

# *American Revolution and the Spectre of Anarchy: The Hamilton-Seabury and Price-Lind Debates*

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*Would you tell me please, Mr. Howard, why should I trade one tyrant three thousand miles away for three thousand tyrants one mile away? – Mel Gibson in *The Patriot**

The American Revolution was not, on the surface, a conflict over anarchism. Neither side in the conflict favoured the abolition of the state; on the contrary, the Tories were defending the established government, while the Whigs were working to establish a new government. Nevertheless, the theme of anarchism – sometimes implicit, sometimes overt – runs throughout the contemporary public debate over the Revolution.

Edmund Burke, for example, famously argued – tongue partly but by no means entirely in cheek, I suspect – that Britain should hasten to achieve a peaceful settlement before the effective statelessness of the colonies during the Revolution began to set a dangerous precedent:

Pursuing the same plan of punishing by the denial of the exercise of government to still greater lengths, we wholly abrogated the ancient government of Massachusetts. We were confident that the first feeling, if not the very prospect, of anarchy would instantly enforce a complete submission. The experiment was tried. A new, strange, unexpected face of things appeared. Anarchy is found tolerable. A vast province has now subsisted, and subsisted in a considerable degree of health and vigor for near a twelvemonth, without Governor, without public Council, without judges, without executive magistrates. How long it will continue in this state, or what may arise out of this unheard-of situation, how can the wisest of us conjecture? Our late experience has taught us that many of those

fundamental principles formerly believed infallible, are either not of the importance they were imagined to be ; or that we have not at all adverted to some other far more important and far more powerful principles, which entirely overrule those we had considered as omnipotent. I am much against any farther experiments, which tend to put to the proof any more of these allowed opinions, which contribute so much to the public tranquillity. (*On Conciliation*, 1775)

Burke's description of the colonies during the Revolution as an orderly and peaceful anarchy would later be echoed by Thomas Paine<sup>1</sup> and Ralph Waldo Emerson,<sup>2</sup> authors friendlier to anarchism. That Burke had himself defended anarchism – albeit satirically, or so he had claimed – in his youthful *Vindication of Natural Society* adds an ironic note to the matter.<sup>3</sup>

My present concern is with the role played by the spectre of anarchy in two notable debates. In 1774, a teenaged Alexander Hamilton defended the legitimacy of the American

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<sup>1</sup> “For upwards of two years from the commencement of the American War, and to a longer period in several of the American States, there were no established forms of government. The old governments had been abolished, and the country was too much occupied in defence to employ its attention in establishing new governments; yet during this interval order and harmony were preserved as inviolate as in any country in Europe. There is a natural aptness in man, and more so in society, because it embraces a greater variety of abilities and resource, to accommodate itself to whatever situation it is in. The instant formal government is abolished, society begins to act: a general association takes place, and common interest produces common security.” (*Rights of Man*, 1791-92)

<sup>2</sup> “I am glad to see that the terror at disunion and anarchy is disappearing. Massachusetts, in its heroic day, had no government – was an anarchy. Every man stood on his own feet, was his own governor; and there was no breach of peace from Cape Cod to Mount Hoosac. California, a few years ago, by the testimony of all people at that time in the country, had the best government that ever existed. Pans of gold lay drying outside of every man's tent, in perfect security. The land was measured into little strips of a few feet wide, all side by side. A bit of ground that your hand could cover was worth one or two hundred dollars, on the edge of your strip; and there was no dispute. Every man throughout the country was armed with knife and revolver, and it was known that instant justice would be administered to each offence, and perfect peace reigned. For the Saxon man, when he is well awake, is not a pirate but a citizen, all made of hooks and eyes, and links himself naturally to his brothers, as bees hook themselves to one another and to their queen in a loyal swarm.” (*Speech on Affairs in Kansas*, 1856)

<sup>3</sup> For a reading of Burke's early anarchism as sincere, see Murray N. Rothbard, “A Note on Burke's *Vindication of Natural Society*,” *Journal of the History of Ideas* 19.1 (January 1958), pp. 114-118 <<http://mises.org/rothbard/burke.pdf>>; the case for an ironic reading is made by John C. Weston, Jr., “The Ironic Purpose of Burke's *Vindication Vindicated*,” *Journal of the History of Ideas* 19.3 (June 1958), pp. 435-441 <<http://www.jstor.org.spot.lib.auburn.edu/stable/2708048>>. In *The Rage of Edmund Burke: Portrait of an Ambivalent Conservative* (Basic Books, 1977), Isaac Kramnick offers compelling evidence for the conclusion that Burke was partly sincere and partly not; for discussion of the relevant passages, see Roderick T. Long, “Burke's Semi-serious Anarchism” <<http://aeblog.net/2007/10/24/burkes-semi-serious-anarchism>> and “Burke's Semi-serious Anarchism, Part 2” <<http://aeblog.net/2007/11/08/burkes-semi-serious-anarchism-part-2>>.

Revolution against loyalist clergyman Samuel Seabury's criticisms in an exchange of pamphlets. Two years later, on the other side of the Atlantic, radical liberal philosopher Richard Price and Benthamite writer John Lind engaged in a pamphlet debate on the same subject. These two case studies illustrate how the debate over the American Revolution was preparing the ground for the rapid growth of anarchist thought in succeeding decades. Let's consider them in turn.

### **The Hamilton-Seabury Debate**

The American Revolution, thanks to the role that Lockean principles played in it, tends to be the one war of which libertarians are most likely to approve when they approve of any war. Alexander Hamilton, by contrast, thanks to his centralist and mercantilist tendencies, tends to be the one American Founder of which libertarians are most likely to *dis*approve. There might thus seem to be little to engage libertarians on either side of a debate between the dreaded Hamilton on the one hand and Seabury, a perfidious opponent of the beloved American Revolution, on the other. But in fact Hamilton (1756?-1804) and Seabury (1729-1796) each make a number of important libertarian points – though in making them against *each other*, each also exposes the unlibertarian aspects of the other's position.

