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Samuel Johnson and Thomas Jefferson: Their Contradictory Lockean Responses to the Legality
of the American Revolution

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John Locke and his *Second Treatise of Government* (1690), had a major intellectual impact on political controversies surrounding the American Revolution. Although later historians tended to focus on proponents of the American Revolution from the American perspective like Thomas Jefferson, noteworthy opponents of colonial rebellion like Samuel Johnson had very much the same admiration for John Locke's seminal ideas regarding human equality and individual liberty. An examination of the contrary perspectives on Locke and revolution taken by both of these writers sheds crucial light on conflicting legal assumptions surrounding the creation of the United States. Both writers were scholars of John Locke and understood the concepts Locke outlined in his *Second Treatise*, by utilizing Locke's arguments in support of their own, either for separation from England (Jefferson) or for allegiance to the mother country (Johnson). By recourse to two primary texts, *Taxation No Tyranny* (1775) by Samuel Johnson, and the *Declaration of Independence* (1776) by Thomas Jefferson, I aim in this thesis to investigate the fundamental ideological positions of both writers, and how they make use of different Lockean arguments to support their contrasting viewpoints on the legality of the American Revolution.

Samuel Johnson and Jefferson both shared an admiration for Locke's concepts of inalienable rights regarding life, liberty, and property. With regard to property and ownership, Samuel Johnson criticized the American colonists for robbing Native Americans of their land and, therefore, violating their fundamental Lockean right to original ownership in a state of nature. Johnson believed in the fundamental legal priority of native inhabitants anywhere in the world because of their original occupation of land. From John Locke's *Second Treatise*, Johnson derives his ideology toward original dominion. According to Locke's ideas about property in a state of nature, ownership exists in an equality of sharing, and possession of anything by an individual is his or her own right of ownership: "nobody has originally a private dominion

exclusive of the rest of mankind in any of them, as they are thus in their natural state” (Locke, 17). As Locke maintains, “[the] fruit or venison that nourishes the wild Indian, who knows no enclosure...must be his...that another can no longer have any right to it” (Locke, 17). In the Lockean state of nature, an individual has an innate right to freedom and property, and so the “wild Indian” has dominion over his native land and resources. Samuel Johnson’s landmark *Dictionary of the English Language* (1755) even cites Locke’s *Second Treatise* directly to illustrate the meaning of the word *dominion*: “He could not have private dominion over that which was under the private dominion of another.” The only means by which one could forfeit his right to property is by means of consent.

Consent was usually missing in the colonial takeover of native land, and Johnson therefore rightly viewed the imperialistic colonization of North America by Englishmen and Frenchmen as outright robbery of indigenous people. According to Johnson, once the state of nature ceased to exist, the Americans are justified in their utilization of the land under British rule because they obtained plots of land through land grants from the crown. Because American colonists were still loyal British subjects, they came to have a longstanding prescriptive right to American land under British law, which over time, by way of the historical practicality of long-term dominion, replaced the original aboriginal claim by Native Americans. Although the original theft of aboriginal land was unjustified, as time progressed, British civilization spread further into the American wilderness under English law and governance, and hence warranted the mother country’s possession and regulation of American colonies.

Johnson’s allegiance to ideas about original dominion in defense of Native Americans also included a Lockean faith in universal human equality. In fact, Johnson’s hatred of slavery, especially of the trans-Atlantic slave trade, is based on a Lockean principle of an innate,

universal human equality. According to James Boswell's biography, *The Life of Samuel Johnson* (1791), Johnson in 1777 detailed his condemnation of slavery in a legal brief written for the freeing of a black British slave, Joseph Knight, and Johnson's words are direct derivatives of Locke's *Second Treatise*. He writes:

It must be agreed that in most ages many countries have had part of their inhabitants in a state of slavery; yet it may be doubted whether slavery can ever be supposed the natural condition of men. It is impossible not to conceive that men in their original state were equal; and very difficult to imagine how one would be subjected to another but by violent compulsion...No man is by nature the property of another (Johnson qtd. by Boswell, pp. 202-203).

