

## THE NEW ENGLAND SECESSION TRADITION

- A Historical Overview in Three Parts -

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### I.

The Vermont independence effort is guided by a peaceful group of thoughtful citizens who believe that Vermont would be better off as a small independent country like Iceland, Lichtenstein, Monaco, Luxembourg, or Switzerland than to remain under the domination of an overly centralized and increasingly out-of-control central federal government. To some, the idea of an independent Vermont is preposterous but harmless, more theater than serious policy. To others it smacks of treason. Did not the Civil War settle forever the question of whether a state within the United States can secede?

It did not. Timeless moral and constitutional questions cannot be settled by the contingencies of war.

That secession is a policy option available to any state within the United States today is admittedly unfashionable, but it is neither silly nor treasonous. It is an option rooted in the origin and foundations of the U.S. political tradition. George Washington and John Adams proved secessionists. The Declaration of Independence is a legal brief in international law justifying the secession of 13 self-proclaimed states from the British Empire. Vermont was not one of these states, but seceded from Britain on her own in 1777, and remained an independent republic before joining the Union in 1791. Vermont and Texas came into the Union as independent states from prior secessions.

Secession is an ever-present possibility in any large political union created out of formerly independent political societies such as the United Kingdom, the Soviet Union, the European Union, or the United States. Since each political society pre-existed the union, the political society is primary (an end in itself), while the union is secondary (an instrument). When an instrument (like the union) no longer serves its purpose, it should be discarded for a better one.

Of course, every large-scale union will try to make itself the end, and the political units that are its constituent parts the means. Great Britain did this during its imperial period. But a recent poll shows that 52 percent of Scots want to secede and restore their own country, and 58 percent of the English approve of their leaving! The Soviet Union claimed to be a revolutionary end in itself, and the republics instruments for a global Marxist revolution. But this most centralized Union in history dissolved after only 70 years when 15 states peacefully seceded.

To view the notion of a Second Vermont Republic in the proper light, we need to keep in mind the great political changes that have occurred internationally since World War II. For 350 years, the

disposition of European states (and those created by their empires, including the United States) has been centralization of power. Thousands of independent and quasi-independent political societies were crushed into larger and fewer states through wars of unification and nation-building. Eighteenth century absolute Monarchists, 19th century Liberals and Socialists, 20th century Communists, Nazis, and Fascists all agreed at least on one thing: smaller polities had to give way to vast, centralized, modern states ruling over millions. It was thought that prosperity and moral progress (however defined), depended on such Leviathans.

But experience has shown this to be an illusion. From the French Revolution of 1789 through the Napoleonic wars, World Wars I and II, and the Cold War, the massive power concentrated in modern states has issued in wars of unprecedented scale and intensity. And wars have not been the worst. R. J. Rummel in *Death by Government* has argued that modern states have killed nearly four times as many of their own people as have been killed in all the wars, foreign and domestic, fought around the globe in the 20th century. The modern unitary state has proven itself to be a weapon of mass destruction. What prosperity and progress we have appears to have gone on in spite of the Leviathan, and not because of it.

Smallness is no barrier to prosperity. Most of the 10 states in the world having the highest per-capita income are small. One of them, Iceland, has a population under 300,000. More than half the countries in the world today are under 5 million, and the number is growing. Vermont's population is around 600,000. If it were independent, it would join 66 other countries with populations of 600,000 or less.

Everywhere the vast nation-states created since the French Revolution are fracturing. Allegiances are shifting to supranational or sub-national organizations. The Second Vermont Republic is possible because we live in interesting times. George Kennan, one of the 20th century's great geopolitical strategists and architect of the United States' Cold War containment policy, argued in his autobiography, *Around the Cragged Hill*, that the public corporation known as the United States has become simply too large for the purposes of self government. When any corporation becomes so large that it is on the verge of collapsing under its own unwieldy bulk, the only remedy, Kennan concluded, is to downsize it. And he suggested that we begin a public debate on how to divide the U.S. empire into a number of independent unions of states associated under a commonwealth model. George Kennan, who ended his career at Princeton's Institute for Advanced Studies, endorsed the idea of a Second Vermont Republic a few years before his death as a worthy effort to begin a debate about how such division should proceed.

Yet for many, secession still appears alien – outside the boundaries of the U.S. political tradition. But this view springs from attending to only one part of our political tradition. From the formation of the United States, with the Articles of Confederation, on down to 1860, secession proved a policy option considered in every section of the federation by major political leaders. It was only after the so-called Civil War that Americans began to adopt the language of the French Revolution, language that

absolutely prohibits secession. The French Republic was the first to declare itself a republic – one and indivisible – creating the paradigm of all modern states.

