Dickinson: “are not annexed to us by parchments and seals. They are created in us by the decrees of

⁷⁷ John Dickinson, *The Political Writings of John Dickinson, Esquire, Late President of the State of Delaware, and of the Commonwealth of Pennsylvania* vol. 2, (Wilmington: Bonsal and Niles, 1801), 94.

⁷⁸ John Dickinson, *The Political Writings of John Dickinson* vol. 2, 99.

⁷⁹ Calvert, *Quaker Constitutionalism*, 55, 282.

⁸⁰ Ibid.

⁸¹ John Dickinson, *An Address to the Committee of Correspondence in Barbados. Occasioned by a late letter from them to their Agent in London* (Philadelphia: William Bradford, 1766) in, Calvert, *Complete Writings of John Dickinson* (forthcoming).

Providence, which establish the laws of our nature. They are born with us; exist with us; and cannot be taken from us by any human power, without taking our lives are created in us by the decrees of Providence, which establish the laws of nature.”⁸² Many of the New Whigs interpreted this as *prima facie* evidence that Dickinson was a natural rightist and thus found the expression of these ideas “in the common law of England, in the statutory enactments of Parliament, and in the charter of privileges promulgated by the crown.”⁸³ Rather, Dickinson combined both Quaker and Whiggish ideas in an attempt to adequately articulate his jurisprudence.

In the treatise Dickinson wrote, “Statutes may be calld the ‘Political Revelations.’ They contain Truth, Certainty, and Safety. Crimes declar'd by them are plain, & not left to the Invention of Judges.”⁸⁴ The judges, he feared, who interpreted and applied the common law were subject to error or foolishness. Indeed he maintained this fear throughout his career, warning in his *Farmer's Letters*, of the “dangerous innovations” of which the common law might be forced to assent.⁸⁵ The idea of “Political Revelations” was one endeared by Quakers, and consequently positive law was too. For Quakers espoused the necessity to establish the law in public and plain terms, and through continuous revelation, adjust future laws as necessary. It was a constant process of improvement, like the constant tear of muscle fiber only to be replaced by stronger and thicker fibers. In *Bushell's Case*, William Penn and William Mead typify the Quaker position on positive law. Penn and Mead were both accused of unlawful assembly and

⁸² Ibid.

⁸³ Bailyn, *Ideological Origins of the American Revolution*, 77-78.

⁸⁴ John, Dickinson, “Reflections on the Flag of Truce Trade,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁸⁵ John Dickinson, Letter II, *Letters from a Farmer in Pennsylvania*, 2nd ed. Forrest McDonald, ed. (Indianapolis: Liberty Fund, 1999), 10.

disturbing the peace for their Quaker preaching had violated the Conventicle Act of 1664 that forbade the “assemblage of more than five persons . . . for religious worship” not sponsored by the Church of England.⁸⁶ Penn protested:

Unless you shew me, and the People, the Law you ground your Indictment upon, I shall take it for granted that your proceedings are merely arbitrary, . . . it is too general and imperfect an Answer, to say it is the Common-Law, unless we knew both where, and what is it; For where there is no Law, there is no Transgression; and that Law, which is not in being, is so far from Common, that it is no law at all.⁸⁷

In another example, Edward Byllynge, the Quaker colonial administrator and governor of West Jersey (1680-1687), pronounced, “let the Law be printed, that everyone may know that Law, which he is subject to, to the intent that no man may be condemned by a Law which he neither knows, nor ever heard of, nor understands; neither indeed can he, when as it lyes the brest other men.”⁸⁸

Following in this tradition, Dickinson related in starkly Christian terms, “{Saint Paul says,} ‘Where there is no Law’, that is, no revealed Law, ‘there is no Transgression.’” And as such, “It may be fairly deduced from these Words of the Great Apostle that without a positive Law, or the Conviction of a Man’s own Conscience by the Light of Nature, none ought to be accounted guilty of any Crime.”⁸⁹ With this concept, Dickinson is able to find harmony between the Quaker legal tradition and the enlightenment tradition of natural rights. The absence of any positive law specifically proscribing a behavior, according to Dickinson, was thus sufficient proof to acquit these merchants. “May We be permitted to ask, if the Flag of Truce Trade did not require some

⁸⁶ Barry Nager, “The Jury That Tried William Penn,” *American Bar Association Journal* vol. 50, no. 2 (1964): 168.

⁸⁷ Calvert, *Quaker Constitutionalism*, 90.

⁸⁸ *Ibid.*, 91.

⁸⁹ John Dickinson, “Reflections on the Flag of Truce Trade,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

Explanation before so many Subjects were {deprived} of their fortunes”⁹⁰ questioned Dickinson rhetorically. He delivered his answer in his treatise’s final line: the American Merchants have thus been subjugated to “the uncommon Fate of being punishd, not by a Law made, but what is infinitely more to be abhhord, by a Construction of some unknown Mystery called law, **ex post Facto.**”⁹¹

The spirit of Savile’s trimmer, one who prevents the ship from listing too far right or left, reflected Dickinson’s efforts to protect the ancient rights endowed to the American merchants. Dickinson provided his own beautiful metaphor for preserving this liberty. It required, like he had suggested in London, both vigilance and virtue. Dickinson penned:

This Freedom may be compard to a sound, but delicate Tree in some happy Climate, that is perpetually putting forth fresh Flowers, & new Fruits. It’s Vigour may indeed over load it; But no little Skill is requird in relieving it from its Burden. The Pruning Hook is not to be trusted to every hand: Least the Force designd to guide it’s Growth, shoud destroy some noble Branch. None but those that raisd it, & know the Tenderness of its Nature, ought to meddle with it. They no doubt, will treat it with the Care it requires.⁹²

Analogous to Savile’s metaphor for trimming a ship is Dickinson’s metaphor for a pruning a tree: where Savile had his trimmer, Dickinson had his farmer.

The seeds of Dickinson’s dissent that had been planted in in London had finally sprouted. He understood the preservation of liberty was a precarious balance and required a careful and deliberate hand to guide it. While Dickinson’s tree of liberty blossomed and sprouted fresh flowers and fruits in the right conditions, it could suffocate under its own weight if it overgrew and was not trimmed with a delicate touch. In “Reflections on the Flag of Truce Trade” Dickinson exhibited his Quaker influences, his admiration for the

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Ibid.

Commonwealthmen and their Whig allies, and the lessons he learned in Philadelphia and London. Only with all three can Dickinson's conception of rights, his theory of government, and his jurisprudence be fully understood and aptly appreciated.

