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Ford Vs. Carter?

At this writing, the long primary trail has just ended, and we can all heave a sigh of relief, for it **looks** as if (more tentatively, of course, on the Republican side) that the Presidential nominees will be Ford and Carter. Relief because that means that the most dangerous candidates in either party have been repudiated. Both Ford and Carter are fuzzy centrists, Carter being the most unknown quantity of any of the Presidential hopefuls; but, for the cause of liberty, better a fuzzy centrist than a fanatical warmonger, and the warmongering candidates are in the process of biting the dust.

On the Republican side, the most dangerous candidate of any party is Ronald Reagan, as the **Lib. Forum** has repeatedly warned. Fortunately, at the last minute the stumbling and wavering Ford campaign decided to go with the hard-core anti-Reaganites, and to pick up and hammer home on Reagan's outrageous gaffe on giving cheery consideration to sending American troops to fight on behalf of white racist rule in Rhodesia. Reagan's hasty retraction — a typical Reagan pattern on his more controversial statements — did not close the opening that his trigger-happy gaffe provided. And happily the Ford campaign decided to hammer this home in anti-Reagan TV spots, and in Ford's own trenchant statements pointing to Reagan's irresponsibility. Ford's excellent phrase: "Governor Ronald Reagan couldn't start a war, but President Ronald Reagan could", said it all. The fact that this anti-Reagan-as-warmonger line had little or no effect in California is beside the point; for it undoubtedly **did** have an important effect on the Ohio voters, in the most important of the vital June 8 primaries. For Reagan was supposed to pick up about 25 delegates in Ohio, and only managed to acquire 6; and in a race as tight as this one, this differential should prove decisive.

The howls of outrage by the Reaganites at the anti-warmongering campaign is not just a question of wounded sensibilities — although why the Reaganites feel that they have a license to dish it out but not to take it is something of a mystery. For the purpose of the Reagan campaign was twofold: first, to try to gain the Presidency for their man; and second, to push the Ford administration in a war-mongering direction. They had accomplished the latter all during the spring, as Ford reacted passively to the Reagan hawk thrusts on detente, Africa, military spending, and the Panama Canal. The decision, at long last, to hammer away at Reagan as an irresponsible and trigger-happy warmonger not only will probably succeed in turning back the threat of a Reagan nomination; it also paves the way for Ford to move in a peaceward direction, to move "left" on foreign policy for the duration of the campaign. Hence, the hysterical attacks by the Reaganites.

Fortunately, Ronnie has shown the same self-destructive streak that Goldwater did in 1964: making highly controversial comments in an off-hand manner which he then quickly repudiates when criticism hits the fan. In doing so, he not only scares his natural opponents, but also confuses his supporters, since his rapid retractions indicate that yes, he was being kooky and irresponsible. At every crucial turning-point of the primary campaign, Reagan managed to blow it with a particularly ill-directed gaffe. In New Hampshire, it was the $90 billion misunderstanding, seemingly carefully prepared but abandoned under fire. After that lost Reagan New Hampshire, airy comments about making social security voluntary managed to scare the bejesus out of the old-folk masses of St. Petersburg-Tampa, who, though right-wing on other issues, run like mad when their Social Security checks seem to be in danger. Exit Florida, since the defection of the old folks more than compensated for the fanatical enthusiasm for Ronnie among the Cuban fascist emigres. If Reagan had been either (a) smart and/or (b) libertarian, he could have explained to the old folks that Social Security was a gigantic swindle that was going bankrupt, and that they would fare better with a voluntary system. But, of course, Reagan was neither (a) nor (b) so he turned tail.

Then, just as it looked that Reagan would make it, shortly before the Tennessee and Kentucky primaries, he spoke airily about "selling the TVA", which of course scared the bejesus out of the right-wing masses of eastern Tennessee and eastern Kentucky, whose right-wingism stops well short of their slavish devotion to the TVA mystique and its attendant subsidies. And, finally, American troops to Rhodesia helped scuttle his chances in Ohio.

The Ford strategy will now be to stress the argument that Ford is "electable" while Reagan is not; this is no argument to deter the right-wing militants, but it should work well enough among the uncommitted to get Ford the nomination.

In the Democratic race, the most dangerous candidate (second only to Reagan as a war-mongering menace) was, of course, Mr. State, Scoop Jackson, and fortunately, Scoop, with the charisma of a wet mackerel, faded fast. Next, there was the ever-looming problem of the old gasbag, HHH, who while not quite as bad as Scoop ideologically, was the No. 2 war threat among the Democrats, and was also undoubtedly the most repulsive esthetically of any of the candidates in either party. But the Lord was with Jimmy Carter, especially in Ohio, and the decisive victory in that northern industrial state wrapped it up for Carter. As this editorial is being written, the leading Democrats are engaging in an undignified scramble to climb aboard the Carter bandwagon, or, to adopt the current vivid metaphor, "to get aboard the ship before the gangplank goes up".

And so the sigh of relief (**provided**, of course, that Ford beats Reagan). Instead of a savage Yankee vs. Cowboy contest, it looks as if we will have a pleasant and gentlemanly discussion on foreign policy between the Morgan candidate (Carter, Vance, Ball, Brzezinski) and the quasi-Rockefeller candidate (Ford, Kissinger, but a pro-peace Morgan policy on the Far East, signalled by Ford's appointment of the top Morgan man in politico-economic life, Thomas Sovereign Gates, Jr., lately head of the Morgan Guaranty Bank, as ambassador to Red China. Gates was the original architect of the pro-peace policy with Red China). Neither candidate is of course ideal, but either Ford or Carter is about as pro-

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Who's Behind . . . . .?