Most critics of the American Revolution charged that the rebels were demanding too much liberty; but in his contributions to the debate (chiefly *Free Thoughts on the Proceedings of the Continental Congress* and *A View of the Controversy Between Great-Britain and Her Colonies*) Episcopal minister Seabury – writing as “A. W. Farmer,” i.e., “A Westchester Farmer” – takes a different tack, charging that the emerging revolutionary government – the Continental Congress – is a more serious violator of liberty than the one that is being displaced. Thus he tells Hamilton (rather ironically, given Hamilton's later sympathy for monarchy):

You have taken some pains to prove what would readily have been granted you – that liberty is a very good thing, and slavery a very bad thing. But then I must think that liberty under a King, Lords and Commons is as good as liberty under a republican Congress: And that slavery under a republican Congress is as bad, at least, as slavery under a King, Lords and Commons ....  
(Seabury, *View of the Controversy*)

Seabury's chief complaint concerns the Continental Congress's attempted restrictions on trade with England:

Let us now attend a little to the Non-Consumption Agreement, which the Congress, in their Association, have imposed upon us. After the first of March we are not to purchase or use any East-India Tea whatsoever; nor any goods, wares, or merchandize from Great-Britain or Ireland, imported after the first day of December next: nor any molasses, syrups, etc. from the British plantations in the West-Indies, or from Dominica; nor wine from Madeira, or the Western Islands; nor foreign indigo.

Will you submit to this slavish regulation? – You must. – Our sovereign Lords and Masters, the High and Mighty Delegates, in Grand Continental Congress assembled, have ordered and directed it. They have directed the Committees in the respective colonies .... to inspect the conduct of the inhabitants, and see whether they violate the association. Among other things, whether they drink any tea or wine in their families, after the first of March; or wear any British or Irish manufactures; or use any English molasses, etc. imported after the first day of December next. If they do, their names are to be published in the Gazette, that they may be publickly known, and universally contemned, as foes to the tights of British America, and enemies of American liberty. – And then the parties of the said association will respectively break off all dealings with him or her. – In plain English, – They shall be considered as Out-laws, unworthy of the protection of civil society, and delivered over to the vengeance of a lawless, outrageous mob, to be tarred, feathered, hanged, drawn, quartered, and burnt. – O rare American Freedom! ...

Will you be instrumental in bringing the most abject slavery on yourselves? Will you choose such Committees? Will you submit to them, should they be chosen by the weak, foolish, turbulent part of the country people? – Do as you please: but, by HIM that made me, I will not. – No, if I must be enslaved, let it be by a KING at least, and not by a parcel of upstart lawless Committeemen. If I must be devoured, let me be devoured by the jaws of a lion, and not gnawed to death by rats and vermin. ... (Seabury, *Free Thoughts*)

In the face of this threat to free exchange, Seabury recommends resistance to the Congress's trade legislation:

Are our supervisors our masters? ... You ought, my friends, to assert your own freedom. Should such another attempt be made upon you, assemble yourselves together: tell your supervisor, that he has exceeded his commission: – That you will have no such Committees: – That you are Englishmen, and will maintain your rights and privileges, and will eat, and drink, and wear, whatever the public laws of your country permit, without asking leave of any illegal, tyrannical Congress or Committee on earth.

But however, as I said before, do as you please: If you like it better, choose your Committee, or suffer it to be chosen by half a dozen Fools in your neighbourhood, – open your doors to them, – let them examine your tea-cannisters, and molasses-jugs, and your wives’ and daughters’ petty-coats, – bow, and cringe, and tremble, and quake, – fall down and worship our sovereign Lord the Mob. – But I repeat it, By H—n, I will not. – No, my house is my castle: as such I will consider it, as such I will defend it, while I have breath. No King’s officer shall enter it without my permission, unless supported by a warrant from a magistrate. – And shall my house be entered, and my mode of living enquired into, by a domineering Committee-man? Before I submit, I will die: live you, and be slaves.

Do, I say, as you please: but should any pragmatical Committee-gentleman come to my house, and give himself airs, I shall shew him the door, and if he does not soon take himself away, a good hiccory cudgel shall teach him better manners. ... (Seabury, *Free Thoughts*)

The first committee-man that comes to rob me of my tea, or my wine, or molasses, shall feel the weight of my arm; and should you [= Hamilton] be the man, however lightly you may think of it, a stroke of my cudgel would make you reel, notwithstanding the thickness of your skull. (Seabury, *View of the Controversy*)

The Continental Congress rested its claims to authority – or anyway Hamilton did – on broadly Lockean grounds; for Hamilton, the Congress is the legitimate ruler of the colonies while the English Parliament is illegitimate, because the former rests on the consent of the governed while the latter does not. Seabury is no Lockean, but he effectively employs Lockean-style arguments to demolish any pretensions to a Lockean grounding for the Congress’s legitimacy. First, since most of the colonists had played no role in selecting the delegates, the Congress could not claim in any interesting sense to have received its authority by delegation from the governed. Second, even if it had done so, by Lockean principles such delegated power is not absolute; since you (the American colonists) did not “choose your supervisors for the purpose of enslaving you,” any supervisor who interferes with free trade “has exceeded his commission”:

Much stress has been laid, it seems, upon the unanimity of the Delegates, and it has been urged, that all the inhabitants of the continent should think themselves in honour obliged to abide passively by their decisions, be they what they may, as they were their Representatives. – But I would just observe, that not one person in an hundred (to speak much within bounds)

throughout this province at least, gave his vote for their election .... (Seabury, *Free Thoughts*)

Not a hundredth part of the people of this province, Sir, had any vote in sending the Delegates .... But supposing all the people in the province had joined in sending them uncircumscribed: Were the Delegates at liberty to do as they pleased? (Seabury, *View of the Controversy*)

But perhaps you will say, that these men are contending for our rights; that they are defending our liberties; and though they act against law, yet that the necessity of the times will justify them. Let me see. I sell a number of sheep. I drive them to New-York, and deliver them to the purchaser. A mob interposes, and obliges me to take my sheep again, and drive them home for my pains, or sell them there for just what they please to give me. Are these the rights, is this the liberty, these men are contending for? It is vile, abject slavery, and I will have none of it. ... (Seabury, *Free Thoughts*)

Thus far we have seen Seabury's libertarian side; this side is quite limited, however. For all his skepticism toward the authority of the Continental Congress, Seabury is entirely sanguine concerning the authority of the English Parliament and Crown.

