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When Anarchism and Individualism Went Hand in Hand: The Life and Work of Lysander Spooner (1808-1887)

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ABSTRACT

Discussion on individualist anarchism in nineteenth-century America was neglected by the profession until the publication in 1952 of James L. Martin's *Men Against the State*, in which the author successfully attempted to give a general overview of the life and work of significant individualist anarchists, Lysander Spooner being the most important among them. Since then, a considerable amount of literature has been published on Spooner, most of it dealing with specific parts of his work. No work existed that adequately addressed in detail the work and ideas of Spooner as a whole until the publication in 2010 of Steve J. Shone's *Lysander Spooner: American Anarchist*. The present dissertation goes in the same direction inasmuch as it aims to cover Spooner's ideas as a whole through the analysis of his economic, political and philosophical works. Yet it differs from Shone's work in two essential aspects. First, it provides a much more detailed account of Spooner's economic ideas, including several critiques of his economic theories. Second, this dissertation discusses the figure of Spooner focusing on the two connecting threads that are explicitly or implicitly present in all his works: his relentless defense of individual sovereignty and his distrust of the State as an institution coercive to individual rights. By focusing on both connecting threads, the author will attempt to show that individualism and anarchism, far from being two incompatible philosophical traditions, stem from a common concern: the inviolability of individual rights.

Keywords: Lysander Spooner – Individualism – Anarchism – Abolitionism – Government - Labor Theory of Value.

RESUMEN

El pensamiento anarco-individualista en el siglo XIX estadounidense no había recibido suficiente atención por parte de académicos e historiadores hasta la publicación en 1952 de la obra de James L. Martin, *Men Against the State*. En dicha obra, el autor analiza la vida y obra de importantes anarquistas individualistas, entre ellas la del abolicionista Lysander Spooner. Desde entonces, numerosos libros y artículos se han publicado sobre Spooner, la mayoría de los cuales se han centrado en partes concretas de su obra. El primer libro que aborda la obra e ideas de Spooner en su totalidad es *Lysander Spooner: American Anarchist* (2010), del autor estadounidense Steve J. Shone. El presente estudio va en la misma dirección ya que intenta abarcar distintos aspectos de la filosofía política, económica y moral de Spooner. Sin embargo, se distingue de la obra de Shone en dos aspectos esenciales. En primer lugar, analiza en detalle las teorías económicas de Spooner desde un punto de vista crítico. En segundo lugar, examina la figura de Lysander Spooner centrándose en los dos hilos conductores que, de forma implícita o explícita, aparecen en toda su obra: su incansable defensa de la soberanía del individuo y su desconfianza en el Estado, institución que por su propia naturaleza coarta los derechos individuales. En base a ambas ideas, el autor del presente trabajo tratará de mostrar que, en origen, el anarquismo y el individualismo, lejos de ser dos tradiciones filosóficas opuestas, comparten una idea básica: la inviolabilidad de los derechos individuales.

Palabras Clave: Lysander Spooner – Individualismo – Anarquismo – Abolicionismo – Estado – Teoría del Valor del Trabajo.

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INTRODUCTION

Most radical ideologies in nineteenth-century Europe shared two common characteristics: they were collectivist and they deemed violent rebellion as a necessary tool to overthrow the established order.¹ From Marxists to collectivist anarchists to anarcho-communists, all emphasized the idea of subordinating individuality to collective interests. These ideologies departed from the individualist tradition that emerged in the seventeenth and eighteenth centuries in the works of John Locke, David Hume and Adam Smith by rejecting the importance of the individual within society.

Radical thought in nineteenth-century America, however, took a different path. American anarchists embraced individualism and pacifism. This might have been due to the fact that the individualist tradition mentioned above became very influential in America even before the Independence War. The Founding Fathers themselves were heavily influenced by the works of John Locke. The American historian Carl Lotus Becker convincingly argued that “the Declaration [of Independence], in its form, in its phraseology, followed closely certain sentences in Locke’s second treatise on government.”² Jefferson himself, who drafted the *Declaration of Independence*, asserted in a letter to Richard Price Paris that he considered Locke “one of the three greatest men that have ever lived.”³

However, individualist radicalism departed from the ideas of John Locke by eschewing the Lockean social contract theory. According to Locke, people consent to be governed and “submit to the determination of the majority,” in order to have “a secure enjoyment of their properties, and a greater security.”⁴ This alleged agreement between the government and the governed is what confers government political authority to rule a

¹ When using the term “collectivist”, I will be referring to any ideology that subordinates individual rights to the collective welfare or to the so-called “common good.”

² Carl Lotus Becker, *The Declaration of Independence: A Study on the History of Political Ideas* (New York: Harcourt, Brace and Co., 1922), p. 16. Retrieved January 20, 2015 from the World Wide Web.

³ Thomas Jefferson, “Letter to Richard Price Paris,” (January 8, 1789). *University of Groningen*. Retrieved on January 20, 2015 from the World Wide Web.

⁴ John Locke, *The Enhanced Edition of John Locke’s Two Treatises of Civil Government* (1689, 1764) (Indianapolis: Liberty Fund, 2014), book II, chap. 8, sect. 97 and 95. Retrieved on January 19, 2015 from the World Wide Web.

community or country.⁵ Such idea was challenged by the most prominent representative of the individualist radical tradition in America: Lysander Spooner.⁶ Spooner tried to tear down the basic pillar on which the American nation rested, namely: the idea that the Constitution is a binding contract between the US Government and the American people, and this contract constitutes the justification for the political authority of the former. On the assumption that the political authority of any government was unjustified, Spooner developed a comprehensive, coherent philosophical, economic and political system based on the inviolability of individual rights which may be said to embody radical thought in nineteenth-century America.

The core of the individualist anarchist doctrine can be found in Spooner's numerous books and pamphlets. From his proposal of a new banking and currency system not regulated by the State to his opposition to the legitimacy of the government to pass laws that violate individual rights to his anti-war writings, Lysander Spooner is the major representative of the American anarchist tradition that had its roots in the writings of John Locke as well as the ideas of Josiah Warren.

The figure of Lysander Spooner was neglected by scholars until the 1950s, when James L. Martin published his work *Men Against the State*, a collection of biographies of the most important individualist anarchists in America. In 1971, Charles Shively compiled the works of Spooner in the six-volume work titled *The Collected Works of Lysander*, in which he included a biography of the New Englander. Although many academic papers have been published about different aspects of Spooner's work, it was not until 2010 that a comprehensive study of his ideas was published. In *Lysander Spooner: American Anarchist*, Steve J. Shone examined Spooner's political, economic, legal and moral views.

The object of this dissertation is to critically discuss the work and ideas of Lysander Spooner, and frame them within the peculiar individualist anarchist tradition that began with Warren in the early nineteenth-century and ended with the death of Benjamin Tucker in 1939. Nonetheless, it differs from Shone's work in two main aspects. First, it provides a

⁵ As in this case, the words "government" and "State" will be used interchangeably to refer to that institution that holds the exclusive power to enforce certain rules of social conduct in a given geographical area
Definition from <<http://aynrandlexicon.com/lexicon/government.html>>

⁶ Spooner's refutation of the social contract theory appears mainly in his work *No Treason* and will be discussed in the final part of this essay.

much more detailed account of Spooner's economic ideas, including several critiques of his economic theories. Second, the present dissertation discusses the figure of Spooner focusing on the two connecting threads that are explicitly or implicitly present in all his works: his relentless defense of individual sovereignty and his distrust of the State as an institution coercive to individual rights.

This work will be divided into five main parts. In the first part, the origins and history of the individualist anarchism in America will be discussed. In order to carry out this task, the most important figures of the history of individual anarchism will be dealt with. In the second part, the figure of Lysander Spooner will be briefly touched upon in order to place the historical figure in his context. The economic thought of Spooner will be the focus of the third part of this dissertation, closely examining Spooner's banking and currency proposal and his opposition to wage labor. The author will look into the origins of the labor theory of value as proposed by classical economists, namely Adam Smith and David Ricardo, and Marxists. Also, the refutation of the labor theory of value by economists of the Austrian School of Economics will be examined to better understand the flaws of Spooner's arguments against wage labor. In the fourth part, the author will focus on Spooner's entrepreneurial skills by looking at the mail company he founded to challenge the monopoly of the US postal service. Spooner's ideas on abolitionism and the American Civil War will be examined in the last part of this work, paying special attention to the origins of the abolitionist movement in the United States; the ideas of Spooner on the peculiar institution as opposed to those of mainstream abolitionists; and the links between Spooner's opposition to the Civil War and his explicit rejection of the political authority of the State contained in his masterpiece *No Treason*.

In all, an attempt will be made to show that the two traditions that converge on Lysander Spooner, namely anarchism and individualism, not only are not contradictory as they may seem at first sight, but lay at the heart of the foundational ideas of anarchism as an ideology. In fact, the rejection of political authority with which anarchism has been historically identified emerged in the US as an attempt to protect individual rights from the power of the State. The fact that the word "anarchism" has been kidnapped nowadays by collectivist ideologies should not obscure its origins and original content, which are closely

linked to the defense of the individual against the coercive nature of the State.⁷ And such defense was masterfully carried out by Lysander Spooner, one of the most important figures in the history of individualism.