Recently, Newsweek reported that an aide of Jimmy Carter visited Moscow, and was immediately besieged by high Soviet officials asking the question: "Who's behind Jimmy Carter?" Newsweek treated the question with a snide scoffing tone at the Russians' alleged naivete. But it's really a darn good question: who is behind Jimmy Carter? Or is he really just a Bible-thumping Georgia peanut-farmer with lots of charisma, and does that suffice to account for his meteoric rise? Well, for one thing we do know that Carter is a member of the secret and extremely powerful "Trilateral Commission", a group of top politicians and corporatists who meet regularly to decide on public policy. More specifically, we have a few other clues. Notably, that, at a recent fund-raising meeting for Carter in New York City, a leading role was taken by none other than Cyrus Vance, former Deputy Secretary of Defense, president of the New York City Bar Association, and with close ties to the powerful Wall Street investment banking firm of Lehman Brothers. The same firm houses a man who might well be Secretary of State in a Carter administration: George Ball. Moreover, Vance is a member of the Board of Directors of IBM, one of the most important corporations in the Morgan financial ambit. When we consider, too, that Georgia's most powerful corporation, Coca-Cola, is also a Morgan firm, the pattern begins to fill out.

Jimmy Carter's ties with the Morgan financial interests bring waves of nostalgia to veteran Washingtonologists. For it recalls the days when the giant Morgan and Rockefeller combines ran political parties and governments, usually clashing, sometimes in coalition. In the late nineteenth and early twentieth centuries, the pattern was usually: Morgan control of the Democratic Party, and Rockefeller control of the Republican Party. The latter was accomplished through Rockefeller's domination of the Ohio Republican Party (Cleveland being John D.'s original home and power base). Rockefeller's school chum and lifelong friend and financial ally, Marcus Hanna, was for many years boss of both the Ohio and the national Republican parties. It is no accident that every Republican nominee for President from 1876 to 1920, with only a couple of exceptions, was an Ohio Republican, and therefore Rockefeller-dominated: Rutherford B. Hayes, James A. Garfield, Benjamin Harrison, William McKinley, William Howard Taft, Warren G. Harding. The only exceptions were Theodore Roosevelt, who came to power upon the assassination of McKinley by one of our earlier "lone nuts", and Charles Evans Hughes, the 1916 nominee, who was enough of a Rockefeller man to be chief counsel for the Standard Oil Company of New Jersey and who had led a Baptist Bible class which included John D. himself.

On the other hand, the Cleveland and Wilson administrations were dominated by the House of Morgan; always bipartisan, especially after the maverick William Jennings Bryan came to power in the Democracy, the Morgans dominated even more heavily the administrations of Theodore Roosevelt and Calvin Coolidge, both of whom rose to power by the accident of deaths in the Presidental office. 1924, by the way, was a blockbuster year for the Morgans, who controlled both Presidential candidates, since Democrat John W. Davis was an attorney for J. P. Morgan & Co.

Since World War II, the old Morgan vs. Rockefeller motifs have altered. with the Morgans and Rockefellers essentially joined in a "Yankee" coalition in the Northeast against the "Cowboy" coalition centered in the Southern Rim, or Sunbelt, states. But, if Carter and Ford are nominated this year, we will get the closest thing to a Morgan vs. Rockefeller contest since 1948, when Dewey tightly controlled by the Rockefellers, opposed Harry Truman, who was at least loosely allied to the Morgans and other Democratic Wall Street firms. For Jerry Ford, while certainly not in the Rockefeller camp to the same extent as Tom Dewey, is surely allied to the Rockefellers, as witness Nelson's throwing the New York delegates into the Ford camp.

What about the other Republican hopeful, Ronald Reagan? Who's behind him? Of course, the Southern Californian is a quintessential Cowboy, but that doesn't help very much, since the Cowboys are a much looser and broader coalition than the YANKEES. But one important clue has surfaced: the close ties of Reagan with the State-created monopoly, the Pacific Telephone Company. (Interesting for a supposed advocate of laissez-faire and free competition!) When Reagan was governor of California, the man who coordinated the screening of all appointments to his administration was Reagan's personal attorney, William French Smith, whose Los Angeles law firm does the legal work for the Pacific Telephone Company. Smith, a longtime friend of Reagan and a key political operative, is also a member of the board of Pacific Telephone, and a trustee of Reagan's estate during his Presidential campaign.

Further: Reagan's press secretary from 1967 to 1973 was Ed Gray, a former executive of Pacific Telephone; and the vice-chairman of his 1966 state campaign committee was Charles Ducommon, a director of Pacific Telephone.