Renounce all dependence on Congresses, and Committees. They have neglected, or betrayed your interests. Turn then your eyes to your constitutional representatives. They are the true, and legal, and have been hitherto, the faithful defenders of your rights, and liberties ... (Seabury, *Free Thoughts*)

But even if one were to grant Seabury's not-entirely-obvious contention that the British government had been a more faithful defender of colonial liberty than its would-be successor, we may still ask what objection, if any, Seabury *would* or *could* raise if his preferred government were to begin imposing the very same restrictions that he describes as intolerable slavery when imposed by the Congress. And here his chief objection to Congress's enactments seems to be simply that they are *illegal*, that they do not respect the liberties granted to the colonist *by English law*. After all, the reply he urges his fellow loyalists to make to Congressional inspectors is that "you are Englishmen, and will maintain your rights and privileges, and will eat, and drink, and wear, *whatever the public laws of your country permit.*" O rare English freedom, to do whatever is permitted!

Seabury makes clear that such liberties as the colonists enjoy are theirs only by the sufferance of the British government, revocable at the latter's pleasure:

[W]hen you assert that “since Americans have not by any act of theirs empowered the British parliament to make laws for them, it follows they can have no just authority to do it,” you advance a position subversive of that dependence which all colonies must, from their very nature, have on the mother country. ... The British colonies make a part of the British Empire. As parts of the body they must be subject to the general laws of the body. To talk of a colony independent of the mother-country, is no better sense than to talk of a limb independent of the body to which it belongs. ... In every government there must be a supreme, absolute authority lodged somewhere. ... This supreme authority extends as far as the British dominions extend. ... The right of colonists to exercise a legislative power, is no natural right. They derive it not from nature, but from the indulgence or grant of the parent state, whose subjects they were when the colony was settled, and by whose permission and assistance they made the settlement. (Seabury, *View of the Controversy*)

Seabury’s preference to be “devoured by the jaws of a lion, and not gnawed to death by rats and vermin” makes for engaging rhetoric; but once we realise that he *disapproves* of any attempt to resist the lion, we can see that he offers scant comfort to those who might seek not to be devoured at all.

Despite Seabury’s *ad hominem* use of Lockean arguments, he expresses hostility to Hamilton’s reliance on a Lockean-style natural-rights philosophy. Seabury writes:

I wish you had explicitly declared to the public your ideas of the natural rights of mankind. Man in a state of nature may be considered as perfectly free from all restraints of law and government: And then the weak must submit to the strong. From such a state, I confess, I have a violent aversion. I think the form of government we lately enjoyed a much more eligible state to live in: And cannot help regretting our having lost it, by the equity, wisdom, and authority of the Congress, who have introduced in the room of it, confusion and violence; where all must submit to the power of a mob. (Seabury, *View of the Controversy*)

As Rothbard notes in *Conceived in Liberty*, Seabury seems to be confusing natural rights with the state of nature.<sup>4</sup> Still, Seabury’s point is clear enough: society without government is a Hobbesian jungle; therefore all social order depends on government; therefore the only

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<sup>4</sup> “As so many other opponents of natural rights have done, Seabury, in a pamphlet debate with the young student Alexander Hamilton of Kings College, confused ‘natural rights’ with a primitive ‘state of nature.’ Not realizing that natural-rights theory is a logical and moral rather than an historical construct, Seabury persisted in identifying it with an historical state of savagery.” (Rothbard, *Conceived in Liberty*, vol. 3, p. 316.)

rights we can make sense of derive from government; therefore invoking so-called natural rights against established *legal* rights can only threaten all freedom and order. In short, the principles of the American Revolution are to be rejected because, when taken to their logical extreme, they lead to anarchy and social chaos.

Hamilton's chief contributions to this debate are to be found in his 1774 *A Full Vindication of the Measures of Congress* and his 1775 *The Farmer Refuted*. Hamilton reacts to Seabury's rejection of natural rights the way libertarian geeks generally react to their opponents – he gets snarky, and offers him a reading list:

I shall, henceforth, begin to make some allowance for that enmity you have discovered to the *natural rights* of mankind. For, though ignorance of them, in this enlightened age, cannot be admitted as a sufficient excuse for you, yet it ought, in some measure, to extenuate your guilt. If you will follow my advice, there still may be hopes of your reformation. Apply yourself, without delay, to the study of the law of nature. I would recommend to your perusal, Grotius, Puffendorf, Locke, Montesquieu, and Burlemaqui. I might mention other excellent writers on this subject; but if you attend diligently to these, you will not require any others. (Hamilton, *Farmer Refuted*)

Hamilton goes on to offer a more or less straightforwardly Lockean account of natural law, the state of nature, and the consensual foundation of legitimate government:

There is so strong a similitude between your political principles and those maintained by Mr. Hobbes, that, in judging from them, a person might very easily *mistake* you for a disciple of his. His opinion was exactly coincident with yours, relative to man in a state of nature. He held, as you do, that he was then perfectly free from all restraint of *law* and *government*. Moral obligation, according to him, is derived from the introduction of civil society; and there is no virtue but what is purely artificial, the mere contrivance of politicians for the maintenance of social intercourse. But the reason he ran into this absurd and impious doctrine was, that he disbelieved the existence of an intelligent, superintending principle, who is the governor, and will be the final judge, of the universe.

As you sometimes swear *by Him that made you*, I conclude your sentiments do not correspond with his in that which is the basis of the doctrine you both agree in; and this makes it impossible to imagine whence this congruity between you arises. To grant that there is a Supreme Intelligence who rules the world and has established laws to regulate the actions of His creatures, and still to assert that man, in a state of nature, may be considered as perfectly free from all restraints of *law* and *government*, appears, to a common understanding, altogether irreconcilable.



Good and wise men, in all ages, have embraced a very dissimilar theory. They have supposed that the Deity, from the relations we stand in to Himself and to each other, has constituted an eternal and immutable law, which is indispensably obligatory upon all mankind, prior to any human institution whatever.