⁷ It is not the intention of the author to open a debate on what constitutes the true and primogenital anarchism. However, it should be noted that the first anarchism, both in Europe (with Pierre-Joseph Proudhon) and America had an individualist component that later anarchist authors lacked.

1

THE INDIVIDUALIST ANARCHIST TRADITION IN AMERICA: FROM JOSIAH WARREN TO BENJAMIN TUCKER

1.1 The Origins of American Individualist Anarchism

The individualist anarchist tradition that emerged in the first quarter of nineteenth-century in America rested on two basic pillars: private property rights, which are “the basic rights of individuals (...) to the peaceful possession, control and enjoyment of the things they own as well as their rights to make contracts to rent, sell or give away all or part of their various ownership rights over these possessions (or these possessions' services) to any other people willing to accept the owners' terms”⁸; and individual sovereignty, which can be defined as the rejection of any form of political authority aimed at restricting individual freedom. The second idea appeared in America for the first time in the work and ideas of the founder of individualist anarchism: Josiah Warren. The first, that is, the foundation of property rights in natural law can be traced back to the ideas of the English philosopher John Locke.

John Locke’s Theory of Property Rights

In 1689, the English philosopher John Locke published his work *An Essay Concerning the True Original, Extent, and End of Civil Government*. In this treatise, which laid the foundations of classical liberalism, Locke developed a theory of natural rights on the basis that the state of nature of human beings is “a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man.”⁹ Locke placed individual sovereignty at the very center of his political philosophy: “every man has

⁸ Definition from <http://www.auburn.edu/~johnspm/gloss/private_property_rights>

⁹ Locke, II, 3, 4.

a property in his own person: this nobody has any right to but himself (...) The labour of his body, and the work of his hands, we may say, are properly his.”¹⁰

The Lockean idea of self-ownership and, as a result, ownership of the fruits of one’s labor contains two corollaries. The first one is that property rights arise when human beings transform nature by means of their own labor to satisfy their necessities. In Locke’s words, “whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property.”¹¹ The second corollary to the Lockean idea of self-ownership is the right of acquiring property through voluntary transfer. It is true, as pointed out by Erick Mack, that “Locke provides no account of property rights that arise through voluntary transfer.”¹² However, it seems obvious that this notion of obtaining property rights through “voluntary transfer” is at the very core of the concept of property rights.

Lockean ideas on property were so influential in eighteenth and nineteenth-century America that were embraced not only by the Founding Fathers but also by radicals. As it will be shown in this dissertation, some American individualist anarchists drew directly on Lockean theory of property rights, shifting away from other nineteenth-century radical ideologies based on the denial of the right of property.¹³

Josiah Warren: The First Individualist Anarchist

Josiah Warren is considered the first American anarchist.¹⁴ He laid the foundations of American anarchism by emphasizing the inviolability of individual sovereignty. Born in Boston, Massachusetts, in 1798, he was early influenced by the ideas of the Welsh industrialist and social reformer Robert Owen. Owen, a philanthropist who saw in socialism the answer to workers’ social unrest, founded several experimental communities in which “all property (...) should be communally owned.”¹⁵ In 1825, he purchased the

¹⁰ *Ibid.*, II, 5, 27.

¹¹ *Ibid.*, II, 5, 27.

¹² Erick Mack, “Locke on Property” (2013). *Mises Institute*. Retrieved January 19, 2015 from the World Wide Web.

¹³ Broadly speaking, this is correct. However, this dissertation will show that individualist anarchists departed from Lockean property rights theory by opposing wage labor.

¹⁴ Jeff Riggenbach, “Josiah Warren: The First American Anarchist” (2011). *Mises Institute*. Retrieved January 22, 2015 from the World Wide Web.

¹⁵ *Ibid.*

town of Harmony, Indiana, and created a socialist community which he called ‘New Harmony’. At the age of 27, Warren, who had left his native Boston for Cincinnati seven years before, moved to ‘New Harmony’ to participate in Owen’s experiment.

The socialist commune was a complete fiasco. Owen blamed it on “the heterogeneous collection of radicals, enthusiastic devotees to principle, honest latitudinarians, and lazy theorists, with a sprinkling of unprincipled sharpers thrown in.”¹⁶ However, Warren soon realized that the failure was rooted in the precise nature of the experiment. According to Warren, the suppression of individuality in favor of the collective was in the essence of New Harmony’s end as a socialist community:

It appeared that it was nature’s own inherent law of diversity that had conquered us (...) our *united interests* [emphasis his] were directly at war with the individualities of persons and circumstances and the instinct of self-preservation.¹⁷

It was in his work *Practical Details in Equitable Commerce* that Warren expounded his idea of the inviolability of individual rights and introduced the concept of “individual sovereignty”:

Society must be so converted as to preserve the SOVEREIGNTY OF EVERY INDIVIDUAL [capital letters are his] inviolate. That it must avoid all combinations and connections of persons and interests, and all other arrangements which will not leave every individual at all times at liberty to dispose of his or her person, and time and property in any manner in which his or her feelings or judgment may dictate.¹⁸

However groundbreaking his ideas might have been, Warren was not only an intellectual. He “manifested a tireless interest in proof through demonstration.”¹⁹ Shortly after leaving ‘New Harmony’, he established a store, which he called ‘Cincinnati Time Store’, to promote his own version of the labor theory of value, which he called the “Cost is the Limit of Price”²⁰. Warren argued that, if the amount of labor required to produce a good is what determines its value, why are goods not priced in terms of the hours worked to

¹⁶ Owen as quoted by Joseph Clayton, *Robert Owen: Pioneer of Social Reform* (London: A. C. Fifield, 1908), p. 43. Retrieved January 24, 2015 from the World Wide Web.

¹⁷ Warren as quoted by James J. Martin, *Men Against the State: The Expositors of Individual Anarchism in America, 1827-1908* (Colorado Springs: Ralph Miles Publisher, 1970), Kindle Edition, chap. I.

¹⁸ Warren as quoted by Martin, chap. I.

¹⁹ Martin, chap. I.

²⁰ The relation between individual anarchism and the labor theory of value will be discussed in depth in the third part of this essay. The labor theory of value establishes that the economic value of a good or service is determined by the total amount of labor required to produce it (Wikipedia).

produce them? Consequently, goods in Warren's store were exchanged for *labor notes*, which represented agreements to carry out a particular labor.²¹ Warren put it this way:

If the producers and venders of the bread had bestowed one hour's labor upon its production and in passing it to the starving man, then some other articles which cost its producer and vender an hour's equivalent labor, would be a natural and just compensation for the loaf.²²

In other words, the value of a good or service is proportional to the hours involved in producing it. Consequently, its price should be expressed in terms of hours worked.

In 1833, Warren started publishing the first anarchist periodical in history called *The Peaceful Revolutionist*, although it only lasted a year. He also founded several colonies based on the principles of individual sovereignty and his particular view of the labor theory of value. The most famous one was probably 'Modern Times', a community he established in Long Island in 1851. The Civil War brought the community to an end in 1864. Warren moved back to his native Boston where he spent his last years until his death in 1874 at the age of 76.

1.2 American Anarchism beyond Josiah Warren

The school of thought that began with Josiah Warren was never part of the mainstream thought of nineteenth-century America. However, his ideas influenced several intellectuals that shared Warren's ideas on individual sovereignty and the rejection of all political authority.

Stephen Pearl Andrews: The Compiler of Warren's Ideas

One of these intellectuals was Stephen Pearl Andrews. Although Andrews does not have many original contributions, he is of the utmost importance for American anarchism since he systematized Warren's political and philosophical thought. He was born in 1812 in Templeton, Massachusetts. After living in New Hampshire and Louisiana for some years, he moved to Texas to work as a lawyer. In those years, he became an ardent abolitionist. In 1850, he met Josiah Warren and converted to individualist anarchism. Only one year after their first meeting, Andrews published his most famous work *The Science of Society*, which

²¹ For an example of a labor note, see Appendix.

²² Josiah Warren, *Equitable Commerce* (Harvard: A. E. Senter, 1849), p. 10. Retrieved January 25, 2015 from the World Wide Web.

is a systematization of Warren's ideas. He co-founded the community of 'Modern Times' together with the Warren.