Johnson suggests that the only means by which one is put into a state of slavery, is not through consent but by force. This violates Locke's leading assumption that man is "to have the law of nature as his rule...and not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man" (Locke, 15). Arbitrary power that places a man under the dominion of another reduces him to a state of slavery, and violates his innate natural rights. Johnson's legal brief echoes Lockean principles, in suggesting that Joseph Knight be freed due to Knight's innate natural liberties and equality derived from a state of nature. In *Taxation No Tyranny*, Johnson even goes to the extent of criticizing the colonists' hypocritical views of upholding Lockean principle about human equality while holding slaves. He states that "the slaves should be set free, an act which surely the lovers of liberty cannot but recommend" (Johnson, 130). Utilizing sarcasm, he condemns the colonists' use of Lockean innate natural rights to protest taxation by the mother country while they blatantly are violating such principles as owners of slaves.

Jefferson also affirms a Lockean belief in the same universal inalienable rights—life, liberty, and property (pursuit of happiness as expressed in the *Declaration of Independence*). However, the two writers fundamentally disagreed about Locke's concept of the "state of

nature.” Jefferson argues that Britain’s infringement of these rights bound originally in a state of nature, requires separation from the mother country, and imagines something like a return to the state of nature in order to erect a new government in the *Declaration of Independence*. Johnson is fundamentally against this argument because any abstract notion of an original state of nature, before the creation of human societies, must give way to historical reality of nations and governments with laws and conventions restricting while protecting individuals.

Written a year prior to Jefferson’s *Declaration*, *Taxation No Tyranny* is obviously no direct response to Jefferson’s work, and Johnson possessed no knowledge of the arguments being formulated in Jefferson’s *Declaration*. *Taxation No Tyranny* is written in defense of the political status quo of England, and argues against the American colonies and their rebellious citizens, stressing that the “state of nature” that the Americans want to return to no longer exists. This is because English civil society has already evolved over centuries, replacing and nullifying any “state of nature.” In order for one to completely return to a Lockean “state of nature,” one must reject society, its comforts, luxuries, and its productions (including government), and opt for a non-existent primitive state.

In *Taxation No Tyranny*, the stress is on a fully formed British mother country that is well beyond any theoretical state of nature. Johnson emphasizes the fundamentals of parliamentary sovereignty and British power over its territories and colonies as English law demands. The little known basis for Johnsons’ overarching stress on parliamentary sovereignty and colonial dependence under English law in his pamphlet, was found in law lectures that Johnson wrote in secret collaboration with Sir Robert Chambers in *A Course of Lectures on the English Law* (1766-1767). In these Lectures compiled by Thomas M. Curley in 1986 for Clarendon Press, Johnson states that “the [American] colonies are bound by all the statutes of the British

legislature in which the colonies are particularly and generally named, I have already shown to be the opinion of most learned lawyers...” (Lectures, 290-292). Almost ten years before *Taxation No Tyranny* was written, Johnson was affirming, using the same language at times, that the colonies are bound by the decrees of the omnicompetent king-in-Parliament at Westminster, and are under its full jurisdiction. The consensus among British lawyers, backs Johnson’s claims. Further, he addresses the question of taxation, which was igniting American rebellion in events like The Boston Tea Party (1773). However, the enjoyment of protections afforded the colonies by Britain, makes them subject to the kingdom of Britain, especially in light of the crushing expense Parliament assumed in defending colonists against French encroachment during the Seven Years’ War (1763). Not taxing the colonies would be “...to afford protection without the return of obedience” (Lectures, pp. 290-292), and some return of obedience is now expected from the ungrateful colonists. In preserving the British body politic for all subject; “It appears reasonable to conclude that all colonies may...be taxed by the English legislature, on principles equally reasonable and just with those on which the public expenses are levied on the greater part of their fellow subjects” (Lectures, pp. 290-292). The same ideology regarding Johnson’s view of taxation manifests itself in *Taxation No Tyranny*, written as a direct response to open rebellion abroad by fellow subjects unwilling to pay their part for their own protection in the mother country.

The American grievance against Britain outlined in *The Declaration of Independence* “for imposing taxes on [America] without our consent” (Jefferson, 708), is refuted by Johnson on the legal grounds of Britain’s parliamentary control, under English Common Law. As Johnson outlines in *Taxation*, his rebuttal of the American grievance directly reflects his legal work with Sir Robert Chambers. Johnson begins by stating that “[a] tax is a payment exacted by authority

from part of the community for the benefit of the whole” (Johnson, 104). He elaborates, stating: “From whom, and in what proportion such payment shall be required...those only are to judge to whom government is intrusted” (Johnson, 104). Under English law binding all subjects at home and abroad, government and the power to levy taxes are vested in the king-in-Parliament, the ultimate legal authority.

