The Voluntaryist

Whole Number 102 *"If one takes care of the means, the end will take care of itself."* **February 2000**

Ropes of Sand: Voluntaryism and Secessionism

By Carl Watner

In my article on Voluntaryism and the Bill of Rights (Whole No. 101), I pointed out that the Constitutional Convention of 1787 was originally called to amend the Articles of Confederation, not supersede or annul them. Under the Articles, the States were pledged to a perpetual union, and no provision had been made for dissolving their association—except that any changes in the Confederation had to be done by the unanimous agreement of all the States. So questions naturally arose: How were the Articles to be dissolved? How was the new federal Constitution to be ratified, and, if so, could it be implemented in a manner that would be consistent with the provisions of the Articles of Confederation? Did States joining the new United States of America have the right to secede should they be dissatisfied with the new association, and assuming that such a right existed, what assurances did they have that such a right would be respected in the years to come?

Questions surrounding the dissolution and formation of governments have plagued Americans from the earliest times. The migration of Europeans to begin new colonies in North America eventually culminated in one of the most significant political secessions in the political history of the world: the separation of thirteen colonies from their mother country. "Consent of the governed" was one of the principles upon which the thirteen English colonies claimed their self-government from England. As the Declaration of Independence put it: "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, ... That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or abolish it, and to institute [a] new Government, ..." Yet, as many observers have noted, had the American Revolution failed, George Washington and Thomas Jefferson would have been hung by George III and his army as traitors, rather than being glorified as "The Founding Fathers." Even though they successfully exercised the right of secession for themselves, how far were the Founding Fathers willing to extend the concept of "the consent of the governed"? Would they have waged war on Rhode Island, had that State refused to approve the new constitution? Had they been alive in 1861, would they have allowed the States of the South to "depart in peace" or would they have called for "death to the traitors"?

The whole idea of secession rests on the premise that men have the natural right to appoint agents to act as their representatives, and that, whenever they choose, men may revoke their proxies and withdraw the powers of attorney they have formerly granted. Indeed, John Ponet (1516?—1556), one of the earliest proponents of consent theory in English history, argued that the institution of government and its magisterial offices are in the nature of a trust and that the civil authority of government was "merely a delegation of power which might be revoked when it was abused." When this argument was embraced by the Levellers in the mid-1600s and by John Locke in THE TWO TREATISES UPON GOVERNMENT, the critics of consent theory (such as Robert Filmer in his THE ANARCHY OF A LIMITED OR MIXED MONARCHY [1648], and Josiah Tucker in A TREATISE CONCERNING CIVIL GOVERNMENT [1781]) pointed out that the right to cancel or annul ones political representation leads straight to anarchy. Others realized that it makes political government an impossibility. Abraham Lincoln recognized the anarchistic implications of secession in his First Inaugural Address, when he referred to secession as "the essence of anarchy." His predecessor, James Buchanan, in his last State of the Union Address, pointed out that governments might as well not exist if they could be dissolved at will. Buchanan said that governments would be as "ropes of sand" if people had the right to negate their allegiance to an existing government. For politicians and governments, consent theory was loaded with dynamite because it recognized the right of each and every person to choose which government (if any) they wished to adhere to, and allowed that choice to be changed at will. In short, consent theory was the "universal demolisher of all Civil Governments, ... not the builder of any," because, as Josiah Tucker wrote in 1781, the principle of secession has no logical stopping place until it reached the lone individual. The principle of "government by consent" could be applied by the states to the nation, then by counties to the state, then by towns to the county, and finally by citizens to the town until there was no government but the individual self-government of each property

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Ropes of Sand

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owner over him or her self. (1)

The main purpose of this article is to analyze the principle of secession and briefly look at its varied role in American history during the Revolutionary and Civil War eras. The important documents of American history, the Articles of Confederation and the Constitution of the United States will be examined because, like a written contract, they provide the basic understanding of political union. The whole purpose of having these documents in writing is, just like a written power of attorney, that they allow both the rulers and the ruled to establish the boundaries of their authority. Nevertheless, despite the intense constitutional analysis that will be applied here, the voluntaryist recognizes no obligation arising from either the Articles of Confederation or the Federal Constitution. They concur with Lysander Spooner's claim that the Constitution is a constitution of "no authority" which has never had any rightful jurisdiction over them. Their neighbors (even a majority of the adults in an arbitrarily given geographic area where they live) have no right to establish a political constitution over them without their individual and explicitly-granted consent. Nevertheless, judging these documents by their own internal standards demonstrates that American governments have practically never been prepared to admit the right of secession—even if such a right had been instrumental in their own conception or even if such a right were an implicit part of their fundamental constitutional law.