William B. Greene: The Banking System Reformer

Although William B. Greene, a native from Massachusetts, was hardly in contact with other individual anarchists until the last ten years of his life, his ideas on banking and currency were adopted by the individualist anarchist tradition in detriment of the Warren's mutualist approach.²³ His proposal attracted the sympathies of American anarchists since it did not need of government regulatory intervention to be implemented

The loose monetary policy carried out by the Second Bank of the United States since it was established in 1816 led to the Panic of 1819.²⁴ The Jacksonian movement emerged in part to oppose the inflationary policies of the Second Bank. When Andrew Jackson took office in 1829, he set out to end the monopoly and privileges of the Second Bank. Jackson vetoed a bill to recharter the bank, whose license expired in 1836. There are several accounts of what brought about the Panic of 1837. In his work, *History of Money and Banking in the United States*, Murray Rothbard blames the Second Bank for inflating the money supply between 1833 and 1837. As a result, commercial banks set out to expand their notes and deposits after an increase in the amount of specie (mostly silver coins) coming from Mexico.²⁵

Since the Second Bank lost his position as a monopolistic central bank and up to the Civil War, commercial banks carried out hard-money policies thanks, in part, to the emergence of a free-market central bank, the Suffolk Bank, that "restrained the overissuance of these notes (...) [keeping] the other banks honest."²⁶

In this context, William B. Greene published his proposal to reform the American banking system in his work, *Mutual Banking* (1857). Greene criticized the hard-money system imposed in the US by which only gold and silver could be used as legal-tender

²³ Martin, chap. V.

²⁴ The Second Bank of the United States was established by the US Government, who owned one fifth of its capital. It acted like a modern central bank by controlling the supply of money in circulation.

²⁵ Murray Rothbard, *History of Money and Banking in the United States: From the Colonial Era to World War II* (Alabama: Ludwig Von Mises Institute, 2002), pp. 97-98.

²⁶ *Ibid.*, p. 115.

currency.²⁷ He proposed that “other values than specie” could be monetized “to the amount of one-half of the declared valuation of a given volume of these other values.”²⁸ These other values would be mostly real estate. According to Greene, this would make credit accessible to anyone by lowering interest rates considerably.²⁹ The banks operating under his system would be called “Mutual Banks” and would emerge from the voluntary association of people, whereby a person would have to pledge “mortgages to the bank on actual property, upon which he would be issued bills of exchange.”³⁰ His proposal for a new banking system was rapidly adopted by individualist anarchists, who saw in Greene’s ideas a much more viable system than Warren’s labor notes.

Benjamin Tucker, the “Unterrified Jeffersonian”³¹

It could be safely said that there exists an individualist anarchist tradition thanks to the work and effort of Benjamin R. Tucker. He dedicated his life to spreading the ideas of individual anarchism in America through the publication of a periodical journal, *Liberty*, thanks to which “radical individualism became a distinct independent movement functioning in its own name and seeking its own unique goals.”³²

He was born in 1854 in South Dartmouth, Massachusetts.³³ At the age of 18, he attended a convention of the New England Reform League where he had the opportunity to meet Warren and Green among others. Tucker professed great admiration for the figure and ideas of Warren throughout his entire life. For him, Josiah Warren “was the first man to

²⁷ Private Banks were compelled to back their emissions of notes and deposits with gold or silver under a fractional reserve system.

²⁸ Greene as discussed by Martin, chap. V.

²⁹ Spooner’s proposal on banking and currency was similar to Greene’s. It will be dealt with it in the third part of this essay when discussing Spooner’s economic thought.

³⁰ Greene as discussed by Martin, chap. V.

³¹ In an article appeared in *Liberty*, an anarchist periodical that Tucker founded in 1881, he employed this expression to define anarchists who belong to the individualist anarchist tradition. The exact reference here: Benjamin Tucker, “State Socialism and Anarchism: How Far They Agree, and Wherein They Differ”, *Liberty*, Vol. 5, No. 16 (March 10, 1888), pp. 2-3. Retrieved January 26, 2015 from the World Wide Web.

³² Wendy McElroy, “Benjamin Tucker, *Liberty*, and Individualist Anarchism”, *The Independent Review*, Vol. II, No. 3 (Winter 1998), p. 432. Retrieved January 26, 2015 from the World Wide Web.

³³ It should be noted that most prominent anarchist intellectuals, including Spooner, were from Massachusetts.

expound and formulate the doctrine now known as Anarchism; the first man to clearly state the theory of individual sovereignty and equal liberty.”³⁴

He translated into English the works of some European anarchists such as Proudhon, Bakunin or Max Stirner. *Liberty*, which was published on a continuous basis from 1881 to 1908, was the main vehicle of transmission of libertarian ideas in the late nineteenth-century in the United States. Its last issue was published in April 1908. Only three months earlier, his bookstore had been destroyed by a fire. He moved to France where he died in 1939 at the age of 85.

Many authors published in Tucker’s periodical throughout the 27 years of its existence. However, there is one that stands out over the rest: Lysander Spooner. Spooner is, no doubt, the greatest exponent of individualism in nineteenth-century America as well as the most prolific writer of the American anarchist tradition. It could be said that American anarchism reached its zenith in his work and ideas.

³⁴ Tucker as quoted by Wendy McElroy, “Benjamin Tucker, Individualism, & Liberty: Not the Daughter but the Mother of Order”, *Literature of Liberty Journal*, vol. 4, No. 3 (Autumn 1981), p. 10. Retrieved January 27, 2015 from the World Wide Web.

2

A BRIEF SKETCH OF THE LIFE AND IDEAS OF LYSANDER SPOONER

Lysander Spooner was a legal scholar, intellectual anarchist, entrepreneur and abolitionist of nineteenth-century America whose life and career were intimately connected with radical individualism. He was born in Athol, Massachusetts in 1808. In 1833, he began studying law in the office of John Davies and Charles Allen, two prominent political figures. Spooner realized as early as then about the coercive nature of the State regardless of whether this has been elected democratically or not. In Massachusetts, law students who had not attended college were required to work in a lawyer's office for five years before being licensed to practice. However, those who had attended college were only compelled to do it for three years. Spooner thought that this rule discriminated against the poor: "no one has yet ever dared advocate, in direct terms, so monstrous a principle as that the rich ought to be protected by law from the competition of poor."³⁵ In 1835, Spooner sent a petition to the Massachusetts House of Representatives to abolish this rule, which was finally repealed one year later.

After some years in Ohio speculating with real estate, and after having lost money because of the Panic of 1837, he returned to his family farm in Athol in 1840. This led him to reflect on the causes of economic crises. He developed a proposal for a new banking and currency system that would prevent the recurrent crises that the American economy had been subjected to since the birth of the nation. He first expounded his economic ideas in his works *Constitutional Law Relative to Credit, Currency, and Banking* (1843) and *Poverty: Its Illegal Causes, and Legal Cure* (1846). However, Spooner did not systematize his ideas on banking and currency until some years later in his work *A New System of Paper Currency* (1861). The originality of Spooner's proposal was that it did not need the government to regulate and intervene in the banking system. Therefore, the self-regulated,

³⁵ Spooner as quoted by Charles Shively, *The Collected Works of Lysander Spooner* (USA: M&S Press, 1971). Retrieved February 2, 2015 from the World Wide Web: <<http://lysanderspooner.org/node/5#s1>>

banking and currency system envisioned by Spooner was entirely compatible with the stateless, anarchist society that he would wound up supporting.

Lysander Spooner was not, however, the prototypical intellectual cut off from the real world. On the contrary, he was a man of action. In 1844, he set up a postal mail company to compete with the *US Postal Service* that operated as a monopoly in the country. Spooner claimed that his intention was “to test the constitutional right of free competition in the business of carrying letters.”³⁶ He convincingly argued that “the Constitution expresses, neither in terms, nor by necessary implication, any prohibition upon the establishment of mails, post offices, and post roads by states or individuals.”³⁷ And yet, after a governmental campaign of harassment against Spooner’s *American Mail Letter Company*, he was forced to close it down in 1851³⁸.

Upon the failure of his postal company, Spooner focused on developing a legal strategy to end with slavery in the US. Spooner grew up in the bosom of an abolitionist family. He thought that it was not necessary to demonstrate that slavery was an evil institution since it seemed obvious to him. Instead, he set out to prove that slavery was unconstitutional. In 1845, and under the patronage of his friend Gerry Smith, he published his work *The Unconstitutionality of Slavery*. As a legal scholar, he aimed to demonstrate that the peculiar institution was incompatible with the values represented by the Constitution which, in turn, he argued, were based on natural law. At this point, it is not clear whether Spooner truly believed that the US Constitution had to be defended or, on the contrary, he was being pragmatic and used the Constitution as a legal strategy to outlaw slavery. Not in vain, some years later, Spooner explicitly abandoned the defense of the Constitution when he claimed that it could not be supported by “honest man who know its true character.”³⁹

³⁶ *American & Commercial Daily Advertiser*, February 28, 1844. Retrieved February 2, 2015 from the World Wide Web:

<<http://news.google.com/newspapers?id=unBBAAAAIIBAJ&sjid=vrcMAAAAIBAJ&dq=american-letter-mail&pg=4030%2C2169933>>

³⁷ Lysander Spooner, *The Unconstitutionality of the Laws of Congress Prohibiting Private Mails* (1844) in *The Collected Works of Lysander Spooner 1834-1886*, (Indianapolis: Liberty Fund, 2010), vol. 1 (1834-1850), p. 199.

³⁸ In practice, the company had ceased to operate some years before.

³⁹ Spooner as quoted by Shively, *The Collected Works*.