The Americans are calling for a representative democracy with localized representation; however, the system they are subjected to does not allow for this localized representation. Thus, the Americans voice a grievance against Parliament’s restriction on rights of local representation in their colonial legislatures and in the Parliament at Westminster. In rebuttal of this argument of under-representation, Johnson turns to an argument originally made the lectures he composed with Robert Chambers. To the objection that the “colonies cannot legally be taxed,” Johnson insists on the historical reality of general representation, however imperfect, for all British subjects in Parliament, and “every subject of this kingdom is taxed by the consent of his representatives” (Lectures, pp. 290-292). Because taxation of the colonies proves highly beneficial for both the colonists and the entire of kingdom of England, the common good of taxing them is clear. They enjoy security from foreign enemies by an army, and at least virtual representation in the legislature of the mother country. The lectures close with: “the happiness of the whole is the happiness of its parts” (Chambers qtd. by Curley, 109), and Johnson reiterates this point in *Taxation No Tyranny*: “The mother country always considers the colonies...as parts of itself; the prosperity or unhappiness of either is the prosperity or unhappiness of both” (Johnson, 425-427). The relationship between the colonies and the mother country, Johnson argues, is essentially codependent. The mother country provides protection, trade, and social order; while the colonies provide commerce/trade, imperialistic expansion, manpower, and

constituents. This is why Johnson writes *Taxation* with a fear of rebellion, because not only are the colonists lacking legal ground to rebel, but rebellion means war, and war would certainly weaken and compromise both entities.

Johnson's argument in *Taxation No Tyranny*, is that "all the subordinate communities are liable to taxation, because they all share the benefits of government, and therefore ought all to furnish their proportion of the expence" (Johnson, 417-418). As long as the colonies are constituents of the British Empire, subjection to the kingdom of Great Britain is absolute because of the legal priority of the home government over the local concerns and complaints of the colonies. However unfair the colonists might deem their denial of direct representation in Parliament, their virtual representation through elected representatives in England has been the time-honored legal custom permitted to them. Their ancestors consented to this legal custom at least tacitly, and this original consent binds them still in the eighteenth century.

The original members of the colonies, still in allegiance to the British Empire, gave the government their consent to virtual, not direct, representation in exchange for protection.

Johnson states:

"The colonists are descendants of men, who either had no vote in elections, or who voluntarily resigned them for something, in their opinion, of more estimation: they have therefore exactly what their ancestors left them, not a vote in making laws, or in constituting legislators, but the happiness of being protected by law, and the duty of obeying it" (Johnson, 115).

Johnson argues that in exchange for protection, the colonists forfeited the luxury of direct representation. Their property which was delineated via grants by the British Empire is subject to taxation because of their original consent and enjoyment of property sanctioned by English law.

John Locke in his political work *Second Treatise of Government*, argues that once out of the “state of nature,” man can no longer return to a primitive, primordial situation of being without a society. His elaboration of this point suggests that once man is a subject to a government or civil society, an individual has a duty to preserve and contribute to the overall commonwealth. In a society, government is erected “for the regulating and preserving of property, and of employing the force of the community in the execution of such laws” (Locke, 4). A citizen must contribute to said society, either through express consent or tacit consent. If one enjoys the luxuries and protection of a governing apparatus, and the security of such, he thereby consents at least tacitly. For the American colonists, their tacit consent explains their subjection to the government of Great Britain and therefore to English taxation. Having ample superiority over the ruling empire in the 1700’s, Britain needed revenue to maintain such a massive empire. As noted previously, the Seven Years’ War depleted resources, and it was not only the British subjects in England that were obligated to contribute, but its colonies as well.

Upon their first introduction, land grants sold by the British Empire created private property ownership. This allowed farms to expand, and commerce to improve in New England. However, the land delineated was subject to British rule and ultimate control of the mother country which sponsored and protected colonization. Johnson argues that “however distant...” the American colonies:

...have been constituent parts of the British Empire. The inhabitants incorporated by English Charters, are entitled to all the rights of Englishmen. They are governed by English laws, entitled to English dignities, regulated by English counsels, and protected by English arms; and it seems to follow by consequence not easily avoided, that they are subject to English government, and chargeable by English taxation (Johnson, 110).

