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Special Edition: Tribute to the late Professor John Tiley

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Locke, Hume, Johnson and the continuing relevance of tax history

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Abstract

This paper examines the relevance of the tax theories of John Locke and David Hume in the context of a new country (say, an independent Scotland) being faced with a change of tax system. It shows that events of the past have a continuing resonance in a modern context in respect of establishing a sound theoretical underpinning for a tax system, which then provides a broad, over-arching framework for the development of taxes which align with it. This is then demonstrated by showing how Samuel Johnson used Locke's theory to defend keeping the American colonies as part of Great Britain.

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1 INTRODUCTION

The study of history is often lambasted for being of no use. Henry Ford² famously said that it is ‘more or less bunk’, while the philosopher Hegel (1830) was of the view that mankind learned nothing from it. Perhaps this is because we can only see similarities between events with the clarity of hindsight: when they occur, they often appear unique to those experiencing them because they have not lived through anything similar. Even if something has occurred before, for example, a war, it may arise in a guise such that, at the time, the similarities with past events are not obvious. All this is likewise true of tax history as a specific type of history. Do we, for example, when contemplating changes to a taxes or a tax system, look back to consider the history or effect of past changes? The record would suggest not. Would a government fully conversant with the deep unpopularity of poll taxes in the past in England ever have considered introducing another one?³ Yet this is exactly what happened with the introduction in 1980 of the Community Charge, which was a poll tax. The Community Charge fulfilled all the requirements and characteristics of a ‘good’ tax apart from one – fairness/equity (see James, 2012) – in that it did not differentiate between the personal circumstances of taxpayers (vertical equity). It gave rise to such a level of civil dissension, however, that it was rapidly replaced by another form of taxation.

Over time, many newly independent or newly established sovereign states have been confronted by the need to set up a tax system, either ‘from scratch’, as in the case of Eastern European countries, following the break-up of the Soviet bloc in the 1990s, or by adopting a legacy system bequeathed by a colonial power (see Stewart, 2002, p. 9, citing Thirsk, 1997). In the UK, Scotland faces potentially the same kind of issues if the outcome of the 2014 referendum is in favour of independence, many of which would be similar under further devolution. However, this is not the first time that the UK has faced this kind of separation. It did so when the Irish Free State (now Republic of Ireland) was established as a separate state in 1921, and when former colonies became independent states, though the process was often quite long in legal terms, with countries being, for example, British Dominions for a time, though this was not always so, as in the case of America. Equally, Britain has faced integration with other sovereign states, notably in the case of Scotland, in 1707. Potential Scottish independence focuses attention again on tax and tax systems and what might be appropriate if there is a greater degree of separation or independence from a larger entity. In this context, the vying for dominance between the political theory of John Locke (as utilised by Samuel Johnson) and David Hume can shed light on the continuing relevance of tax history.⁴

For the characteristics of a ‘good’ tax, it is usual to refer to the concepts (or canons) of equity/proportionality, certainty, convenience and efficiency put forward by Adam Smith in Book 5 of his work, *An Inquiry into the Nature and Causes of the Wealth of Nations*, published in 1776. Later theorists have added neutrality, correction/control/influencing of behaviour, flexibility, simplicity, fairness, accountability and acceptability (in respect of behaviour of governments and

²See the entry under ‘Henry Ford’ (p. 289) in *The Oxford Dictionary of Quotations* (1996).

³The 1377–1380 poll taxes were famously responsible for the Peasants’ Revolt, but ‘poll taxes continued to be imposed by English governments strapped for cash throughout the fifteenth, sixteenth and seventeenth centuries’ and remained ‘deeply unpopular’ (Sims, 2010, p. 121).