But this language of indivisibility was entirely alien to the republican principles of the American Revolution under which the United States created a voluntary federation of states, not an aggregate of individuals ruled from the center. It was not until the 1920s (at the high noon of the Western obsession with centralization) that the U.S. Congress approved the Pledge of Allegiance, verbally transforming a federation of states into the French Revolutionary slogan: “one nation indivisible.”

The result is that Americans have inherited a deeply fractured political tradition. On one side of the fracture is what we may call a Jeffersonian Americanism, beginning with the Declaration of Independence (a secession document) and running down to 1860. On the other side is a post-Lincolnian Americanism. The former is rooted in state sovereignty, privileges small polities, and is open to secession. The latter is rooted in national sovereignty, views the individual states (like Vermont) mainly as administrative units of the center, and absolutely prohibits secession. Every American has inherited both these contrary Americanisms, and no citizen who understands both can fail to feel the tension they generate.

Yet they are incommensurable. Post-Lincolnian historiography has pushed Jeffersonian Americanism to the margin by either ignoring it or by presenting it as an outdated political engagement. But no part of a tradition is ever lost. Indeed, what we call a reformation or a renaissance is usually a swerving back to recover and make topical again a part of tradition that had been neglected or misunderstood. At a time when the 350-year adventure of the large unitary state has turned sour and the resources of post-Lincolnian centralization seem to be exhausted, it is perhaps time to recover and explore the Jeffersonian inheritance.

#### A New England tradition

The first thing to appreciate is that it was not until the post-Lincolnian era that the U.S. Constitution began to be seen as the sacred document of an organic American civil religion. In the Jeffersonian era, the Constitution was thought of as a secular compact between sovereign states. It was also a compromise that few were happy with. Alexander Hamilton, who wanted a British style unitary state, called it a “worthless fabric.”

The region of the United States that first tested the Union for its viability was New England. Its leaders seriously considered secession in 1804 over President Jefferson’s Louisiana Purchase; in 1808 over Jefferson’s Embargo of their trade; and most seriously in 1814, over issues surrounding “Mr. Madison’s War of 1812.” Secession was advocated by New England abolitionists from the 1830s on to 1860; and by John Quincy Adams and other New England leaders over the Mexican war and the annexation of Texas. In this essay (and the next installments), an effort will be made to make this

New England secession tradition better known and to explore its intimations for our time.

The Union created by the Constitution of 1789 was hotly debated and passed only by a small margin. As early as 1794, Senators Rufus King of New York (formerly from Massachusetts) and Oliver Ellsworth of Connecticut told Senator John Taylor of Virginia that "it was utterly impossible for the union to continue," that North and South would never agree on public policy, and that it would be better to renegotiate the Union than to have a forced separation later. Both King and Ellsworth were Founding Fathers who had helped draft the U.S. Constitution, and both were political allies of Federalist leaders who would later lead serious secession movements in New England.

Nothing came of this move. But 10 years later a more serious effort at secession arose in response to the 1803 Louisiana Purchase, which more than doubled the size of the United States. Since the Constitution had no provision for acquiring new territory, Jefferson's acquisition was thought to be unconstitutional. Moreover, New England had a commercial and maritime economy; consequently, its face was set to the East. The agricultural South meanwhile, looked to cultivate land in the West. Acquiring the Louisiana Territory meant more states in the West, greatly expanding the power of the Southern agrarian interest at the expense of New England's commercial interests.

Further, the new states would contain Spanish and French populations that had no feel for the American inheritance of British liberty which New Englanders thought was best exemplified in their own region of the nation. As one cleric put it: "we derive all that is valuable in religion and morals, the common law, the habeas corpus, the trial by jury, and that spirit and those principles of freedom, which led to . . . our independence. Had we been the sons of Frenchmen, we could have inherited none of these blessings."

These ethnic, cultural, commercial and other dislocations anticipated by the Louisiana Purchase gave rise, in 1804, to a secession movement led by New England Federalists in Congress of whom Timothy Pickering, Uriah Tracy, and Roger Griswold were leaders. Their vision was of "a new confederacy, exempt from the corrupt and corrupting influence and oppression of the aristocratic Democrats of the South." Its nucleus would be New England, "to which New York would be added later," and with a hand of friendship extended to the British provinces in Canada. Aaron Burr supported the vision, and it was hoped that, upon being elected governor of New York, he would lead a secession movement in that state. Though secession was considered desirable by many Federalist leaders in New England, they did not think there was sufficient popular support to hazard their careers. Burr's electoral defeat and the scandal over killing Hamilton in a duel ended, for the moment, the project of a New England federation.