CHAPTER FOUR

“A good man ought to serve his country, even tho’ she resents his services. The great reward of honest actions, is not the same or profit that follows them, but the consciousness that attends them. To discharge on this important occasion, the inviolable duty I owe the public, by obeying the unbiased dictates of my reason and conscience, hath been my sole view; and my only wish now is, that the resolutions of this House, whatever they are, may promote the happiness of Pennsylvania.”

John Dickinson, *A Speech Delivered in the House of Assembly of the Province of Pennsylvania*, 1764

Philadelphia, 1764

“The streets were crowded, . . . fraught with a noble Ardour in the Cause of Freedom: The [American] Song [Of Liberty] was clos’d with the Discharge of Cannon and a Shout of Joy,” the *Boston Evening-Post* recorded on August 22, 1768.¹ Describing the vivacious and euphoric celebrations organized by the Sons of Liberty to commemorate the three-year anniversary of “the demonstration in Boston against the Stamp Offices” which led to the repeal of the reviled Stamp Act, the *Post* recalled the celebratory toasts given in honor of the occasion.² Beginning with “Our rightful Sovereign George the Third” and “The Queen, Prince of Wales and the rest of the Royal Family” the toast commemorated only one American individual: “The Farmer.”³ As briefly discussed earlier, Dickinson had assumed that pseudonym for a series of twelve essays published in 1767 and 1768 titled *Letters from a farmer in Pennsylvania, to the inhabitants of the British Colonies*, in which he carefully articulated the Crown’s impingements on the colonist’s rights while acknowledging Britain’s ultimate authority over her empire. Dickinson’s *Letters* rapidly suffused throughout the colonies and was reprinted in nearly every major colonial newspaper and magazine. The *Farmer’s Letters* became “the scripture of the colonists” and the farmer himself became the voice of liberty in both the Colonies and across the Atlantic.⁴ “In America the Farmer is adored,” wrote Sir James Wright in 1758 to the Earl of Hillsborough in London, then Secretary of State for the Colonies. “And no mark of honor and respect is thought equal to his merit.”⁵ The

¹ Richard T. Haines, introduction to *Letters from a farmer in Pennsylvania, to the inhabitants of the British Colonies*, by John Dickinson (New York: The Outlook Company, 1903), XXXII.

² Ibid., XXXIII.

³ Ibid., XXXII, XXIII.

⁴ Rossiter, *Seedtime of the Republic*, 261.

⁵ Bancroft, *History of the United States*, v. 6, 18th ed., 149.

Letters were reprinted in London and Dublin, and a translated version appeared in Paris.⁶

Dickinson became the effective spokesman for the American cause of freedom and his eloquence as a pamphleteer earned him comparisons in recent years to the likes of John Milton, Jonathan Swift, Joseph Addison, and Edmund Burke.⁷

Before Dickinson first acquired an international profile for his *Farmer's Letters*, he became known throughout the colonies in 1764 as the opposition leader in the Pennsylvania legislature and adversary to Benjamin Franklin's, Joseph Galloway's, and the political establishment's attempt to convert Pennsylvania from a proprietary colony to a royal one. His distinction in the dispute earned his election as a Pennsylvania delegate to the Stamp Act Congress in 1765, where he authored the Declaration of Rights and Grievances, or the Resolves of the Stamp Act Congress. Dickinson's staunch opposition to Franklin and Galloway's efforts to supplant a royal charter for Pennsylvania's 1701 Charter of Privileges is considered to presage Dickinson's later political career—for Dickinson seemingly displayed political conservatism and a contrarian attitude while pronouncing the cause of liberty during this critical constitutional controversy. As a result, some point to this moment in an attempt to reconcile Dickinson's patriotism in the *Farmer's Letters* and his perceived betrayal of that cause with his refusal to sign the Declaration of Independence. Trevor Colbourn writes, "To the extent that Dickinson opposed change in 1764, he was assuredly conservative. But to the extent that he opposed a move which would bring his province closer to an English government he distrusted, he

⁶ Paul Leicester Ford (ed.), *Writings of John Dickinson*, 285.

⁷ M. E. Bradford, "A Better Guide Than Reason: The Politics of John Dickinson," *Modern Age* vol. 21, no. I (1977): 43.

was behaving in a highly patriotic and far-sighted manner.”⁸ With this understanding of Dickinson’s stance in 1764, conservatism in political method is quite agreeable with forces that were not conservative in political belief at the time. Colbourn’s makes an astute observation about this episode: Dickinson was displaying a most prodigious appreciation of history, and his politics was *as informed by past experiences as it was by any ideology.* He elaborated:

Already Dickinson was disclosing his concern with the lessons of the past as guides to the future maintenance of colonial liberties; and already Dickinson was revealing another anxiety which later obscured his patriotic intentions-a concern over the essential timing of political action. He looked for greater caution than his colleagues; he was too conscious of the past, too aware of previously ill-timed efforts at change, too anxious for complete preparation and thus assured success; he lacked, in brief, the gambling instinct vital to a successful politician.⁹

Still, Colbourn is unable to explain the *raison d'être* of Dickinson’s political philosophy. He was not fortunate enough, as the modern scholar is, to access Dickinson’s “Reflections on the Flag of Truce Trade,” written four years earlier, or the wealth of knowledge about Dickinson’s early life, education, and legal career. The characteristics of Dickinson’s future political career that Colbourn finds in Dickinson’s opposition to the campaign for royal government can actually be found in Dickinson’s first legal treatise. There is a distinct connection between Dickinson’s education and early legal career, as the previous chapters have explored, and his early political career which can contextualize Dickinson’s political decision-making in a way not previously possible.

By the time Dickinson had finished his treatise, he was already a well known lawyer and rhetorician. Dickinson’s success in the Delaware Assembly and his stature as

⁸ H. Trevor Colbourn, “The Historical Perspective of John Dickinson,” *Early Dickinsoniana* (The Boyd Lee Spahr Lectures in Americana, Dickinson College, 1951-1961, Carlisle, Pa., 1961), 16.