This is what is called the law of nature .... Upon this law depend the natural rights of mankind: the Supreme Being gave existence to man, together with the means of preserving and beautifying that existence. He endowed him with rational faculties, by the help of which to discern and pursue such things as were consistent with his duty and interest; and invested him with an inviolable right to personal liberty and personal safety.

Hence, in a state of nature, no man had any *moral* power to deprive another of his life, limbs, property, or liberty; nor the least authority to command or exact obedience from him .... Hence, also, the origin of all civil government, justly established, must be a voluntary compact between the rulers and the ruled, and must be liable to such limitations as are necessary for the security of the *absolute rights* of the latter; for what original title can any man, or set of men, have to govern others, except their own consent? To usurp dominion over a people in their own despite, or to grasp at a more extensive power than they are willing to intrust, is to violate that law of nature which gives every man a right to his personal liberty, and can therefore confer no obligation to obedience. ...

If we examine the pretensions of Parliament by this criterion, which is evidently a good one, we shall presently detect their injustice. First, they are subversive of our natural liberty, because an authority is assumed over us which we by no means assent to. And, secondly, they divest us of that moral security for our lives and properties, which we are entitled to, and which it is the primary end of society to bestow. For such security can never exist while we have no part in making the laws that are to bind us, and while it may be the interest of our uncontrolled legislators to oppress us as much as possible.  
...

The sacred rights of mankind are not to be rummaged for among old parchments or musty records. They are written, as with a sunbeam, in the whole volume of human nature, by the hand of the divinity itself, and can never be erased or obscured by mortal power. ... (Hamilton, *Farmer Refuted*)

The only distinction between freedom and slavery consists in this: In the former state a man is governed by the laws to which he has given his consent, either in person or by his representative; in the latter, he is governed by the will of another. In the one case, his life and property are his own; in the other, they depend upon the pleasure of his master. It is easy to discern which of these two states is preferable. No man in his senses can hesitate in choosing to be free, rather than a slave.

That Americans are entitled to freedom is incontestable on every rational principle. All men have one common original: they participate in one common nature, and consequently have one common right. No reason can be assigned why one man should exercise any power or pre-eminence over his fellow-creatures more than another; unless they have voluntarily vested him with it. Since, then, Americans have not, by any act of theirs, empowered the British Parliament to make laws for them, it follows they can have no just authority to do it. (Hamilton, *Full Vindication*)

There are, of course, obvious libertarian worries to raise about this.<sup>5</sup> First there is the apparent confusion between individual and collective consent: if 51% of the electorate votes for Tweedledee and 49% for Tweedledum, in what sense can the minority be said to have consented to the victorious Tweedledee? Indeed, in what sense can even the majority be said to have consented to Tweedledee, if they voted for him only to avoid the still more objectionable Tweedledum? Locke seems to address this worry by requiring a separate, *unanimous* consent to the civil society, over and above the subsequent *majoritarian* consent via the ballot to specific representatives or enactments, though he is vague about the details; but in Hamilton's account we see no clear vehicle for consent other than the ballot. This obviously places rather less constraint on government than does Locke's version.

But even if the ballot is to be accepted as a legitimate vehicle of consent, Hamilton says little in reply to Seabury's point that most of the colonists never voted for the Continental Congress. It is hard to see how Hamilton's chief objection to Parliamentary authority – that it does not rest on consent – applies with any less force to Congressional authority. As for Seabury's further point that even if all or most colonists had in fact established such authority by their votes, the power delegated would have been of a limited rather than of an absolute variety and so would not obviously authorise the restrictions on commerce of which Seabury was complaining, Hamilton replies with a characteristically sweeping interpretation of governmental authority:

When the political salvation of any community is depending, it is incumbent upon those who are set up as its guardians to embrace such measures as have

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<sup>5</sup> Three classic libertarian critiques of the ballot as a vehicle of consent are Herbert Spencer's "The Right to Ignore the State" <[http://www.constitution.org/hs/ignore\\_state.htm](http://www.constitution.org/hs/ignore_state.htm)> in his 1851 *Social Statics* <[http://oll.libertyfund.org/Texts/LFBooks/Spencer0236/SocialStatics/0331\\_Bk.html](http://oll.libertyfund.org/Texts/LFBooks/Spencer0236/SocialStatics/0331_Bk.html)>; Lysander Spooner's 1870 *No Treason No. VI: The Constitution of No Authority* <<http://praxeology.net/LS-NT-6.htm>>; and Robert Nozick's "Tale of the Slave" <<http://www.duke.edu/web/philsociety/taleofslave.html>> in his 1974 *Anarchy, State, and Utopia*.

justice, vigor, and a probability of success to recommend them. ... The only scheme of opposition suggested by those who have been and are averse from a non-importation and non-exportation agreement, is by remonstrance and petition. The authors and abettors of this scheme have never been able to invent a single argument to prove the likelihood of its succeeding. ...

In a civil society it is the duty of each particular branch to promote not only the good of the whole community, but the good of every other particular branch. If one part endeavors to violate the rights of another, the rest ought to assist in preventing the injury. When they do not but remain neutral, they are deficient in their duty, and may be regarded, in some measure, as accomplices.

The reason of this is obvious from the design of civil society; which is, that the united strength of the several members might give stability and security to the whole body, and each respective member; so that one part cannot encroach upon another without becoming a common enemy, and eventually endangering the safety and happiness of all the other parts. ...

We are threatened with absolute slavery. It has been proved that resistance by means of remonstrance and petition would not be efficacious, and, of course, that a restriction on our trade is the only peaceable method in our power to avoid the impending mischief. It follows, therefore, that such a restriction is necessary. (Hamilton, *Full Vindication*)

In other words, once a government has been established, it is thereby authorised to take *whatever steps are most likely* to secure its subjects' liberty overall, even if those measures violate liberty somewhat themselves. In Nozickian parlance, Hamilton is treating liberty as a goal to be maximised (if need be via trade-offs where a violation of liberty here is justified by a greater amount of liberty protected there) rather than as a side-constraint to be respected. Moreover, Hamilton endorses not just a negative obligation to refrain from harming one's fellow-citizens but a positive obligation – an *enforceable* positive obligation – to assist the government in its efforts to protect them; failure to participate in the government's favoured scheme for counteracting aggression constitutes complicity in the aggression. It's hard to see how this broad conception of governmental authority can be squared with the natural-rights foundation from which Hamilton began. If, in Locke's famous phrase, we are not "made for one another's uses," how can it be legitimate to *force* A to assist B in B's struggle to fend off aggressor C? How does this not make A into an instrument for B's uses?