Johnson's argument in *Taxation No Tyranny* is grounded in a history of British colonial rule from the time of the Jamestown settlement of 1607 to more than one-hundred and fifty years later. Johnson's perspective is in accordance with Locke's *Second Treatise*. Johnson believes that American colonial subjects are beyond a period of dissenting from the tacit consent of original colonizers to begin a new nation. He stresses the present situation of the British body politic, and that western society has progressed to the point that "the power of every people consisted in union, produced by one common interest" (Johnson, 106).

If Johnson appealed to Lockean ideals of human equality to defend the slave minority in America but demanded obedience from the colonial majority to Parliament, then Jefferson upheld a very different, sometimes contrary, point of view in the *Declaration of Independence*. Whereas Johnson explicitly denounced slavery for violating human equality in *Taxation No Tyranny*, and even suggested that blacks create a free American state, Jefferson makes a ringing affirmation of the "self-evident" truth of universal human equality and then, even if reluctantly, omitted his argument condemning King George III for condoning slave-trading in the document's final version to placate members of the second Continental Congress with a vested interest in preserving slavery. It is true that many scholars have maintained that the *Declaration of Independence* is indebted to John Locke's *Second Treatise of Government*, especially in proclaiming the God-given equality of humanity. The document's dependence on the *Second Treatise* is not only a general intellectual inspiration, but the famous preamble introducing specific colonial grievances against King George III also echoes Locke's work in specific content, similar phraseology, and even chronological order of Locke's argumentation. In fact, the preamble might well amount to an eloquent synopsis of the *Second Treatise*, almost chapter-by-chapter.

Near the opening of the *Treatise*, in Chapter II, “*Of the State of Nature*,” Locke begins by discussing original political power and rights. He writes:

We must consider what state all men are naturally in [in a primordial state of nature], and that is a state of perfect freedom to order their actions and dispose of their possessions and persons as they think fit, within the bounds of the law of nature, without asking leave or depending upon the will of any other man...for men [are] all the workmanship of one omnipotent and infinitely wise Maker (Locke, pp. 4-5).

Jefferson reiterates this sentiment in the opening lines of the preamble. Jefferson famously states:

“When...it becomes necessary for one people to dissolve...political bands...and to assume the separate and equal station to which the laws of nature and of nature’s God entitle them”

(Jefferson, 706). The similarities in thought between Locke and Jefferson’s language include the idea of freedom and natural equality, under an omnipotent God, Jefferson referring to “nature’s God” and Locke to an “omnipotent and infinitely wise Maker.”

Jefferson’s preamble, in its unfolding, also echoes Locke’s subsequent argumentation in Chapter VII: “*Of Political or Civil Society*.”

Man, being born, as has been proved, with a title to perfect freedom and uncontrolled enjoyment of all the rights and privileges of the law of nature equally with any other man or number of men in the world, has by nature a power not only to preserve his property—that is, his life, liberty, and estate—against the attempts and injuries of other men, but to judge of and punish the breaches of that law in others (Locke, 48).

In accordance with this statement, Jefferson claims “all men are created equal, that they are endowed by their Creator with inherent and inalienable rights; that among these are life, liberty, and the pursuit of happiness” (Jefferson, 706). It is evident that the phraseology is very similar between the two passages, except that Jefferson changed Lockean “property” to the phrase “pursuit of happiness” among the inalienable God-given rights of humanity

Further in the preamble, Jefferson reiterates ideas in Locke's next chapter on creating a government only by the consent of individuals willing to abandon a "state of nature." "[To] secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed" (Jefferson, 706). Chapter VIII of the *Treatise, "Of the Beginning of Political Societies,"* is the basis for this radical idea. According to Locke, in order to secure the rights of men, governments are instituted by means of consent. "No one can be put out of this [state of nature] and subjected to the political power of another without his own consent" (Locke, 54). Man can only be put out of this state of nature when "any number of men have so consented to make one community or government...thereby presently incorporated" (Locke, 55).

Lastly, Jefferson looks to Locke's subsequent Chapter 18 regarding the dissolution of government for inspiration in writing the final section of the preamble. Jefferson closes with the following statement before he begins listing the many specific grievances against George III:

But when a long train of abuses and usurpations, begun at a distinguished period and pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty to throw off such government, and to provide new guards for their future security...the present king of Great Britain is a history of unremitting injuries and usurpations...but all have in direct object the establishment of an absolute tyranny over these states (Jefferson, 706).