⁴The ideas developed in this paper were first outlined in a review of the development and spread of tax ideology in Frecknall-Hughes, J. (2007), ‘The Concept of Taxation and the Age of Enlightenment’, in J. Tiley (ed.), *Studies in the History of Tax Law II*, Hart Publishing, Oxford and Portland, Oregon, pp. 253–286.

individuals) (see Myddelton, 1994; Daunton, 2001). The most recent review of the UK tax system, the *Mirrlees Review* (Mirrlees, 2010, 2011) accepted Smith's canons as commanding 'near-universal support' but felt that 'they are not comprehensive' (Mirrlees, 2011, p. 22). Considerable amounts of thought have been expended by theorists in considering the principles which should ideally underpin a tax system – and taxes generally – but not all thinkers would necessarily concur with the characteristics detailed above. The American Institute of Certified Public Accountants (AICPA), for instance, produced in 2001 a document which outlined ten guiding principles for good taxes, which includes some of the above, but not all. The Tax Faculty of the Institute of Chartered Accountants in England and Wales (ICAEW) in its 1999 produced a similar discussion document (*Towards a Better Tax System*), which commented that the UK tax system was 'far too complex', 'full of anomalies', 'caught in a culture of never-ending change' and 'lacking in democratic control' (p. 3). This document (pp. 4–5) also suggested ten principles for a better tax system: taxes should be statutory (that is, enacted by primary, and not delegated, legislation), certain, simple, easy to collect and calculate, properly targeted, constant, subject to proper consultation, regularly reviewed, fair and reasonable, and competitive.

Richard Murphy, in his 2007 *A Code of Conduct for Taxation* (a voluntary code of behaviour based on the United Nations' *Universal Declaration of Human Rights*) has also been critical of Smith's canons, which he deems 'outmoded' (p. 8), because they (p. 9):

fail to recognise the obligation of the State to the citizen with regard to the provision of public goods, and relate primarily to the practice of taxation rather than the principles that underpin it.

On pp. 9–10, Murphy sets out a series of principles, derived from articles within the *Universal Declaration of Human Rights* (although the *Declaration* itself makes no reference to taxation), which are that the State should: protect its citizens; provide public goods; not discriminate in protection/provision; democratically determine its provision; be unconstrained by the action of another state; and levy taxation, which must respect the right to hold private property; must be imposed by law; must not be arbitrary; and must apply to all citizens. Citizens must pay the tax due by them, but can appeal against it, although they must disclose all relevant data to the State. Citizens do have the right to leave, in which case they lose their right to State protection and provision, but would not be obliged to contribute to its maintenance.

The issue of principles as opposed to practice is a dominant theme when considering tax theory as propounded by Locke and Hume and as put into practice by Johnson (the focus of this paper), and have considerable resonance in a modern context. The development of tax ideology is not often examined in academic accounting, law or business journals, though there is now work looking at the historical development of taxation, in its own right (for example, Frecknall-Hughes and Oats, 2004; Frecknall-Hughes, 2010) and its relationship with accounting regulation, practices and accountability (Hoskin and Macve 1986; Freedman and Power, 1992; Picciotto, 1992; Lamb, 1996; Bryer, 2000; and Hopwood and Miller, 2000). However, Lamb (2001, p. 295) comments that '...we need a better understanding of how tax law, rules and procedures have emerged and have been applied in practice'. One way of meeting this need is by considering how men's thoughts on taxation have led to the development of such law, rules and procedures. This necessitates delving into the distant past, when ideas of what government should and should not do were being debated – and this forms

the justification for this paper. This is not a new debate, but one which has, quite literally, raged for centuries.

The rest of the paper is structured as follows. Section 2 examines John Locke's theory of taxation in detail, followed by a consideration of David Hume's and Samuel Johnson's views in Sections 3 and 4 respectively. Section 5 offers the paper's conclusions.