Reagan was also close to the notorious San Diego corporate tycoon C. Arnholt Smith, the Nixon ally who himself served as a member of Reagan's appointment screening committee, and who, along with his associates, pumped money into Reagan's 1970 re-election campaign. Another virtual scandal during the Reagan regime was the enormously costly boondoggle, the Bay Area Rapid Transit System (BART). From its opening in early 1972, BART was plagued with safety defects, probably due to shoddy work by its corporate builders, who enjoyed munificent cost overruns from the pliant BART system. Two of the major prime contractors of BART, it so happened, had extremely close ties with the Reagan administration: Bechtel Corporation and Rohr Industries, both of which were charged in a subsequent BART board suit with providing unsafe equipment. Bechtel director Eugene Lippa served as assistant state finance chief of Reagan's re-election campaign in 1970; Bechtel also gave generously to the Reagan campaign. Even closer to Reagan was Rohr Industries. Rohr's legal work is handled by the law firm of none other than William French Smith. Rohr's president, Burt Raynes, was a member of Reagan's re-election steering committee in San Diego. Gordon Luce, a key figure in Reagan's two statewide campaigns, and secretary of California Business and Transportation from 1967 to 1970, became a member of Rohr's board of directors in the same year. And when Ed Meese, Reagan's executive secretary, left California government with Reagan's exit in 1975, he became vice-president of Rohr Industries. Furthermore, Luce and Raynes both served on Reagan's appointment screening panels.

And so, apart from Reagan's monstrous foreign and military policies, we must cease thinking of Reagan as any kind of classical liberal. By their fruits ye shall know them, and the record shows clearly that Reagan is a state corporatist, and ally of the burgeoning government-industrial complex that is wrecking America.

(On Reagan and California corporatism, see Joel Kotkin and Paul Grabowicz, "Who Got Rich With Reagan?" **Village Voice**, March 8, 1976, pp. 13-14. For more on C. Arnholt Smith, see Lowell Bergman and Maxwell Robach, "C. Arnholt Smith and the San Diego Connection," in S. Weissman, ed., **Big Brother And The Holding Company** (Palo Alto: Ramparts Press, 1974), pp. 185-204). ◘

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peacey as we are likely to get until Roger MacBride becomes President. So let us count our blessings.

As well as being good for the cause of peace, a Ford-Carter contest will also be very good for the MacBride-Bergland Libertarian Party ticket. A hot ideological contest (e.g. Reagan vs. Kennedy) would have enlisted all the conservative and liberal juices on their respective sides. But a Ford-Carter contest is not going to make more than a dime's worth of difference on any policies, foreign and domestic. Nobody is going to be really exercised on which of these two is going to make it. This will leave a lot of people free to vote their conscience, which in many cases will mean the Libertarian Party ticket. Consider: there must be, among the host of fanatical Reaganites, some substantial number who are more interested in liberty than in blowing up the world; these, bitter and disgruntled at the Ford victory, and not really deeply worried about Carter, should vote in large numbers for Roger MacBride. Conversely, there must be a substantial number of pro-peace and pro-civil liberties liberals who, not really enthusiastic about Carter and not really scared stiff of Ford, will also shift to Roger MacBride. So that Roger should gain a substantial protest or conscience vote from idealistic conservatives and idealistic liberals. If there's not more than a dime's worth of difference, why not vote MacBride? ◘

Secession, The Essence Of Anarchy: A Libertarian Perspective On The War For Southern Independence

By Joseph R. Stromberg*

Introduction

For the libertarian who reflects upon American history the War for Southern Independence presents vexing problems. For liberals, radicals, pacifists, and libertarians the war appeared to require a choice between fundamental values: self-determination for the South or freedom for Black Americans. This conflict was as difficult to resolve then as it is now. P.J. Proudhon, the French anarchist, supported the Confederacy, on balance, because he identified it with the cause of decentralization. (1) Michael Bakunin, founder of Russian anarchism, strongly favored the North because he saw slavery as the essential issue. (2) Marx, strongly anti-state at times, likewise desired Northern victory, which he regarded as historically necessary. (3)

On the American Left division also existed. Most abolitionists backed the war, hoping for emancipation as a by-product. A minority, which included Lysander Spooner, opposed it. Spooner, a natural law anarchist and revolutionary, believed that the war merely enslaved all Americans to the centralized state for the benefit of Yankee monopolists while hardly helping Black Americans at all. (4)

One circumstance in particular complicates any libertarian or anarchist assessment of the war. Between 1789 and 1860, Southern thinkers derived from social contract theory and constitutional law doctrines of nullification and secession; advanced though they were to defend the South's social order, these ideas have much wider application. It is even possible that had the Richmond government been faithful to its official decentralist ideology, the outcome of the war might have been different for Southern independence and possibly for human liberty. (5)

A Radical Theory Developed By Conservatives

In his first inaugural address Abraham Lincoln stated that "Plainly, the central idea of secession is the essence of anarchy." (6) How state-rights men created this "anarchistic" theory is an interesting study in American political thought. The secessionist theory, despite its inconsistency, does have clear anarchist implications.

In America, Law — as embodied by the Constitution — serves as a secular social cement and as a source of final authority. Lacking the kind of value base an established Church could provide, Americans have

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The Psycho-Presidency

One of the great and continuing benefits of the Watergate affair is the widespread demythologizing of politicians in general, and of the President in particular. The great turn-of-the century tradition of muckraking, and of the adversary relation between press and government — so long forgotten since the New Deal — has now been happily revived. Many people deplore the recent spate of revelations about the personal lives of our recent Presidents. But, despite the well-trodden cliches, we are a government of men rather than laws, and so what these men are like becomes very relevant to all of our lives. The press tradition of sweeping all the dirt about our rulers under the rug has only served to advance the dangerous mythologizing about the State — and especially about the President — in the minds of the public. The pre-Watergate media had abetted the task of raising the President to the status of a quasi-divine figure in the eyes of the American people; in the words of a new quasi-autobiography by New York Post publisher Dorothy Schiff, to her — and to countless other Americans of that era — Franklin D. Roosevelt was like a "sun god." To say that this state of mind is dangerous for the sanity and the liberty of the American public is a masterpiece of understatement.