This first secession movement, which counted among its leaders Founding Fathers who had drafted the U.S. Constitution, may seem surprising only because of the dominance of post-Lincolnian historiography which views U.S. history as the story of the inevitable unfolding of a unitary American

State, one and indivisible. But in the Jeffersonian era, the Union was not considered organic and indivisible but an experiment, as Washington famously called it in his 1796 Farewell Address.

An experiment that fails should be called off. And in the case of a federal union of states, each of which could be a viable country in the world, that can only mean secession. A distinguished historian of this period writes: "secession, even in 1804 was no new and unheard-of remedy for oppressed sectional minorities...most political thinkers of the first half-century of constitutional government had very little faith in the duration of the Union, and the statement that such-and-such a measure would 'inevitably produce a dissolution of the Union' was a familiar figure of speech in politics."

It is not familiar now. But what faith can we rationally have in an over-centralized, post-Lincolnian empire that no longer knows how to stop growing? What faith did George Kennan have in it? Would it really have been so bad if the New England states had formed a Northeastern federation with special ties to Canadian Britain?

For more than a century, questions of this sort have not been asked. But given the great changes in the world today, they can no longer be suppressed; and indeed appear to us now in a fresh light. The secession movement of 1804 – being a top-down affair – was aborted. But only four years later, another secession movement in New England would erupt. This time from the bottom up.

## II.

From the ratification of the Constitution in 1789 up to 1860, secession was openly considered throughout the Union as an option available to an American state. The first section to mount a serious secession movement was New England, from 1804 to 1814. The public knows little about this movement, and the few historians who have written about it have viewed it with some embarrassment as an unpatriotic act.

The reason, of course, is that post-Lincolnian historiography views the Union as "indivisible." Once a state enters the Union, there is no exit. But leaving aside whether this is true today, it most certainly was not the pre-Lincolnian conception of the Union. The New England secession movement, involving as it did distinguished leaders of the Federalist Party as well as Founding Fathers, is strong evidence that the Union was not thought of as indivisible.

The first work on the Constitution was St. George Tucker's *Blackstone's Commentaries, With Notes of Reference to the Constitution and Laws of the Federal Government of the United States*, published in 1803, only four years after the Constitution was ratified. It makes clear that since the states were sovereign prior to forming the Union, and freely entered it, they may, if they chose, freely leave it. The next work on the Constitution was *A View of the Constitution* (1825) by William Rawle, a friend of

George Washington and head of the Pennsylvania bar. Rawle was a Federalist, the same party that presided over the New England secession movement 10 years before its publication. In it, Rawle says: "The secession of a state from the Union depends on the will of the people of such state," and he lays out the legal steps a state must satisfy to secede. Rawle's book was enthusiastically reviewed by Boston's prestigious North American Review and declared a "safe guide" to the Constitution. It was used as a text on the Constitution at West Point from 1825 to 1840.

The theory of the Constitution that legitimates secession was first articulated by Thomas Jefferson in the Kentucky Resolutions (1798, 1799), and by James Madison in the Virginia Resolutions (1798) and the Virginia Report (1799). These came to be known as "the principles of '98."

The Constitution, Jefferson argued, is a compact between sovereign states to create a central government endowed with only enumerated powers (mainly defense, regulation of commerce, and foreign treaties). To delegate power is not to renounce sovereignty. Consequently a state, being sovereign, can interpose its authority to protect its citizens from an unconstitutional act of the central government by nullifying it. Jefferson, in the 1799 Kentucky Resolutions, was the first to introduce state nullification into Constitutional discourse. Should a state nullify a federal law as unconstitutional, the central government could respond by repealing the legislation. If it did not, and if three fourths of the other states concurred with the objecting state, the Constitution would be amended and the legislation would, by the highest authority, be deemed unconstitutional. If the other states did not concur, three possibilities would remain: (1) the objecting state could defer to her sister states and repeal the nullification; (2) the other states could decide to tolerate the nullification in that state (the "notwithstanding" clause of the Canadian Constitution allows any Province to nullify federal laws in that Province in the area of civil rights); and (3) if neither of those alternatives was acceptable to the objecting state, it must leave the Union. A state can legitimately leave the Union because it freely entered it as a pre-existing sovereign state. This was understood at the time of ratification, and New York, Rhode Island, and Virginia wrote in their ordinances of ratification the right to withdraw the powers they had delegated to the central government and withdraw from the Union.

