THE IDEAS OF LYSANDER SPOONER

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THEORETICAL anarchism has never struck deep root in American soil. Flowering briefly in the nineteenth and early twentieth centuries, it was killed by World War I.[1] With the continuing development of Statism and the reliance of both the "right" and the "left" on state power and state action to further their ends, the anarchist finds himself whistling in the dark, musing in vain about an impossible social reorganization. Large-scale industrialism, which at first was responsible for the rise of modern anarchism, has finally killed it off irrevocably. Thoreau rebelled against the necessity of throwing away ten or more hours of his daily life merely to live, and withdrew to Walden. It was a futile withdrawal, satisfactory for him as an individual, but hardly possible as a way of life for the vast majority. For, like it or not, he depended for his modest existence upon the products of a complex industrial society—the society which he so vehemently rejected. The little group of theoretical anarchists pamphleteering in the nineteenth and early twentieth centuries were the last gasp of a political and economic romanticism, crying Canute-like against the mounting tide until engulfed by the inevitable.

Lysander Spooner was one of the few Americans who engaged in this minor movement of protest. Not well known outside of anarchist and radical circles, he has left only slight impress upon the nation as a whole. Little is known about his life. We must rely chiefly on obituary notices for our information.[2] As for his works, the collections of the Library of Congress, the New York Public Library, and the Boston Public Library are fragmentary.[3] We do not know what kind of person he was,

[1] Cf. Eunice M. Schuster, *Native American Anarchism: A Study of Left-wing American Individualism* (Northampton, Mass., 1932).

[2] The *Dictionary of American Biography* article is based on newspaper obituaries (XVII, 466-467) and the *National Cyclopedia of American Biography* article (XVIII, 419) apparently relied on the same sources. Unless otherwise noted, material on the life of Spooner used here was based on those two articles.

[3] Cf. Union Catalog listings in the Library of Congress.

what his home life was like, why he developed a rebellious streak, what books he read, or even who his friends—with one or two exceptions—were.

Of his life we have merely a bare outline. He was born January 19, 1808, at Athol, Massachusetts, descending from a William Spooner who was in Plymouth, Massachusetts, as early as 1637. Lysander was raised on a farm, remaining on it until he was twenty-five, when he went to Worcester, Massachusetts, to read law in the offices of John Davis and Charles Allen, successively. Upon completing two years' study, he applied for admission to the bar, but was refused, since the state required three years' reading. Lysander ignored this requirement, opened a law office, and defiantly began practice. He turned out a pamphlet defending his action in 1835. The following year (not necessarily as a consequence of Spooner's protest) the requirement was repealed.

In 1836 Spooner moved to Ohio, living in Toledo, Perrysburg, and Columbus until 1843. He bought land at the head of Maumee River rapids. When a state improvement program involved drainage of the river, he sued the state for damages, but lost the case in 1838. He returned east in 1844, at a time when there was a good deal of agitation in the country against excessive postal rates. The federal government was widely criticized; several private mail companies had been formed. Lysander Spooner joined the protest, organizing the American Letter Mail Company, with offices in Baltimore, Philadelphia, New York, and Washington, D. C. His company carried for five cents mail for which the federal government charged between 12½ cents and 25 cents. Company agents, carrying brief cases or large handbags, traveled as passengers on railroads and steamboats, transporting the letters between various points.

Apparently prospering, the company soon faced extensive prosecution by the government. One of its agents, arrested as he boarded a train at Baltimore, was tried and convicted of infringement of a federal monopoly. Continual government prosecution forced Lysander to abandon his project, but not

until he had issued a pamphlet in protest. The following March (1845) Congress passed an act reducing postage.[4]