The place to start is by examining the actual provisions of the Articles of Confederation, to look at how it was adopted, and then consider the actions of one of the recalcitrant States—Rhode Island—who originally refused to ratify the Constitution. The Articles of Confederation and Perpetual Union were finalized by members of the Second Continental Congress after several years of debate, and on November 17, 1777 "were sent to the states for their action, with the request that powers of ratification be given to each state delegation" by March 10, 1778. (2) Nine states complied by this date, but the laggards held out for several years. It was not until February 2, 1781 that the legislature of the final state—Maryland—authorized its delegates to sign and ratify the Articles. "Congress then declared that 'the Confederation of the United States of America was completed, each and every of the Thirteen United States from New Hampshire to Georgia, both included, having adopted and confirmed and by their delegates in Congress ratified the same'." (3) The text of the Articles makes it plain that the union of the thirteen states was intended to be a perpetual one. (It is an interesting question, and one I have never seen addressed by historians of American history: Why did the drafters of the Articles intend for their government to be an everlasting one?) Numerous references to the perpetuity of the union are to be found in Article XIII and the final ratification paragraph of the document. For example, the first paragraph of Article XIII states: "Every state shall abide by the determinations of the united states in congress assembled, ... And the Articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united states, and be afterwards confirmed by the legislatures of every state."

Another important part of the Confederation text was found in Article II, which stated: "Every State retains 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." Based on the sovereignty of the States forming the Confederation and the language of Article XIII, it is plain that in order to change or dissolve the Articles the legislature of every State had to agree. During the short, official life of the Articles, no State ever tried to withdraw from the confederation, nor was any effort made to expel one. Consequently, the right of a State to secede unilaterally, or the right of a majority of the States to expel one from what was labelled a "perpetual union" was never tested. When delegates were sent to a meeting in the Spring of 1787 in Philadelphia to revise the Articles, it should have been clear to them that the only legal and proper way to amend, or annul the Articles and institute a new government over the thirteen independent States, was to seek the approval of each and every State legislature. Was this procedure followed? It was not. Instead, the proposed constitution, which the Philadelphia delegates wrote, intentionally bypassed the State legislatures. Article VII of the Constitution of the United States specifies that: "The ratification of the conventions of nine states, shall be sufficient for the establishment of this Constitution between the states so ratifying the same." Historians have speculated as to why this procedure was adopted, rather than following the

requirements of the Articles. The answer is fairly obvious. Given the fact that the legislature of the State of Rhode Island refused to send delegates to Philadelphia, it was unlikely that it would give its approval to the newly proposed constitution. Consequently, the drafters of the Constitution realized it would be nearly impossible to legally dissolve the Articles and institute the new form of government they proposed. Therefore, they took a Machiavellian leap and decided that the ends justified the means. A more coercive and energetic form of national government was necessary. This might justify their resort to illegal means to disband the Articles, and to initiate a new and stronger government. One historian noted that the Founding Fathers instigated a virtual second revolution to change the governing institutions of the country. They "assumed constituent powers, ordained a new constitution, and demanded a plebiscite thereon over the heads of all existing legally organized powers. Had Julius [Caesar] or Napoleon committed these acts they would have been pronounced a coup d'etat." (4)