In the 1850s, Spooner wrote several pamphlets on different topics such as intellectual property, law, etc. However, his most important work of this decade may be *A Plan for the Abolition of Slavery To the Non-Slaveholders of the South* (1858), an anti-slavery statement, which was published only one year before the white abolitionist John Brown led a slave rebellion in Virginia. Spooner was aware of John Brown's plans since they "met in Boston shortly before Harper's Ferry [the town where the revolt began]."⁴⁰ The revolt failed and John Brown was hanged on December 2, 1859. However, it marked a turning point in the history of the relationships between the North and the South. Less than two years after Brown's raid, the Civil War broke out.

Notwithstanding his ardent abolitionist position, Spooner did not support the North during the American Civil War. On the contrary, in a letter to the Radical Republican Charles Sumner, he blamed the northern politicians for the war: "upon your heads (...) rests the blood of this horrible, unnecessary, and therefore guilty war."⁴¹ In his work *No Treason* (1870), Spooner argued that the South did not commit treason when seceded, and that the Constitution was not a binding contract since each individual had to give explicit consent to government for it to rule. By arguing against the idea of the Constitution as a valid contract that binds the government and the governed, he was defying the legitimacy of the State itself. Spooner's position did not attract many followers because his anti-war abolitionism did not fit with the ideas of any the sides in the war. And yet surprisingly, his work *No Treason* was published in the *De Bow's Review*, one of the most popular, pro-slavery magazines of the South, which testifies the complexities of Spooner's position on the conflict.

In the last years of his life, Spooner began to write articles in *Liberty*, the anarchist periodical founded by Benjamin Tucker in 1881. His work *Natural Law or The Science of Justice* was published in Tucker's journal in 1882. In it, Spooner argued that the principles of justice are universal and intrinsic to human nature. Spooner's concept of justice could be

⁴⁰ *Ibid.*

⁴¹ Spooner, "A Letter to Charles Sumner" (1864). Retrieved on February 10, 2015 from the World Wide Web.

summarized in the maxim: “To live honestly, to hurt no one, to give to everyone his due.”⁴² Lysander Spooner died on May 14, 1887, at the age of 79.

There are two driving forces that guided Spooner throughout his entire life: his rejection of the political authority of the State, and a relentless defense of individual rights. These two driving forces will be clearly reflected in his economic and political ideas, which will be discussed in the following pages of the present dissertation.

⁴² Spooner, *Natural Law or the Science of Justice* (1882) in *The Collected Works of Lysander Spooner 1834-1886*, vol. 5 (1875-1886), p. 137.

3

LYSANDER SPOONER, THE ECONOMIST

The Panic of 1837 marked a turning point in nineteenth-century America. Although it was not the first financial crisis that the US was to experience after the Independence War, the Panic of 1837 triggered an unprecedented economic depression that lasted until the mid-1840s. In this context, Spooner, shocked by the devastating effects that the crisis was having on the American economy, began to write about the causes of economic crises in America. Particularly, he developed his proposal for a new banking and currency system in three works: *Constitutional Law Relative to Credit, Currency, and Banking* (1843), *Poverty: its Illegal Causes and Legal Cure* (1846) and *A New System of Paper Currency* (1861). As pointed out by Charles Shively, “these works provide principles worked out in detail for a completely voluntary political economy, one capable of functioning without governmental intervention, and without coercion, public or private.”⁴³ It was his belief that his proposal would bring to an end financial and economic crises and, at the same time, it would make credit accessible to everyone, a condition necessary to terminate with wage labor, which in Spooner’s view, was the ultimate cause of poverty:

Almost all fortunes are made out of the capital and labor of other men that those who realize them. Indeed, large fortunes could rarely be made at all by one individual, except by his sponging capital and labor from others.⁴⁴

Let us now briefly outline the two different topics that the author will be discussing in this part with regard to Spooner’s economic thought. First, an analysis and critique of Spooner’s theory of banking and currency will be carried out through the examination of some of his writings. Second, Spooner’s opposition to wage labor will be addressed. To set a context for the latter, It will be necessary to undertake an analysis of the origins of the labor theory of value in the works of Adam Smith, David Ricardo and Karl Marx to understand properly Spooner’s theory of value.

⁴³ Shively, *The Collected Works*.

⁴⁴ Spooner, *Poverty: Its Illegal Causes, and Legal Cure* (1846), in *The Collected Works of Lysander Spooner 1834-1886*, vol. 1 (1834-1850), p. 229.

3.1 Lysander Spooner's Theory of Banking and Currency: an Analysis and Critique

Spooner was led to oppose the US banking and currency system on the basis of two different types of arguments: deontological and consequentialist. The former related to the unconstitutionality of interfering in the people's natural right to enter into voluntary contracts; the latter focused on the consequences of not having a free banking system that would allow everyone to have access to credit.

Deontological Argument against Bank Privileges: the Violation of the Right of Contract

Spooner's economic ideas are closely linked to the notion of natural law. He was of the belief that there exist some universal, objective rights determined by natural law that must not be violated by State legislation. One of these inalienable principles is the right to make voluntary contracts between the parts about anything they agree without government interference, a principle that is enshrined in the US Constitution, Article 1, Section 10, which states that "No State shall pass any law impairing the obligation of contracts."⁴⁵ However, Spooner was convinced that this principle was being violated by those "laws which declare that the contracts of unlicensed bankers (...) shall be void."⁴⁶

In effect, banks were required to obtain licenses from the states to carry out their activities. Any company, firm or institution willing to issue notes or grant loans without government permission was prevented from doing so by law. Spooner's main argument was that this was unconstitutional: "the legislature has no authority to pass laws forbidding men to enter into obligatory contracts (...) all laws of that kind are unconstitutional, as conflicting with the constitutional right to acquire property."⁴⁷ The law allowed chartered banks to issue bank notes under a fractional reserve system as long as these were redeemable by gold or silver. That gold and silver were legally made the only commodities that could be used as currency was, according to him a blatant violation of the right of contract granted by the Constitution.

⁴⁵ US Constitution as quoted by Spooner, *Constitutional Law Relative to Credit, Currency and Banking* (1843), in the *Collected Works of Lysander Spooner 1834-1886*, vol. 1 (1834-1850), p. 165.

⁴⁶ *Ibid.*, p. 172.

⁴⁷ *Ibid.*, p. 171.

Consequentialist Argument against Bank Privileges: Poverty

Nonetheless, the problem with bank privileges and legal tender laws imposing a bimetallic standard was not only that they were immoral from the deontological point of view, but that they also had devastating consequences. According to Spooner, poverty was a direct consequence of these privileges, which were *de facto* a ban on free banking. Spooner believed that a free banking system would result in an expansion of the money supply which, in turn, would make credit accessible to everybody. That workers had access to credit would imply that they would be able to purchase capital assets and, as a result, workers no longer had to be deprived of the fruits of their labor.⁴⁸ In other words, the expansion of credit to everybody would ultimately result in the end of wage labor.

This would be also achieved by abolishing usury laws. These laws prevented people from borrowing money at a higher interest rate than a certain rate determined by law. Spooner argued that usury laws harm the poor for a simple reason: if lenders are not allowed to lend money at a rate they consider appropriate to compensate for the risk involved, they will refuse to do it, and those who need to borrow money to invest in capital will be condemned to wage labor.⁴⁹

But what was then the alternative banking and currency system propounded by Spooner?

A New Banking and Currency System as Envisioned by Spooner

The core of Spooner's proposal on banking and currency rested on four premises. First, "every man (...) should be allowed to have the fruits, all the fruits of his own labor"; second, "each man should be his own employer, or work directly for himself, and not for another wages"; third, "that each man may be his own employer, it is necessary that he have the materials, or capital, upon which bestow his own labor"; and fourth, "if a man have no capital of his own (...) it is necessary that he be allowed to obtain it on credit."⁵⁰ On the basis of them, Spooner developed the following theory of banking and currency.

⁴⁸ Spooner, *Poverty: Its Illegal Causes, and Legal Cure*, p. 250.

⁴⁹ *Ibid.*, pp. 226-32.

⁵⁰ *Ibid.*, pp. 225-26.

In a free banking system, banks and other entities could issue their own currency, and people would be free to employ whichever currency they considered more convenient. Spooner was aware that for a currency to be generally accepted, it had to be backed by some type of commodity. However, the bimetallic standard established by law thwarted the necessary expansion of money supply that Spooner deemed essential to make credit accessible to all workers. The asset that Spooner thought would suit best his proposal for a new currency system and, if adopted, would end up taking the place of gold and silver was land. Spooner envisioned a system in which banks, understood as institutions formed by land owners aiming at entering the banking business, would issue ‘circulating stock’ (bills or notes) backed by land.⁵¹ Since land was the most abundant asset in the US, people would be guaranteed access to credit.