2 JOHN LOCKE'S THEORY OF TAXATION

Locke (1632–1704) was a leading English figure at the forefront of the phenomenon which came to be known as the Enlightenment (c1688–1800), also referred to as the 'long' eighteenth century. This period was characterised by radical shifts in thinking, typically moving away from unswerving obedience to religious beliefs towards rationalism and the supremacy of things or facts that could be scientifically proved, with ideas increasingly committed to writing. Some scholars do not accept the Enlightenment as a separately identifiable phenomenon, seeing it rather as a development in the history of ideas (see Israel, 2002, p. 24, and 2006; and Porter, p. 3). Locke, for example, knew well the scientists Robert Boyle, Robert Hooke and Isaac Newton – and was himself heavily involved in the political movement which saw James II ultimately replaced by William and Mary in the 'Glorious Revolution' of 1688. All this, following personal experience of a period which saw the English Civil War, the execution of Charles 1, the Cromwellian Protectorate (with the abolition of the House of Lords and the Anglican Church), the demise of the Protectorate and the restoration of Charles II, meant that for Locke, thinking from first principles was the usual thing to do. In *An Essay Concerning Human Understanding, Epistle to the Reader* (1690a, pp. 9–10), he saw himself as 'clearing the ground a little, and removing some of the rubbish that lies in the way to knowledge', and starting with a blank slate (*tabula rasa*), in everything from the generation of ideas to the development of political systems. This extended to his thinking about taxation. However, one cannot explore Locke's approach to taxation without first considering his views on private property and government.

In *The Second Treatise of Government* (1690b, II.2.26), Locke develops a theory of private property, basing this on the development of man from a state of nature to civil society, where natural law principles mean that man has a right to own the product of his own labours, including land which he has worked. There are, however, many different interpretations of Locke's theory of property (see, for example, Tully, 1980, 1993a, 1993b, 1994, 1995; Arneil, 1996; Buckle, 2001). His basic idea is that there was enough for everyone, but this was altered by greed and the introduction of money, enabling possession and exchange of goods which men might otherwise have acquired by labour (Locke, 1690b, II.5.48). This distorted economic proportions and created frictions, which were made worse by an increase in the population. Government then became necessary to ensure that people could live together harmoniously.

Men being, as has been said, by nature free, equal, and independent, no one can be put out of this estate and subjected to the political power of another without his own consent, which is done by agreeing with other men, to join and unite into a community for their comfortable, safe and peaceable living, one amongst another, in a secure enjoyment of their properties, and a greater security against any that are not of it. This any number of men may do, because it injures not the freedom of the rest; they are left, as they were, in the liberty of the state of Nature. When any number of men have so consented to

make one community or government, they are thereby presently incorporated, and make one body politic, wherein the majority have a right to act and conclude the rest.

Locke, 1690b, II.8.95

Political power, then, I take to be a right of making laws with penalties of death, and consequently all less penalties, for the regulating and preserving of property, and of employing the force of the community, in the execution of such laws, and in defence of the common-wealth from foreign injury; and all this only for the public good.

Locke, 1690b, II.1.3

Elsewhere in *The Second Treatise of Government* (1690b, II.8.99), Locke reinforces the idea that uniting into a community means that individuals surrender power to the will of the majority. Individuals agree to abide by a majority decision, in return for the benefits obtained by living as a member of the community – protection of life, health, liberty and property. This is Locke's form of social contract theory. However, individuals must be prepared to pay for these benefits by paying taxes.

It is true that governments cannot be supported without great charge, and it is fit every one who enjoys his share of the protection should pay out of his estate his proportion for the maintenance of it. But still it must be with his own consent – i.e., the consent of the majority, giving it either by themselves or their representatives chosen by them; for if any one shall claim a power to lay and levy taxes on the people by his own authority, and without such consent of the people, he thereby invades the fundamental law of property, and subverts the end of government. For what property have I in that which another may by right take when he pleases himself?