The reasons why the legislature of Rhode Island refused to send delegates to the Constitutional Convention were outlined in an official letter from the Rhode Island General Assembly to the President of the Congress of the Articles on September 15, 1787. This letter has been preserved in the State Papers of New Hampshire and Rhode Island and reproduced in Merrill Jensen's THE DOCUMENTARY HISTORY OF THE RATIFICATION OF THE CONSTITUTION (Volume I: Constitutional Documents and Records, 1776-1787). Essentially, the legislature took the position that the delegates to the Congress under the Articles were "chosen by the Suffrages of all the Freemen" of Rhode Island. Therefore, "for the Legislative body to have appointed Delegates to represent them in Convention [in Philadelphia, to revise the Articles], when they cannot appoint Delegates in Congress, (unless upon the Death or other incident matter) must be absurd; as that Delegation in Convention [in Philadelphia] is for the express purpose of altering a Constitution [the Articles], which the people at large are only capable of appointing the Members." The letter then goes on to cite the language of Article XIII of the Articles regarding the perpetuity of the confederation, and the necessity that every State legislature agree to changes in its organization. The letter then concludes that "As the Freemen at large have the Power of electing Delegates to represent them in Congress, we [the legislature] could not consistently appoint Delegates in a Convention, which might be the means of dissolving the Congress of the Union ... ." (5)

There might have been other reasons why a majority of the Rhode Island legislature would not support the Constitutional Convention, but they were specifically attacked on the points in their letter. The legislative delegates from the towns of Newport and Providence lodged a protest with the legislature, claiming that the reasons for its refusal to send delegates to the Constitutional Convention were specious. The protesters pointed out that it had previously been past practice in Rhode Island for the legislature to appoint delegates to the Continental Congress. However, they did acknowledge that the law had been changed, and that as the law currently existed in Rhode Island in 1787, that delegates were elected by the Freemen, rather than appointed by the Legislature. Nevertheless, they maintained that "The Legislature had Constitutionally the power of sending Delegates to Congress,—and to presume they have not Power to send Members to a proposed [constitutional] Convention. ... is most absurd." (6) Despite this remonstration, Rhode Island officially refused to change its position, and did not officially accede to the new Constitution until May 29, 1790 after a second ratifying convention was held. In fact, just prior to Rhode Island's approval of the Constitution, the Federalist supporters of the Constitution in Providence threatened to secede from the State. "This drastic but well-considered step—proposed in the Providence Town Meeting [of May 24, 1790] was embodied in instructions to that town's [constitutional ratification] convention delegates. If the Constitution was rejected or a decision unduly delayed, Providence delegates were empowered to meet with those of Newport and other interested towns to discuss means by which pro-Constitution communities could apply to Congress 'for the same privileges and protections which are afforded to the towns under their jurisdiction'." (7)

When New Hampshire became the ninth state to ratify the new Constitution on June 21, 1788, what was the legal and constitutional status of the four states—Rhode Island, Virginia, North Carolina, and

Books Received for Review

Kenneth W. Royce (a.k.a. Boston T. Party), HOLOGRAM OF LIBERTY: The Constitution's Shocking Alliance with Big Government. Available from Javelin Press, Box 31, Ignacio CO 81137. $19.95. Tel.: 1-877-300-9001.

Kerry L. Morgan, REAL CHOICE - REAL FREEDOM IN AMERICAN EDUCATION: The Legal and Constitutional Case For Parental Rights and Against Governmental Control of American Education. Available from University Press of America, 4720 Boston Way, Lanham MD 20706 or The Conservative Book Club. $38.50.

Carlotta R. Anderson, ALL-AMERICAN ANARCHIST: Joseph A. Labadie and the Labor Movement. Available from Wayne State University Press, 4809 Woodward Ave., Detroit MI 48201. $34.95.

New York—that had not yet ratified? Were those four states still associated together under the old Articles of Confederation? Had the nine states actually seceded from the Confederation? Did they have that right without the consent of the remaining four? Given the fact that nine contracting parties had instituted a new form of government, did the Articles of Confederation even exist at all? The most probable answer to these questions is that no one really knows. Certainly no provision had been made in the Articles for the withdrawal of nine states, nor has anyone ever argued that those nine states could not secede from the Confederation, although President Abraham Lincoln came dangerously close. In his First Inaugural Address of March 4, 1861, Lincoln held that under the Constitution of 1787, "the Union of these States is perpetual. Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper, ever had a provision in its organic law for its own termination. ... It follow from th[is] view that no State, upon its own mere motion, can lawfully get out of the Union, ..." If his reasoning was applied to the earlier union of American states, then the breakup of the Articles of Confederation was totally illegal and unconstitutional. Under Lincoln's theory, a good case might be made for arguing that the Articles are still in effect among the original thirteen states. In support of this contention, one might point out that no formal renunciation of the Articles was ever approved by the legislatures of the original nine ratifying states or by the Congress of the Confederation. The Ordinance of Implementation issued by the Continental Congress of the Articles of Confederation in late 1788, under which it called for appointment and assembly of electors to select a President and commencement of proceedings under the new constitution, makes no reference to the dissolution or abandonment of the Articles of Confederation. Why did no one at the time think it was necessary to formally disband the Articles?

