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Lysander Spooner, *No Treason. No. I* [1867]



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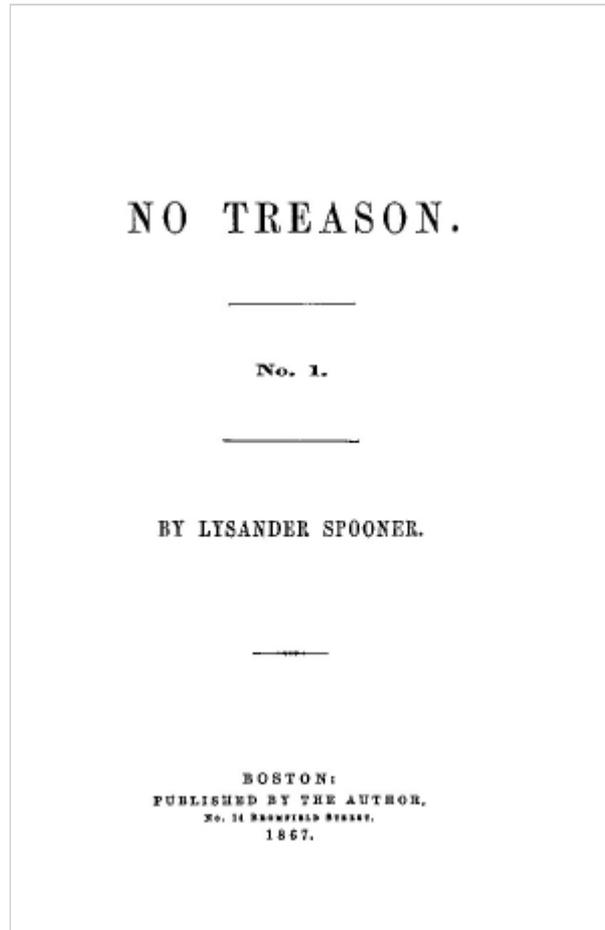
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About This Title:

Although this is numbered number 1 there were only three parts to this series (1, 2, and 6) in which Spooner argues that the individual is not bound to obey the American constitution because it justified slavery and otherwise violated individual rights.

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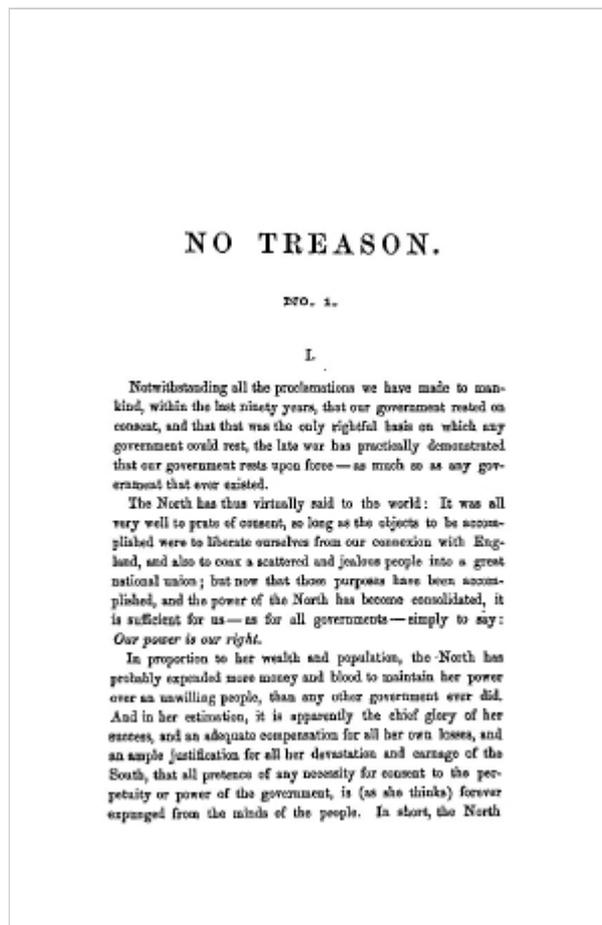


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in the Clerk's office of the District Court of the United States, for the District of
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INTRODUCTORY.