Spooner continued to practice law, probably in Boston for the most part. He became an active abolitionist. He never married and was something of a recluse. He wrote numerous pamphlets on American government and politics. His book on the unconstitutionality of slavery (1845) was officially accepted by the Liberty Party in 1849; it was highly thought of by Gerrit Smith. Spooner himself, however, never was a member of the party. Of his activities in anarchist circles we know nothing. When he died, May 14, 1887, Lysander Spooner Memorial Services were held at Wells Memorial Hall in Boston on Sunday, May 29, 1887, at which his friend and follower, Benjamin R. Tucker, offered a number of "Spooner Memorial Resolutions." Tucker praised Spooner as a "man of intellect, a man of heart, and a man of will." He was a man of simple life and "beaming majesty of countenance which, combined with the venerable aspect of his later years, gave him the appearance, as he walked our busy streets, of some patriarch or philosopher of old, and made him a personage delightful to meet and beautiful to look upon."[5]

Why Lysander Spooner was susceptible to radical and nonconformist ideas we do not know, but an examination of his writings—books, pamphlets, and magazine articles—reveals the fact that he was always against the *status quo,* always on the side of the attackers and revolutionaries. One of his earliest ventures into print was an essay attacking revealed religion, issued in 1836 when he was twenty-eight years old.[6] Entitling his brochure *The Deist's Reply to the Alleged Supernatural Evidences of Christianity,* he asserted that if men were to read the New Testament as they do any other book, "they would be disgusted with the credulity, and the want of intellect, reason

[4] John B. McMaster, *History of the People of the United States* (New York, 1910), VII, 114-118, deals with Spooner and the American Letter Mail Co.

[5] Benjamin R. Tucker, *Instead of a Book . . .* (New York, 1893), 492-493.

[6] Lysander Spooner, *The Deist's Reply to the Alleged Supernatural Evidences of Christianity* (Boston, 1836).

and judgment, that is apparent in it."[7] The causes of the spread of Christianity, he insisted, were natural, *e.g.*, effective preachers, the stupidity of the converts, the fanatical faith of the preachers; its rapid spread was no argument for its supernatural quality.[8] Jesus was a human being; he looked and acted like a man and was born of woman. Moreover, Jesus was a charlatan, who resorted to evasion when challenged to perform the miracles he was reputed to have performed. He was secretive, afraid, a notorious coward. When crucified, he behaved like a weakling, like a very human being.[9]

Spooner doubted the miracles, stating that they were largely the product of "imagination" in sick persons. He cited numerous modern examples of mistaken beliefs and pointed to the "miraculous" nature of Mesmer's cures, which were all merely the result of "imagination."[10] The Resurrection, the greatest of the miracles, he did not believe in at all, presuming that Jesus did not actually die on the cross. Many such cases, he said, were known. Jesus was not dead when his side was pierced, since the blood flowed freely. In this investigation, Spooner's general rule of evidence was that "any thing, which is *naturally* possible, is in the highest degree probable, in comparison with an event, that is *naturally* impossible."[11] His pamphlet was a logical and realistic application of legal theories of evidence to the cases at hand. His careful and critical examination, much in the spirit of the Higher Criticism, led to inevitable and inexorable conclusions. How could it be otherwise, when, in testing the propositions, he had thrown out *a priori* the supernatural as an admissible cause?

Spooner's argument in defense of the American Letter Mail Company, which he published in 1844, was of a different order.[12] It was a legal argument by a lawyer—the cobbler at his

[7] Spooner, *The Deist's Reply . . .*, 2-3.

[8] Spooner, *The Deist's Reply . . .*, 1-6, and *passim*.

[9] Spooner, *The Deist's Reply . . .*, 8-15.

[10] Spooner, *The Deist's Reply . . .*, 23-24.

[11] Spooner, *The Deist's Reply . . .*, 24-56. The quotation is on p. 51.