The compact theory proved ubiquitous and did not receive a serious challenge until the 1830s with Joseph Story's Commentaries on the Constitution of the United States (1833). Even so, it remained the dominant view up to 1860. The central idea behind the theory was that the people of the several states, as corporate entities, had original rights (including sovereignty) that could be enforced by state nullification, and if need be, by secession. Jefferson and Madison both invoked the compact theory to nullify the Alien and Sedition Acts of the Adams administration. And it is a great irony that New Englanders would use the Jeffersonian "principles of 98" in the first, most sustained, and thoughtful implementation of those principles against what were perceived to be the tyrannical policies of the Jefferson and Madison administrations.

This New England use of the compact theory began when Jefferson pushed through the 1803

Louisiana Purchase treaty, which more than doubled the size of the Union. New Englanders were a commercial people whose destiny was tied to the sea. They favored patronage from the central government to regulate and subsidize the commerce of a thickly populated and prosperous urban eastern seaboard. The South, however, was agricultural and favored expansion westward. The Massachusetts Legislature declared: "If the President and the Senate may purchase land, and Congress may plant States in Louisiana, they may with equal right establish them on the North West Coast, or in South-America. It may be questioned hereafter, whether after this formation of new States, the adherence of the old ones which dissented from the measure, is the result of obligation or expediency."

The vast Louisiana Purchase would depopulate New England; new states would be introduced that would strengthen the Southern agrarian interest; and New England would lose its rightful place in the Union. Nor did this have to happen, since many held, quite plausibly, that the Louisiana Purchase was unconstitutional. The Constitution makes no provision for acquiring new territory (other than the entrance of Canada). New territory could be justly acquired only through a constitutional amendment. Failure to meet this constitutional requirement was grounds for secession.

To the charge that these demands exhibited an unpatriotic and a selfish sectional attitude on the part of New Englanders, three things need to be said:

(1) There was no "nation-state" about which one could be unpatriotic. The nation-state first appeared with the French Revolution. America at this time was an inchoate federation of states, each of which had its own "nationality." Tocqueville could write in the 1830s that in forming a Union, the states "have not forfeited their nationality, nor have they been reduced to the condition of one and the same people. If one of the states chooses to withdraw from the compact, it would be difficult to disprove its right of doing so."

(2) New England, at this time, was nearly two centuries old, and had developed a strong national identity, as a contemporary Fisher Ames wrote: "Of all colonies that ever were founded, the largest, the most assimilated, and to use the modern jargon, nationalized is New England." (My italics.) New England formed a federation as early as 1643, and coined its own money. A contemporary poem well expresses the nationalist sentiment: "Amy Kittredge is my name/ Salem is my dwelling place/ New England is my nashun [sic]/ And Christ is my salvation."

(3) New Englanders were not so much interested in dissolving the Union over the Louisiana Purchase as they were in opposing the Union's expansion. Governor Strong of Massachusetts in 1813 gave a speech to the Legislature against expansion. And Harrison Otis, chair of the House committee responding on its behalf, agreed with the governor, insisting that "the extension of territorial limits was never contemplated by the framers of the Constitution."

The acquisition of the vast Louisiana Territory, without allowing the people of the several states to vote on a constitutional amendment, endangered the de-centralist republican experiment of the Revolution, and opened the path to a consolidated empire. The only check to this imperial ambition seemed to be secession. As Timothy Pickering put it in 1810: "I cannot think . . . that a separation at this time would be an evil; on the contrary, I believe an immediate separation would be a real blessing to the 'good old thirteen states,' as John Randolph once called them."

Republicanism required a smaller scale and cultural homogeneity. As James Lowell Jr. explained it, republican self government requires that "the people should be less extended, and more enlightened, and that there should be a similarity in their manners, habits, and pursuits." In this vision, the continent would be divided into a number of federations, each with its own distinct way of life, roughly in the way that South America would develop.