Locke, 1690b, II.11.140

Therefore an individual living in a community has, by his decision to live in that community, given consent to paying tax to pay for the benefits he derives. Locke is keen to stress that it is only a legitimate government which can impose taxes and can take part of a man's 'estate' in payment. Any other sort of taking away of property, even by a government, is wrong. Protection of property and assets was very much the order of the day. O'Brien and Hunt (1993, p. 170) comment, for example, that the fiscal system established after the 'Glorious Revolution' actually was such that it provided funds to protect not only Britain, but also her 'hegemony over the international economic order'.

...the supreme power cannot take from any man any part of his property without his own consent. For the preservation of property being the end of government, and that for which men enter into society, it necessarily supposes and requires that the people should have property, without which they must be supposed to lose that by entering into society which was the end for which they entered into it; too gross an absurdity for any man to own....For I truly have no property in that which another can by right take from me when he pleases against my consent. Hence it is a mistake to think that the supreme or legislative power of any common-wealth can do what it will, and dispose of the estates of the subject arbitrarily, or take any part of them at pleasure.

Locke, 1690b, II.11.138

There is inherent contradiction in the idea that a government's primary function is the protection of property while at the same time it has the right to take it away, the citizen's agreement to which, by a voluntary alienation of rights, is at odds with his right to private property. Locke's predecessor, Thomas Hobbes, also felt that levying taxes was justifiable as the price of protection (see Jackson, 1973, pp. 176–177). However, the implicit tension in these concepts is something that remains with us to this day. The renowned thinker, Richard Epstein, in his examination of the US tax system from a Lockean viewpoint, also comments on this fundamental contradiction. Taxation is (1986, p. 49):

...the power to coerce other individuals to surrender their property *without* their consent. In a world – a Lockean world – in which liberty is regarded as good and coercion an evil, then taxation authorizes the sovereign to commit acts of aggression against the very citizens it is supposed to protect.

No government can exist without taxation – but taxation is 'institutionalized coercion'. The dilemma is 'how to preserve the power of taxation while curbing its abuse' (Epstein, 1986, p. 50). Locke, when read in context, was aware of this dilemma, hence his stress on the need to adhere to a majority decision, although this could mean that a sizeable minority might disagree. However, as Locke explicitly says (1690b, II.11.138, cited earlier), a legislative power cannot act wilfully or arbitrarily, so the power to tax must be regarded as limited. Taxation is justified as the means to provide benefits in return for surrender of individual rights.

Locke's comments in *The Second Treatise of Government* (1690b, II.11.140) are the only direct comments he makes about taxation, and, needless to say, have been the subject of much debate as to their exact meaning. What, for example, does he mean by 'estate'? The word is capable of several different interpretations, from the concept of what a person might own generally through to specific amounts of land – meanings which it still has today. This has led some to suggest that only landowners were envisaged by Locke as having to pay tax, rather than everyone, as the possession of land at this time conferred the right to vote (see Cohen, 1986, p. 301). However, in his pamphlet, *Some Consideration of the Consequences of the Lowering of Interest, and Raising the Value of Money* (1691), Locke does suggest that the 'publick charge' of government must be borne by landholders as merchants and labourers will not and cannot bear it (cited by Dome, 2004, p. 12, Note 6). Similarly, the use of the words 'proportion for the maintenance of it' ('it' being 'protection', by reference to the earlier part of the sentence) has caused debate. The use of 'proportion' inherently suggests some form of equity or fairness, which may or may not translate to progressive or proportionate taxes (in the modern sense of these terms – see Byrne, 1999), but the linking of the concept to the 'maintenance' of protection leaves the way open for debate on whether tax should be paid in relation to income/assets or on some consumption basis. At this remove in time, if Locke had precise intentions, we shall probably never be able to tie them down. However, it may be the case that he used words that would allow for the development of a tax system along one of several possible lines, and was doing no more than establishing a broad framework, with a philosophical underpinning, which would encompass this. As a political activist, Locke was aware of the innate power of words and did not acknowledge his authorship of *The Second Treatise of Government* during his lifetime, thinking it too dangerous to do so. It is not

unreasonable to suggest that the inherent potential for different interpretations of his words is therefore deliberate.