Further, although the Hamilton-Seabury debate arguably shows us Hamilton at his most libertarian, the imperious tone of his demand for universal submission to the edicts of the

Continental Congress presages things to come. Note the opening lines of Hamilton's *Full Vindication of the Measures of Congress*:

It was hardly to be expected that any man could be so presumptuous as openly to controvert the equity, wisdom, and authority of the measures adopted by the Congress – an assembly truly respectable on every account, whether we consider the characters of the men who composed it, the number and dignity of their constituents, or the important ends for which they were appointed. But, however improbable such a degree of presumption might have seemed, we find there are some in whom it exists. ... (Hamilton, *Full Vindication*)

The tone is one of arrogant outrage that anyone would *dare* to criticise Hamilton's preferred regime. Seabury's reply is on target:

You begin your vindication with such an air of importance, and such pomposity of expression, as I scarce ever met with before. ... It has ever been esteemed the privilege of Englishmen to canvass freely, the proceedings of every branch of the legislature; to examine into all public measures; to point out the errors that are committed in the administration of the government, and to censure without fear the conduct of all persons in public stations, whose conduct shall appear to deserve it. ... Blush then at your own effrontery, in endeavouring to intimidate your countrymen from exercising this right with regard to the Congress. ... (Seabury, *View of the Controversy*)

Hamilton and Seabury are each on strong ground offensively but on shaky ground defensively. Hamilton, drawing on Lockean principles, effectively criticises the legitimacy of England's rule over the colonies, while Seabury in turn mounts an equally effective case against the authority of the Continental Congress over the same colonies (including its trade restrictions) – so that between the two of them they add up to a single good libertarian. What their arguments, taken together, effectively demonstrate is that *both* the established British government and the rising revolutionary U.S. government were oppressive and illegitimate – that both claim an authority that neither has been, nor should be, nor practicably could be delegated. The natural inference, though not one that either Hamilton nor Seabury would have welcomed, is that rather than trading one master for another, the colonists should have sought to recover their natural liberty by dispensing with human government entirely.

## The Price-Lind Debate

The spectre of anarchy is raised still more explicitly in the debate two years later between John Lind (1737-1781), a follower of Jeremy Bentham, and Richard Price (1723-1791), whom Rothbard describes as “the intellectual leader of the new libertarian movement.”<sup>6</sup> This is the same Richard Price whose later defense of the French Revolution (*Discourse on the Love of Our Country*, 1790) would inspire Burke’s attack both on the Revolution and on Price, thus unleashing a flood of responses from Wollstonecraft, Paine, Godwin, and others that would shape the course of radicalism for the subsequent century.

In his *Observations on the Nature of Civil Liberty* (1776), Price informs us that

without *Religious* and *Civil Liberty* [man] is a poor and abject animal, without rights, without property, and without a conscience, bending his neck to the yoke, and crouching to the will of every silly creature who has the insolence to pretend to authority over him. – Nothing, therefore, can be of so much consequence to us as *Liberty*. It is the foundation of all honour, and the chief privilege and glory of our natures. (Price, *Civil Liberty*)

From the nature and principles of Civil Liberty ... it is an immediate and necessary inference, that no one community can have any power over the property or legislation of another community, that is not incorporated with it by a just and adequate representation. – Then only, it has been shewn, is a state *free*, when it is governed by its own will. But a country that is subject to the legislature of another country, in which it has no voice, and over which it has no controul, cannot be said to be governed by its own will. Such a country, therefore, is in a state of slavery. ... The *Roman Republic* was nothing but a faction against the general liberties of the world; and had no more right to give law to the Provinces subject to it, than thieves have to the property they seize, or to the houses into which they break. (Price, *Civil Liberty*)

And he goes on to draw the conclusion that Britain’s claim to the American colonies rests on no better foundation than did Rome’s claim to its provinces.

But how are the “nature and principles” of such liberty to be understood? Against the intellectual current of the age, which favoured grounding moral and social theory in the innate emotional tendencies of the human psyche, Price was an aprioristic rationalist whose ethical theorising, as delineated in his 1757 *Review of the Principal Questions in Morals*, proceeded by a combination of intellectual intuition and conceptual analysis. Perhaps unsurprisingly,

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<sup>6</sup> Rothbard, *Conceived in Liberty*, vol. 4, p. 237.

then, Price sets out to defend the rights of the American colonists on the basis of (something like) a conceptual analysis of the concept of liberty:

By Physical Liberty I mean that principle of *Spontaneity*, or *Self-determination*, which constitutes us *Agents*; or which gives us a command over our actions, rendering them properly *ours*, and not effects of the operation of any foreign cause. – Moral Liberty is the power of following, in all circumstances, our sense of right and wrong; or of acting in conformity to our reflecting and moral principles, without being controuled by any contrary principles. – Religious Liberty signifies the power of exercising, without molestation, that mode of religion which we think best; or of making the decisions of our own consciences, respecting religious truth, the rule of our conduct, and not any of the decisions of others. – In like manner; Civil Liberty is the power of a *Civil Society* or *State* to govern itself by its own discretion; or by laws of its own making, without being subject to any foreign discretion, or to the impositions of any extraneous will or power. ... In all these cases there is a force which stands opposed to the agent's *own* will; and which, as far as it operates, produces *Servitude*. ... And in the last case [= civil liberty], it is any will distinct from that of the Majority of a Community, which claims a power of making laws for it, and disposing of its property. (Price, *Civil Liberty*)

Price thus links civil liberty with *self-government*. But as the last sentence quoted above suggests, there is some confusion as to whether self-government is to be individual or collective in nature. Price here seems to say that a community is free so long as it is not governed by any will distinct from that of the *majority* – a conception of collective freedom that seems compatible with a fair bit of individual unfreedom, as for example if 51% of the community were to vote to enslave the remaining 49%. Yet at the same time Price clearly thinks of a free community as one in which *everyone* is free, which they could hardly be if some members of the community – the minority – are subject to the will of persons distinct from themselves – the majority. In short, Price seems torn between two ways of applying his conception of freedom – a majoritarian, democratic way and a unanimitarian, anarchic way.