Instead, America became the consolidated empire Lowell and other New Englanders warned against. A centralized empire stretching to the Pacific was by no means inevitable, and many at the time did not think it was desirable. It is often said against secession that it is disruptive because it suddenly creates new majorities and new minorities. But exactly the same is true of expansion. The addition of Louisiana and Florida threatened powerful and legitimate interests, and upset the balance of power in the Senate. Moreover, like the Louisiana Purchase, these new states were brought in by a mere majority vote in Congress, without a constitutional amendment, provoking the bitter denunciation of Josiah Quincy of Massachusetts in a speech to the House of Representatives in 1811. The creation of the State of Louisiana without a constitutional amendment, he said, "is virtually a dissolution of this Union; that it will free the States from their moral obligation; and, as it will be the right of all, so it will be the duty of some, definitely to prepare for a separation: amicably if they can, violently if they must."

Talk of secession over the Louisiana Purchase and what it intimated was largely the province of political elites, and did not generate a mass movement. However, the Embargo Act of 1808 and the War of 1812 did spark a mass movement for state nullification and secession.

The Embargo forbade foreign trade and allowed seizure of goods on mere suspicion if intended for export, and authorized use of army and naval power to enforce it. Massachusetts owned more than a third of U.S. tonnage, and controlled most shipbuilding and cod fishing. Its highly profitable carrying trade was devastated, and the farmers in the western part of New England sat on a glut of produce that could not be shipped out. Workers and sailors were unemployed. Invoking the Jeffersonian and Madisonian "principles of '98," the Massachusetts Legislature flatly nullified the Embargo, declaring it "unjust, oppressive, and unconstitutional, and not legally binding on the citizens of this state," and it enjoined other states to support "such amendments to the Constitution of the United States, as shall be judged necessary . . . to give the commercial states their fair and just consideration in the government of the union."

Encouraged by the government, the people openly flouted the Embargo. John Quincy Adams reported more than 40 cases in which juries would not convict. The New England towns sent remonstrances to Congress and, receiving no reply, openly called for secession. They used the same language Jefferson and Madison had employed in formulating the compact theory of the Constitution. Newburyport, Massachusetts, may be taken as an instance. The Constitution, the town said, is a compact between the states: "Whenever its provisions are violated, or its original principles departed from by a majority of the states or of their people, it is no longer an effective instrument, but that any state is at liberty by the spirit of the contract to withdraw from the union." Napoleon sold the Louisiana Territory to the Americans because he needed money and wished to check British expansion. The administrations of Jefferson and Madison were sympathetic to the French. New Englanders were sympathetic to the British. Upon reading Madison's war speech, Governor Caleb Strong of Massachusetts called a fast to protest a war "against the nation from which we are descended, and which for many generations has been the bulwark of the religion we profess."

Many of the clergy called for nullifying the war. Elijah Parish of Newburyport urged New England states to "proclaim an honourable neutrality; let the southern Heroes fight their own battles... Break those chains, under which you have sullenly murmured . . . and once more breathe that free, commercial air of New England which your fathers always enjoyed... Protest? Did I say, protest? Forbid this war to proceed in New-England." John Sylvester Gardiner, a major Boston Episcopal cleric, declared: either "cut the connexion" with the South or amend the Constitution; "This portion of the disunited states should take care of itself... The time has come when common prudence is pusillanimity, and moderation has ceased to be a virtue."

Thomas Dawes wrote to Noah Webster praying that God would "save us from the yoke of Bonaparte and Virginia." A letter published in a number of newspapers acknowledged "that a separation has been suggested in the northern states is too true. The northern and eastern states must have the privilege of navigation, OR PERISH... The New England people . . . wish for peace, and court it . . . but when they are once roused, they are irresistible . . . and if they once declare themselves a separate nation, the union will be broken never to be repaired." President Timothy Dwight of Yale College preached on the text: "Come out therefore from among them and be ye separate." The Boston Gazette declared: "It is better to suffer the AMPUTATION of a Limb, than to lose the WHOLE BODY. We must prepare for the operation."

"I would not be deluded by a word," said Timothy Pickering, "To my ears there is no magic in the sound of Union."

The war and the Draconian Embargo Act of 1813, which prevented the coasting trade (and made smuggling more difficult) was the last straw. The Middlesex County Federalist declared: "Instead of wishing to withdraw from the Union, we fear that the Government has withdrawn from us." And the Essex County Federalists thought their people "more injured, oppressed and endangered by the doings

of our own National Government, than they were when in 1775 we took arms to protect and defend ourselves against the measures of the government of Great Britain." Senator Blake of Worcester gave a speech praising Great Britain in its struggle with Revolutionary France, and said that if the U.S. Constitution permitted embargoes, he preferred the British Constitution "monarchy and all." New Englanders refused to send troops to support the war with Britain and demanded that a portion of the revenue sent to Washington be remitted to provide for their own defense.