When it comes to matters of secession, history cannot have it both ways. If nine states had the right to depart from the Confederation, then the Southern states had the right to depart from the northern states prior to the Civil War. However, if Lincoln's argument was wrong—and some of the States did have the right to breakup the Articles without the consent of the others—then his efforts to prevent the secession of the Southern states were illegal, unconstitutional, and improper. The whole Civil War and the death of 600,00 Americans was simply a "wager of battle" and an attempt to have "might make right." EITHER the nine States had the right to leave the Articles of Confederation -in which case they established the right of the Southern states to leave the government under the Constitution of the United States—OR the southern states did not have the right to leave the northern states, and the Constitution which the Northerners were defending was, itself, a totally invalid and illegal document of government—because it illegally superseded the Articles of Confederation.

The Southern view of the Articles of Confederation was more consistent. The South claimed that each state was a sovereign political unit and that each had the right to leave the Articles of Confederation—even though it was expressly written that all changes to the Confederation had to be unanimous. "Although the first confederation was to be perpetual, the states by reason of their sovereign power, could withdraw from it." (8) If the requirement—that all states had to consent to the departure of any one state from the Articles of Confederation—had to be met, then the South was faced with the fact that the secession of nine states from the Confederation was illegal. Indeed, this approach would call into question the very legality of the Constitution from which the Southern states wanted to depart.

The National State

"At the present time by far the most wealthy, powerful, and legitimate type of institution is the national state. In the socialist countries the national state monopolizes virtually all the wealth and the threat capability of the society. Even in the capitalist world the national state usually commands about 25 percent of the total economy and is a larger economic unit than any private corporation, society, or church. Thus the United States government alone wields economic power roughly equal to half the national income of the Soviet Union, which is the largest socialist state. Within the United States government the United States Department of Defense has a total budget larger than the national income of the Peoples Republic of China and can well claim to be second largest centrally planned economy in the world. It is true that the great corporations wield an economic power roughly equal to that of the smaller socialist states; there are, indeed, only about 11 countries with a gross national product larger than General Motors. Nevertheless, when it comes to legitimacy the national state is supreme. All other loyalties are expected to bow before it. A man may deny his parents, his wife and his friends, his God, or his profession and get away with it, but he cannot deny his country unless he finds another one. In our world a man without a country is regarded with pity and scorn. We are expected to make greater sacrifices for our country than we make for anything else."

—Kenneth E. Boulding, "The Impact of the Draft on the Legitimacy of the National State," in Sol Tax (ed.) THE DRAFT (1967), p. 193.

The fact of the matter is that until the fighting began at Fort Sumter in 1861, it was commonly recognized in both the North and the South that the states had the right to secede from the Union. During the late 18th and early 19th centuries, "Virtually no one questioned the right of any state to secede." From 1800 to 1815, three serious attempts at secession were orchestrated by the New England federalists, and throughout these years, "the right of a state to withdraw from the Union was not disputed." (9) Even as late as January 1861, Mayor Fernando Wood recommended that New York City secede from both New York State and the federal Union. "As a free city, with but nominal duty on imports, her local Government could be supported without taxation upon her people. Thus we could live free from taxes and have cheap goods nearly duty free." (10) Many editorial writers in the North advocated the peaceful withdrawal of the southern states. Some of their editorials can be found in Howard Cecil Perkins' collection, NORTHERN EDITORIALS ON SECESSION (New York: D. Appleton-Century Company, 1942).