⁹ Ibid.

a *Philadelphia* lawyer earned his 1762 election to the Pennsylvania Assembly. Writing to George Read on the occasion of the electoral victory, Dickinson admitted:

You may congratulate Me on my Salvation, for I am certainly among the Elect. . . Now I flatter Myself with {coming in with} the general Approbation of good men. . . I confess, I shoud like to make an immense Bustle in the World, if it coud be made by virtuous Actions—But as there is no Probability of that, I am content, if I can live innocent & belovd by those I love.¹⁰

Unsurprising to the modern observer, Dickinson began his political career in Pennsylvania by rowing lonesome, upstream. From the outset, Dickinson was unafraid to ruffle a few feathers. He willfully accepted the role as a contrarian and understood that his name would carry such a connotation. He once asked George Read to propose a bill, passed as “An Act for the More Easy and Speedy Recovery of Legacies,” because he believed if he proposed it would be rejected. “I know some Persons woud industriously oppose it,” Dickinson wrote, “if they coud find out that either my Head or Hand or even my little Finger had been employd in framing it.”¹¹ Dickinson compared himself to Virgil’s Aeneas, a virtuous man unjustly and incessantly pursued by Juno’s malice, adding “I am magnum odium” to Virgil’s “[M]anet alta mente repostum,” literally translated as “I am a great hatred stored away, remaining deep in her mind.”¹² “I shall therefore be greatly obligd to You,” Dickinson requested of Read, “if You will be so good as entirely to suppress my Name.”¹³ In the 1760s the anti-proprietary faction dominated Pennsylvania politics and was carried by the strong tide of animosity toward the Penn family. By 1764, a nearly decade old controversy that had been brewing in Pennsylvania finally erupted. Dickinson entered these waters as “a constant critic and foe

¹⁰ “John Dickinson to George Read, October 1, 1762,” *Complete Writings of John Dickinson* (forthcoming).

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

of the policies of the anti-proprietary faction and of its most eminent leaders,” notably Franklin and Galloway.¹⁴

To better understand colonial Pennsylvania’s 1764 fight over its government, it is necessary to consider the differences between a proprietary and royal colony, and the constitutional dynamics and history of Pennsylvania. In 1701, William Penn’s Charter of Privileges, also known as the Frame of Government, codified a new colonial government, founded on the generosity of Penn, the proprietor, who permitted the governed some consent and participation in choosing representatives. The Charter enshrined the free practice of religion as a foundational element of the Quaker colony. The 1701 Charter also allowed Delaware to establish its own assembly under the proprietorship, which they would do just four years later. While recognizing its filiation to the King “The proprietary was a type of colony in which political power and ownership of the land were placed in the hands of one or more private individuals.”¹⁵ Nine of the original English colonies in North America were “constituted as proprietorships under royal favor,” but by the time Dickinson entered politics only three remained proprietary: Maryland, Pennsylvania and Delaware (still ruled under the same proprietorship and with the same governor until 1776).¹⁶ In contrast, “The royal colony was, from a constitutional point of view, a political entity in which the Crown was immediately supreme and sovereign.”¹⁷

In 1763, the Pennsylvania Assembly was mired by myriad of issues stemming from the establishment of new western settlements in Pennsylvania and an existing

¹⁴ David Louis Jacobson, *John Dickinson and the Revolution in Pennsylvania, 1764-1776* (Berkeley: University of California Press, 1965), 8.

¹⁵ Rossiter, *Seedtime of the Republic*, 13.

¹⁶ *Ibid.*, 14.

¹⁷ *Ibid.*, 13.

conflict between Quaker leaders, Scotch-Irish Presbyterians and the proprietors.¹⁸ During the French and Indian War (1754-1763) and Pontiac's Rebellion (1763-1766), as Pennsylvanians continued to push west into Indian frontier territory, the Pennsylvanian settlers fell prey to Indian raids. Inhabitants of the Pennsylvanian west blamed their defenselessness on the maladministration of the proprietors, the assembly's and governor's unwillingness to raise funds to build adequate defenses, and the pacifism of Quakers, who were safely concentrated in Pennsylvania's east. The Scotch-Irish Presbyterians had settled the western part of the colony. These frontiersmen continuously felt threatened and uneasy by their Native neighbors and betrayed by the Quaker and eastern politicians who did not protect them. This was a continuation of the same nasty dispute in Pennsylvania that Dickinson watched unfold from London and had written to his parents that "Neither [Penn] nor the Assembly have any great Reason to boast" in the affair.¹⁹

The conflict finally erupted in January 1764 when, feeling unable to exact vengeance on their Indian enemies, a large group of Scotch-Irish settlers led two brutal "reprisal" attacks on "friendly" Indians. This mob, the Paxton Boys, killed 20 natives of various tribal backgrounds in two massacres at Conestoga Town and Lancaster. Factional lines were quickly drawn in the assembly, as eastern politicians were horrified with the bloodshed and the growing power of some Scotch-Irish Presbyterians, while western politicians attacked the Philadelphia Quakers' neglect and unwillingness to protect them. Governor John Penn, caught in the middle, was powerless to prosecute the Paxton Boys

¹⁸ Jacobson, *John Dickinson and the Revolution in Pennsylvania*, 10.

¹⁹ "John Dickinson to Samuel Dickinson, June 6, 1756," in Calvert, *Complete Writings of John Dickinson* (forthcoming).

and drew the ire of the east's political leaders.²⁰ With an increased threat of violence, the anti-proprietary majority of the assembly seized an opportunity to unite both east and west, and simultaneous allay the concerns of the two factions, which had split along mostly religious and regional lines.

In response to the complaints from the Pennsylvanian west, anti-proprietary leaders in the assembly insisted that their best efforts to adequately provide western defenses were stymied by the disruptive force of Governor Penn, fingering him, as they so commonly had, for his “failure to appropriate money.”²¹ David Jacobson explained that the appropriation dispute depended on two issues:

Did the assembly have the power to determine the provisions of appropriation and taxation bills, and did the Penns have any moral or constitutional right to claim special tax privileges for themselves and to impede legislative action until such privileges were granted? In early 1764 the two questions might have been combined: who was responsible for past failures to appropriate money for frontier defense? Should the Governor be blamed for his refusal to pass bills that did not give certain guarantees to the proprietors regarding the taxation of their lands, or should the assembly be blamed for its refusal to give satisfactory assurances?²²

The dispute clearly put Governor Penn and the proprietorship at odds with the assembly. It was a common feature of colonial governance to have the legislature at odds with the governor. In *Seedtime of the Republic*, Clinton Rossiter writes, “Over against the governor, representative of England and monarchy, was set the assembly, representative of colony and people. The political and constitutional history of colonial America appears often to have been nothing so much as a huge, ill-tempered tug of war between governors and assemblies.”²³ But, what made the Pennsylvanian dispute unique was the solution offered by anti-proprietary forces. Led by Franklin and Galloway, the anti-proprietary

²⁰ Jacobson, *John Dickinson and the Revolution in Pennsylvania*, 11.