Consider further the following passage:

From what has been said it is obvious, that all civil government, as far as it can be denominated *free*, is the creature of the people. It originates with them. It is conducted under their direction; and has in view nothing but their happiness. All its different forms are no more than so many different modes in which they chuse to direct their affairs, and to secure the quiet enjoyment of their rights. – In every free state every man is his own Legislator. – All *taxes* are free-gifts for public services. – All *laws* are particular provisions or

regulations established by common consent for gaining protection and safety.  
(Price, *Civil Liberty*)

The phrase “every man is his own legislator” is ambiguous. It could mean that every man is able to *participate* in the legislative process – even if his preferred measures are invariably defeated. But this would make mere political participation – “ancient liberty” in Constant’s sense – sufficient for freedom, and this sits oddly with Price’s frequent defense of individual freedom from non-interference in the liberal tradition. It would also give civil liberty an unexplained difference from the other varieties of liberty – physical, moral, and religious – that Price lists, since these are all evidently to be understood as applying among individuals. Or else the phrase could mean – as the wording naturally suggests – that legislation depends for its legitimacy on *each* citizen’s separate consent to it; but in that case Price’s reference to majorities seems idle. (Again Locke’s solution – unanimous consent *to* the political framework followed by majority consent *within* it – is not explicitly addressed.)

Other remarks of Price’s seem more unambiguously libertarian:

As no people can lawfully surrender their *Religious Liberty*, by giving up their right of judging for themselves in religion, or by allowing any human beings to prescribe to them what faith they shall embrace, or what mode of worship they shall practise; so neither can any civil societies lawfully surrender their *Civil Liberty*, by giving up to any extraneous jurisdiction their power of legislating for themselves and disposing their property. Such a cession, being inconsistent with the unalienable rights of human nature, would either not bind at all; or bind only the individuals who made it. This is a blessing which no one generation of men can give up for another; and which, when lost, a people have always a right to resume. (Price, *Civil Liberty*)

Here we learn, first, that some rights, including the right to dispose of one’s property, are inalienable, and so can never be surrendered to government; and second, that even in the case of alienable rights, a contract delegating such rights can only bind the *individuals* who made it.

Moreover, Price registers his disagreement with the common idea that there can be *too much* liberty:

Of such Liberty as I have now described, it is impossible that there should be an excess. ... Licentiousness, which has been commonly mentioned, as an extreme of liberty, is indeed its opposite. It is government by the will of rapacious individuals, in opposition to the will of the community, made known and declared in the laws. ... I do not, therefore, think it strictly just to

say, that it belongs to the nature of government to entrench on private liberty. It ought never to do this, except as far as the exercise of private liberty encroaches on the liberties of others. That is; it is licentiousness it restrains, and liberty itself only when used to destroy liberty. (Price, *Civil Liberty*)

If the only permissible restrictions on one's liberty come from the liberty of others, we are brought within hailing distance of Spencer's Law of Equal Freedom.

In his reply, titled *Three Letters To Dr. Price*, John Lind argues that the principles Price invokes on behalf of the Revolution, if taken to their logical conclusion, imply equality of rights between governors and governed and so are "destructive of all government" – a conclusion intended as a *reductio ad absurdum*. While Lind is hostile to Price's principles, he arguably applies them with greater consistency than Price does.

Lind begins by criticising Price for defining species of liberty in terms of their *objects* – moral, religious, civil, *etc.* – rather than in terms of the constraints *from* which one is said to be free.

[T]he terms *Liberty*, *Self-determination*, *Self-direction*, *Self-government*, convey only negative ideas. With respect to any particular act when you say a man is *free*, that he enjoys the power of *Self-direction* or *Self-government*, what is it you mean? Clearly no more than this; that no other agent whatever has, or means to *exercise* the power of constraining him to do, or to forbear that act. What then is Liberty? Clearly nothing more nor less than the ABSENCE OF COERCION. ...

Liberty, thus defined, might not inaptly be divided into *physical* and *moral*; *coercion* may be physical or moral.

I call *physical* coercion the operation of some extraneous, physical cause or agent; which operation takes place *during* the time of another's doing, or forbearing to do, an act, and irresistibly compels that other to do or to forbear it.

The absence of this *physical coercion* I call *physical liberty*.

*Moral* coercion I call the threat of some painful event, to take place *after*, and in *consequence* of our doing, or forbearing to do, certain acts.

The absence of this *moral coercion* I call *moral liberty*. ...

It is this moral coercion that the legislator applies to make the subject obey his *general* commands. He has not recourse to physical coercion, except when he means to compel an *individual* subject to submit to his *individual*



commands; that is, to undergo the *penalty* of having disobeyed his *general* commands. ...

This, Sir, is the only notion I can form to myself of liberty; these the only divisions of which I can conceive it to be susceptible; divisions which arise not, (like the inaccurate ones created by you) from any variation in the *acts* a man is to do or to forbear, but from a variation in the nature of that sort of *coercion*, of which the sort of liberty in question is the absence. ... A man is deprived of his physical liberty when he is constrained by physical force, to do, or to forbear, certain acts; he is deprived of his moral liberty, when by moral motives, that is the threat of painful events, to happen in consequence of his doing or forbearing, he is constrained to do or to forbear. (Lind, *Three Letters*)

The account of liberty which Lind gives us here is broadly congenial to libertarians, though it would be better if Lind had specified whether the threat which constitutes *moral* coercion must itself be, ultimately, a threat of *physical* coercion, or whether it may simply be a threat of any unpleasant consequence, even a peaceful one – since for the libertarian, a threat counts as a rights-violation only if what is threatened is also a rights-violation.

But while Lind's *definition* of liberty seems broadly libertarian, his *evaluation* of liberty is rather less so. He writes:

This then, Sir, being a fair definition of liberty, in what sense can you say that every member of society has a natural and unalienable right to it?