[12] Lysander Spooner, *The Unconstitutionality of the Laws of Congress Prohibiting Private Mails* (New York, 1844).

last. Spooner argued that the Constitution did not specifically prohibit private mails, since a grant of the power to the federal government did not carry with it a prohibition of concurrent powers and rights.[13] Before developing this legal argument, he interjected an appeal to "natural rights"; it was a "natural right" of men to labor for one another for hire and the government had no right to prohibit such labor.[14] Spooner was to refer to such "natural rights" frequently in his later writings as the principal basis of his argument. Returning to the purely legal argument, he pointed out that whereas the Articles of Confederation had given the government "sole and exclusive" right to establish post offices, these words were dropped in making the grant in the Constitution. Carrying mail was not a prerogative of sovereignty: "*Our governments have no prerogatives of sovereignty,* except such as are granted to them by our constitution."[15]

Spooner was perhaps best known in his day for his argument on the unconstitutionality of slavery.[16] This argument was first published in 1845 and went through several editions. It was read by numerous abolitionists, among them William Lloyd Garrison and Wendell Phillips, both of whom rejected it, although they regarded the argument as "ingenious."[17] The volume was adopted by the Liberty Party in 1849 as "a perfectly conclusive legal argument against the constitutionality of slavery."[18] Eunice Schuster, a student of American anarchism, considered the tract "a masterful, brilliant analysis" of the Constitution, the Declaration of Independence, and of natural

[13] Spooner, *The Unconstitutionality of the Laws . . .*, 5.

[14] Spooner, *The Unconstitutionality of the Laws . . .*, 7.

[15] Spooner, *The Unconstitutionality of the Laws . . .*, 13. It is interesting to note that at this time Spooner admitted that governments had certain prerogatives of sovereignty, among them taxation and maintenance of a military establishment.

[16] Lysander Spooner, *The Unconstitutionality of Slavery* (Boston, 1856). This edition includes parts I and II.

[17] Testimonials printed inside the front and back covers and on the back cover of *The Unconstitutionality of Slavery.*

[18] Schuster, *Native American Anarchism,* 145.

law.[19] Richard Hildreth found the work one of "great ability and great learning."[20] Was it?

Spooner began his argument on the unconstitutionality of slavery with the query, "What is law?" Law was, he answered, "that *natural,* permanent, unalterable principle, which governs any particular thing or class of things."[21] The *"natural,* universal, impartial and inflexible principle, which under all circumstances, *necessarily* fixes, determines, defines, and governs the civil rights of men" was "simply *the rule, principle, obligation or requirement of natural justice."*[22] Any so-called laws which were contrary to natural justice had no validity. That is, *"constitutional law, under any form of government, consists only of those principles of the written constitution, that are consistent with natural law, and men's natural rights."*[23] This thesis was sustained by quotations from various legal writers, ranging from Justinian to Blackstone, and, despite Spooner's disavowal, was the principle which underlay his whole argument.

Spooner then proceeded to prove that slavery was never legally accepted or defined or included in any written Constitution in the United States, even admitting, for argument's sake, that there might be valid laws contrary to natural law.[24] Although the colonial charters, which he examined in detail, contained references to slaves and the slave trade, none gave direct legal sanction to the institution. Colonial legislation which did define slavery was void, he maintained, for in every instance the definition was too ambiguous to be binding![25] Slavery could only be legalized "by positive legislation. Natural law gives it no aid. Custom imparts to it no legal sanc-

[19] Schuster, *Native American Anarchism,* 145.

[20] Spooner, *The Unconstitutionality of Slavery,* inside front cover.

[21] Spooner, *The Unconstitutionality of Slavery,* 5.

[22] Spooner, *The Unconstitutionality of Slavery,* 6.

[23] Spooner, *The Unconstitutionality of Slavery,* 14.

[24] Spooner, *The Unconstitutionality of Slavery,* 15-20 and *passim.*

[25] Spooner, *The Unconstitutionality of Slavery,* 25 ff.

tion."[26] Thus, though he denied doing so, he was actually making use of his principle of natural law, and was also enunciating the strange doctrine that long custom did not make an act legal. What then was the common law?

The same pattern was followed in his study of the federal Constitution. Ruling that "no *extraneous or historical evidence* shall be admitted to fix upon a statute an unjust or immoral meaning, when the words themselves of the act are susceptible of an innocent one,"[27] Spooner had no difficulty in proving that slavery was not mentioned in the Constitution. The phrases "free persons" and "all other persons" referred respectively to citizens and aliens.[28] This, then, was his "ingenious," brilliant, "conclusive" argument: slavery was unconstitutional because it was contrary to natural law and natural justice. Historical *fact* was irrelevant!