3 DAVID HUME AND THE DESTRUCTION OF SOCIAL CONTRACT THEORY

Not all theorists have accepted the concept of the social contract as the basis for civil government, even in theory. The destruction of ‘the Lockean concept of social contract theory’ (Werner, 1972, p. 439) is widely attributed to David Hume (1711–1776), another key Enlightenment thinker. Not all scholars accept social contract theory as a validation for the development of government, even as a useful theoretical device.

Governments have existed throughout recorded history, and all primitive societies today display at least a judicial system enforcing a customary law. Since, in known history, government of some sort has always existed, social contracts cannot have created governments and thus rights. In fact...the causal relation probably runs the other way: rulers themselves (legislatures, executives, judges) have generated property rights, hoping to encourage efficiency, and doubtless, also, to increase tax income.

Riker and Sened, 1991, p. 952

This opinion reflects David Hume’s, and subsequently Jeremy Bentham’s, rejection of social contract theory. Bentham (1748–1832) particularly rejected the idea of natural rights, the state of nature, and the social contract. His view was that men had always lived in society, so there could be no such thing as natural rights or a state of nature, such as Locke advocated, and so, no social contract. Such an idea would entail freedom from restraint, and from all legal restraint. As a natural right would have to come before any law, it could not be limited by law. For meaningful rights to exist implies that no one else can interfere with them, so they must be enforceable, which is the domain of the law (Molivas, 1999).⁵ The law protects the interest of the individual – and, by extension, his economic interest and his personal goods and property.

Hume spent some time (1734–1737) in France, and was for a time a friend of the social contract theorist, Jean Jacques Rousseau, for whom he provided sanctuary in England in 1766, although Rousseau accused Hume of conspiring to ruin his character (see Zaretsky and Scott, 2009). Hume’s world was different in many ways from Locke’s, especially in financial terms. Scotland had been involved in the disastrous Darien schemes, to set up colonies in the late 1690s on the Isthmus of Panama, which had lessened resistance to its formal political union with England in 1707, though there was still protest against this; there were the various Jacobite rebellions (1689–1692, 1715, 1719 and 1745); the South Sea Bubble had burst in 1720; the Bank of England had been established (1694) and the National Debt to fund Britain’s wars, notably the War of the Spanish Succession (1702–1713) and the War of the Austrian Succession (1740–1748) (see Dome, 2004, p. 1). This ‘Financial Revolution’⁶ was an alternative to raising money by taxes, but nonetheless required tax money to fund interest payments, which Hume felt was a burden on the populace. He wrote about this and the threats posed by public debt, including the possibility of public bankruptcy in his essay *Of Public Credit* (1742). Hume wrote extensively on moral and political philosophy, but it is very

⁵Bentham’s view was that tax could only be imposed by law (Bentham, 1793, 1794, 1795, 1798 and c. 1798: Bentham’s thoughts on the subject are spread across a number of different works (see Steintrager, 1977; and Dome, 1999)).

⁶This term is usually attributed to Dickson (1967).

difficult to unravel the sequence of his works and the development of his ideas, as he re-wrote and re-published major works under different titles and his thoughts on a particular subject may not be confined to a given work.

In his essay *Of the Original Contract* (1748), Hume argues that governments are founded by violence,⁷ not contractual agreement, rejecting Locke's theory of tacit consent. His essay considers the philosophical differences between the Tories and the Whigs on the origin of government and concurs with the Tory thinking that political power derives from divine right: the Whigs adopted Lockean theory. In the essay *Of the First Principles of Government* (1741), he suggests that protection of the public interest and of the rights to power and property are the basic reasons for the establishment of government, arguing in *Of the Origin of Government* (1777)⁸ that the objective of government is to maintain justice (see Kelly, 2003, p. 211).