State nullification and secession had been the talk of elites in 1804, but from 1808 to 1814 it had become the subject of New England Town meetings. This popular movement forced the Federalist leaders to call for a Convention of New England states to meet at Hartford, Connecticut, on the model of the Philadelphia Convention, namely to reconsider the relation of the states to the Union.

It should be remembered that the Philadelphia Convention proposed a dissolution of the Union, writing in Article VII of the proposed Constitution that only nine states were necessary to form a new Union of states. Should only nine ratify, the other four would be free to continue under the Articles of Confederation or to form whatever association they saw fit.

President Thomas Jefferson would later acknowledge, "and with some respect and admiration" point out, that this Constitutional crisis was brought on by the people themselves, and not by their political elites: "I felt the foundation of the government shaken under my feet by the New England townships."

What course would this new Constitutional Convention at Hartford take? And what is its legacy and salience for us today?

### III.

The first serious secession movement in American began in New England in 1804 and culminated in the Hartford Convention of 1814-15. This decade-long movement was not a revolution, but a lawful action legitimated by the Constitution. How so? As Jefferson and Madison taught, the Constitution is a compact ratified by the States each of which is a sovereign political community. Since each State is a sovereign party to the compact, each has the right and duty to protect its citizens from unconstitutional acts of the central government by nullifying them, and thereby forcing a decision by the other sovereigns on the constitutionality of the act. And as a last resort, a State can protect its citizens from a tyrannical central government by seceding from the Union. This right, flowing from the compact theory, was widely asserted in the New England press. As one editor put it: "whenever its provisions [the constitutional compact] are violated, or its original principles departed from by a majority of the states or of their people, it is no longer an effective instrument, but that any state is at liberty by the spirit of that contract to withdraw from the union."

It is interesting that the first secession movement in America was over the question of *size*. The

Constitution makes no provision for acquiring new territory; yet Jefferson and the Senate more than doubled the size of the Union by acquiring the Louisiana Purchase territory from Napoleon. New Englanders had little interest in a western wilderness that would drain their population and give power to the agricultural South whose economic interests were entirely different from their own. Pickering thought and hoped that the British would capture New Orleans and control the mouth of the Mississippi. The western States would then join a union with Britain, as they had thought of joining Spain when she controlled the Mississippi. In a pamphlet widely publicized throughout New England, an anonymous writer, "Refederator," urged that the Hartford Convention consider forming "a new confederation, grounded on experience; without, however, excluding the Southern Atlantic States.... The Western States beyond the mountains, are not taken into view in this connexion.... Their outlet is through the Mississippi. They have no natural connection with the Atlantic States....If the Union of the States is preserved, the Western region will drain off the Atlantic population, consume the resources of the Union Band reward us by removing the seat of Empire beyond the mountains. What then seems to be most obviously to the interest of all concerned? *Let the Western States go off*, and take care of themselves. Give them the public lands to pay their debts with, and thank them into the bargain.... Then let us, who belong to the old family, try, by the agency of such men as are to meet at Hartford... [to] revise our family compact....that a lasting and beneficial Union might be formed." New Englanders opposed the war with Britain and the Embargo Acts of 1808 and 1813 that wrecked the shipping trade essential to New England's economy. An editor in Newburyport declared in 1813: "We have always been led to believe that a separation of the States would be a great evil....But rather than prosecute the present war, which will eventuate in the ruin of the Northern and Eastern States...we think it by far the least of the two evils." Memorials from the towns poured in demanding State nullification and secession. From New Bedford, Massachusetts: "The time has arrived in which it is incumbent on the people of this state, to prepare themselves for the great duty, of protecting, by their own vigor, their inalienable rights." Some thought the state should set up its own custom house and enforce free trade, and that the state fund a force of 30,000 to protect the state in its constitutional rights.

Britain alone stood in the way of Napoleon's conquest of Europe, and to many New Englanders a war with Britain mean indirect support of Napoleon. A pamphleteer declared that the past two years had led to the belief "that if the General Government did not immediately make peace, that New England would secede from the Union and make a separate peace for themselves." Gouverneur Morris of New York, a signer of the Constitution had long urged a confederation of New England and New York. New England Federalists despaired of peace and called "for as many of the States as dislike the War to form themselves into a new Government and make peace for themselves, leaving the way open for the other states to join them whenever they become tired of the contest." Governor Strong of Massachusetts even sent an embassy to Canada to inquire about a New England armistice with Britain. The Town of Newburyport resolved that if the central government did not end hostilities soon that

Massachusetts should "declare that our resources shall be appropriated to our defense, that the laws of the United States shall be temporally suspended in their operation in our territory, and that hostilities shall cease towards Great Britain on the part of the free, sovereign & independent States of New England."