Wendell Phillips replied to the Spooner argument in 1847, heading his analysis with a quotation from Gouverneur Morris: "Domestic slavery is the most prominent feature in the aristocratic countenance of the proposed constitution."[29] Phillips considered Spooner's reasoning "absurd and self-contradictory . . . subversive of all sound principles of Government and of public faith."[30] Citing numerous court decisions, acts, and statements to prove that slavery was known, accepted, and legal, Phillips demolished the Spooner argument in short order.

Spooner replied with a *Part Second* (1847), rehashing, but in greater detail, his previous argument, and reaffirming *"that the language of statutes and constitutions shall be construed, as nearly as possible, consistently with natural law."*[31] In addition to demonstrating his argument, Spooner provided abolitionists with gratuitous advice. He had shown, he cockily as-

[26] Spooner, *The Unconstitutionality of Slavery*, 32.

[27] Spooner, *The Unconstitutionality of Slavery*, 62.

[28] Spooner, *The Unconstitutionality of Slavery*, 131-132.

[29] Wendell Phillips, *Review of Lysander Spooner's Essay on the Unconstitutionality of Slavery . . .* (Boston, 1847), 3.

[30] Phillips, *Review of Lysander Spooner's Essay . . .*, 4.

[31] Spooner, *The Unconstitutionality of Slavery*, 137. See footnote 18, above.

serted, that slavery was a great fraud, with no sanction in the Constitution. Once the North got control of the national legislature and the national judiciary, slavery would be abolished. Thus, ". . . the only labor the abolitionists really have to perform, is to spread the truth in regard to the constitution."[32] Some "timid" persons might fear that if this question were pressed to a decision, and that if the decision should be against slavery, the result would be a dissolution of the Union. "But this is an ignorant and ridiculous fear," he reassured them. "It is idle to suppose that the non-slave-holders of the South are going to sacrifice the Union for the sake of slavery."[33]

Of somewhat more merit than his circular reasoning on slavery was his concern with the nature and significance of natural law. A rather lengthy footnote went into the matter in some detail.[34] The objection often made that "natural law" was obscure was wholly unfounded, he said. Like any other "science," it had to be learned, but it was "very easily" learned. Although "illimitable" in its applications, natural law was made up of simple, elementary principles of "truth and justice," of which "every ordinary mind has an almost intuitive perception." This "science of justice" was based on the premise that almost all men have the same perception of what constitutes justice; it was sensed by children as well as by adults. If governments would but adhere to natural law, there would be no problem of the ignorance of the law, for popular ignorance of the law was due to "innovations" made upon natural law by false legislation. The "whole object" of legislation was to overturn natural law and to substitute for it the arbitrary will of power. Forty years later, in 1886, Spooner was still asserting that justice was an "immutable, natural principle," and a "subject of science."[35]

[32] Spooner, *The Unconstitutionality of Slavery*, 292.

[33] Spooner, *The Unconstitutionality of Slavery*, 293-295.

[34] Spooner, *The Unconstitutionality of Slavery*, 140-142, footnote. All quotations in the paragraph are from that extended footnote.

[35] Lysander Spooner, *A Letter to Grover Cleveland on his False Inaugural Address, the Usurpation and Crimes of Lawmakers and Judges, and the Consequent Poverty, Ignorance, and Servitude of the People* (Boston, 1886), 3.

Although Spooner's argument on the unconstitutionality of slavery had no legal foot to stand on, his concept of natural law contained the germs of an anarchistic theory of government. Having asserted that laws passed by legislatures were generally contrary to natural law and hence oppressive, he carried his theorizing one step further in his analysis, on what he maintained were historical principles, of the nature of the jury system, finding in the true jury the natural defense against legislative tyranny.[36] The historical validity of his concepts may be open to question, but his definition of the rôle of a jury is suggestive and not so outlandish as it might at first seem.