²¹ Ibid.

²² Ibid.

²³ Rossiter, *Seedtime of the Republic* 14-15.

political leadership proposed a radical motion: to abandon their proprietary form of government and its constitution entirely, and petition the Crown to make Pennsylvania a royal colony. On March 24, 1764, the assembly adopted a report of twenty-six resolves lambasting Penn and the proprietary form of government, suggesting the colony might benefit from royal governance. The assembly adjourned for the next six weeks to “sample the opinions of their constituents.”²⁴ Dickinson, due to a bout of illness, was unable to vote on the report as he was bed-ridden at Homestead and consequently did not learn of Franklin and Galloway’s overt actions to eliminate the proprietorship until news arrived to him in Kent County during the recess.

The weeks of the assembly’s recess, from March 24 to May 14, was not without its fair share of news—developments in British colonial administration that had gradually emerged over the past several months. Jacobson recalled, “The Proclamation Line of 1763 had been in effect since October. Plans for a permanent British garrison in America had long been subjects of discussion. In March 1764, George Grenville proposed levying definite taxes on colonists. Parliament wrote . . . to the consideration of whether . . . ‘it may be proper to charge certain Stamp Duties in the said Colonies.’”²⁵ When Dickinson returned to the assembly in May, he rose to the floor to resist the measure proposed by Franklin and Galloway, defending neither the proprietors nor their actions, but the rights and privileges guaranteed to his fellow Pennsylvanians by the established law of the land.

²⁴ Jacobson, *John Dickinson and the Revolution in Pennsylvania*, 13.

²⁵ Ibid.

In classic Dickinson fashion, he began his speech with a call to allay the violent tempers that had been flaring in the assembly and province over the past several months, and pleaded for his fellow legislators' open-mindedness:

When honest men apprehend their country to be injured, nothing is more natural than to resent and complain: but when they enter into consideration of the means for obtaining redress, the same virtue that gave the alarm, may sometimes, by causing too great a transport of zeal, defeat its own purpose; it being expedient for those who deliberate of public affairs, that their minds should be free from all violent passions. These emotions blind the understanding: they weaken the judgment.²⁶

Perhaps this unfailing characteristic of Dickinson and his style can be attributed to the Quaker concept of *peaceable* or *orderly walking*—the calm, respectful, and disciplined process by which Quakers conduct their meetings and civilly achieve consensus. Perhaps it can be attributed to his experiences in London watching many men in Westminster sacrifice the public good by way of intemperate debate. Or perhaps even it was his respect for the Ancients that prompted such a call for restraint, invoking Tacitus in the beginning of his speech to remind the assembly “[w]hich misfortune hath happened to many good men, who despising those things which they might *slowly* and *safely* attain, seize them too hastily, and with fatal speed rush upon their own destruction.”²⁷ What is clear, however, is that this moderation—in character, not in ideology—was a steadfast feature of his politics. For Dickinson understood under the influence of such passions, reason and truth both withered and so warned of the potential unintended consequences of such a debate. “Let us resent” advised Dickinson, “but let our resentment bear

²⁶ John Dickinson, *A Speech Delivered in the House of Assembly of the Province of Pennsylvania*, in Calvert, *Complete Writings of John Dickinson* (forthcoming).

²⁷ Ibid.

proportion to the provocation received; and not produce, or even expose us to the peril of producing, effects more fatal than the injury of which we complain.”²⁸

Dickinson’s caution of acting impulsively and prematurely—and his consciousness of the consequences of such a behavior—was bulwarked by his study of history. Dickinson related that “It was a rash neglect of this prudence, and too much *eagerness* . . . that the Duke of Monmouth destroyed his own enterprize. . . . The Prince of Orange with a *wise-delay* pursued the same views, and gloriously mounted a throne.”²⁹ James Scott, 1st Duke of Monmouth, had unsuccessfully led the Monmouth Rebellion in 1685. Monmouth’s rebel army failed to depose King James II, and Monmouth was beheaded for his treason just three years before William III (of Orange) successfully deposed James II in the Glorious Revolution. William III’s patience and precaution, waiting for the opportune time when the people clamored for James II’s dethroning, earned him the same spot on the throne that Monmouth had sought.

Similarly, Dickinson’s cognizance of the unintended consequences rash decisions was supported by his Whig readings. Citing Molesworth’s *Account of Denmark*, as he had done in London, Dickinson described, “It was through a like neglect of this prudence, that the commons of *Denmark*, smarting under a tyranny of their nobility, in a fit of revengeful fury, *suddenly* surrendered their liberties to their king, . . . [and] ever since with unavailing grief and useless execrations, have detested the mad moment, which slipt upon them shackles of slavery, which no struggles can shake off.”³⁰

The cases of Monmouth and Denmark served as a warning for impetuous

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

behavior and Dickinson saw both as useful admonitions for the assembly's expeditious petition for royal governance. He believed that such precipitant decisions emerged amidst the throes of passion and accordingly, called for a temperate and thorough debate over the future of Pennsylvania's constitution and proprietary status. Dickinson feared that without that proper debate, the ramifications of relinquishing the 1701 Charter of Privileges would not be fully considered and the liberties enjoyed by Pennsylvanians could be jeopardized.

Dickinson's primary concern was that Pennsylvanians would lose the rights and privileges conferred to them by their 1701 Charter if the colony was placed directly under the administration of a royal government. "If the change of government now meditated, can take place, with all our privileges preserved; let it instantly take place: but if *they* must be consumed in the blaze of royal authority, we shall pay too great a price for our approach to the throne."³¹ The 1701 Charter, to Dickinson and most Pennsylvanian Quakers, contained "inestimable rights" unique to Pennsylvania that ought to be "transmitted to future ages."³² The Quakers, as English Dissenters, had fled their ancestral homeland to freely practice their religion as they chose in the New World and William Penn established the Province of Pennsylvania as their refuge. The 1701 Charter enshrined their religious rights, which, to a dissenting sect, was of paramount importance.³³ The 1701 Charter had already granted Pennsylvanians' the "best and greatest of all rights," Dickinson reminded the assembly, "*a perfect religious freedom.*"³⁴ It was the 1701 Charter that guaranteed that Pennsylvanians were exempt from religious

³¹ Ibid.

³² Ibid.

³³ Calvert, *Quaker Constitutionalism*, 198.