There is thus in Hume's thinking no underpinning social contract theory to validate the imposition of taxes. What then can be the basis for the legitimate imposition of taxes? This presents a considerable theoretical and philosophical dilemma, not directly addressed by Hume. Dome (2004, p. 3) suggests that Hume, despite his concern about public debt, 'did not put forward an efficient system of taxation which could avoid national bankruptcy' and (p. 5) 'left to future generations the problem of how to establish a system of public finance compatible with liberal and commercial society'. There are some indications of his thinking, however, running through various works. From Book 3 of the *Treatise of Human Nature* (1739–1740) and from *An Inquiry Concerning the Principles of Morals* (1751), he contends that justice is an artificially derived concept aimed at protecting the ownership of property and the performance of promises, which it requires the authority of a government to enforce. Rules are invented to promote a peaceful society. Paying taxes thus may be seen as a civil duty in support of the type of society that is desirable.

However, *An Inquiry Concerning Human Understanding* (1748) might provide another basis. Although in this work Hume is concerned in part with how senses receive impressions and how ideas in accordance with these impressions link to a causal principle, he posits that there is no reality underlying these impressions. Werner (1972, p. 440) comments:

Reality can be found only in a continuously changing aggregate of feelings bound together by a psychological or social force known as custom. Custom thus replaces *a priori* reason as the subjective basis of beliefs about causation in external and human nature.

If one cannot develop a theory from first principles, as Locke does in *The Second Treatise of Government*, then one may be forced to accept things which exist (including taxation) because they have been come about as a result of custom – though this can be changed. Hume makes this clear in *Of the Original Contract* (1748, pp. 275–276).

When a new government is established, by whatever means, the people are commonly dissatisfied with it, and pay obedience more from fear and necessity, than from any idea of allegiance or of moral...Time, by degrees, removes all these difficulties, and accustoms the nation to regard, as their

⁷Because, for example, there was not enough of everything to go round.

⁸This work is generally dated 1777, which is after Hume's death, so it would appear to have been published posthumously.

lawful or native princes, that family, which, at first, they considered as usurpers or foreign conquerors.

He is aware, however, that not all customs are good ones, especially in regard to taxation.

The greatest abuses, which arise in France, the most perfect model of pure monarchy, proceed not from the number or weight of taxes, beyond what are to be met with in free countries; but from the expensive, unequal, arbitrary, and intricate method of levying them, by which the industry of the poor, especially of peasants and farmers, is, in great measure, discouraged, and agriculture rendered as beggarly and slavish employment.

Hume, *Of Civil Liberty*, 1741, p. 54

The ‘method of levying’ is clearly addressed by Smith’s four canons. Hume comments that the nobility too suffer as a result of this: estates are ruined, tenants beggared and only financiers gain.

If a prince or minister, therefore, should arise, endowed with sufficient discernment to know his own and the public interest, and with sufficient force of mind to break through ancient customs, we might expect to see these abuses remedied.

Hume, *Of Civil Liberty*, 1741, p. 54

Hume’s approach is strongly practical in many things, despite his standing as a philosopher. For example, in the essay *Of Taxes* (1752), he discusses how increased taxes may be dealt with by workers by increasing their labours, rather than by receiving higher wages, drawing a comparison with working in countries with harsh climates: workers must labour harder to overcome such a natural disadvantage. While Hume does not discuss taxation theory here, he does concede, however, that it is preferable to tax the consumption of luxury items, rather than the necessities of life, as people often have a choice about whether or not to buy luxury items. He disliked arbitrary taxes, in which class he put land taxes, disagreeing with Locke that all taxes would finally fall on land (see Dome, 2004, pp. 2–4).

4 SAMUEL JOHNSON

Samuel Johnson (1709–1784) is best remembered for his *Dictionary* (1755) (see Drabble, 1998, pp. 512–513), his *Lives of the English Poets*, James Boswell’s biography of him, and for his significant position as a man of letters in his own time. However, he wrote a number of other works, including four political pamphlets in the 1770s, of which two directly related to taxation, namely, *The Patriot* (1774) and *Taxation No Tyranny* (1775). These both concerned the vexed question of the day – American taxation and representation.