Spooner approached the problem of trial by jury with a general observation on the nature of free government. A free government, he explained, rests on the voluntary contract of the people, individually, with one another. Any group may form a government at any time. "All legitimate government is a mutual insurance company, voluntarily agreed upon by the parties to it, for the protection of their rights against wrongdoers."[37] A majority has no right to rule a minority, for majority rule is merely rule by force, the stronger (more numerous) group oppressing the weaker (less numerous). The only legitimate reason for a government is the protection of the weak from the strong, not the establishment of the right of the strong against the weak.[38] Within a system of free government (and only a free government is legitimate), trial by jury is the "palladium" of liberty.

Trial by jury is really trial by "the country," and not trial by the government. Jurors are to be selected by lot, from the people at large, thus being representative of the "country" or the people, and not the "government." Trial by jury is equivalent to trial by the people. Conviction requires unanimity. The jury must decide not only on the evidence placed before

[36] Lysander Spooner, *Free Political Institutions* (Boston, 1890), edited by Victor Yarros. This work is an abridgement of Spooner's *Trial by Jury* (1852) which was not available in the Library of Congress.

[37] Spooner, *Free Political Institutions*, 6.

[38] Spooner, *Free Political Institutions*, 12.

it, but also upon the *justice* of the law under which the accused is being tried. This was the crux of Spooner's argument: if the jury can invalidate, by ignoring them, laws which are contrary to natural justice, the people cannot easily be oppressed by the government. "The trial by jury, then, gives to any and every individual the liberty, at any time, to disregard or resist any law whatever of the government, if he be willing to submit to the decision of a jury. . . ."[39] That was the pristine nature and purpose of the jury, as defined by the Magna Charta; its original purpose has been perverted and there are today "no legal juries," either in England or America. "There has, probably, never been a legal jury, nor a legal trial by jury, in a single court of the United States since the adoption of the constitution."[40]

Adoption of a true jury system would abolish class legislation, nearly all the political corruption, and all the objectionable regulations which make this "free" country free in name only.[41] Among the results which Spooner foresaw were: (1) free administration of justice, (2) repudiation of the doctrine that ignorance of the law is no excuse, (3) limitation of the power of the majority, (4) abolition of all monopolies, all special privilege, all sumptuary laws, all restraints upon the freedom of contract, and (5) the establishment of common-law taxation, no individual being forced to pay a tax which he had not consented to pay.[42]

Spooner had applied this theory of the jury to the fugitive slave laws in 1850, arguing that the laws were unconstitutional and that they ought to be disobeyed and resisted; that juries should have the right to judge the justice of the resistance, thereby invalidating the fugitive slave laws.[43] A similar argument was made by him in a pamphlet on the illegality of the

[39] Spooner, *Free Political Institutions*, 21.

[40] Spooner, *Free Political Institutions*, 47.

[41] Victor Yarros, "The Palladium of Liberty," *The Arena*, XII, 209 (April, 1895).

[42] Yarros, "The Palladium of Liberty," 214-217.

[43] Lysander Spooner, *A Defense for Fugitive Slaves* (Boston, 1850).

trial of Professor John W. Webster, indicted for the murder of a Harvard colleague, Dr. George Parkman.[44] Spooner argued that the trial was illegal, since persons opposing capital punishment were excluded from the panel. Since a jury had the right to judge the law and the punishment, it was manifestly unfair and unjust to exclude those who differed with the punishment imposed by law.[45]

Spooner's ideas on the nature of jury trial are provocative. In effect, he would substitute a jury of twelve people chosen by lot for the Supreme Court, with the right and duty to determine whether legislation was constitutional (or "naturally just"). It is doubtful if class-legislation could survive such a check. It seems doubtful that during prohibition a rumrunner would have been convicted under such a jury system; nor would the present tax on oleomargarine be sustained. In a very real sense, legislation would be directly responsive to the popular will. Since the popular will in different areas might conceivably not be identical, such a jury system would result in various interpretations of the same law. Since juries would not be bound by precedents as are courts, legal diversity would be rampant. But, is national legal conformity such a desirable thing? Whatever the merits of the idea, it is, of course, highly improbable that the legal system would ever be so radically changed.