³⁴ Dickinson, *A Speech*, in Calvert, *Complete Writings* (forthcoming).

tests (for both political and judicial office in the province) and from the swearing of oaths necessary in many colonies to be a witness in court. These were the barriers to Quaker civic participation throughout most of the empire—save the neighboring Jersey colonies—and were a tool to discriminate against Quakers and other English Dissenters. “In what *royal government* besides the Jerseys, can a *Quaker* be a witness in criminal cases, and bear offices? (a) *In no other.*”³⁵ Addressing the enduring Quaker concern of being stripped of their religious liberty, Dickinson warned, “I therefore apprehend, that the dignified and reverend gentlemen of the church of England, will be extremely desirous to have that church as well secured, and as much distinguished as possible in the American colonies: especially in those colonies, where it is overborne, as it were, by dissenters.”³⁶

It would thus be self-defeating, pointed out Dickinson, for Pennsylvanians to surrender rights that are not enjoyed throughout the rest of the empire. Dickinson implored his fellow assemblymen to consider that the established rights of Pennsylvanians were contrary “to the settled prerogatives of the crown; and then consider, what probability we have of retaining them” if a change in government occurred.³⁷ “I cannot persuade myself,” Dickinson remarked, that Parliament “will think it unjust, to place us on the same footing with themselves It will not be an easy talk to convince them, that the people of Pennsylvania ought to be distinguished from all other subjects, under his Majesty’s immediate government; or that such a distinction can

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

answer any good purpose.”³⁸ Pennsylvanians would therefore be risking the rights and privileges they held so dear on a wager that Parliament and the Crown would show them compassion. Furthermore, the timing was quite unfavorable. It was an unfortunate truth that Dickinson was forced to remind the assembly, but Pennsylvania had earned royal and ministerial resentment over the preceding eight years. Dickinson had seen Pennsylvania’s agent in London, Richard Partridge, accosted by the Lords of Trade in 1756 for Pennsylvania’s alleged indifference to the cause of their countrymen in the French and Indian War. The situation had only further deteriorated with the increased fighting between the proprietors and the assembly, exacerbated by the violence in the western part of the province. Royal and ministerial pique with the assembly was made expressly clear in successive letters from Secretaries of State Charles Wyndham, 2nd Earl of Egremont and George Montagu-Dunk, 2nd Earl of Halifax—both of who censured the assembly.³⁹ “Have we the least reason to believe,” Dickinson asked, “the king and his ministers will waive their resentment?”⁴⁰ Thus, according to Dickinson, the timing to change government and willingly submit to the crown was inopportune. These suspicious would only be confirmed in the coming months, with Chief Justice William Allen notably quoting Lord Mansfield after his return from London, “Put these refractory people into our Hands, and we’ll soon make them feel the Difference between a Proprietary and a Royal Government!”⁴¹

³⁸ Ibid.

³⁹ Root, *Relations of Pennsylvania with the British Government*, 326-327; George L. Beer, *British Colonial Policy: 1754-1765*, (New York: The Macmillan Company, 1907), 262-264.

⁴⁰ Dickinson, *A Speech*, in Calvert, *Complete Writings* (forthcoming).

⁴¹ James H. Hutson, *Pennsylvania Politics, 1740-1770: The Movement for Royal Government and Its Consequences* (Princeton: Princeton University Press, 1972), 165-166.

Appealing to scripture to condemn the gamble, Dickinson is able to relate to the religiosity, both Quaker and Scotch-Presbyterian, of the assembly:

I am not willing to run risques in a matter of such prodigious importance, on the credit of any man's opinion, when by a small delay, that can do no harm, the steps we are to take may become more safe. Gideon, tho' he had conversed with an 'angel of the lord' would not attempt to relieve his countrymen, then sorely opprest by the Midianites, least he should involve them in greater miseries, until he was convinced by two miracles that he should be successful. I do not say, we ought to wait for miracles; but I think we ought to wait for something, which will be next kin to a miracle; I mean, some sign of a favourable disposition in the ministry towards us. I should like to see an olive leaf at least brought to us, before we quit the ark.⁴²

Dickinson saw an opportunity to appeal to both factions with this analogy. By comparing the plight of the Pennsylvanians to that of Israelites he was also invoking the Divine source of the protected rights of Pennsylvanians. With the immutable source of their rights acknowledged, Dickinson reminded the assembly of the proposed parlay one more time. "No man . . . will deny," repeated Dickinson, "that this Province must stake on the event of the present attempt, liberties that ought to be immortal—Liberties! founded on the acknowledged rights of human nature."⁴³

In addition to losing Pennsylvanians' protected rights, Dickinson's other significant concern with the campaign for royal government was a familiar one: rumors of proposed plans for a permanent British garrison in the colonies. "With unremitting vigilance, with undaunted virtue, should a free people *watch* against the encroachments of power, and *remove* every pretext for its extension," pronounced Dickinson.⁴⁴ "WE are a dependent colony; and we need not doubt, that means will be used to secure that dependence. But that we ourselves should furnish a reason for settling a military

⁴² Dickinson, *A Speech*, in Calvert, *Complete Writings* (forthcoming).

⁴³ *Ibid.*

⁴⁴ John Dickinson, *A Reply to a Piece called the Speech of Joseph Galloway*, in Calvert, *Complete Writings of John Dickinson* (forthcoming).

establishment upon us, must exceed the most extravagant wishes of those, who would be most pleased with such a measure,” he concluded.⁴⁵ From his time in London—sitting in the House of Lords as they debated the militia bill or dining with his colleagues in Middle Temple Hall discussing Trenchard and Gordon—Dickinson’s feelings about a standing army were absolute and clear. Dickinson’s forewarning about such a danger of becoming a royal colony created the perception that he had extraordinary prescience about the intentions of the Crown and Parliament. Franklin would dismiss Dickinson’s rhetoric as alarmist and a bugbear used to terrify Pennsylvanians. Franklin responded in an essay arguing that a standing army in America could actually be beneficial for the colonists, giving his piece the suave title “Cool Thoughts on the Present Situation of Our Public Affairs.” Franklin suggested that the colonists “may, after a few Years Experience, be generally very well satisfy’d with that Measure, from the steady Protection it will afford us against Foreign Enemies, and the Security of internal Peace among ourselves without the Expence or Trouble of a Militia.”⁴⁶ Where Franklin saw security and safety, Dickinson saw a slippery slope. Dickinson, adopting the language he had learned in London, offered the gravest of warnings for men, like Franklin, who held nothing but calm and *cool* thoughts on the situation. Dickinson articulated:

WE may introduce the innovation, but we shall not be able to stop its progress. The precedent will be pernicious. If a specious pretence is afforded for maintaining a small body of troops among us now, equally specious pretences will never be wanting hereafter, for adding to their numbers. The burthen that will be imposed on us for their support, is the most trifling part of the evil. The poison will soon reach our vitals. Whatever struggles we may make to expell it,

⁴⁵ Ibid.