And dangerous for the idolized and adored Presidents as well. Lord Acton's great aphorism: "Power corrupts, and absolute power corrupts absolutely," is all too true; for it is now becoming clear that our last two Presidents at least, drunk with near-absolute power, were more than halfway round the bend. We all know about President Nixon's conversing with the portraits of his predecessors; but now we know from Doris Kearns' sympathetic biography that Lyndon Johnson used to talk to his deceased conferees as well. Nixon, in his final days, scared the pants off everyone in sight by wildly talking about his power to push the nuclear button; Johnson, after retiring to his ranch, tried to recreate the atmosphere of the Oval Office by treating his illiterate farm hands as if they were White House staff aides, and cursing his hens for not laying eggs up to the quota that the ex-President had set for them.

Even the amatory lives of our Presidents may have direct relevance for our political fortunes. The now revealed fact that President Kennedy had a long-term affair with a Mafia moll and friend of the late Chicago mobster Sam Giancana (patron of one Jack Ruby) may have direct relevance for the mysteries of the Kennedy Assassination. But, perhaps more important is the implications of some of these liaisons for the state of mind of the President-worshipping American public. Take, for example, the revelations of Dorothy Schiff (see New York **Times**, May 27, 1976), whose friendship with President Roosevelt was changed, under legal pressure, from earlier to later editions of the **Times** from "romance" and "affair" to "personal relationship." Why did Mrs. Schiff, then married to Democratic activist George Backer, enter into this personal relationship with the President? Because, in addition to FDR's "sun-god" quality, in Mrs. Schiff's words, "I guess I stayed with him because . . . you don't say no to the President of the United States." There we have it: You don't say no to the President of the United State — the political and social philosophy of the twentieth century. Adolf Eichmann couldn't say no to his Fuhrer; Halderman, Erlichman, Magruder and all the rest of the crew couldn't say no to their President. And what, pray tell, was the attitude of Mr. Backer to all this? Let Mrs. Schiff tell the story: "George was overwhelmed by the President, and it was he who really sold me on him. George saw it all in a sort of **droit de seigneur** way, his wife being tapped by the Lord of the manor. He was proud of it, and it gave him tremendous prestige with his friends."

Lord of the manor; droit de seigneur; sun-god; you don't say no to the President of the United States. Sick, sick! We will never recapture our liberty until we have cast off this cancerous remnant of feudalism and Oriental despotism in our thinking and our attitudes. We must learn to say No, No, a thousand times No to the Presidents and despots of this world; it can only be that great Nay-saying that will topple our rulers from their exalted perches. La Boetie was right; we forge our own chains by our complicity in exalting these tinpot politicians to their sun-god status. And we can rectify this horror by casting out this idolatry, by standing tall and independent, and by saying Nay to the Emperors that we have created. Hopefully, Watergate has brought this Great Refusal far closer to reality.

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subscribed to a cult of the Constitution. (7) Hence Americans often make moral questions into constitutional ones, a habit their strong English legalism reinforces. Except for a few "higher law" advocates like William Lloyd Garrison, most American political activists have been eager to appear as good constitutionalists.

Thus when Southerners defended slavery and when they resolved on a separatist revolution, they argued as constitutional lawyers. When the South seceded, it possessed a complete theory which legitimized the deed. Southern political thinkers from Thomas Jefferson and John Taylor of Caroline to Jefferson Davis and Alexander H. Stephens had elaborated this "state-rights" or "compact" theory of the Union. Nullification, obstruction of an unconstitutional federal law, and secession, withdrawal by a "sovereign state" from a federation voluntarily entered, were the devices the state-rights school put forth as bulwarks against majority tyranny.

Because legality and morality coincide so much in American thought, the constitutional rationale for an action is of no small importance. When war came, it was critical. As Chief Justice Chase admitted in **Texas v. White** (1869), if secession were constitutional, the struggle "must have (been) a war for conquest and subjugation." (8) This was the view urged after 1865 by former Confederate President Davis and former Vice President Stephens. Seeking to win the postwar legal argument at least, they provided the final summary of received secessionist dogma. (9)

According to the mature theory, the Constitution was a compact between the states (including those formed later), each of which was fully sovereign. Since no common judge existed to decide constitutional questions — despite the Supreme Court's claim of authority — each party had a residual right to exercise judgment. This right extended as far as nullification and secession if the Constitution were violated by the common agent of the states, the federal government, or by the other parties. These remedies were not to be undertaken lightly, but they were within the reserved rights of the states.