This system, Spooner was certain, “would furnish, at all times, abundant currency (...) equal to one third or one half, the value of all real estate.”⁵² It would result in the end of the fractional reserve system by which banks operated in the US. Habitually, although banks were compelled to have enough gold to meet the demands of their customers, they could expand the money supply beyond the quantity of gold that they kept in reserves. This, in Spooner’s view, is what caused bank runs, financial crises and, ultimately, economic depressions. But land, Spooner argued, was more stable than gold and silver in value, and because banks under his system would only be allowed to issue currency up to one half of the total value of the land, they would thus have little incentive to expand the money supply beyond the aforementioned one-half limit. When banks went bankrupt because of an irresponsible expansion of the money supply, the holders of currency would take over the land backing up those notes and bills.⁵³

Spoooner was convinced that “everybody would prefer [this type currency] on account of its superior safety, convenience, and merchantable character.”⁵⁴ However, the distinctive characteristic that makes Spooner’s banking and currency proposal stand out

⁵¹ Spooner, *A New System of Paper Currency* (1860), in *The Collected Works of Lysander Spooner 1834-1886*, vol. 1, p. 290.

⁵² *Ibid.*, p. 291.

⁵³ In modern economic theory, this is called a *bail-in*, that is, a process by which a bank is recapitalized turning the debt held by creditors into stock.

⁵⁴ Spooner, *A New System of Paper Currency*, p. 308.

over other systems is that it is “autonomous and completely separated from the State.”⁵⁵ The system could work without any regulation or supervision from the government. In Spooner’s words,

The banks (...) would be free of all special control, oversight, taxation, or interference by the government. As the banks would ask no favors of the government, in that way of charters, monopolies, or otherwise, the government would have no more excuse for specially taxing them.⁵⁶

Flaws in Spooner’s Banking and Currency System

Despite all, the truth is that Spooner’s lack of background in the field of economics led him make several mistakes in his proposal for a banking and currency system. The first that should be mentioned is his bizarre idea on the nature of debts. As it has been mentioned above in Spooner’s theoretical account, workers should be able to have access to credit in order to purchase their own capital assets. However, Spooner surprisingly argued that “there is, as a general rule, no moral, any more than legal obligation to pay, beyond the means of the debtor at the time the debt becomes due.”⁵⁷ That is to say that, if at the time of expiration of the contract, the debtor has no means to pay off the debt, he may be exonerated from doing so. Many would agree that there is no need to mention the kind of perverse incentives that this concept of the nature of debts would have were his exception to be applied.

The second erroneous idea that Spooner had with regard to the nature of the banking business can be found in his flawed theory of interest. According to him, “if free competition in banking were allowed, the rate of interest on banking credit would be brought very low.”⁵⁸ This intuitive idea has been proved wrong by several economists from the Austrian School of Economics. As pointed out by the American economist Murray Rothbard,

⁵⁵ Spooner as discussed by Shively, *The Collected Works*.

⁵⁶ Spooner, *A New System of Paper Currency*, p. 311.

⁵⁷ *Ibid.*, p. 291.

⁵⁸ *Ibid.*, p. 233.

the rate of interest is not simply the price of money, and it is, therefore, not inversely proportional to its quantity (...) Lysander Spooner believed that if the supply of money were raised sufficiently (...) the rate of interest would fall to zero; actually, there is no reason for it to change at all.⁵⁹

In effect, if the money supply goes up but this increase is not accompanied by an increase in the total amount of savings, interest rates might go down in the short-term, “but this fall is strictly temporary, and the market restores the rate to its proper level.”⁶⁰ In addition to this, an expansion of the money supply not backed by savings would also lead to increasing inflation.

If the interest rate is “not only the price of money”, as Rothbard claimed, what does it reflect then? Interest rates show time preference of the different economic agents. The theory of interest developed by the Austrian economist Eugene Böhm-Bawerk draws from the premise that “present goods are, as a rule, worth more than future goods of like kind and number”⁶¹ regardless of inflation and risk default. In Rothbard’s words,

the rate of interest is a function of time preference, of the rate at which people prefer satisfaction in the present to the same satisfactions in the future (...) anybody would rather have \$100 now than \$100 ten years from now (setting aside possible changes in the value of money in the interim or the risk of not getting the money later)⁶².

However, there exist differences of degree. Those whose time preference is very high, that is, those who value present goods much more than future goods will be willing to borrow money from those whose time preference is not so high. To put it in another way: those with a very high time preference will demand money from those economic agents that do not consume all that they produce (called savers or capitalists), and will be willing to pay a bonus to be able to make use of that money. This bonus is the interest rate.

Spooner’s ignorance of the origin and nature of interest rates led him erroneously to think of money as any other good, whose price (the interest rate) would go down if the

⁵⁹ Murray Rothbard, “The Spooner-Tucker Doctrine: An Economist’s View”, *Journal of Libertarian Studies*, Vol. 20, No. 1 (Winter 2006), p.11.

⁶⁰ *Ibid.*, p. 12.

⁶¹ Eugene Böhm-Bawerk, *The Positive Theory of Capital*, (New York: William A. Smart, 1891), book V, chap. 1, in *Library of Economics and Liberty*. Retrieved March 13, 2015 from the World Wide Web.

⁶² Rothbard, “The Spooner-Tucker Doctrine”, p. 12.

supply were increased. As it will be shown later on in the present dissertation, his lack of a theory of interest will conduce him to regard wage labor as a way of exploitation.

Finally, Spooner held some misleading ideas with regard to gold and silver as currencies. He argued that “it is, then, only the value, which gold and silver have as productive investment in article of use, in plate, jewelry, etc. that creates any demand for them, and enables them to pass as a currency.”⁶³ That silver, and especially gold, were used as currency by most nations and empires throughout history does not result from the fact that they were valuable as productive investments, but from the fact that they fulfill perfectly the three criteria by which money is usually defined. First, they can store value: gold and silver do not get deteriorated over the years and, thus, they do not lose value.⁶⁴ Second, they can be used as medium of exchange. And third, they are good units of accounts since gold and silver are easily divisible and fungible. Moreover, the gold (and silver) standard tends to keep the value of money stable, which is essential for an asset aiming at being monetized to be generally accepted.

On balance, the flaws in Spooner’s theory of banking and currency result from his poor understanding of the nature of interest rates as well as his incapacity to comprehend the virtues of gold and silver as sound currencies. However, the real value of Spooner’s ideas on this issue lies in the implicit rejection of the authority of the State contained in his banking and currency proposal. In the system proposed by Spooner, the government plays no role: the system regulates itself without the necessity of any governmental intervention beyond providing a simple legal framework based on natural law. Therefore, in some way, Spooner was advancing the anarchist ideas that he would later make explicit in his work *No Treason*.

Let us move on now to the other issue related to the field of economics that Spooner dealt with: the labor theory of value and its implications.

⁶³ Spooner, *A New System of Paper Currency*, p. 302.

⁶⁴ It seems evident that fiat money issued by central banks does not get physically deteriorated over the years either. However, it loses value because of inflation created by central banks. This is the reason why fiat money is not a good store of value.

3.2 The Labor Theory of Value in Lysander Spooner: Origins, Analysis, and Critiques

Spooner's ideas on property rights were clearly influenced by the Lockean theory of property. For Spooner, property rights are the rights "which one man has, as against all other men, to the exclusive control, dominion, use and enjoyment of any particular things."⁶⁵ But how is the right of property acquired? According to Spooner, there are two ways: first, 'finders, keepers' which, in Spooner's words, means that "the natural wealth of the world belongs to those who first take possession of it;"⁶⁶ second, by transference: "That right [of property] can be transferred from the proprietors only by his own consent (...) to use another's property without his consent is to violate his right of property."⁶⁷

However, Spooner goes beyond Locke's theory when discussing how economic value is created. Spooner firmly believed that the exchange value of goods is determined by the amount of labor that is poured into them (what is known as the labor theory of value.) In contrast, although it is true that Locke pointed out that initial property rights arise when labor is mixed with nature, there is no evidence that suggests that Locke subscribed to the labor theory of value.⁶⁸

This idea of labor as the main source of value was not first proposed by Spooner, though. In fact, the labor theory of value dates back to the thirteenth century in the work of Thomas Aquinas. In the modern era, the first in pointing at labor as determinant of value was Benjamin Franklin in his work *A Modest Enquiry into the Nature and Necessity of a Paper Currency* (1721).⁶⁹ However, the first systematic, self-consistent proposal of the labor theory of value was carried out by Adam Smith and, particularly, David Ricardo, the two major exponents of the Classical School of Economics. Finally, the labor theory of value as developed by Marx is the orthodox version that has come down to our days.

⁶⁵ Spooner, *The Law of Intellectual Property* (1855) in *The Collected Works of Lysander Spooner*, vol. 2 (1853-1855), pp. 238-239.

⁶⁶ Spooner, *The Law of Intellectual Property*, p. 244.

⁶⁷ *Ibid.*, p. 252.

⁶⁸ Mack, "Locke on Property".

⁶⁹ Franklin as discussed by Karl Marx, *Value, Price and Profit*, (New York: International, 1969), p 14.