The question of treason is distinct from that of slavery; and is the same that it would have been, if free States, instead of slave States, had seceded.

On the part of the North, the war was carried on, not to liberate the slaves, but by a government that had always perverted and violated the Constitution, to keep the slaves in bondage; and was still willing to do so, if the slaveholders could be thereby induced to stay in the Union.

The principle, on which the war was waged by the North, was simply this: That men may rightfully be compelled to submit to, and support, a government that they do not want; and that resistance, on their part, makes them traitors and criminals.

No principle, that is possible to be named, can be more self-evidently false than this; or more self-evidently fatal to all political freedom. Yet it triumphed in the field, and is now assumed to be established. If it be really established, the number of slaves, instead of having been diminished by the war, has been greatly increased; for a man, thus subjected to a government that he does not want, is a slave. And there is no difference, in principle—but only in degree—between political and chattel slavery. The former, no less than the latter, denies a man's ownership of himself and the products of his labor; and asserts that other men may own him, and dispose of him and his property, for their uses, and at their pleasure.

Previous to the war, there were some grounds for saying that—in theory, at least, if not in practice—our government was a free one; that it rested on consent. But nothing of that kind can be said now, if the principle on which the war was carried on by the North, is irrevocably established.

If that principle be *not* the principle of the Constitution, the fact should be known. If it *be* the principle of the Constitution, the Constitution itself should be at once overthrown.

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NO TREASON.

NO. 1.

I.

Notwithstanding all the proclamations we have made to mankind, within the last ninety years, that our government rested on consent, and that that was the only rightful basis on which any government could rest, the late war has practically demonstrated that our government rests upon force—as much so as any government that ever existed.

The North has thus virtually said to the world: It was all very well to prate of consent, so long as the objects to be accomplished were to liberate ourselves from our connexion with England, and also to coax a scattered and jealous people into a great national union; but now that those purposes have been accomplished, and the power of the North has become consolidated, it is sufficient for us—as for all governments—simply to say: *Our power is our right.*

In proportion to her wealth and population, the North has probably expended more money and blood to maintain her power over an unwilling people, than any other government ever did. And in her estimation, it is apparently the chief glory of her success, and an adequate compensation for all her own losses, and an ample justification for all her devastation and carnage of the South, that all pretence of any necessity for consent to the perpetuity or power of the government, is (as she thinks) forever expunged from the minds of the people. In short, the North exults beyond measure in the proof she has given, that a government, professedly resting on consent, will expend more life and treasure in crushing dissent, than any government, openly founded on force, has ever done.

And she claims that she has done all this in behalf of liberty! In behalf of free government! In behalf of the principle that government should rest on consent!

If the successors of Roger Williams, within a hundred years after their State had been founded upon the principle of free religious toleration, and when the Baptists had become strong on the credit of that principle, had taken to burning heretics with a fury never before seen among men; and had they finally gloried in having thus suppressed all question of the truth of the State religion; and had they further claimed to have done all this in behalf of freedom of conscience, the inconsistency between profession and conduct would scarcely have been greater than that of the North, in carrying on such a war as she has done, to compel men to live under and support a government that they did not want; and in then claiming that she did it in behalf of the principle that government should rest on consent.

This astonishing absurdity and self-contradiction are to be accounted for only by supposing, either that the lusts of fame, and power, and money, have made her utterly blind to, or utterly reckless of, the inconsistency and enormity of her conduct; or that she has never even understood what was implied in a government's resting on consent. Perhaps this last explanation is the true one. In charity to human nature, it is to be hoped that it is.

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II.

What, then, is implied in a government's resting on consent?