The compact theory was articulated at various times of crisis and gradually refined. It was first expressed in the Kentucky and Virginia Resolutions of 1798, drafted by Thomas Jefferson and James Madison respectively. Although considerably watered down from Jefferson's draft, the Kentucky Resolutions began with the ringing declaration that "the several states composing the United States of America, are not united on the principle of unlimited submission to their general government; but that by compact . . . they . . . delegated to (a general government) certain definite powers, reserving . . . the residuary mass of right to their own self-government...." Each state "acceded as a State" to the Constitutional compact, and was "an integral party, its co-States forming, as to itself, the other party...." There being no common judge, each state had "**an equal right to judge for itself, as well of infractions as of the mode and measure of redress** . . . ." (10)

The Resolutions called the Alien and Sedition Acts "altogether void and of no force." Citing instances of the Federalist drift toward arbitrary power, the resolves warned that such acts "may tend to drive these States into revolution and blood...." Government by confidence was dangerous: for "free government is founded in jealousy...." (11) The Resolutions were sent to the other states in the hope they too would protest.

The Virginia Resolutions attributed federal power to "the compact to which the States are parties." When the general government exceeded its delegated powers, the states were "duty bound to interpose for arresting the progress of the evil." The Virginia Assembly declared the Alien and Sedition Acts "unconstitutional" and called on the other states to act against them. (12)

Madison's resolutions mentioned "interposition," but the Kentucky Resolutions of 1799, drawn up by John Breckinridge, first introduced the term "nullification." Asserting that the "sovereign and independent" parties to the federal compact possessed final judgment, Kentucky stated that "**a nullification of those sovereignties, of all unauthorized acts done under color of** (the Constitution) **is the rightful remedy.**" (13)

Liberal historians, eager to claim Jefferson for the tradition of democratic nationalism, hesitate to admit he held "extreme" state-rights views. The resolutions which he, Madison, and Breckinridge authored are presented as "emergency" rhetoric inspired by concern for free expression. Although the immediate question was the Federalists' attempted suppression of the Democratic Republican movement, the crisis went deeper. One historian observes that Hamilton's circle "talked of marching into Virginia and dividing it into smaller states" while "Virginians openly considered secession." (14)

John Taylor, the Jeffersonian theorist par excellence, was in the forefront of the disunionists. Jefferson resisted, but as matters worsened he became willing to contemplate secession. When Breckinridge hurriedly drew up the Kentucky Resolutions of 1799, he consulted Jefferson's 1798 text, appropriating the word "nullification" from it.(15) Jefferson had written that "every State has a **natural right** in cases not within the compact . . .to **nullify** of their own authority all assumptions of power by others within their limits . . ." (16) Later, because of the other states' unfavorable replies to the 1798 Resolutions, Jefferson favored a more radical protest. Writing to Madison on August 23, 1799, he suggested declaring that Kentucky and Virginia would "sever ourselves from that union we so much value, rather than give up the rights of self-government which we have reserved . . ." (17) Clearly, nullification and secession were not inventions of later Southern "fire-eaters." Madison's Report on the Resolutions, written for the Virginia Assembly in 1800, affirmed that if the Constitution was a compact, states could determine what questions "required their interposition." (18)

Once in power in Washington, the Jeffersonian Republicans found new merit in vigorous federal action, including the Louisiana Purchase, which Jefferson admitted was unconstitutional. (19) By 1812 President Madison had the nation at war with England, a war very unpopular in New England. Of the old Republicans John Randolph battled almost alone for peace. The remnants of the Federalist party, particularly the "Young Federalists", took up the position the Republicans had abandoned and displayed new interest in limited government. Massachusetts remained virtually neutral, supplying virtually no troops against the British. Disaffected Federalists met in convention at Hartford, Conn., in 1814 to protest the war. Some of them favored a separate New England confederacy. Before any drastic steps were taken, the war ended. The convention recommended several constitutional amendments, and adjourned.

The state-rights position was again put forward during the struggle over the protective tariff 1828-33. South Carolina became the focal point of Southern resentment at protection of Northern manufactures, and under the covert leadership of Vice President John C. Calhoun proceeded to reassert state interposition against unconstitutional laws. After South Carolina nullified the tariff in 1832 and prepared to arrest federal collection officers, President Andrew Jackson, who believed in military solutions to many problems, was ready to march troops in to reduce the defiant state. The Carolinians were resolved to resist with state forces. To avoid blookshed, the state recinded its Nullification Ordinance; at the same time the tariff was lowered.

Calhoun, now Senator from South Carolina, led the state-rights faction. His rigidly logical mind was responsible for the first advances in state-rights theory since the time of Jefferson. In his **Disquisition** he sought to ground his conception of federalism in political philosophy. Paradoxically, he severed his position from its roots in natural law and Lockean liberalism, and yet attempted to vindicate minority rights with his notion of the "concurrent majority." (20)

One innovation of South Carolina was to call a convention directly expressing the sovereignty of the people of the state to nullify the tariff and later the Force Bill. Like a constitutional convention, this body was deemed more qualified to pass on such matters than the state legislature, itself a creature of the people. In addition, the Nullification Ordinance directly threatened secession. (21)

State-rights ideas cut both ways. At the time of the Mexican War threats of secession were heard in New England. (22) In 1859, Wisconsin nullified a US Supreme Court decision based on the Fugitive Slave Act, quoting the Jeffersonian language of 1798. (23) Garrison advocated Northern secession, crying "No Union with slaveholders." As the South became a "conscious minority," more talk was heard there of leaving the Union. After 1850, proslavery radicals held conventions almost yearly; at these meetings "fire-eaters" like William Yancey and Robert Rhett

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agitated for a Southern confederacy. (24) In 1860, South Carolina led the way; the state seceded by simply repealing the act by which an earlier South Carolina convention had ratified the Constitution of the United States. (25)