Retrieved March 13, 2015 from the World Wide Web:

<<https://www.marxists.org/archive/marx/works/download/pdf/value-price-profit.pdf>>

The Labor Theory of Value in Smith and Ricardo

The labor theory of value has been traditionally linked to Marxism. However, the Marxist theory of value is a merely extension of that found in the writings of classical economists, namely Adam Smith and David Ricardo. In contrast to Ricardo, Smith never aimed to carry out a deep study of the laws governing value. Nonetheless, he discussed value in Chapters V, VI and VII of Book I of his acclaimed work *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776), where he suggests two different accounts of the origin and nature of value: philosophical and empirical.⁷⁰

Smith gives a philosophical account, that is, a theoretical explanation of the economic value of goods. According to Smith, “labor is the real measure of the exchangeable value of all commodities.”⁷¹ However, Smith suggests two different standards to measure labor. On the one hand, the exchange value of a commodity would be equal to the amount of labor poured into it. This would be the typical measure of value in primitive societies. On the other hand, “the value of any commodity (...) [would be determined] by the quantity of labour which enables [a person] to purchase or command.”⁷² This standard could be applied to the exchangeable value of goods in modern societies⁷³. The former may be called the “labor-cost standard”; the latter, the “labor-command standard.”⁷⁴

This brings us to the empirical account. In Chapters VI and VII, Smith departs from the purely philosophical notion of value, and “turns to that most important (...) principle of exchange value in the modern market.”⁷⁵ For Smith, it seems obvious that, in modern markets, the price of goods is not determined by the quantity of labor involved in their production (labor-cost standard). Smith observed that wages, which reflect workers’ labor, are only one component of prices, being the other two rent and profits. He tried to reconcile this fact with the labor-command standard mentioned above:

⁷⁰ Adam Smith as discussed by Albert C. Whitaker, *History of Criticism of the Labor Theory of Value* (Ontario: Batoche Books, 2001), pp. 11-14. Retrieved March 15, 2015 from the World Wide Web.

⁷¹ Smith as quoted by Whitaker, p. 11.

⁷² *Ibid.*, p. 11.

⁷³ It should be noted that both standards are difficult to reconcile, if not contradictory.

⁷⁴ Whitaker, *History of Criticism*, p. 11.

⁷⁵ *Ibid.*, p. 15.

The real value of all different component parts of prices (...) is measured by the quantity of labour, which they can, each of them, purchase or command. Labour measure the value not only of that price which resolves itself into labour, but of that which resolves itself into rent, and of that which resolves itself into profits.⁷⁶

It could be argued that, in some way, Smith correctly realized that the *labor-cost standard*, which would be basis of Ricardo's and Marx's theory of value, does not match reality. However, in his aim to present an objective theory of value, he resisted to abandon the notion of labor to explain value, which prevented him to lay down a theory of value based on subjective preferences of human beings.

Unlike Smith, David Ricardo attempted to develop a comprehensive, systematic, and coherent theory of value. His can be considered the true classical labor theory.⁷⁷ For Ricardo, the value of goods "depends on their cost of production in human labor."⁷⁸ However, this human labor includes "the labor employed in making the raw material, machinery and buildings (capital goods) used up in its production, as well as the labor directly applied to it."⁷⁹ As pointed out by Marx, both Ricardo and Smith failed to explain the nature of entrepreneurial profits. Marx took advantage of this fact to develop his own labor theory of value, which is nothing else than a logical extension of Ricardo's theory.

The Labor Theory of Value in Marx and Spooner

Having agreed with Ricardo that value is determined by the amount of labor required to produce a good, Marx asked the following question: "if all goods and services in a capitalist society tend to be sold at prices (and wages) that reflect their true value (measured by labor hours), how can it be that capitalists enjoy profits?"⁸⁰ Marx came to the conclusion that capitalist profits result from "extracting surplus value from the workers."⁸¹ This surplus is obtained when the capitalist does not remunerate the worker for all the hours worked. In other words, entrepreneurial profits could not exist if the employers paid their workers the full amount of their salaries. This interpretation of labor relations is known as the Marxist

⁷⁶ Smith as quoted by Whitaker, p. 16.

⁷⁷ Whitaker, p. 22.

⁷⁸ *Ibid.*, p. 23.

⁷⁹ *Ibid.*, p. 26.

⁸⁰ Marx as discussed by David L. Prychitko, "Marxism". *The Concise Encyclopedia of Economics* (2008). In the *Library of Economics and Liberty*. Retrieved March 17, 2015 from the World Wide Web.

⁸¹ *Ibid.*

Theory of Exploitation. Marxist's theory of value is a logical corollary of the classical labor theory of value developed by Ricardo. What is of importance here is that Spooner subscribed to Marx's version of the labor theory of value. This can be observed in many of Spooner's writings. In *Poverty: Its Illegal Causes and Legal Cure*, he asserts that "each man should be his own employer, or work directly for himself, and not for another for wages (...) [since] every man (...) should be allowed to have the fruits, and all the fruits of his own labor."^{82 83} In effect, Spooner recognizes that, when working for another for wages, a worker is not receiving the entire fruits of his labor and, as a result, he is being exploited by his employer.

Spooener regarded labor as the main source of value by which wealth is created: "the wealth created by labor is the rightful property of the creator, or producer."⁸⁴ This was mainly the idea that led Spooner to oppose wage labor. Spooner's reasoning seems, therefore, clear: if labor is the source of economic value or, to put it in other words, if the exchange value of goods results from the amount of value poured into them, wage labor should be abolished since entrepreneurial profits (including rent) "are payments exploitatively extracted from the worker."⁸⁵

A Critique of the Marx-Spooner Labor Theory of Value

The labor theory of value has been extensively criticized by economists since the late nineteenth century. The so-called "Marginalist Revolution" in the field of economics, initiated by the Austrian economists Carl Menger and Eugene Böhm-Bawerk, replaced the notion of labor as the determiner of value for the notion of subjective utility. They pointed out that the amount of labor required to make a good does not determine its value; instead, value is determined by consumer preferences, that is, by the subjective utility that consumers project into things. In fact, the amount of labor is irrelevant in determining the value of goods. This subjective theory of value was put forward by Carl Menger in his book *Principles of Economics* (1871).

⁸² Spooner, *Poverty: Its Illegal Causes, and Legal Cure*, pp. 225-226.

⁸³ In contrast, Locke thought of wage labor as a rightful, contractual relationship between the employer and the laborer by which the latter sells temporarily his labor to the former in exchange for a salary. See Locke, II, 7, 85.

⁸⁴ Spooner, *The Law of Intellectual Property*, p. 248.

⁸⁵ Spooner as discussed by Rothbard, "The Spooner-Tucker Doctrine", p. 9.

Professor Israel Kirzner gives a very telling example that clarifies the meaning of subjective utility and, at the same time, refutes the idea of labor as the essence of value.⁸⁶ Imagine there is a box containing \$1 trillion dollars that can only be opened with a particular key. How much would that key be worth? Or how much would somebody be willing to pay for that key? He points out that it would be a non-sense to state that the key is worth its cost of production, as stated by the labor theory of value. On the contrary, the value of the key is determined by the subjective utility of that key to the people who would be willing to bid for it. Prices are, therefore, entirely shaped and determined by consumer preferences.

However, the subjective theory of value as explained above leads to a seeming contradiction, which has been referred to as the ‘Paradox of Value’ and could be summarized in the following terms: if subjective utility of goods is the main factor that determines their value, why does water cost less than diamonds despite it being extremely more useful for the survival of human beings?

In order to refute this false paradox, it is necessary to introduce the law of marginal utility, which may be defined as “the additional satisfaction or benefit (utility) that a consumer derives from buying an additional unit of a commodity or service.”⁸⁷ When comparing diamonds and water in the abstract, as the ‘Paradox of Value’ does, we are likening the utility of all water to that of all diamonds in the world. In that particular case, the total utility of water is obviously higher than the total utility of diamonds since water is no doubt more useful than diamonds.

Yet individual prices in the market are not determined by total utility but by marginal utility.⁸⁸ That is to say that the value of a good is determined by the additional satisfaction that an individual gains from purchasing an additional unit of that good. Therefore, and going back to our previous example, in the market consumers do not face the situation mentioned above, that is, they do not choose between all diamonds and all

⁸⁶ “Economía Clásica, Economía Neoclásica y Economía austriaca,” Youtube video, 9:30. Posted by José Manuel González, January 11, 2012. Retrieved March 18, 2015 from the World Wide Web.

⁸⁷ “Marginal Utility” (2014). In *Encyclopaedia Britannica*. Retrieved June 14, 2015 from the World Wide Web.

⁸⁸ Böhm-Bawerk, book III, chap. 4.

water, but between an additional unit of each one. However, the paradox is still there: why is an additional unit of water less costly than an additional unit of diamonds?