In a scholarly study by H. Newcomb Morse in 1986, the author concluded that "the War Between the States did not prove that the southern states had no legal right to secede." His defense of this conclusion incorporates the following arguments: 1) Each and every State acceding to the Union had the right to secede unless the Constitution expressly denied that right. As Jefferson Davis put it, "If the right to secede is not prohibited to the States [which was not explicitly done in the Constitution], and no power to prevent it is specifically delegated to the United States, [then] it remains as reserved to the States or the people. ..." under the Tenth Amendment. (11) 2) Amendments were proposed in Congress just prior to the Civil War which specifically limited the right of secession. Morse asks: Why would such amendments be proposed, and why would Congress consider such amendments, if there was no right to secede in the first place? 3) Morse points out that the ratification documents of the states of Virginia and New York specifically state that those States reserve the right to secede from the Union, if and when it served their best interests. 4) After the war, Morse points out that the former Confederate States were forced to incorporate in their new constitutions a clause surrendering their right to secede. He concludes, that the United States implicitly admitted that those states had a right to secede: "Otherwise, how could they surrender a right, unless they had it in the first place?"

The most interesting of these arguments concerns the reservations made by New York and Virginia in their ratification of the federal Constitution. The New York Ratification of July 26, 1788 noted that "the powers of government may be reassumed by the people whenever it shall become necessary to their happiness," and the Virginia Ratification pointed out that "the powers granted under the Constitution being derived from the people of the United States may be resumed by them whenever the same shall be perverted to their injury or oppression." A Northern historian, James G. Randall, in his book CONSTITUTIONAL PROBLEMS UNDER LINCOLN (1926), addressed this argument and concludes that "none of the commonwealths formally and explicitly reserved in its resolution of ratification the right of State withdrawal, though several of them put on record the right of the people of the United States to resume governmental powers granted in the Constitution. There still remains, however, the belief of many historical scholars that the majority of the American people assumed at the time of ratification that State withdrawal was possible if the Union should prove unsatisfactory. This view is by no means confined to Southern writers." (12)

Another interesting aside to this argument is to notice how carefully the Southern states withdrew from the Union. They proceeded with all due attention to legal detail. The state legislatures did not make the decision. Every State convened a special state convention, and that convention was responsible for deciding the question of secession. As the South Carolina Ordinance of Secession and Declaration of the Causes of Secession put it: "We the people of South Carolina in convention assembled declare that the ordinance adopted by us in Convention May 23, 1788, wherein the Constitution of the United States of America and amendments to the Constitution were accepted is hereby repealed and that the union between South Carolina and the other States is dissolved. The State of South Carolina has resumed her position among the nations of the world as a separate and independent state, with full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do." (13) The Virginia ordinance to repeal the ratification of the Constitution of the United States said essentially the same thing:

> The people of Virginia, in their ratification of the Constitution of the United States of America, adopted by them in convention on the twenty-fifth day of June in the year of our Lord one thousand seven hundred and eighty-eight, having declared that the powers granted under said constitution were derived from the people of the United States, and might be resumed whensoever the same should be perverted to their injury and oppression; and the Federal Government having perverted said powers not only to the injury of the people of Virginia, but to the oppression of the Southern slaveholding states:
>
> Now, therefore, we the people of Virginia do declare and ordain that the ordinance

adopted by the people of this state in convention on the twenty-fifth of June in the year of our Lord one thousand seven hundred and eighty-eight, whereby the constitution of the United States of America was ratified and all acts of the general assembly of the state ratifying or adopting amendments to said constitution, are hereby repealed and abrogated; that the union between Virginia and the other states under the constitution aforesaid is hereby dissolved, and that the state of Virginia is in the full possession and exercise of all rights of sovereignty which belong and appertain to a free and independent state.