⁴⁶ “Cool Thoughts on the Present Situation of Our Public Affairs, April 12, 1764,” *Founders Online*, National Archives, last modified October 5, 2016, <http://founders.archives.gov/documents/Franklin/01-11-02-0038>. [Original source: *The Papers of Benjamin Franklin*, vol. 11, January 1, through December 31, 1764, ed. Leonard W. Labaree. New Haven and London: Yale University Press, 1967, pp. 153–173.]

THE dart with which we are struck, will still remain fixed—too firmly fixed, for our feeble hands to draw it out. Our fruitless efforts will but irritate the wound; and at length we must tamely submit to—I quit a subject too painful to be dwelt upon.⁴⁷

Dickinson's warnings demonstrated his apprehension for setting perilous precedents and gave the public an impression that he held the long-view. He seemed, contrary to Parrington's analysis, to understand the concerns of the common man and provided them a means to redress them. That these means included voting against a change in government and a new constitution in Pennsylvania did not mean Dickinson was a conservative. Nor did it mean that he held only the interests of the proprietors and propertied class in mind. "No man," Dickinson assuaged his colleagues, "can be more clearly convinced than I am, of the inconveniences arising from a strict adherence to proprietary instructions."⁴⁸ Dickinson's opposition should accordingly not be viewed as reactionary nor favoring the status quo, but rather as preventing an unnecessary extension of royal power. Dickinson made it abundantly clear he disapproved of the current state of affairs in the province, but believed endangering the cherished rights and privileges of his countrymen to be a cost too great. Summarizing the main thrust of his argument, Dickinson finished, "I think this neither the *proper season* nor the *proper method*, for obtaining a change of our government. It is uncertain, whether the measures proposed will place us in a better situation, than we are now in, . . . [and] with respect to other particulars it may place us in a worse."⁴⁹

⁴⁷ John Dickinson, *A Speech*, in Calvert, *Complete Writings of John Dickinson* (forthcoming).

⁴⁸ Ibid.

⁴⁹ Ibid.

The October 1, 1764 assembly elections were considered a referendum on the campaign for royal government. They pitted the anti-proprietary faction, the “Old Ticket” led by Franklin and Galloway, the “New Ticket,” led by Dickinson and labeled “Friends to our present Constitution.”⁵⁰ Dickinson had clashed bitterly with Galloway during the over the campaign for royal government, and his May speech before the assembly was widely published. When election day came and the votes were counted, Dickinson and the New Ticket had prevailed and overwhelmingly the re-election bids of Franklin and Galloway.⁵¹ While the weakened anti-proprietary faction continued its campaign for royal government it would receive another setback as news of the Stamp Act reached the colonies in 1765. This episode seemingly vindicated Dickinson’s apprehensions, and he was among Pennsylvania’s four representatives elected to the Stamp Act Congress. Now at just thirty-three-years-old, Dickinson was given a much larger platform and rose to the challenge, penning the Declaration of Rights and Grievances.

Despite the New Ticket’s electoral success, Dickinson’s opposition to the campaign for royal government was met with accusations of pacifism and placation. Dickinson had, as Tolles characterized it, a “Quaker-like zeal for peace and reconciliation,” but he was neither “a pacifist nor a neutralist.”⁵² Many of Dickinson’s opponents, however, confused his desire for peace and preference for reconciliation with an unwillingness to fight. After Dickinson re-wrote Jefferson’s Olive Branch Petition in 1775, calling for reconciliation and peace after April’s bloodshed at Lexington and Concord, his more radical opponents in the Continental Congress were furious. Adams

⁵⁰ David L. Jacobson, “John Dickinson’s Fight against Royal Government, 1964,” *William and Mary Quarterly* vol. 19, no. I (1962): 80-81.

⁵¹ Ibid., 81-82.

⁵² Tolles, “John Dickinson and the Quakers,” 82; Bailyn, *Pamphlets of the American Revolution*, 661.

took the occasion to call Dickinson a man “whose abilities and virtues, formerly trumpeted so much in America, have been found wanting,” and as a result, “the province has suffered . . .”⁵³ And in another letter, Adams coined the term “piddling Genius” to describe Dickinson, before remarking “fame has been trumpeted so loudly, has given silly Cast to our whole Doings. We are between Hawk and Buzzard.”⁵⁴ Yet at the same time, Dickinson was one of the foremost proponents of Pennsylvania’s movement to arm itself and prepare for conflict. He was in the summer of 1775, “one of the foremost and most active promoters of . . . military movement” and was colonel of Philadelphia’s first battalion.⁵⁵ While the British were camped on Staten Island just eighty miles north during the following summer, he ardently supported efforts for Pennsylvania to raise a militia and to station them in New Jersey, protecting Philadelphia’s northern flank.⁵⁶ Despite preparing for war Dickinson was still striving for peace, however, because he had a distinctive method for enacting change—one that was orderly and called for consensus, caution, and care. Dickinson made this argument in 1764, and would repeat the argument in 1775 and 1776.

Furthermore, the Olive Branch Petition served as a political tool to exert pressure on Crown and attempt to leverage a favorable outcome for the colonies. The Declaration of the Causes and Necessity of Taking Up Arms, of which Dickinson produced the final draft, passed the Congress a day after the Olive Branch.⁵⁷ These two petitions were not

⁵³ “John Adams to Abigail Adams, July 23, 1775,” in Knollenberg, *John Dickinson v. John Adams: 1774-1776*, 140.

⁵⁴ “John Adams to James Warren, July 24, 1775,” in *ibid.*, 141.

⁵⁵ Stillé, *Life and Times of John Dickinson, 1732-1808*, 156.

⁵⁶ *Ibid.*, 156-57.

⁵⁷ While the authorship remains disputed, it is evident that a significant portion of the version of the Declaration finally adopted by the Second Continental Congress was Dickinson’s original work. Dickinson

antithetical to each other. Rather they presented a stark choice to the King and his ministers. Dickinson sought to assert the rights of Americans as Englishmen—the English King had infringed their English rights. Dickinson made it clear that they were willing to defend those rights with arms if necessary, but instead preferred peace and would rather work towards that goal. Dickinson would have been satisfied to obtain redresses for the infringements on the colonists' rights, securing them for the future and in the process, keeping intact the empire.