As the meeting of the Hartford Convention approached, the exhilarating prospect of secession and a New England federation was in the air. One Federalist editor explained the matter to his readers: "The plan as we understand it, is to make the convention of 1788 the basis of their proceedings and to frame a new government, to be submitted to the legislatures of the several states for their approbation and adoption. The new constitution to go into operation as in the former case, as soon as two, three, or more of the states named shall have adopted it....Instantly after, the contest in many of the states will be whether to adhere to the old, or join the new government."

Founding Father Gouverneur Morris fully expected the Hartford Convention to propose secession of New England, and he hoped New York would join: "The question of the boundary to be...the Delaware, the Susquehanna, or the Potomac." John Lowell pondered the constitutionality of secession and urged the Hartford Convention to first declare the Constitution suspended by the States. This would mean that "the people of that State are no longer holden to perform their engagements to the National authority. They cannot be traitors or rebels. They may be treated as enemies, like the citizens of any foreign state, if a wrecked and abandoned and desperate policy should induce the National rulers to declare war against such a state."

Alexander Hamilton had raised just this question only two decades earlier in the New York Ratifying Convention. Can the central government constitutionally use military force to coerce a non-complying State against its will? Hamilton said the central government could coerce *individuals* anywhere in the Union under its enumerated powers. But by the very nature of the Constitution, it could not coerce a *sovereign political society* that refused to comply. Suppose Hamilton said that "Massachusetts, or any large State, should refuse, [to comply on some measure] and Congress should attempt to compel them ... What picture does this idea present to our view? A complying State at war with a non-complying State; Congress marching the troops of one State into the bosom of another....Here is a nation at war with itself. Can any reasonable man be well disposed towards a Government which makes war and carnage the only means of supporting itself: a Government that can only exist by the sword?...But can we believe that one State will ever suffer itself to be used as an instrument of coercion? The thing is a dream; it is impossible." What Hamilton found unthinkable would actually be carried out by the newly formed Republican Party only 47 years after the Hartford Convention.

In the end, the leaders of the Hartford Convention decided not to propose secession but instead nullified certain acts of the central government, and sent commissioners to Washington to propose constitutional amendments. The Convention, however, did not adjourn and agreed to meet again if the war continued and their demands were not met. The leaders of the Hartford Convention had been urged to action by the people through their Town Meetings, and many were disappointed at this missed chance for independence. Theodore Dwight wrote to Pickering in January of 1815, saying of the Convention: "they certainly have not done as much as was expected of them by the great Body of the people of this State." And the editor of the New York *Evening Post* wrote that although the tone of the Convention's Report is "sufficiently high for the occasion, it is "from the most authentic information quite inferior to the public feeling in the Eastern States. The people there are in advance of their leaders." In anticipation of secession some business leaders had pledged not to remit excise taxes.

The war ended and with it the main grievances that had fueled the State nullification and secession movement. Had the war continued, a New England federation might well have come into existence. One consequence of the Hartford Convention is that it gave national prominence to the Jeffersonian theory that the Constitution is a *compact between States* with its corollaries of State interposition, nullification, and secession. When South Carolina nullified the tariff in 1828 and 1832 as unconstitutional, its action was the same as that of New England nullifications, and had even greater legitimacy since it was a convention of the sovereign people that nullified and not merely the legislature as in New England. And when 11 States did secede in 1861 to form a federation of their own, they appealed to the same Jeffersonian theory of the Constitution as did New Englanders.

So did the Abolitionists, a movement that began in 1831 with the publication of William Lloyd Garrison's *The Liberator*. Garrison and his movement argued that the best way to subvert slavery was for the Northern States to secede from the South, thereby withdrawing the financial and legal support that sustained the institution. The masthead of *The Liberator* read "No Union with Slaveholders." The American Anti-Slavery Society, which Garrison helped form, passed the following resolution. "Resolved, that secession from the United States Government is the duty of every Abolitionist," and on another occasion: "That the Abolitionists of this country should make it one of the primary objects of this agitation to dissolve the American Union."