And they do further declare that said constitution of the United States of America is no longer binding on any of the citizens of this state. (14)

One major question remains: If the Southern states were so concerned about their right to secede from any political union, why is there no mention or reservation of that right in the Constitution of the Confederate States of America? Why didn't the Confederate states make a provision for secession in their own constitution? In an analysis of the Confederate Constitution of 1861, Marshall DeRosa answers this question. First, he argues that the Southern states claimed that the right of secession was implicit in the federal Constitution. Since their own Confederate constitution was modelled after the federal Constitution (from which they were seceding), it, too, implicitly embraced the right of secession. "To draft their Confederate Constitution with the expressed right of secession would, it was claimed, be yielding to the Northern interpretation of the U. S. Constitution that if such a right is not explicitly granted, it does not constitutionally exist. This they were not about to do." Secondly, the earliest states to secede had the problem of attracting the support of other states, like Virginia, that were reluctant to secede and wanted a strong central government. Embracing the right of secession would weaken the central government. As Jefferson Davis argued "It was not necessary in the [Confederate] Constitution to affirm the right of secession, because it was an attribute of sovereignty, and the States had reserved all they had not delegated." Therefore, DeRosa claims that the framers of the Confederate States Constitution "decided to make the right of secession constitutionally implicit by explicitly recognizing 'the sovereign and independent character of the States,' thereby providing the central government with the appearance of viability that otherwise might be lacking." Finally, DeRosa concludes that the Confederate Constitution had a covenant component, "establishing a central government held together by consent and good faith, and not coercion. In other words it was a voluntary association of sovereign states" which meant that each member had a right to leave. (15)

Regardless of whether one thinks these are solid reasons, the fact remains that the southern states did try to secede, and failed in their attempt. Many writers of the time recognized the serious threat that the right of secession posed to the stability of existing governments. The most poignant example of this is found in the Burlington, Vermont WEEKLY SENTINEL OF December 14, 1860. Said the Burlington editorial writer: "If one State has a right to go out from the Union, and thus to destroy the unity and integrity of the government, what State may not go out? And what portion within any State may not secede from the State? Why may not a man declare that his farm, or his house, or his shop in Burlington is no longer under the constitution and laws of Vermont; that he will pay no taxes, obey no process, etc., in a word, inform the world in general and the State of Vermont in particular, that he had *seceded*?" (16) In other words, if the territorial integrity of a government is important—if a government's existence is based upon its ability to exercise forcible control over a given geographic area—then secession is clearly incompatible with coercive political government.

In the politically correct language of today, secession is often referred to as "the right of self-determination." Yet, as the United Nations has found out, the inalienable right of self-determination is incompatible with the sovereignty and territorial integrity of existing states. A United Nations document, "Declaration on the Granting of Independence to Colonial Countries and Peoples" (1960) noted that "the principle of equal rights and self-determination is not to be applied to parts of the territory of a sovereign State." At most the principle of self-determination was intended to be a means of decolonization, "not an authorization for secession." (17) But if the entire world's land mass is already divided up among sovereign states, how and where may the principle of self-determination come into play? Clearly, the idea of maintaining the territorial integrity of existing states and the idea of secession are totally incongruous.

As these questions and answers make clear, the territorial boundaries of all states are strictly arbitrary. There is absolutely no reason why one state's borders stop at a particular line and why another state's territory begins on the other side of that line—except that one state's military violence had the ability to expand that far. In fact, if supporters of government were consistent, they would argue for a one world government. With over a hundred different governments existing at any one time in the world, it must easily seen that anarchy reigns in the international sphere. Nevertheless, few people seem to be concerned about international anarchy between the independent nations of the world. But if one part of one of those nations attempts to secede—break off and establish its independence—everyone is con-

cerned. (Secession *is* the essence of anarchy, as Lincoln so aptly put it.) As Murray Rothbard once wrote: "[O]nce one concedes that a single world government is *not* necessary, then where does one logically stop at the permissibility of separate states? If Canada and the United States can be separate nations without being denounced as being in a state of impermissible 'anarchy,' why may not the South secede from the United States? New York State from the Union? New York City from the state? Why may not Manhattan secede? Each neighborhood? Each block? Each house? Each *person*? But, of course, if each person may secede from government, we have virtually arrived at the purely free society, ... where the invasive State has ceased to exist." (18)