The Historical Basis of the Theory

Was the secessionist case a sound one? In many ways it was, although it was not the only position to develop out of social contract and American law. The secessionist contention that the states were sovereign — subject to no higher final authority — during and after the Revolutionary War is strong indeed. Despite generations of Federalist propaganda and nationalist razzle-dazzle, it is clear that the thirteen colonies fought for their separate sovereignty and independence, albeit in loose concert.(26) During the war, the Continental Congress — in which nationalists spied the germ of national sovereignty — was a standing committee which coordinated the common struggle. The Declaration of Independence proclaimed the colonies "Free and Independent States." Twelve colonial delegations awaited instructions from home before consenting to it. Even then seven legislatures separately confirmed it: Connecticut, for example, announced that it was "a free and independent State." (27)

The Declaration asserted that the new states could "levy War, conclude Peace, contract Alliances" and exercise all other sovereign powers. Virginia's independent foreign policy activities illustrate state exercise of these powers. (28) By Articles of Confederation, which they took over three years to ratify, the states created "a firm league of friendship" and "confederacy." Article II reserved to each state "its sovereignty, freedom, and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled." Most of the revolutionists believed in the sovereignty of "**the people organized as states.**" (29) They were certainly not fighting to replace one strong central authority with another.

The right wing of the Revolution was appalled by democracy in the states and sought to curtail it. Crying up a "crisis" which existed primarily in their pocketbooks, a coalition of Northern merchants and Southern planters engineered the Constitutional Convention at Philadelphia and secured ratification of a new constitution. (30) Even here prevailing opinion forced them to compromise with state sovereignty to get the new charter approved.

Because of this compromise the Constitution lent itself to a state-rights interpretation, especially since social contract was the common rhetoric of the men at Philadelphia. Gouverneur Morris, no friend of neighborhood control, wanted "to form a compact for the good of America." (31) Elbridge Gerry protested the plan to let nine states establish the Constitution, saying "If nine out of thirteen can dissolve the compact, six out of nine will be just as able to dissolve the new one hereafter." (32) References to Locke, Vattel, Priestley, and other writers abounded. (33) On the extremes, Luther Martin and Alexander Hamilton utilized Lockean terminology, clearly understanding it differently.

The nationalists thought they were making a proper, irrevocable Whig compact, a pure Lockean contract creating a new sovereign over the states. But during the adoption struggle Madison and Hamilton argued in the **Federalist** essays that the new Constitution — rather like the triune God of the Creed — was at once federal and national. State-rights men or "Antifederalists" stressed the dangers of a monarchical presidency, imperial consolidation, and the decline of the states (and were borne out by events). (34)

From the standpoint of state-rights theory, much of the argument at Philadelphia seems simply opportunist. State-rights men, wanting to retain the Articles, asserted that the Confederation could not be broken; hence the Articles must be honored. The Nationalists, contemplating a constitutional **coup d'etat**, had to claim that the Union could be dissolved and recreated by as few as nine states. Madison, who then denied state sovereignty, argued that the Confederation was not a proper compact precisely because a majority could not bind the remainder; it was a "convention" and could be dissolved by any party. (35)

Given the need to reassure the states, Madison and even Hamilton pitched their arguments to the objections of state-rights men like Patrick Henry. Hamilton named the proposed system "a Confederate Republic," defining it — after Montesquieu — as "an assemblage of societies." Such a confederacy secured to its members the advantages of strength in foreign affairs without annihilating their individual characters. (36) Answering charges of consolidation, Madison stressed that ratification was "the act of the people, as forming so many independent States, not as forming one aggregate nation"; otherwise, the majority of the whole could bind the rest. Each state was "a sovereign body" only "bound by its own voluntary act." (37) Denying the new government was novel in operating directly on individuals, Madison remarked that the existing Confederation did so already. Hence, the new plan was merely "the expansion of principles which are found in the articles." (38)

These admissions from the centralizing camp, founded in political reality, greatly assisted later state-rights men. Jefferson Davis could write that "a 'more perfect union' was accomplished by the organization of a government more complete in its various branches ... and by the delegation ... of certain additional powers ...." (39) The changes did not alter the principle of a federal compact. Accepting Madison's terminology in his secessionist **summa**, Alexander Stephens, the foremost libertarian of the old South, called the American system "a pure Confederated Republic, upon the model of Montesquieu...." The general government was "an **entirely artificial** or conventional **State or Nation**," "a Political Corporation" created by a compact between states. (40) Externally, it appeared as a nation; in its metaphysical essence, however, it was a sort of political joint-stock venture, whose shareholders could withdraw for cause. (41) By this theoretical innovation secessionist thought almost transcended its liberal, Lockean origins.