When on July 1, 1776, the Continental Congress considered the Resolution of Independence, offered by Richard Henry Lee of Virginia, Adams recalled he anticipated no public opposition to the motion. But, in a moment that would define his whole career, Dickinson rose to the occasion and presented an articulate and resolute case against independence. As Adams recalled Dickinson's speech in his diary:

I expected no more would be said in public but that the question would be put and decided. Mr. Dickinson however was determined to bear his Testimony against it with more formality. He had prepared himself apparently with great Labour and ardent Zeal, and in a Speech of great Length, and all his Eloquence, he combined together all that had before been written in Pamphlets and News papers and all that had from time to time been said in Congress by himself and others. He conducted the debate, not only with great Ingenuity and Eloquence, but with equal Politeness and Candour: and was answered in the same Spirit.⁵⁸

Dickinson well understood what the consequences of the speech would be and prefaced his speech: "My Conduct, this Day, I expect will give the finishing blow to my once too great, and my Integrity considered, now too diminish'd Popularity. . . . [But,] I had rather vote away the enjoyment of that dazzling display, that pleasing possession,

had incorporated part of Jefferson's original work in the process. There is an ongoing debate about Thomas Jefferson and John Rutledge's contributions and what portions Dickinson merely edited. See Julian Boyd, "The Disputed Authorship of The Declaration on the Causes and Necessity of Taking up Arms, 1775," *The Pennsylvania Magazine of History and Biography* (1950), 51-73.

⁵⁸ John Adams and L. H. Butterfield, ed. *Diary and Autobiography of John Adams* (Cambridge, MA: Belknap Press, Harvard University, 1961) 396.

than the Blood and Happiness of my Countrymen . . . I had rather they should hate me, than I should hurt them.”⁵⁹

To Dickinson, it was an easy choice to oppose British rule when his own life, security, and fortune was at stake, but as a delegate to the Congress, a vote for independence was also risking the lives, fortunes, and security of all his countrymen—such a task required the utmost prudence and deliberateness. Dickinson believed the colonies were simply unprepared to leap into the abyss. By declaring independence they were relinquishing the ancient rights and privileges guaranteed by the English Constitution and had no guarantee they would be secured. Dickinson laid out three main contentions against independence.

First, Dickinson argued, declaring independence would not address the problem that the colonies were facing the most powerful army of the world’s most powerful empire. The military contest, underway since shots were fired at Lexington and Concord, would likely determine the outcome of the struggle and declaring independence would not bolster the supply nor the might of the Continental Army. It would, however, set the colonies on an irreversible course “where to recede would be infamy, and to persist might be destruction.”⁶⁰

Second, Dickinson argued, the colonies had no foreign assistance or alliances. If they were to defeat the British they would need the help of the French or Spanish and declaring independence might alienate either of those potential partners. Without first

⁵⁹ John Dickinson and J. H. Powell, “Notes and Documents,” *The Pennsylvania Magazine of History and Biography* 65, no. 4 (1941): 468-469.

⁶⁰ Ibid., 471.

securing their help, and without a government or system that delineated how to do so, declaring independence, maintained Dickinson, was premature and dangerous.

Finally, Dickinson called attention to the reality that there was no unified system of government in place throughout the colonies. The colonies were independent of each other—separate entities—and in many cases were still settling land and border disputes. Without a system of government or plan for governing it was unclear how the colonies would be run, if the colonies would be one united state or thirteen (maybe more, maybe less) smaller states, and what would protect the rights of individuals and secure their blessings of liberties. To declare independence, concluded Dickinson, would be to say that we are “confiding in our Fortune more boldly than Cesar himself, we ought to brave the Storm in a Skiff made of Paper.”⁶¹

Dickinson’s 1776 speech is, in fact, reminiscent of his speech before the Pennsylvania Assembly twelve years earlier where he had articulated, “I think this neither the *proper season* nor the *proper method*, for obtaining a change of our government. It is uncertain, whether the measures proposed will place us in a better situation, than we are now in, . . . [and] with respect to other particulars it may place us in a worse.”⁶² Dickinson likewise maintained that the environment in 1776 was too dangerous for such a gamble and declared at the end of his speech, “To escape from the protection we have in British rule by declaring independence would be like Destroying a House before we have got another, in Winter, with a small Family; Then asking a

⁶¹ Ibid., 470.

⁶² John Dickinson, *A Speech*, in Calvert, *Complete Writings of John Dickinson* (forthcoming).

Neighbour to take Us in and finding He is unprepared.”⁶³ Dickinson’s refusal to sign the Declaration was because of the value he placed on the rights of Americans, not in spite of it. He believed protecting those rights required the same fortitude that Savile’s trimmer needed to balance the ship of state and the same delicate touch needed to prune the tree of liberty.

Throughout his life Dickinson believed balance to be of utmost necessity. In a 1762 letter to Thomas McKean, Dickinson told his friend, who he believed had been working too hard, what the key to life was: “Moderation in every Thing is the Source of Happiness—Too much Writing, {—}too much Reading—too much Eating—too much Drinking—too much Exercise—too much Idleness—too much loving—too much Continence—too much of Law—Physic—or Religion—all equally throw Us from the Ballance of real Pleasure— This has been said a thousand Times—always believd—& practicd against— It is still true.”⁶⁴ Dickinson, however, did not retire after the vote for independence. To rectify his own concerns, he drafted, on behalf of the Congress, the Model Treaty (also known as the Plan of 1776), which delineated how the united colonies would conduct its foreign affairs and secure foreign allegiances, and the Articles of Confederation, which outlined an independent America’s first unified system of government. Dickinson held that the zeal of his countrymen—like that of Adams—for the cause of liberty was not misplaced, but had the seen consequences of decisions made under the influence of passion and warned of the dangers of acting impetuously. All they needed, according to Dickinson, was a trimmer’s careful touch.

⁶³ Dickinson and Powell, “Notes and Documents,” *The Pennsylvania Magazine of History and Biography*: 478.

⁶⁴ “John Dickinson to Thomas McKean, June 8, 1762,” in Calvert, *Complete Writings of John Dickinson* (forthcoming).