The integral relationship between secession and the principle that government must rest on the consent of the governed can be seen in Rothbard's example. Actually, his example begins at the wrong end of the spectrum. Consent is not the consent of a majority of people in a given geographic area, but rather consent of the peaceful individual. Individuals have the right to band together with other consenting individuals and form a voluntary government (for the moment, granting that voluntary government is not oxymoronic). To assert that New York State may secede from the United States is to start at the wrong place. A majority of those living in the territory defined as New York State have no right to impose their collective will on the minority who do not wish to secede from the United States. The seceders may take their persons and property and remove themselves from the authority of the United States, but they have no right to disrupt the authority of the United States over those who accept the United States as their rightful government. Neither do those who accept the United States as their government have the right to impose its jurisdiction over those who do not consent to its authority. Government "by consent" implies the right to *not* consent, or to *withdraw* one's consent at a later date. "To contend that [individual] consent is the moral justification for government is to lay the groundwork for" voluntaryism. (19) There is a large unbridgeable chasm between the idea of consent and political government based on majority rule. For inevitably to contend that government rests on consent is to embark down the slippery slope to secessionism that will ultimately lead one to voluntaryism. (20)

Footnotes

(1) See Carl Watner, "'Oh, Ye Are for Anarchy!': Consent Theory in the Radical Libertarian Tradition," VIII THE JOURNAL OF LIBERTARIAN STUDIES (Winter 1986), pp. 111-137.
(2) Merrill Jensen, THE ARTICLES OF CONFEDERATION, Madison: The University of Wisconsin Press, 1959, p. 253.
(3) Merrill Jensen (ed.), THE DOCUMENTARY HISTORY OF THE RATIFICATION OF THE UNITED STATES, Vol. I: Constitutional Documents and Records, 1776-1787, Madison: State Historical Society of Wisconsin, 1976, p. 97.
(4) Jerry Fresia, TOWARD AN AMERICAN REVOLUTION, Boston: Southend Press, 1988, p. 50.
(5) Jensen (ed.), pp. 225-227.
(6) ibid., pp. 227-229.
(7) Patrick T. Conley, DEMOCRACY IN DECLINE: Rhode Island's Constitutional Development 1776-1841, Providence: Rhode Island Historical Society, 1977, p. 132.
(8) Captain S. A. Ashe, A SOUTHERN VIEW OF THE INVASION OF THE SOUTHERN STATES AND THE WAR OF 1861-65, Raleigh: The Ruffin Flag Co., 1938, p. 26.
(9) Thomas DiLorenzo, "Yankee Confederates: New England Secession Movements Prior to the War Between the States," in David Gordon (ed.), SECESSION, STATE & LIBERTY, New Brunswick: Transaction Publishers, 1998, p. 141 and 150.
(10) Mayor Fernando Wood's Recommendation for the Secession of New York City, January 6, 1861 in Henry Steele Commager (ed.), DOCUMENTS OF AMERICAN HISTORY, New York: Appleton Century Crofts, 1963, 7th edition, p. 374.
(11) H. Newcomb Morse, "The Foundation and Meaning of Secession," 15 STETSON LAW REVIEW, 1986, pp. 419-436 at pp. 423-424.
(12) James G. Randall, CONSTITUTIONAL PROBLEMS UNDER LINCOLN, New York: D. Appleton and Company, 1926. See Footnote 18 at pp. 15-16.
(13) op. cit, Commager, pp. 373-374 citing from "The South Carolina Ordinance of Secession" and "The Declaration of Causes of Secession."
(14) Henry T. Shanks, THE SECESSION MOVEMENT IN VIRGINIA, Richmond, Garret and Massie, 1934, p. 201.
(15) Marshall L. DeRosa, THE CONFEDERATE CONSTITUTION OF 1861, Columbia: University of Missouri Press, 1991, pp. 52-55.
(16) Howard Cecil Perkins (ed.), NORTHERN EDITORIALS ON SECESSION, New York, D. Appleton-Century Company, 1942, p. 196 (italics in the original).
(17) Leo Kuper, THE PREVENTION OF GENOCIDE, New Haven, Yale University Press, 1985. See Chapter 4, "The Right to Self-Determination—The Secession of Bangladesh," especially at pp. 65-66 and p. 74.
(18) Murray Rothbard, POWER AND MARKET, Menlo Park, Institute for Humane Studies, 1970, p. 3.
(19) George H. Smith, "William Wollaston on Property Rights," II JOURNAL OF LIBERTARIAN STUDIES, 1978, pp. 217-224 at p. 224, footnote 23.
(20) Watner, op. cit, p. 133.

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