The answer lies in the fact that the law of marginal utility is diminishing, which means that utility of a good decreases when additional units of that particular good are added. In other words, the subjective usefulness or value of each unit of a good decreases as the supply increases. Since the supply of water is higher than that of diamonds, its marginal utility is lower and, thus, water is less costly than diamonds.⁸⁹

That value is not created by workers' labor as the subjective theory of value states calls into question Spooner's claim that employers divest workers of part of the fruits of their labor. However, the existence of entrepreneurial profits (or surplus, in Marxist terminology) cannot be empirically denied. The question is: where do profits come from otherwise than by depriving workers of the full value of their work as claimed by Spooner and Marx?

Profits, whether they be in the form of interest or entrepreneurial benefits, are closely linked to the idea of time preference explained above. Rothbard explains the nature of profits:

In short, capitalists would pay out \$100 this year to workers (...) and then sell the product and reap, say, \$110 next year, not because of exploitation, but because all parties prefer any given amount of money this year to next year. Hence capitalists, to pay out wages (...) in advance and the wait for sale, will do so only if compensated by an "interest" (profit) return; while, for the same reason, workers (...) are willing to accept this 10 percent discount of their product in order to take their money now and not have to wait for sales to the consumer.⁹⁰

Or rephrase it in another way, and in connection with the time preference theory of interest, capitalists renounce to present goods (the costs of production, including wages) in exchange for future goods (profits, as long as they are able to generate a surplus by selling

⁸⁹ Böhm-Bawerk illustrates the idea of marginal utility by drawing on the following example. A farmer has five sacks of corn, each of which will be employed for five different purposes: the first one, to sustain his own life; the second one, to keep himself vigorous to continue doing the harvesting; the third one, to feed poultry; the fourth one, to make spirits; and the fifth one, to feed his parrots. If he were deprived of one of his sacks, it seems obvious that he would not reduce by one fifth each of the uses he gives to each sack. Instead, he would stop feeding his parrots since that is the less important use in his subjective scale of preferences. The subjective utility of feeding his parrots is, thus, what determines the value of all sacks of corn. This example can be found in Böhm-Bawerk, *The Positive Theory of Capital*, book III, chap. 4.

⁹⁰ Rothbard, "The Spooner-Tucker Doctrine", p. 12.

their products). These profits result “not from the appropriation of an unpaid work (...) [but] from the interest resulting from waiting and taking risks until the production process is completed.”⁹¹

It would appear then that Spooner’s limited knowledge on the nature of interest rates led him to develop flawed theories on both banking and wage labor. Nonetheless, he was right in pointing out that the bank privileges violated the right of contract and brought about most financial crisis that took place in nineteenth-century America.

⁹¹ Juan Ramón Rallo, “El Fiasco de la Teoría Marxista de la Explotación”, *El Blog de Juan Ramón Rallo*. Retrieved March 19, 2015 from the World Wide Web.

4

LYSANDER SPOONER, THE ENTREPRENEUR

All that has been written so far in the present dissertation seems to convey the idea that Spooner was the typical nineteenth-century thinker imbued in purely intellectual and theoretical enterprises. However, Spooner was also a man of action. In 1844, he became an entrepreneur by founding a mail company. On February 28, he published an advertisement in a newspaper explicitly claiming that he had founded his company to “test the constitutional right of free competition in the business of carrying letters.”⁹² Therefore, it seems obvious that Spooner did not only aim to make a living by means of offering customers a new service at a lower cost than that offered by the governmental postal monopoly. His ultimate intention was to check whether the free enterprise system that had characterized the American nation since its foundation was still in force. In the following lines, the story of the Spooner’s *American Letter Mail Company* will be briefly discussed.

4.1 The United States Postal Service Monopoly

The United States Postal Service was founded in 1775 during the Second Continental Congress. Its first postmaster general happened to be the illustrious Benjamin Franklin. In 1798, the Articles of the Confederation established that the Congress was to have the “sole and exclusive right [of] (...) establishing and regulating offices,” which made the US Postal Service one of the first governmental monopolies in the history of the American nation.⁹³ As with many other monopolies controlled by government, the quality of the service began to decline quickly, and prices rose sharply. In 1843, transporting a letter via the Post Office cost, in proportion, 140 times as much as a stagecoach trip.⁹⁴ This was due

⁹² *American and Commercial Daily Advertiser*, Feb. 28, 1844. Retrieved March 25, 2015 from the World Wide Web:
<<https://news.google.com/newspapers?id=unBBAAAIAIAJ&sjid=vrcMAAAAIAIAJ&dq=american-letter-mail&pg=4030,2169933&hl=en>>

⁹³ As quoted by Kelly B. Odds, “The Challenge to the US Postal Monopoly,” *Cato Journal*, Vol. 15, No. 1 (Spring/Summer 1995), p. 13. Retrieved March 25, 2015 from the World Wide Web.

⁹⁴ *Ibid.*, p. 3.

to the existence of politically-connected, rent-seeking individuals and companies that benefited from this artificial monopoly created by the US Government.⁹⁵

Informal competition had always existed in the mailing business, although it never became a concern for the Postal Department. However, in the late 1830s, some formal competition that challenged the monopolistic power of the Post Office arose in the form of private mailing companies that aimed to make a profit by reducing the costs of delivering mails. The creation of these new companies was encouraged by a court decision that stated “the law [that prevented private competition] did not apply to rail and steamship posts.”⁹⁶ This was understood by entrepreneurs all over the country as an opportunity to make a profit. One of these new ventures was founded in 1844 by Lysander Spooner under the name of *American Letter Mail Company*.

4.2 Free Enterprise vs. Governmental Monopoly: Spooner’s Challenge to the US Postal Service

On February 28, 1844, Spooner published an advertisement in the *American & Commercial Daily Advertiser* announcing the foundation of a new mailing company that would deliver letters between New York and Philadelphia. Spooner was eager to test whether one of the basic pillars on which the American nation rested, namely the free enterprise system, was being violated by governmental laws. As a legal scholar, he was convinced of the unconstitutionality of laws forbidding private mails:

The constitution expresses, neither in terms, nor by necessary implication, any prohibition upon the establishment of mails, post-offices and post roads, by the states or individuals (...) The simple grant of an authority, whether to an individual or a government, to do a particular act, gives the grantee no authority to forbid others to do acts of the same kind.⁹⁷

The head of the Post Office immediately realized that Spooner’s company could threaten the hegemony of the state-owned mailing service, and set out to take action. Spooner

⁹⁵ *Ibid.*, p. 3.

⁹⁶ *Ibid.*, p. 12.

⁹⁷ Spooner, *The Unconstitutionality of Laws of Congress Prohibiting Private Mails* (1844), in *The Collected Works of Lysander Spooner*, vol. 1, p. 199.

challenged the postmaster general to bring his case before the Supreme Court.⁹⁸ However, the postmaster general refused to cooperate, and “Spooner was driven out of business after six or seven months due to fines, legal expenses, and the irregularity of the mail caused by government seizure.”⁹⁹ Yet this rise in competition in the mailing sector in which Spooner played an important role was not futile: it had very positive impact for consumers in the long term.

Certainly, this increasing competition that challenged the power of the Post Office did not terminate with the legal monopoly that it held. In fact, the fines for violations of the law that granted monopolistic powers to the Post Office were tripled. Similarly, those loopholes that had enabled competition to flourish were closed to prevent future challenges to the legal postal monopoly.¹⁰⁰ However, competition resulted from the entrepreneurial spirit of Americans compelled the US Government to lower the postage rates to nearly the same levels as those found in the private sector. And not only that. As pointed out by Kelly B. Odds, competition “was also responsible for changing the nature of postal service. Private companies introduced payment-by-weight, prepayment, postage stamps, and home delivery to the American market. Those reforms were adopted afterward by the Post Office.”¹⁰¹

Spooner’s attempt to test the free enterprise system by starting a postal venture in the United States stemmed from his strong conviction that freedom is an inalienable right of which people must not be deprived under any circumstances. Despite the fact that his company did not last long because of governmental coercion, he “put his two cents in” to reinforce the values of liberty that, he thought, were being violated by government’s interference in the lives of the American people. This distrust in the government was the prelude to the total rejection of the political authority of the government that he would later make explicit in *No Treason*, where he fully embraced anarchism portraying the State as the most powerful violator of individual rights.

⁹⁸ The news dealing with the case of Spooner vs. the Post Office appeared on *The Adams Centinel*, Jan. 1, 1844. Retrieved March 26, 2015 from the World Wide Web: <<http://news.google.com/newspapers?id=-qwlAAAAIBAJ&sjid=AvMFAAAAIBAJ&dq=american-letter-mail&pg=7452%2C1312663>>

⁹⁹ Odds, p. 13.

¹⁰⁰ *Ibid.*, p. 15.

¹⁰¹ *Ibid.*, p. 16.

5

LYSANDER SPOONER, THE ABOLITIONIST

After his mail company was pushed out of business by the US Government, Spooner returned to his family's farm in Athol, Massachusetts. However, his entrepreneurial failure did not discourage him from continuing fighting for those ideas he considered worthwhile. This time, he turned his focus to slavery. The peculiar institution had been a source of conflict between the industrial, capitalist North and the rural, proslavery South since the foundation of the Republic in 1776, but in the 1830s and 1840s, the tension intensified, resulting in the birth of the abolitionist movement in America.