Constitutional exegesis need not detain us long. In his celebrated "Reply to Hayne" in 1830 Daniel Webster denied that terms like "compact" and "accede" were in use at Philadelphia: state-rights men had invented them. Since these were typical eighteenth century terms, Webster was easily refuted. (42) As for "We the People" in the preamble, the original draft had begun "We the People of the States of New Hamphire," etc. (43) Since as few as nine states could enact the Constitution "between" themselves, it would have been awkward to name them all. Most of the prohibitions on the states (Article I, Section 10), often cited as evidence of federal supremacy, existed in the old Articles which acknowledged state sovereignty. Finally, Rhode Island and North Carolina remained aloof from the Union in 1789-90 after eleven states had established the new government. This demonstrates beyond question that the people who ratified the Constitution were the people-as-states and not Americans in the aggregate! (44)

If the states were sovereign in some arguable sense before 1789, and if sovereignty cannot pass by implication — as Davis and Stephens emphasized — then they remained so under the Constitution. (45) Constitutional scholars are wont to lose sleep over the framers' intentions in such matters. Although the potentially radical notion of the "consent of the Governed" is still an ideological prop of the system,* little attention is paid to the intentions of those who **ratified** the document. Ratification gave the Constitution all the "validity it ever had." (46) The temper of the ratifying conventions in the states may be gauged by their words. Massachusetts, South Carolina, New Hampshire, Virginia, North Carolina, and Rhode Island all called for an amendment closely modeled on the second Article of Confederation, expressly reserving to the states all powers not clearly "delegated" to the general government. South Carolina and Rhode Island mentioned state "sovereignty." North Carolina and Virginia invoked natural rights, the latter listing the rights men retain when they form a "social compact."

Most significantly, Virginia, New York and Rhode Island declared that "the powers of government" may be "resumed" or "reassumed" by the people when perverted or abused. (47) Since each convention spoke only for the people of its own state, Davis' and Stephens' idea that three states by this language reserved the right of secession in their very ratifications is not altogether unwarranted. In addition, New York and South Carolina declared all undelegated powers to be reserved; Virginia, New York, North Carolina, and Rohde Island stated that clauses restricting Congress were exceptions to delegated powers or inserted "for greater caution." (48)

Given these sentiments, it is not suprising that ten amendments passed quickly, including the much neglected ninth and tenth. The ninth reserves

* like our "voluntary" donations to IRS

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Secession — (Continued From Page 5)

all residual rights to the people, while the tenth reserves all powers not "delegated" to Congress to the states or the people.

Philosophical Roots And Outcome

Granting the possibility of state sovereignty, secession still required another philosophical postulate. This it inherited from radical Anglo-French liberalism. Even if the Constituion is a compact or a political joint-stock company, it must be shown that withdrawal is a right. According to Parrington, secession ultimately rests on "the doctrine which Paine and Jefferson derived from the French school, namely, that a constitutional compact is terminable." (49) Paine argued, as against the Whig theory, that the people are always entitled to alter their government. (Strict Lockeanism holds that a people may only alter a government under the most extreme provocation, and then only if a substantial majority of them support the revolt.) In this, Paine agreed with Price and Priestley. (50) Jefferson, too, believed "No society can make a perpetual Constitution, or even a perpetual law." (51)

If the people are sovereign-as-state, secession follows as a natural right if one accepts the radical version of the social contract. Parrington comments:

> However deeply it might be covered over by constitutional lawyers and historians who defended the right of secession, the doctrine (of terminable compact) was there implicitly, and the southern cause would have been more effectively served if legal refinements had been subordinated to philosophical justification of this fundamental doctrine. (52)

Parrington has overstated only the French influence on Jeffersonian thought. There also existed an Angle-American radical natural law school whose ideas paralleled the French. (53) There was a real reason Southerners refrained from developing the philosophical side of the argument. The Virginia debate of 1850 was the last open discussion on freeing the slaves until 1865, when it was too late. Determined to preserve their "peculiar institution," Southerners turned inward, resorting to repressive legislation and thought-control. Given their laager mentality and traditional legalism, Southerners naturally presented secession as a "civil," "constitutional" right.

Uneasily aware that natural law liberalism had very dangerous potentials, Southerners shied away from libertarian arguments. A libertarian slaveholder is a contradiction in terms, and Calhoun epitomized the schizophrenic Southern mind. Having abandoned natural law in favor of force and hierarchy — a logical position for a slaveholder he smuggled back into his political theory the "compacts" and "ratifications" which make no sense apart from liberalism. As Louis Hartz notes, if minorities still have rights, why not the minorities within the minorities — until we are back in a state of nature. (54)

Only George Fitzhugh had the courage to really defend slavery, and he abandoned liberal contractualism for organic nationalism and universal authoritarianism a la Filmer. (55) One insincere solution was liberalism for whites coupled with a racist denial of Black Americans' humanity. The South was trapped in a deep contradiction, denying and affirming its liberal origins, and espousing a "reactionary anarchism."

Jeffersonianism ended in secessionist logic in the South. People-as-states were sovereign, subject to no higher law. In the North, such liberalism ended in radical abolitionism. Having no vested interest in slavery and hating all forms of compulsion, antislavery men like Stephen Pearl Andrews, Garrison, Spooner, and Henry David Thoreau soon pushed liberalism all the way into natural law anarchism. Parrington calls Thoreau's position "individual compact" which "implied . . . individual nullification" or full anarchism. (56) Unlike Stephens who took the federal Union as a joint-stock operation, Thoreau took all states as artificial and asserted his right to secede.

Contractualism Succumbs in a War for Empire

If the South could not follow out its own logic for fear of admitting the natural rights of Black men, Unionists in 1860 would not admit any doctrine of revocable compact. On the "macro" level of social compact, where Southerners felt entitled to secede, Lincoln took a strict Lockean position: There was one society and only a **majority** of the states could agree to its dissolution. (57) On the analogous "micro" level, only the left-wing individuals asserted individual sovereignty and individual secession. At the micro or state level Southerners became Lockean Whigs once again.