John Quincy Adams, though no friend of the Hartford Convention, nevertheless believed an American State could secede. In 1839 he gave a speech celebrating the 50<sup>th</sup> anniversary of the Constitution. The Union of "the several states," he said, are held together not by force but by consent and common interests. Should that ever break down: "far better will it be for the people of the disunited states to part in friendship from each other, than to be held together by constraint. Then will be the time for

reverting to the precedents which occurred at the formation and adoption of the Constitution, to form again a more perfect Union by dissolving that which could no longer bind, and to leave the separated parts to be reunited by the law of political gravitation to the center." Four years after this speech, Adams and other Northern leaders would openly call for secession if Texas should be annexed to the Union: "We hesitate not to say that annexation would be identical with dissolution ... but would fully justify it." This speech was given only 17 years before South Carolina seceded.

When Southern States did secede, abolitionists were overjoyed. This was the view of *The Douglass Monthly* edited by Fredrick Douglass, and of abolitionist Horace Greeley of the Republican *New York Tribune* who declared after the Confederacy was formed: "We have repeatedly said ... that the great principle embodied by Jefferson in the Declaration of Independence, that governments derive their powers from the consent of the governed, is sound and just; and that if ... the cotton States, or the gulf States only, choose to form an independent nation, they have a clear moral right to do so. Whenever it shall be clear that the great body of Southern people have become conclusively alienated from the Union, and anxious to escape from it, we will do our best to forward their views."

New England Abolitionists who drew their inspiration from the Jeffersonian constitutionalism of the Hartford Convention put forth the humane proposition that the best way to handle all the problems facing the Union in 1860 was to divide it. When two people are about to come to blows, it is best to separate them. But another and darker view would eventually prevail. French Revolutionary nationalism was sweeping Europe and by the 1830s had come to America. Nationalism required a unitary state "one and indivisible." Such a state, however, was nowhere to be found in the American tradition which knew only of sovereign states forming federations which were plainly divisible since the current one was the result of dissolving the union of an earlier one. So a false nationalist history had to be made up and sold to the people - an American version of the Platonic noble lie. It was now said that the *American people in the aggregate* are sovereign and not the peoples of the several states. Lincoln would famously say in his first inaugural that the Union is older than the States and that it created them as States. Though a historical absurdity, Lincoln was able to use this theory to justify invading the Southern states.

As often happens in wars, once blood was drawn a nationalist frenzy gripped many. Even abolitionists such as Garrison and Greeley abandoned the humane and thoroughly American policy of peaceful secession and supported the bloodbath. But not all New Englanders did. Indeed Lincoln faced stiff resistance throughout the North. Sherman testified before Congress that 2 million troops were in the South fighting secession while a million troops were in the North suppressing resistance to the war. Former president Franklin Pierce of New Hampshire courageously criticized Lincoln's unconstitutional actions and the war. New England abolitionists such as George W. Bassett continued to unite secession with abolitionism: "the same principle that has always made me an uncompromising

abolitionist, now makes me an uncompromising secessionist. It is the great natural and sacred right of self-government." The thoughtful Massachusetts= abolitionist Lysander Spooner, who had long supported a slave insurrection, opposed the war and afterwards wrote a penetrating critique demonstrating that a thoroughly racist North did not invade to free slaves. The war was, as Lincoln always said it was, a struggle to establish a territorial monopoly on coercion on the continent. In short, it was a typical 19<sup>th</sup> century European war of "unification." Lincoln was the Bismarck of the United States, but at what a cost. Had the war been fought today, and adjusting for increase in population, it would have yielded over *5 million* battle deaths, not to mention wounded and civilian casualties.

Spooner wrote: "All these cries of having abolished slavery, of having saved the country, of having preserved the union, of establishing a government of consent, and of maintaining the national honor, are all gross, shameless, transparent cheats - so transparent that they ought to deceive no one." Our nationalist historians have worked to guarantee that the cheat will not be discovered. But we should keep in mind that European style nationalism did not take root in America until the late 19<sup>th</sup> century. After World War II, it began to lose its grip in Europe, and now is in evident decline. Post-Lincolnian America is the last of the old 19<sup>th</sup> century nationalisms.

The New England secessionist tradition out of which abolitionists such as Spooner spoke is part of the Jeffersonian tradition available to all Americans. If 19<sup>th</sup> century nationalism is spiritually and morally bankrupt, Americans have ample intellectual and moral resources in their tradition from which to forge new decentralist policies, and none better than in New England.