In his interpretations of constitutional law, Lysander was inclined to reason from his assumptions around a circle back to his assumptions. In his analysis of the jury system, he applied his concept of natural law to the judicial system and devised a system of maintaining the widest possible freedom of the individual, as provided by natural law and natural justice. In his thinking on economics, Spooner tried to provide for an economic system also consonant with natural law and individualism, a system providing for the greatest possible amount of *laissez-faire*. Although he never produced a systematic treatise

[44] Lysander Spooner, *Illegality of the Trial of John W. Webster* (Boston, 1850).

[45] Webster was, however, executed.

on economics, we can extract the general form of his ideas from his writings on poverty and currency reform.

Poverty, according to Lysander, resulted from a violation of the principles of "natural law."[46] Among such violations were the laws regulating banking and interest rates, extending the debt liability of individuals and laws limiting the liabilities of corporations. These laws violated the following true, natural, economic principles: (1) every man was entitled to the fruits of his own labor, (2) all men had the right to be their own employers, (3) every man was entitled to have capital for his labor to work on, (4) every man was entitled to obtain capital on credit, (5) capital should be available at the lowest possible rate of interest, through a system of "free banking," (6) all credit should be based upon what a man had, not upon what he had not; *e.g.*, liens on future earnings were unjust, and (7) all debts must be settled when due, at a loss to the creditor if necessary.[47]

Under these principles, a poor man would get credit without having to mortgage his future, and great social and moral improvements would follow. Caste would disappear. There would be more honesty, greater sympathy, more temperance, an end to gambling and lewdness, the promotion of chastity and early marriage, intellectual independence, a wider diffusion of knowledge, universal education, and the "intellect of society would be much better directed, . . . to the service and improvement of man, as man."[48]

The system of "free banking," to which Spooner referred, he explained in greater length in other publications. All men had a "natural, inherent, inalienable" right to enter contracts and an obligation to fulfill just contracts.[49] Banking laws and laws against the issuance of private currencies restricted these rights

[46] Lysander Spooner, *Poverty: Its Illegal Causes and Legal Cure. Part I* (Boston, 1846), 5.

[47] Spooner, *Poverty . . .*, 7-18.

[48] Spooner, *Poverty . . .*, 45-64.

[49] Lysander Spooner, *Constitutional Law, Relative to Credit, Currency, and Banking* (Worcester, Mass., 1843), 4, 6.

and were contrary to natural law. Each individual possessing capital ought to have the free right to issue promissory notes to the amount of capital he owned, and charge whatever interest he wanted. Competition would keep the rate down; the great amount of capital in the United States would provide an adequate amount of currency. Currency would thus represent an invested dollar, not specie. Such a free banking system would flood the country with currency and in some mysterious fashion drive out the banking monopolists and end poverty.[50]

The American Civil War, which Spooner predicted would not happen, drew from him a number of pamphlets under the covering title of *No Treason*.[51] In these pamphlets, of which only three seem to be available in libraries,[52] he recapitulated his ideas of natural law and absolute freedom, and then for the first time attempted to deal with the problem he had so completely ignored: why, if natural law were so obvious, if justice were so evident, was there so much injustice and error in the world. Why, if all men knew what was right, natural, and just, were right, nature, and justice flaunted? The more important matter, of what assurance we had, in view of the bad record of the past, that a return to natural law would necessarily prevent the recurrence of injustice he never faced and never answered.

No Treason related Spooner's ideas to the recently fought Civil War. The Civil War, he averred, had been fought not to free the slaves, but rather to force men "to submit to and sup-

[50] Some of Spooner's economic thinking was quite absurd. See his essay, "The Law of Prices: A Demonstration of the Necessity for an Indefinite Increase of Money," *The Radical Review,* I, 326-337 (August, 1877), also his articles "Our Financiers: Their Ignorance, Usurpations, and Frauds," *The Radical Review,* I, 141-157 (May, 1887), and "Gold and Silver as Standards of Value: the Flagrant Cheat in Regard to Them," *The Radical Review,* I, 151-157 (February, 1878). The "law of prices" was effectively demolished by Edward Stanwood in his "Mr. Spooner's Island Community," *The Radical Review,* I, 578-581 (November, 1877).