Despite the inconsistencies of secessionist thinking, it is of no small interest today. In this age of imperial centralization the secessionist argument, if properly grounded in human rights, goes hand in hand with radical libertarianism. Abraham Lincoln fundamentally recognized the implications for the imperial state. Secession was a denial of majority rule, and to reject that rule was to "fly to anarchy or despotism." Could not parts of the new Confederacy themselves secede, **ad infinitum**, he asked.(58) Between anarchy and despotism, Lincoln chose despotism and waged a brutal war solely to preserve an instrumentality of power based in Washington. (59) As Spooner remarked, if the Union had ever been based on consent the war changed all that. (60) Since the war was not defensive and did not free large numbers of people in any meaningful sense, a libertarian is inclined, at least, to sympathize with Spooner's position. Spooner opposed the war as enslaving the people to the government and at the same time supported slave revolts. (61) But this is not really an adequate position. Libertarians were perplexed at the time. To properly assess the war and its results from a libertarian standpoint would require another essay.

J.W. Gough, an authority on social contract, writes that there was something to "the contractual theory of the federation." (62) Much more than slavery and Davis' government died in 1865. Parrington sees the great tragedy of American history in the fact that "local self-government should have been committed to the cause of slavery." The division between Northern and Southern liberalism which this circumstance opened up was "disastrous to American democracy." (63) The imperial government in Washington, having freed the slaves for the wrong reason, leaving them to starve, was able to pose as the friend of liberty while parcelling out the political economy to various privileged interests. The fostering of monopoly after the war under **"laissez faire"** statism, a free market in name only, was made possible largely because local self-government and genuine federalism had succumbed when the South, rightly or wrongly, lost the fight for its independence. With the death of local sovereignty and the crushing of secession, one more barrier to empire was gone.

Like the Constitution itself, state rights — the American variant of the social contract — was an attempt to provide a philosophical basis for the permanent limitation of government. However well intended, such liberal constitutionalism was doomed to long-run failure, for it asked that government not act like government. Washington could no more accept South Carolina's secession than Massachusetts could accept Thoreau's. At the extremes, Spooner and Fitzhugh understood this and rejected constitutionalsim — for opposed reasons. They knew that underneath the parchment guarantees, only temporarily held in check by them, was the imperial Leviathan "born in aggression and begotten of aggression."

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Economic Scapegoats: Heroes Or Scoundrels?

Review of Walter Block, **Defending the Undefendable, Fleet Press, $9.95**

By Bill Evers*

Would you classify the following sorts of people as heroes or villains: loan sharks, litterbugs, misers, slanderers, libelers, pimps, counterfeiters, stripminers, drug pushers, ticket scalpers, prostitutes, scabs, blackmailers and slumlords?

If your intuitive inclination is to think of such people as scoundrels, you'll find Walter Block's new book mind-boggling. Block presents them as heroes and offers good reasons for doing so.

Previous popularly written introductions to political economy have suggested ending occupational licensure of doctors, legalizing marijuana or legalizing abortions. But no previous book in this genre has thoroughly dealt with the almost universally reviled practices and occupations discussed in Block's book.

Block's book is a startling, witty and eminently reasonable **tour de force**. The reader begins each chapter by thinking (as Nobel Laureate F. A. Hayek did at first, according to his introduction to the book), "this is going too far." But led by Block's ingenious arguments, the readers are compelled (as Hayek was) to agree with Block.

Moreover, Block's method has the special attraction of nonmathematically treating economics as a matter of logic of choice, while avoiding the all-too-common practice of relying on statistics.

An unexpected bonus in an economics book is the presence of illustrations for each chapter drawn by Rodrigues, whose cartoon studies of the demimonde are regular features in **Playboy, Penthouse,** and the **National Lampoon.**

All Block's heroes have three characteristics in common. First, the practices in which they are engaged do not involve the initiation of aggression against others. Second, the demonstrated preferences of people and the logic of choice show that Block's heroes are performing jobs that are of great value to other people. Third, these heroes are providing their services in the face of constant reproach from the public and outlawry by the state.

After reading Block's book, we recognize the pimp as an honest broker and the uncorrupted cop as the Nuremberg defendant who always followed orders. We are reminded that stripmining of coal allows miners to escape black-lung disease and cave-ins, while creating what could be described as a stark, desert-like beauty.

Block gives the reader succinct yet penetrating criticisms of the Federal Reserve System and the Keynesian paradox of savings. His chapter on charity is the best modern defense of social Darwinism that I have ever read.

Perhaps Block's finest chapter is the one on advertising. For example, Block shows how the use of advertising gimmicks to alert consumers to products is exactly parallel to a person's attention to his personal appearance and grooming before a job interview.

Read this book for the intellectual delight (as well as the gain in knowledge) to be found in observing Block reason his way through extreme, shocking cases to a counterintuitive, but rigorously defended account of the just solutions to them.

* Reprinted from the **Stanford Daily,** April 30, 1976. Bill Evers is a doctoral candidate in political science at Stanford University. ◘

"In the absence of force, peace and liberty simply exist; they do not have to be created or supported. Capitalism had its beginnings in a condition under which no man can be dispossessed of what he has produced or discovered except with his own consent. In the absence of force, capitalism automatically exists in the same sense that peace and liberty automatically exist." —

Thomas Nixon Carver (1925).

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