Johnson was a contemporary of Hume and lived through a period when Lockean social contract theory vied for dominance with Hume’s newer ideas, although social contract theory seemed to be on the wane. Intriguingly, Adam Smith when writing *An Inquiry into the Nature and Causes of the Wealth of Nations*, published in 1776, the year Hume died, uses the language of social contract theory to express his now famous four canons of taxation – despite being an acknowledged disciple of Hume. His use of language is

sufficiently careful, however, so that any allegation of utilising social contract theory could be refuted. Johnson had an option as to which ideas about taxation to follow: Locke or Hume. Despite the ideas of Hume, Locke's writings remained immensely influential – and Johnson utilises Locke's theory to defend England's right to impose tax on the American colonies.⁹ The significance of Johnson's use of Locke's theory is that he applies it to an actual situation.

That man, therefore, is no patriot, who justifies the ridiculous claims of American usurpation; who endeavours to deprive the nation of lawful authority over its own colonies, which were settled under English protection; were constituted by an English charter; and have been defended by English arms.

To suppose, that by sending out a colony, the nation established an independent power; that when, by indulgence and favour, emigrants are become rich, they shall not contribute to their own defence, but at their pleasure; and that they shall not be included, like millions of their fellow subjects, in the general system of representation; involves such an accumulations of absurdity, as nothing but the show of patriotism could palliate.

He that accepts protection stipulates obedience. We have always protected the Americans; we may, therefore, subject them to government.

Johnson, *The Patriot*, 1774, pp. 8–9

The idea of taxation being the price paid for state protection is explicitly stated, and thus the link to Locke's ideas could not be clearer. Johnson returns to the same theme in *Taxation No Tyranny*.

...[T]hey who flourish under the protection of our government, should contribute something towards its expense.

Johnson, *Taxation No Tyranny*, 1775, p. 2

A tax is a payment, exacted by authority, from part of the community, for the benefit of the whole. From whom, and in what proportion such payment shall be required, and to what uses it shall be applied, those only are to judge to whom government is intrusted. In the British dominions taxes are apportioned, levied and appropriated by the states assembled in parliament.

Of every empire, 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 expense.

Johnson, *Taxation No Tyranny*, 1775, p. 4

Johnson is applying the broad, over-arching framework outlined by Locke. For Johnson, the colonies are part of Britain, as an arm or leg is a part of a body and the

⁹Johnson was heavily influenced by Locke. For example, his *Dictionary* is influenced by Locke's *Essay Concerning Human Understanding* (see McLaverty, 1986). He derives the third meaning he gives under the word 'property' from Locke, though he does not attribute it to any specific work.

potential independence of America would be like (he says) Cornwall setting itself up as an independent country: unthinkable.

In *Taxation No Tyranny* (1775, p. 7) Johnson specifically refers to the Americans enjoying ‘security of property’, by the grace of English law. If the Americans accept law, they must accept all of it: they cannot pick and choose the laws they want and reject the ones they do not want – and ‘by a chain which cannot be broken’ must accept ‘the unwelcome necessity of submitting to taxation’ (*ibidem*, p. 9). Colonists were always ruled by the terms of the original charter: they were not in a ‘state of nature’ (*ibidem*, p. 9¹⁰) as were the native inhabitants. While they cannot vote for representatives in an English parliament, this has been their choice.

As man can be but in one place, at once, he cannot have the advantages of multiplied residence. He that will enjoy the brightness of sunshine, must quit the coolness of shade. He who goes voluntarily to America, cannot complain of losing what he leaves in Europe. He, perhaps, had a right to vote for a knight or burgess; by crossing the Atlantick, he has not nullified his right; but he has made its exertion no longer possible. By his own choice he has left a country, where he had a vote and little property, for another, where he has great property, but no vote.