[51] Lysander Spooner, *No Treason* (Boston, 1867), Nos. 1 and 2. For No. 6, see Willard Thorp, *et al., American Issues: The Social Record,* I, 569-574 (New York, 1944).

[52] Only numbers 1, 2, and 6 are listed in the Union Catalog in the Library of Congress.

port, a government that they do not want."[53] All resistance to this oppression had falsely been called treason. For, though we claim in the United States that government rests on the consent of the governed, the Civil War proved that it rests on force. A government resting on consent should require not the consent of the strongest, which is tyranny, nor the consent of the most numerous party, which again is tyranny, but the voluntary consent of all the people. Government resting on consent implies "the separate, individual consent of every man who is required to contribute, either by taxation or personal service, to the support of the government."[54] Such consent is necessary before a man can be declared a traitor.

The American Constitution merely offers membership in a government to those who want to join, and is binding only on those who consent and only so long as they continue their assent. People have the right to withdraw at any time. Many individuals who really do not accept the Constitution vote as a matter of self-defense, to keep the oppression, if possible, from becoming worse; voting does not, therefore, indicate consent. Treason means betrayal while professing friendship; the revolutionaries in the American Revolution were not traitors nor were the people in the South who wanted to secede. Both North and South, however, were guilty of the same error, since they assumed allegiance and consent where none existed: the North to the Union, the South to the State.[55] The result was a war between chattel slavery and political slavery: on neither side were men truly free.

In the sixth part of *No Treason,* Spooner reviewed his earlier arguments and raised, in unusually violent language, the question of who had robbed mankind of their property and had restrained their liberty: "Which are *their* homes, that we may burn or demolish them? . . . Which *their* persons, that we may kill them. . . ?" His answer was twofold. In barbaric so-

[53] Spooner, *No Treason,* No. 1, iii.

[54] Spooner, *No Treason,* No. 1, 11.

[55] Spooner, *No Treason,* No. 2, *passim.*

cieties, brute strength was the source of dominance; in "civilized" society, it was money which gave that power. Nominal rulers were "mere tools, employed by the wealthy to rob, enslave, and (if need be) murder those who have less wealth, or none at all."[56] Money lenders lent governments money to be used to finance the killing of people, since such investments paid better than honest industry; governments needed the money to hire murderers to enforce the slavery of the people. To keep in the good graces of the money-lenders, rulers paid interest promptly, gave the leaders economic monopolies, like banking, protective tariff, and unequal taxation.

Unlike Europe, the United States had no permanent chief of government, but rather a series of temporary rulers, who were really "agents of a secret band of robbers and murderers, whom they themselves do not know, individually."[57] When the people, in whose name they pretend to rule, show any sign of resistance, these rulers run to the money-lenders to get the wherewithal with which to shoot the people down. Although the founders of American constitutional government had professed a belief in government by consent of the governed, even then the money-lenders were supporting slave owners, *"for a purely pecuniary consideration."*[58] For the price of southern markets, northern money-lenders helped the southern slaveholders to keep down the slaves. And when the slaveholders rebelled, the money-lenders lent money for the war, to assure the maintenance of their economic monopoly in the South.

With the end of the war, the money-lenders demanded their pay, from the labor of the people of both the North and the South, through unequal taxation, tariffs, and banking monopolies. The "abolition of slavery" advertised as an objective of the war was a fraudulent claim; slavery was "abolished" only as a war measure. And meanwhile, the government kept *all* the people in slavery. The slogan, "save the country," really meant, keep *all* the people in subjection. The Constitution either au-

[56] Thorp, *American Issues: The Social Record,* I, 569.

[57] Thorp, *American Issues: The Social Record,* I, 571.