*Right*, Sir, is a mere legal term .... How is it that a man acquires a right to a *thing*? By the declaration of the legislator that he may use and enjoy that thing; joined to a promise of the legislator, express or implied, that he will restrain every other person from depriving him of that thing, or from troubling him in the use or enjoyment of it. How is it that a man acquires a right to *do*, or to *forbear* any *act*? By the declaration of the legislator, that he may do or forbear it; joined to a promise of the legislator, express or implied, that he will restrain every other person from constraining him to forbear the one or to do the other. ... [W]hen men talk of a law of nature, they mean only certain imaginary regulations, which appear to them to be fit and expedient. (Lind, *Three Letters*)

In addition to his skepticism concerning a *natural right* to absolute liberty, Lind also rejects absolute liberty as pragmatically *undesirable*:

And can you seriously imagine, Sir, that a full and perfect liberty, that is a total absence of coercion, of constraint and restraint, is among the things to which every member of society should have an established, unalienable right?

You cannot think so; for though you will not allow that “it belongs to the nature of government to entrench upon private liberty”; yet in the same breath you allow that government may *restrain* liberty, because liberty may “be used to destroy liberty.”

Supposing the law of Nature to have been produced; supposing it to have established the right of liberty, still that right cannot be *unalienable*. It must, to a degree at least, be alienated in a State of Society, if by Society you mean, as it appears that you do mean, a state of government. Such a state implies Laws. All laws are coercive; the effect of them is either to restrain or to constrain; they either compel us to do or to forbear certain acts. The law which secures *my* property, is a restraint upon *you*; the law which secures *your* property, is a restraint upon *me*. By what magic then is it that you contrive to bestow on every member of society an unalienable right to be free from that restraint, which is one of the two cements, by which, and by which alone, society is held together? (Lind, *Three Letters*)

Here Lind shows himself a rather uncharitable interpreter. Price has made his position reasonably clear: no restrictions on liberty are permissible *except* restrictions on the “liberty” to invade *other* people’s liberty – so that liberty is subject to no restriction except those already explicit within it. As Clara Dixon Davidson and Murray Rothbard have pointed out,<sup>7</sup> once one has said that everyone is to be free, the clarificatory rider “so long as they refrain from interfering with one another’s freedom” is, strictly speaking, redundant.

Another of Lind’s arguments is a charge of hypocrisy against the American revolutionaries who demand freedom for themselves while at the same time upholding slavery:

How came there to be slaves in your land of liberty? Are rights, which can neither be forfeited by conquest, nor ceded by compact, nor purchased by obligation alienable by a change in the colour of the skin? Why did not these sons of liberty restore their slaves to rights, which the one could not acquire, nor the other alienate? (Lind, *Three Letters*)

This argument was a common one among English critics of the American Revolution; recall Samuel Johnson’s question “How is it that we hear the loudest yelps for liberty among the drivers of negroes?” (*Taxation No Tyranny*, 1775) But while a charge of hypocrisy may be fairly leveled against many supporters of the Revolution, it fails against Price, who was a firm

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<sup>7</sup> Davidson, “Relations Between Parents and Children,” *Liberty* 9 (3 September 1892), pp. 3-4 <<http://praxeology.net/CDD-RPC.htm>>; Rothbard, *Power and Market*, Ch. 6, Sec. 5 <<http://mises.org/rothbard/mes/chap18a.asp>>.

opponent of slavery, as this passage from his 1784 *Observations on the Importance of the American Revolution* shows:

The Negro Trade cannot be censured in language too severe. It is a traffick which, as it has been hitherto carried on, is shocking to humanity, cruel, wicked, and diabolical. I am happy to find that the united States are entering into measures for discountenancing it, and for abolishing the odious slavery which it has introduced. 'Till they have done this, it will not appear they deserve the liberty for which they have been contending. For it is self-evident, that if there are any men whom they have a right to hold in slavery, there may be *others* who have had a right to hold *them* in slavery. (Price, *American Revolution*, 1784)

Some of Lind's arguments are more telling, however. Lind raises several objections to Price's idea of every man being his own legislator. One is that the notion of a legislator requires a nonlegislator subject as its correlative:

"Every man is his own legislator" ... implies a flat contradiction; that it supposes a relative without a correlative; a sovereign without a subject. ... One is somehow accustomed to imagine, that to constitute one person a legislator, a second person, at least, is required. If one person be to issue commands, there must be, according to common apprehension, another person, to whom these commands are to be addressed. (Lind, *Three Letters*)

Another objection is that once one grants that the only alternative to the status of slave is the status of legislator, the intermediate status of women is thereby abolished; if they are not to be slaves, then they too – absurdly, as Price supposes – must likewise be legislators:

Are women included in the rank of legislators? But I beg pardon; I need not have asked the question ... in your free state shall they be degraded to slaves? ... Good Doctor, reprint this sheet; add, but in *capitals*, – "EVERY WOMAN IS HER OWN LEGISLATRIX." – These words alone will sell at least nine more editions of your work. ... (Lind, *Three Letters*)

But Lind's chief (and strongest) objection to the concept of every man's being his own legislator is Price's aforementioned conflation of individual with collective self-government.

In stating your principles, another thing seems to have escaped you. This distinguished principle lords it paramount over the rest; or rather, like Aaron's rod, swallows them all, and with them government itself. Let it be once determined "that every man us is his *own legislator*": and to be consistent, you must, I think, go one step farther; you must declare, that, in order to preserve unimpaired "the dignity and privilege of our nature," all

society be instantly dissolved. To what purpose assemble this herd of legislators? Not with a view of uniting them under any form of government, not even with a view of framing any thing like a political union. All political union implies more or less of superiority on one part, and subordination on the other. But every idea of subordination must alarm our legislators; each, like the fretful porcupine, will raise his bristles, and wound the hand that would unite them.

