



New York Historical Society

New Yorkers pull down the statue of King George III on July 9, 1776.

Law & Government: Hamilton vs. Hobbes

Jan. 3—Between late 1774 and early 1775 an exchange of five public letters took place between Alexander Hamilton and an individual who wrote under the pseudonym A.W. Farmer (A Westchester Farmer). At the time, A.W. Farmer's identity was unknown, but it was later revealed as Samuel Seabury, a prominent Anglican clergyman and a devoted loyalist to Britain during the American Revolution. Seabury later became the first American Episcopal bishop.

In three widely circulated public missives—"Free Thoughts on the Proceedings of the Continental Congress," "The Congress Canvassed," and "A View of the Controversy between Great Britain and her Colonies"—Seabury proclaimed not only his irrevocable

loyalty to the British Crown, but in the last of the three documents, he is explicit in his demand that the colonies must submit to the "rule of law," i.e., they must obey the legal dictates of the British Crown and Parliament.

Hamilton wrote two replies to Seabury (A.W. Farmer), and it is in the second of those replies, titled "The Farmer Refuted," that the then eighteen-year-old Hamilton strikes directly at the foundation of oligarchical law.

Written in February of

1775, two months prior to the battles of Lexington and Concord, "The Farmer Refuted" goes beyond Hamilton's first response to Seabury, wherein he had argued for the right of the newly formed Continental Congress to resist oppressive measures emanating from London; rather, in "The Farmer Refuted" Hamilton goes to the very heart of the matter at hand, i.e., the actual nature of law and government itself. Addressing "A.W. Farmer" directly, Hamilton says:

There is so strong a similitude between your political principles and those maintained by Mr. [Thomas] 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, ac-

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cording 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.

Upon this law, depend the natural rights of mankind: the supreme being gave existence to man, together with the means of preserving and beatifying 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; except that which arose from the ties of consanguinity.

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 entrust, 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.

When human laws contradict or discountenance the means, which are necessary to preserve the essential rights of any society, they defeat the proper end of all laws, and so become null and void.

Hamilton's reference to Thomas Hobbes is not capricious, for it was Hobbes, in his *Leviathan* (1651), who first enunciated the explicit doctrine of man-made Positive Law as supreme over human society, a theory of law divorced from any universal concept of morality or the human identity. So-called man-made "positive law" is grounded in the Thomas Hobbes/Adam Smith/Jeremy Bentham belief that human beings are beasts, motivated by the animalistic desire for the "pursuit of pleasure and avoidance of pain." The "rule of law," as defined by Hobbes, is a system of man-made law divorced from any higher concept of natural law, and it is to be imposed on the population through arbitrary rules, to which the people are required to submit.

In truth, this British concept of law, a notion of law designed to govern an oligarchical empire, was created in order to overturn and eradicate earlier Christian concepts of law, such as that of St. Thomas Aquinas, who asserted the primacy of natural law over man-made law, stating that where "it [man-made law] is at variance with natural law it will not be a law, but spoilt law."

Centuries later, in his *Letter from a Birmingham Jail* (1963), Dr. Martin Luther King would write:

A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law.