[58] Thorp, *American Issues: The Social Record,* I, 572.

thorized such a government, or was powerless to prevent it—in either case, it was not fit to exist.[59]

In Marxism or some variant of the economic interpretation of history, Spooner had found in 1870 the cause for the neglect of natural law and the science of justice: the power of the money-lender, the rich capitalist who was behind the oppressive government, and the denial to the individual of his inherent rights to freedom and free association. How this power was to be unyoked and dislodged, Spooner apparently did not know—unless his violent language was employed to arouse direct action.

In 1886, a year before his death, Spooner was still pamphleteering, this time in the form of an open letter to Grover Cleveland.[60] Spooner took issue with Cleveland's inaugural promise to administer the laws of the country "justly." Justice, Spooner still asserted, was an "immutable, natural principle," a subject of science, and at all times and all places the supreme law. The science of justice was the only science which enunciated man's inalienable rights. The maintenance of justice was the only reason for a government. Cleveland had no right to enforce "that great mass of superfluous or criminal laws (so-called)" on the statute books. Men, as individuals, might rightfully compel each other to obey this one law of justice, but no other; each man had the right to do anything which justice did not forbid; the individual's rights were the only human rights; there was no such thing as "public" rights. Our government is not concerned with justice, but with the protection of selfish interests; hence, its long protection of slavery. The legislature is really some four hundred "champion robbers" appointed secretly. Man's rights are always harmonious, but his interests conflict. Our government denies a man's natural right to his own life, by forcing him into military service; denies a man's right to property by placing restrictions on ownership; denies

[59] Thorp, *American Issues: The Social Record*, I, 569-574.

[60] Lysander Spooner, *A Letter to Grover Cleveland on His False Inaugural Address, the Usurpations and Crimes of Lawmakers and Judges, and the Consequent Poverty, Ignorance, and Servitude of the People* (Boston, 1886).

him his right to live where he wants to; denies him his right to the natural resources of the country; denies him the right to circulate private money; subjects him to unequal taxation, to tariffs, to money-monopolists who perpetuate poverty. The only remedy for this state of affairs is the destruction of the money monopoly, the restoration of free labor and free money.

This final series of comments on government, natural law, the science of justice, and economics was an epitome of the conclusions to which Spooner had come in a lifetime of legal practice and pamphleteering. He believed in a natural law of justice of whose validity men were intuitively aware—an idea that he picked up from the Transcendentalism about him. He believed in absolute individualism and in a denial of the rights of States—a concept he shared with Thoreau, Josiah Warren, Benjamin R. Tucker, and other more prominent anarchists. He believed that men could be expected to live peacefully and justly without ever stating whether man was innately good or evil, very much in the way that Melville conceived his ideal society of Serenia in *Mardi*. He believed in individual enterprise, through free and voluntary association, and in the abolition of all monopolies.

He never faced the problems of large-scale industrialism; never formally attempted to solve the insoluble problem of reconciling the mass production of creature comforts with the maintenance of individual liberty. His one useful, original contribution was a study of the jury system and the concomitant suggestion that it have the right to invalidate laws contradicting natural law. He brought to bear on the problems of the world a mind trained in legalism and created a legalistic brand of anarchism. But he did not write a systematic treatise nor did he develop a consistent philosophy. He was a bundle of contradictions—mixing a kind of Kantian idealism with a Marxian materialism, reflecting ideas only half-absorbed, half-understood, half-considered. His major omission was a failure to answer the question of how his better system might be brought about and maintained.

Yet, in his way, he too fought against oppression and for freedom, and the fact that the fight was futile and that the weapons were not always perfect is no valid reason for disdain. If he did not produce a Bible for American anarchism, neither did anyone else. Benjamin Tucker had merely thrown together a number of his editorials. America did not produce a Proudhon, a Bakunin, a Kropotkin. But then, American radicalism has not generally been productive of systematic philosophical treatises—Thomas Jefferson, the Jacksonians, the Muckrakers, the Populists, the Progressives, and the New Dealers have not had a sacred touchstone, as have, for example, the Communists in Marx, Engels, and Lenin, or as had the Utopians in Fourier. American radicalism has been pragmatic, and it was in that tradition that Spooner had raised his pen as the occasion required.