If it be said that the consent of the *strongest party*, in a nation, is all that is necessary to justify the establishment of a government that shall have authority over the weaker party, it may be answered that the most despotic governments in the world rest upon that very principle, viz: the consent of the strongest party. These governments are formed simply by the consent or agreement of the strongest party, that they will act in concert in subjecting the weaker party to their dominion. And the despotism, and tyranny, and injustice of these governments consist in that very fact. Or at least that is the first step in their tyranny; a necessary preliminary to all the oppressions that are to follow.

If it be said that the consent of the *most numerous party*, in a nation, is sufficient to justify the establishment of their power over the less numerous party, it may be answered:

First. That two men have no more natural right to exercise any kind of authority over one, than one has to exercise the same authority over two. A man's natural rights are his own, against the whole world; and any infringement of them is equally a crime, whether committed by one man, or by millions; whether committed by one man, calling himself a robber, (or by any other name indicating his true character,) or by millions, calling themselves a government.

Second. It would be absurd for the most numerous party to talk of establishing a government over the less numerous party, unless the former were also the strongest, as well as the most numerous; for it is not to be supposed that the strongest party would ever submit to the rule of the weaker party, merely because the latter were the most numerous. And as matter of fact, it is perhaps never that governments are established by the most numerous party. They are usually, if not always, established by the less numerous party; their superior strength consisting in their superior wealth, intelligence, and ability to act in concert.

Third. Our Constitution does not profess to have been established simply by the majority; but by "the people;" the minority, as much as the majority.

Fourth. If our fathers, in 1776, had acknowledged the principle that a majority had the right to rule the minority, we should never have become a nation; for they were in a small minority, as compared with those who claimed the right to rule over them.

Fifth. Majorities, *as such*, afford no guarantees for justice. They are men of the same nature as minorities. They have the same passions for fame, power, and money, as minorities; and are liable and likely to be equally—perhaps more than equally, because more boldly—rapacious, tyrannical and unprincipled, if intrusted with power. There is no more reason, then, why a man should either sustain, or submit to, the rule

of a majority, than of a minority. Majorities and minorities cannot rightfully be taken at all into account in deciding questions of justice. And all talk about them, in matters of government, is mere absurdity. Men are dunces for uniting to sustain any government, or any laws, *except those in which they are all agreed*. And nothing but force and fraud compel men to sustain any other. To say that majorities, as such, have a right to rule minorities, is equivalent to saying that minorities have, and ought to have, no rights, except such as majorities please to allow them.

Sixth. It is not improbable that many or most of the worst of governments—although established by force, and by a few, in the first place—come, in time, to be supported by a majority. But if they do, this majority is composed, in large part, of the most ignorant, superstitious, timid, dependent, servile, and corrupt portions of the people; of those who have been over-awed by the power, intelligence, wealth, and arrogance; of those who have been deceived by the frauds; and of those who have been corrupted by the inducements, of the few who really constitute the government. Such majorities, very likely, could be found in half, perhaps in nine-tenths, of all the countries on the globe. What do they prove? Nothing but the tyranny and corruption of the very governments that have reduced so large portions of the people to their present ignorance, servility, degradation, and corruption; an ignorance, servility, degradation, and corruption that are best illustrated in the simple fact that they *do* sustain the governments that have so oppressed, degraded, and corrupted them. They do nothing towards proving that the governments themselves are legitimate; or that they ought to be sustained, or even endured, by those who understand their true character. The mere fact, therefore, that a government chances to be sustained by a majority, of itself proves nothing that is necessary to be proved, in order to know whether such government should be sustained, or not.

Seventh. The principle that the majority have a right to rule the minority, practically resolves all government into a mere contest between two bodies of men, as to which of them shall be masters, and which of them slaves; a contest, that—however bloody—can, in the nature of things, never be finally closed, so long as man refuses to be a slave.

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III.