Jefferson's defense of separating from England because of its accumulated tyrannical conduct toward the colonies is derived directly from passages in Chapter 18 "*Of Tyranny*" where Locke claims that if men "see several experiments made of arbitrary power..." and "...a long train of actions...how can a man any more hinder himself from being persuaded in his own mind which way things are going, or from casting about how to save himself" (Locke, 118). Locke's "long train of actions" became Jefferson's "long train of abuses" justifying rebellion against Great Britain. From the standpoint of comparable ideas, language, and even organization of arguments,

The Declaration of Independence would seem an eloquent reformulation of *The Second Treatise of Government* on the state of nature, the formation of political society, and the dissolution of government.

If Jefferson's Lockean assertion of universal human equality in a state of nature is a self-evident truth, one in which his entire argument is founded upon, then it is unsettling to say the least, that Jefferson let his colleagues in Congress persuade him to delete his condemnation of King George III's supposed support of the slave trade. In order to avoid offending colonial slave holders, Jefferson removed the passage for the political reason of unanimity in accepting the *Declaration* by Congress and not for the moral and intellectual consistency of the document's argumentation. He certainly undermines his Lockean claim that all men are created equal in a state of nature.

Two other inconsistencies muddle the strength of Jefferson's rhetoric in the *Declaration*. The charge against King George III about preventing "the population of these states; for that purpose obstructing the laws for naturalization of foreigners, refusing to encourage their migrations hither" (Jefferson, 707), is largely specious under English law. That is because King George III has no sovereignty over non-British foreigners, and could only have the power to encourage or discourage emigration by British subjects. Secondly, Jefferson claims that King George III "has made [American] judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries" (Jefferson, 707). Under the British Constitution, appointments to the judiciary are ultimately dependent directly upon the British monarch, being George III at the time of the American Revolution.

Perhaps the most glaring mistake in the argumentation of the *Declaration of Independence* is its highly questionable dismissal of Parliament's ultimately absolute sovereignty

over the thirteen colonies. Even before war decides this issue for either side, Jefferson takes the erroneous position of a complete absence of parliamentary sovereignty in British America, claiming that the colonies are already a self-contained, almost autonomous group of powers with no jurisdictional ties to the king-in-Parliament. For example, Jefferson claims that “[King George III] has combined with others to subject [American colonists] to a jurisdiction foreign to [American] constitutions and unacknowledged by [American] laws” (Jefferson, 708). However, English Common Law clearly justified the supreme power of the king-in-Parliament over all British subjects, whether at home or abroad. King George III had justifiable standing to levy sanctions and control over laws being made within such supreme jurisdiction. For Jefferson to state that British rule is “foreign” to American colonists is false on legal grounds because until war decides which governing body would be victorious, colonists remained subject to English Common Law and parliamentary oversight.

Therefore, although Samuel Johnson had no knowledge of the argument(s) Jefferson would express in *The Declaration of Independence*, his legal logic in *Taxation No Tyranny* adheres to English Common Law and legal tradition authorizing parliamentary oversight by the king-in-Parliament. Written as a pamphlet to alert citizens about the need for careful thinking and interpretation of political documents and arguments, he expressed the legal parameters of what he considered to be an unjust, illegal opposition to British power in the Americas. His arguments are sometimes grounded in Lockean philosophy derived from *The Second Treatise of Government*, and his utilization of the “state of nature,” consent, and human equality arguments, in their earliest form, were found in early law lectures during his collaboration with Sir Robert Chambers. From the standpoint of arguments made in the law lectures almost a decade prior, *Taxation No Tyranny* aimed to show that the American colonies’ adherence to British subjection

was not simply consensual, but legally binding. As opposed to Jefferson, Johnson provides legal justification for his legal arguments not only by appealing to Lockean ideals on the law of nature, but by laying down time-honored legal principles developed under English jurisprudence since at least the sixteenth century. No doubt Jefferson's work was inspired by John Locke's *Second Treatise* to an extent that echoes phraseology, chronology, and argumentation. In doing so, he voices the American political consensus of the period. The *Declaration of Independence* stands perhaps as the most important political document of modern times and has won the admiration of people around the world. Nevertheless, the legal logic of Johnson's pamphlet reminds us to always seek out the truth behind the powerful rhetoric of Jeffersonian argumentation and to separate propaganda from fact in political controversy. After all, a comparison of disparate points of views brings us closer to understanding the hard truths to be found in coming to grips with the often conflicting demands of law and liberty, civil order and individual freedom, in the perpetual pursuit of happiness.

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