But perhaps you do not mean, Sir, (and clear as your ideas are, I can only *guess* at your meaning) that *each* individual is to be a legislator to *himself alone*, but that *all* are to be legislators to *all*. On the one hand you assert, that every man is to be, not *a* legislator, or a *part* of the legislature, but his *own* legislator; on the other hand, and at the same time, you assert, that the creation, origination, direction, and choice of government belong to the *people*; are to be established by *common* consent. In the first assertion it should seem, that in a free state each man is to be as independent of every other man, as the king of England of the king of Spain; every man is to do what seemeth right in his own eyes, without any restraint whatever from any other man. In the other assertions it should seem that each man is to co-operate with every other man in the making of laws, which are to bind not himself alone, but with him every other man. In short, *all* are to make laws for *all*. ...

Let us suppose a state, Sir, neither numerous nor extensive .... In this happy little state, all laws are to be made by common consent; nothing is to have the force of law, to which every man shall not have consented. ... Our legislators meet: John proposes to establish a new mode, in which he chuses to direct the affairs of state; ninety-nine of the legislators side with him. Thomas proposes another mode; ninety-eight side with him. What is to be done? Neither will give up. Must Thomas and his friends separate, and form another potent state? or must the mighty legislators submit to slavery? For slaves they must be, since the mode is not of their choice; since the laws are not established by their consent. So at least you tell us. ... [H]ow impossible it is to argue seriously with a man, who dignifies with the name of *principles*, a set of phrases, to which he had affixed no precise ideas; who gives us, as principles of *government*, such unguarded assertions, as are *destructive* of all government. (Lind, *Three Letters*)

In short, Lind is offering Price the following trilemma: either self-government is to be individual, or it is to be collective and majoritarian, or it is to be collective and unanimitarian. If it is to be individual, then all government is illegitimate, and we are left with anarchy – which Price does not favour. If it is to be collective and majoritarian, then the minority will be subject to the arbitrary will of the majority – which clashes with liberty as Price himself has defined it. If it is to be collective and unanimitarian, then either nothing can be done until universal consensus is reached (in which case paralysis and deadlock will be the norm)

or else dissenting groups are free to go their own ways (in which case we are back with anarchy again). In short, anarchism represents the only consistent implementation of the principles of the Revolution.

The spectre of anarchy is raised once again in the following passage:

Liberty we have said is the absence of coercion. *Perfect* liberty would be a total absence of coercion. *Civil* liberty means not this. It means only a *partial* absence of coercion; and that enjoyed by one or more of that class of persons in a state of civil or political society, who are called *subjects*; and with respect only to others of that *same* class. How is this liberty created by law? *to* whom and *against* whom is it given? It is given to that class of subjects, upon whom the law does *not* operate, and against all other subjects upon whom the law *does* operate. ...

We may perhaps be told that this idea of civil liberty is imperfect; that civil liberty includes an absence of coercion, with respect not only to all others of the class called *subjects*, but likewise with respect to that person, or assemblage of persons, who are called *governors*. I profess I do not see how this can be established by law. Law we have said is the expression of will. That person, or assemblage of persons, the expression of whose will constitutes law, are governors. Is it then likely, is it indeed possible that they should give liberty against themselves? The very attempt to do it, I mean directly and openly, would be destructive of civil liberty, properly so called .... [I]n proportion as the power of the governors has been openly and directly checked, the civil liberty of the subject has been checked with it. The governors, as such, could not indeed infringe the liberty of the subject, but then neither could they protect the accused against the abuse of power on the part of the magistrate, nor the feeble against the oppression of the more powerful individual. Add to, that when this impotence of the *governors* has produced, as it naturally *must* produce, a state of anarchy and confusion, they have been compelled to have recourse to the most violent methods to protect the state ....

Here no doubt, sir, you will be disposed to tell me that I am teaching that doctrine, than which nothing appears to you to be more absurd; I mean that the legislature of a free country is omnipotent. This doctrine, absurd as it may appear to you, unpopular as you, and the party you serve, have endeavoured to render it, I always have, and always shall avow. I know of no bounds which can be set to the supreme power; the very term of *supreme* power precludes the idea. (Lind, *Three Letters*)

In short, Lind's point is as follows. It is part of the very notion of government that those who are doing the governing enjoy rights of coercion *vis-à-vis* their subjects that their subjects do not enjoy *vis-à-vis* the governors. Or as we might put it in a modern context, government is by definition a monopoly. Any talk of *equal liberty*, then, represents an assault not just on

some particular government but on government *per se*.<sup>8</sup> Moreover, since government is generally agreed to be essential to the preservation of liberty, any attempt to restrict its powers represents a threat to liberty. Price's libertarian principles are thus both theoretically incoherent and practically dangerous.

Price has the more attractive principles, but Lind, I think, wins the argument. *If* one grants, as Price does, the necessity and legitimacy of the monopolistic institution known as government, then one faces both conceptual and pragmatic obstacles to implementing the ideal of equal liberty. In other words, Lind makes a persuasive case for the conclusion that the principles of the American Revolution, as expounded by Price, cannot be implemented except in anarchy.

This conclusion is of course intended by Lind as a *reductio ad absurdum* of Price's principles, just as his jibe about every woman being her own legislatrix was also. But in both cases, one thinker's *modus tollens* is another thinker's *modus ponens*. It is no coincidence, I think, that we see an explosion of anarchist thought emerging in the wake of the American Revolution, beginning with Godwin's *Enquiry* (which he acknowledged was partly inspired by Paine's aforementioned description of orderly statelessness in the colonies) and running on in different ways through Warren, Fichte, Proudhon, Hodgskin, Molinari, and Spencer. By challenging the established government in the name of natural liberty and equality, and no longer, as at the beginning, solely in the name of traditional charters, the American Revolution brought the issue of anarchism to the foreground – and the opponents of that Revolution, like Seabury and Lind, in polemically “reducing” revolutionary principles to their logical extreme arguably ended up – decidedly contrary to their intentions! – contributing to the rise of anarchist theory.

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<sup>8</sup> For a similar point, see my own “Equality: The Unknown Ideal,” Mises Institute, 29 September 2001 <<http://www.mises.org/story/804>>, and “Liberty: The Other Equality,” *Freeman* (October 2005), pp. 17-19 <<http://www.fee.org/pdf/the-freeman/0510Long.pdf>>.