But to say that the consent of either the strongest party, or the most numerous party, *in a nation*, is a sufficient justification for the establishment or maintenance of a government that shall control the whole nation, does not obviate the difficulty. The question still remains, how comes such a thing as “a nation” to exist? How do many millions of men, scattered over an extensive territory—each gifted by nature with individual freedom; required by the law of nature to call no man, or body of men, his masters; authorized by that law to seek his own happiness in his own way, to do what he will with himself and his property, so long as he does not trespass upon the equal liberty of others; authorized also, by that law, to defend his own rights, and redress his own wrongs; and to go to the assistance and defence of any of his fellow men who may be suffering any kind of injustice—how do many millions of such men *come to be a nation*, in the first place? How is it that each of them comes to be stripped of all his natural, God-given rights, and to be incorporated, compressed, compacted, and consolidated into a mass with other men, whom he never saw; with whom he has no contract; and towards many of whom he has no sentiments but fear, hatred, or contempt? How does he become subjected to the control of men like himself, who, by nature, had no authority over him; but who command him to do this, and forbid him to do that, as if they were his sovereigns, and he their subject; and as if their wills and their interests were the only standards of his duties and his rights; and who compel him to submission under peril of confiscation, imprisonment, and death?

Clearly all this is the work of force, or fraud, or both.

By what right, then, did *we* become “a nation?” By what right do we continue to be “a nation?” And by what right do either the strongest, or the most numerous, party, now existing within the territorial limits, called “The United States,” claim that there really *is* such “a nation” as the United States? Certainly they are bound to show the rightful existence of “a nation,” before they can claim, *on that ground*, that they themselves have a right to control it; to seize, for their purposes, so much of every man’s property within it, as they may choose; and, at their discretion, to compel any man to risk his own life, or take the lives of other men, for the maintenance of their power.

To speak of either their numbers, or their strength, is not to the purpose. The question is by what *right* does the nation exist? And by what *right* are so many atrocities committed by its authority? or for its preservation?

The answer to this question must certainly be, that at least *such a nation* exists by no right whatever.

We are, therefore, driven to the acknowledgment that nations and governments, if they can rightfully exist at all, can exist only by consent.

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IV.

The question, then, returns, What is implied in a government's resting on consent?

Manifestly this one thing (to say nothing of others) is necessarily implied in the idea of a government's resting on consent, viz: *the separate, individual consent of every man who is required to contribute, either by taxation or personal service, to the support of the government.* All this, or nothing, is necessarily implied, because one man's consent is just as necessary as any other man's. If, for example, A claims that his consent is necessary to the establishment or maintenance of government, he thereby necessarily admits that B's and every other man's are equally necessary; because B's and every other man's rights are just as good as his own. On the other hand, if he denies that B's or any other particular man's consent is necessary, he thereby necessarily admits that neither his own, nor any other man's is necessary; and that government need not be founded on consent at all.

There is, therefore, no alternative but to say, either that the separate, individual consent of every man, *who is required to aid, in any way, in supporting the government,* is necessary, or that the consent of no one is necessary.

Clearly this individual consent is indispensable to the idea of treason; for if a man has never consented or agreed to support a government, he breaks no faith in refusing to support it. And if he makes war upon it, he does so as an open enemy, and not as a traitor—that is, as a betrayer, or treacherous friend.

All this, or nothing, was necessarily implied in the Declaration made in 1776. If the necessity for consent, then announced, was a sound principle in favor of three millions of men, it was an equally sound one in favor of three men, or of one man. If the principle was a sound one in behalf of men living on a separate continent, it was an equally sound one in behalf of a man living on a separate farm, or in a separate house.

Moreover, it was only as separate individuals, each acting for himself, and not as members of organized governments, that the three millions declared their consent to be necessary to their support of a government; and, at the same time, declared their dissent to the support of the British Crown. The governments, then existing in the Colonies, had no constitutional power, *as governments,* to declare the separation between England and America. On the contrary, those governments, *as governments,* were organized under charters from, and acknowledged allegiance to, the British Crown. Of course the British king never made it one of the chartered or constitutional powers of those governments, *as governments,* to absolve the people from their allegiance to himself. So far, therefore, as the Colonial Legislatures acted as revolutionists, they acted only as so many individual revolutionists, and not as constitutional legislatures. And their representatives at Philadelphia, who first declared Independence, were, in the eye of the constitutional law of that day, simply a

committee of Revolutionists, and in no sense constitutional authorities, or the representatives of constitutional authorities.