CONCLUSION

Amidst the pomp and gaiety of the bicentennial celebrations of the American Revolution, a *New York Times* headline blares, “John Dickinson: Against Independence.” In a large bordered box is a half-page spread where Dickinson’s protest against the Declaration of Independence is conveniently reprinted. Dickinson—the illustrious Farmer, the former voice of liberty, the de facto spokesman for the Continental Congress—had chosen a path thoroughly distinct from most his colleagues by refusing to sign the Declaration of Independence. For many, this turn of events signified a strange cognitive dissonance within the mind of Dickinson. It seemed sensible to tag Dickinson with a “conservative” label, squeezing Dickinson into an ill-defined, neatly prearranged ideology—one that could be interpreted at the whim of the observer. But Dickinson was neither an ideologue nor a partisan; his only allegiance lay with his principles and the constituents he represented. Dickinson’s political philosophy and the pointed positions he espoused are best understood in the context of his values and his experiences.

Dickinson’s worldview, his ideas about life, liberty, and the pursuit of happiness, were shaped by his parents, his teachers, his schooling, the books he read, the places he visited, the events he watched, the trials he endured, and the battles he fought. His beliefs were shaped by his forbearers’ Quaker faith, the values his parents instilled in him, the lessons his teachers had prepared, the Whiggish books he read at the Middle Temple, the conversations he had with his learned pupils, the debates he watched at Parliament, the cases he undertook as a young lawyer, and the disputes he had at the Pennsylvania State House.

Dickinson’s belief in the inalienable rights of Englishmen, Constitutional perpetuity, and the spirit of the law were formed during his years of schooling. These

ideas were visible in Dickinson's written works as early as 1760 in his unpublished "Reflections on the Flag of Truce Trade" and in his political debates as early as Pennsylvania's 1764 constitutional crisis. His later decisions cannot be understood in isolation and a consistent line can be drawn throughout Dickinson's career with a thorough understanding of his upbringing, education, legal practice, and early political career. But, that is not how he is remembered.

Resting above the Declaration of Independence in the rotunda of the National Archives in Washington, D.C. is Barry Faulkner's grand 1936 oil-on-canvas mural recalling the moment Thomas Jefferson presented the Declaration to John Hancock. The large romantic painting depicts twenty-eight Founding Fathers gathering for the colossal moment among the steps of an unspecific neoclassical hall. A sylvan setting and distant sun illuminating the front of the portico where the Founders have congregated contributes to the exalted sense of the moment. For the millions of visitors who travel to the Archives each year to gaze upon the Declaration with their own eyes it would be reasonable to assume that the twenty-eight men who proudly stand above the document and guard its legacy are half of the fifty-six who fixed their name to the document. Two, in fact, did not sign the Declaration. One is Robert Livingston, the delegate from New York who stands behind Thomas Jefferson, Roger Sherman, John Adams, and Benjamin Franklin to the right of the frame. Livingston was a member of the Committee of Five appointed to draft the Declaration, but was recalled to his home state and neither contributed to the draft nor signed its final version. The other is John Dickinson, positioned center, yet completely isolated from the rest of the Founders. Dickinson's profile stands in stark contrast to all of his colleagues, calm and alone during that majestic moment. His chin

gently resting in his left hand, Dickinson's head gazes down as he stands directly opposite Jefferson and the Declaration. This image of Dickinson, alienated and alone, standing in opposition to the other Founders and their cause, has been seared into memory of the mural and minds of Americans today. But Faulkner's portrayal of Dickinson, in a poetic sense, is a more accurate representation of his character.

Dickinson was in the center of the fight for colonial liberty and securing of the colonists' their ancient rights. His reticence to sign the Declaration came not out of cowardice nor conservatism, but out of a need to follow a process he thought was the only way appropriate way to enact change, especially something of so great "Importance to the Rights of Englishmen."¹ It took great courage for Dickinson to oppose his colleagues and sacrifice his image to remain steadfast in his principles. He was an intense thinker, who grounded his decisions on an ever-complicated thought process and the experiences of his fellow man. Dickinson understood that he often took the unpopular position, but fought nonetheless for those causes with little regard for personal reputation or private glory. He was prudent, vigilant in his moderation, and persistent in his virtue. He had earned the ire of Patriots and Tories alike and has been neglected by history for three sins: defending the proprietors; refusing to sign the Declaration; and earning the ire of Adams, Jefferson, and Franklin. Dickinson lacked, as one scholar put it, "the gambling instinct vital to a successful politician."² He refused to leave the rights of his countrymen up to chance and instead worked, with all his effort and at a great cost to his health and reputation, to uphold the humble pledge he swore at the Middle Temple as a young man:

¹ John Dickinson, "Reflections of the Flag of Truce Trade," 1760.

² Colbourn, "Historical Perspective of John Dickinson," 16.

"I am putting in my little Oar, & exerting my small Strength; but what will be the Event of my weak Endeavours, Time alone can discover: This however I am convincd of, that there cannot be upon Earth, a nobler Employment than the Defence of Innocence, the Support of Justice, & the Preservation of Peace and Harmony amongst Men."

It cannot be denied that he shared many ideas in common with the old Whigs, but that does not make him a Whig. He espoused many values held by Quakers, but that does not make him a Quaker. Rather, these influences primed him to see events and decisions before him in a uniquely Dickinson way—one that often paralleled Whiggish or Quaker thought, but was neither. Throughout Dickinson's life it was the principles of moderation, virtue, and vigilance that guided him. He had, to the best of his ability, rejected political ideology for he believed it led to political factionalism and intemperate debate. It did not prevent him from sympathizing with any party or cause, but it did isolate him from most of the polity.

This was not an innate characteristic. Dickinson did not suddenly emerge from the reeds on the banks of the Delaware to defend the rights of his neighbors only to retreat to the relief of his fields as his countrymen huddled around the faint fires of Valley Forge. The first two-and-a-half decades of Dickinson's life—a most impressionable time—had never been explored by scholars. Yet, these years were a gradual accretion of experience, knowledge, and reason. Dickinson's worldview predated the imperial crisis, and the episodes of 1760 and 1764 are clear evidence of that. He had fought then with the same spirit, principles, and objectives that he would fight with throughout his life.

In 1764 he appeared the reactionary; in 1768, the rebel; and in 1776, the conservative. It is all but an illusion. Throughout his life Dickinson remain fixed in

relation to his goals—*the defence of the innocent, the support of justice, and the preservation of peace and harmony amongst men*—preventing, as Savile's trimmer should, the ship of state from listing too far left or right. From the distant perspective, Dickinson may have appeared to move drastically relative to his immediate environment. But Dickinson had not changed. The world had changed around him. And it needed the same gentle touch as a farmer would need to trim liberty's tree.

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