Johnson, *Taxation No Tyranny*, 1775, p. 10

They have not, by abandoning their part of one legislature, obtained the power of constituting another, exclusive and independent, any more than the multitudes, who are now debarred from voting, have a right to erect a separate parliament for themselves.

Johnson, *Taxation No Tyranny*, 1775, p. 11

Although Johnson does not add anything new in terms of ideas about taxation, he does show how a practical, real taxation issue can be addressed in Lockean terms. This is a very rare example of theory of this kind being applied in practice. The root question, really, is the point at which a colony becomes an independent state.

5 CONCLUSION

In examining the tax ideology of Locke and Hume, we see two different sets of ideas coming into play. The theoretical underpinning of Locke’s social contract theory provided a broad, over-arching framework fundamental to the imposition of taxes, which the American jurist, Oliver Wendell Holmes,¹¹ succinctly summed up as the price we pay for ‘civilized society’. This idea permeates modern society as well, in the notion that people should be prepared to pay taxes to fund society’s provision of benefits, whether they be law and order for the protection of property, as in Locke’s day, or modern day social services to support the less advantaged members of society. The over-arching theoretical framework also allowed Johnson to argue rationally for the retention of the American colonies under British rule: Britain protected them, *ergo* the colonies should pay tax and Britain had the right to impose it. There is a twofold wider resonance for today, first in the particular consideration of the fiscal elements a potential

¹⁰ A direct reference to Locke’s *Second Treatise of Government*, in which Locke refers a number of times to America and its native peoples as illustrative examples of the points he makes (see Lebovics, 1986).

¹¹ *Compania General De Tabacos De Filipinas v. Collector of Internal Revenue*, 275 US 87, 1904.

breakaway state might retain from being part of a larger political body, which is currently relevant to Scotland, whether starting or not ‘from scratch’. It might even be argued that there would be a reversion to a ‘state of nature’, in that the country would be recreated by descendants (in part, at least) of its original inhabitants. The second resonance is in the concentration on underlying tax principles, which is found in more modern documents critical of current taxes and the tax system (see especially Murphy, 2007, p. 9), rather than on several tenets ‘which relate primarily to the practice of taxation rather than the principles that underpin it’. The debate of principles over practice has regained dominance in recent years in discussions about whether the UK should have a general anti-avoidance (or anti-abuse) rule and is reflected in the calls to eschew avoidance schemes.

However, one cannot ignore practical matters. If individuals adopt the principle that they should pay tax, they also need to know how much to pay, so idealism needs to be tempered by practicality. While Hume was critical of the taxes of his day and of social contract theory, he did not propose any particular reforms or an ideology. It would have been impossible for Johnson to have defended Britain keeping the American colonies on the basis of any of Hume’s ideals, as there was no coherent underpinning theory. Hume lived at a time when England and Scotland were dealing with the practical difficulties of melding together the English and Scottish fiscal systems after the Union in 1707. It may be no coincidence that four of the leading political economists of the Enlightenment (Hume, Adam Smith, Sir James Steuart and Lord Kames¹²) were also Scottish. For Hume, it would, perhaps, have been difficult to imagine starting from first principles in order to bind together two systems, which had developed with varying degrees of complexity since the political ‘re-start’ of 1688: one had to live with what existed, and change it if one could. This situation resonates today. The UK tax system has become still more complex since the seventeenth and eighteenth centuries, and its tax legislation is one of the most voluminous in the world. We would not lightly contemplate sweeping away completely the existing taxation structure and replacing it with something entirely new. Innovation remains possible but, because of existing complexities, is better introduced by gradual implementation in accordance with an underlying policy or principle.

¹²Considerations of space preclude consideration here of Steuart’s and Kames’s writing about tax, but these would have been known to Hume and would have influenced him.

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