It was also, in the eye of the law, only as separate individuals, each acting for himself, and exercising simply his natural rights as an individual, that the people at large *assented to, and ratified the Declaration*.

It was also only as so many individuals, each acting for himself, and exercising simply his natural rights, that they revolutionized the *constitutional character* of their local governments, (so as to exclude the idea of allegiance to Great Britain); changing their forms only as and when their convenience dictated.

The whole Revolution, therefore, as a Revolution, was declared and accomplished by the people, acting separately as individuals, and exercising each his natural rights, and not by their governments in the exercise of their constitutional powers.

It was, therefore, as individuals, and only as individuals, each acting for himself alone, that they declared that their consent—that is, their individual consent, for each one could consent only for himself—was necessary to the creation or perpetuity of any government that they could rightfully be called on to support.

In the same way each declared, for himself, that his own will, pleasure, and discretion were the only authorities he had any occasion to consult, in determining whether he would any longer support the government under which he had always lived. And if this action of each individual were valid and rightful when he had so many other individuals to keep him company, it would have been, in the view of natural justice and right, equally valid and rightful, if he had taken the same step alone. He had the same natural right to take up arms alone to defend his own property against a single tax-gatherer, that he had to take up arms in company with three millions of others, to defend the property of all against an army of tax-gatherers.

Thus the whole Revolution turned upon, asserted, and, in theory, established, the right of each and every man, at his discretion, to release himself from the support of the government under which he had lived. And this principle was asserted, not as a right peculiar to themselves, or to that time, or as applicable only to the government then existing; but as a universal right of all men, at all times, and under all circumstances.

George the Third called our ancestors traitors for what they did at that time. But they were not traitors *in fact*, whatever he or his laws may have called them. They were not traitors in fact, because they betrayed nobody, and broke faith with nobody. They were his equals, owing him no allegiance, obedience, nor any other duty, except such as they owed to mankind at large. Their political relations with him had been purely voluntary. They had never pledged their faith to him that they would continue these relations any longer than it should please them to do so; and therefore they broke no faith in parting with him. They simply exercised their natural right of saying to him, and to the English people, that they were under no obligation to continue their political connexion with them, and that, for reasons of their own, they chose to dissolve it.

What was true of our ancestors, is true of revolutionists in general. The monarchs and governments, from whom they choose to separate, attempt to stigmatize them as traitors. But they are not traitors in fact; inasmuch as they betray, and break faith with, no one. Having pledged no faith, they break none. They are simply men, who, for reasons of their own—whether good or bad, wise or unwise, is immaterial—choose to exercise their natural right of dissolving their connexion with the governments under which they have lived. In doing this, they no more commit the crime of treason—which necessarily implies treachery, deceit, breach of faith—than a man commits treason when he chooses to leave a church, or any other voluntary association, with which he has been connected.

This principle was a true one in 1776. It is a true one now. It is the only one on which any rightful government can rest. It is the one on which the Constitution itself professes to rest. If it does not really rest on that basis, it has no right to exist; and it is the duty of every man to raise his hand against it.

If the men of the Revolution designed to incorporate in the Constitution the absurd ideas of allegiance and treason, which they had once repudiated, against which they had fought, and by which the world had been enslaved, they thereby established for themselves an indisputable claim to the disgust and detestation of all mankind.

In subsequent numbers, the author hopes to show that, under the principle of individual consent, the little government that mankind need, is not only practicable, but natural and easy; and that the Constitution of the United States authorizes no government, except one depending wholly on voluntary support.