It was in this context that Spooner wrote his essay *The Unconstitutionality of Slavery* (1845), in which he aimed to prove that the peculiar institution was illegal from a constitutional point of view. In the 1850s, Spooner continued to deal with the problem of slavery in the United States. His two most famous works of the period are closely linked to two slavery-related issues that were topical in those years: *A Defense for Fugitive Slaves* and *A Plan for the Abolition of Slavery to the Non-Slaveholder of the South*. *A Defense for Fugitive Slaves* (1850) was written as an attempt to denounce the Fugitive Slaves Act passed by Congress on that year. According to this law, which was part of the Compromise of 1850 by which Congress agreed to carry out a number of reforms that would temporarily terminate with the confrontation between free and slave states, Northerners were compelled to cooperate in returning those fugitive slaves who fled the South. *A Plan for the Abolition of Slavery To the Non-Slaveholders of the South* (1850), a detailed plan aiming at doing away with the peculiar institution, was published only one year before John Brown led a failed rebellion in the South to end with slavery.

However, that Spooner was an abolitionist did not mean that he was a pro-unionist. When the Civil War broke out, Spooner belligerently condemned the Federal Government for bringing about the war with the aim of preserving the Union. In his most acclaimed work, *No Treason* (1867-70), Spooner challenged the idea that the South committed treason by seceding from the Union. However, the importance of *No Treason* does not reside in the aspects of the Civil War that are discussed in it, which are minimal. *No Treason* is an

anarchist manifesto that attempted to bring light to the flawed pillars on which the political authority of the State may rest. *No Treason* is not only the culmination and logical corollary of Spooner's notions of natural law but also an explicit statement against the very existence of the State.

This final part of the present dissertation will cover three different topics. First, the origins of the abolitionist movement in America will be briefly discussed. Second, Spooner's ideas on the abolitionist issue will be compared and contrast with those of mainstream abolitionists such as William Lloyd Garrison and Wendell Phillips. Finally, Spooner's stance towards the American Civil War will be analyzed. Particularly, his work *No Treason* will be examined in detail here to expound the relationship between his opposition to the war and his anarchist views on the role of the Government.

5.1 The Origins of the Abolitionist Movement in America

Abolitionism in Eighteenth-century England

The abolitionist movement in the United States was inspired by the emergence of a new wave of humanitarian sensibility that arose in late eighteenth-century England. England had become involved in the slave trade business in the sixteenth-century. However, it was not until the 1780s when a wave of anti-slavery sentiment permeated all the social stratum of the British society, the Quakers playing a very significant role along with the most important abolitionist figure of these days, a former slave named Olaudah Equiano, whose autobiography became the most powerful testimony against the horrors of slavery.

In the words of the slave trade scholar Markus Rediker, "Equiano (...) was the first person to write extensively about the slave trade from the perspective of the enslaved."¹⁰² His work, published in 1789, boosted the abolitionist movement precisely for this reason: it was the first time that a slave had narrated the horrors of being kidnapped, taken to the Americas in a slave ship and reduced to the condition of another person's property. Equiano's narrative by no means should be deemed naïve. On the contrary, it had a very clear political purpose: to promote antislavery ideas in society.

¹⁰² Markus Rediker., *The Slave Ship: A Human History* (London: John Murray, 2007), p.109.

It would not take too long for the abolitionist movement in England to succeed in its attempt to do away with both slave trade and slavery in the British Colonies. In 1807, the British Parliament passed the Slave Trade Act, which banned slave trade throughout the entire British Empire. Some years later, in 1833, the Slavery Abolition Act abolished slavery in all British territories, although slaves would not be emancipated until one year later. Still, what was the origin of this wave of humanitarian sensibility that emerged in eighteenth-century England and crossed the Atlantic Ocean to inspire the birth of abolitionism in America?

Capitalism and the Emergence of Humanitarian Sensibility

In two academic papers published in 1985, the historian Thomas Haskell convincingly argued that “the humanitarian reform sentiment [that] swept through Europe, England and North America in the hundred years following 1750 (...) was associated with the rise of capitalism,” and more precisely with the institution that best characterizes capitalism: the market.¹⁰³

The market is usually defined as the social institution through which individuals and companies produce and exchange goods and services, and yet, it is much more than that. It is not just a social institution through which people carry out economic transactions, but also an institutional framework that allows and encourages people to cooperate voluntarily in order to achieve their goals and objectives regardless of whether these are for profit or not.

According to Haskell, the rise of abolitionism is linked to “shifts in the conventional boundaries of moral responsibility”¹⁰⁴ brought about by the very essence of the market as an institution “of social discipline or of education and character modification.”¹⁰⁵ Haskell is referring to the “the autonomous power of the market to shape character, [which] is often

¹⁰³ Thomas Haskell, “Capitalism and the Origins of the Humanitarian Sensibility (Part 1),” *American Historical Review*, 90, No. 2 (April 1985), pp. 339-41.

¹⁰⁴ *Ibid.*, p. 359.

¹⁰⁵ Thomas Haskell, “Capitalism and the Origins of the Humanitarian Sensibility (Part 2),” *American Historical Review*, 90, No. 3 (June 1985), p. 550.

underestimated.”¹⁰⁶ How does the market shape character then? Haskell argues that it does it by encouraging promise keeping.

Promise-keeping is of the utmost importance in market economies since contracts, on which market relations are based, are no more than exchanges of promises. In a market economy, contracts are made every day between sides that do not know each other and have never seen each other; hence, the importance of promise-keeping in capitalist societies. As pointed out by Haskell, “it is not merely coincidental that humanitarianism burst into bloom in the late eighteenth century (...), promise keeping contributed to the emergence of the humanitarian sensibility by encouraging new levels of scrupulosity in the fulfillment of ethical maxims.”¹⁰⁷

Furthermore, the emergence of the market also “expanded the range of causal perception and inspired people’s confidence in their power to intervene in the course of events.”¹⁰⁸ In other words, one must not only have the commitment to act when he sees an injustice, but he must also have the capacity to do so. In his view, the market provided the framework that made abolitionists realize that their actions could change the course of events with regard to the peculiar institution in the United States.

The Birth of Abolitionism in America

The abolitionist movement in the US can be traced back to the Colonial Period. Again, the first calls for the abolition of slavery there were led by Quaker societies in the late seventeenth century. By 1800, all Northern states had either abolished slavery or passed laws to make it disappear gradually. In addition, slave trade was banned by Congress in 1807. Yet the Southern economy was still highly dependent upon slave labor. The South was economically linked to the international agricultural markets through its production of several commodities, among which cotton was the most important one. In order to meet the increasing demand for cotton that came from many parts of the world, especially from Europe, the Southern agrarian economy hinged upon slave labor.

¹⁰⁶ *Ibid.*, p. 550.

¹⁰⁷ *Ibid.*, p. 555.

¹⁰⁸ *Ibid.*, p. 556.

This obviously brought about tensions between the industrial North and the agrarian South, which soon became more notorious in the 1830s. They were brought on, in part, by the emergence of a structured, well-organized abolitionist movement in the North led by the American Anti-Slavery Society. Figures such as William Lloyd Garrison, Wendell Phillips or Frederick Douglass spread the abolitionist message all over the United States. The Southerners considered this new wave of abolitionism a direct attack towards their way of life, and responded by changing their tactics “from apologizing for a system considered evil in the abstract to defending it as a positive good.”¹⁰⁹ From 1830s and thereafter, the already existent identification between the South and the peculiar institution grew considerably, to the extent that George McDuffie, governor of South Carolina from 1834 to 1836, went so far as to say that “domestic slavery (...) is the cornerstone of our republican edifice.”¹¹⁰

The American Anti-Slavery Society represented the mainstream within the abolitionist movement. Still, there were other intellectuals that, despite rejecting the institution of slavery as belligerently as Garrison or Phillips, had a different approach on what was the most effective method to do away with the peculiar institution. Lysander Spooner was one of these abolitionists.

5.2 Two Different Approaches to Abolish the Peculiar Institution: Lysander Spooner vs. the Anti-Slavery American Society

Spoooner and *The Unconstitutionality of Slavery*

As a native of Massachusetts, Spooner grew up in an environment where the institution of slavery was regarded as an abomination. As early as 1783, the State Supreme Court had declared slavery illegal by arguing that the preamble of the state constitution was incompatible with slavery. Therefore, he deemed it unnecessary to prove that slavery was an evil institution from a moral point of view since that seemed obvious to him. Instead, as a legal scholar, he thought that the most effective strategy to end with the peculiar institution was to prove it unconstitutional.

¹⁰⁹ Philip Foner, *History of Black Americans: From the Emergence of the Cotton Kingdom to the Eve of the Compromise of 1850* (Connecticut: Greenwood Press, 1983), p. 368.

¹¹⁰ McDuffie as quoted by Foner, p. 369.

All his argumentation regarding the unconstitutionality of slavery drew from the following premise: a law is not “an arbitrary rule that can be established by mere will, numbers or power (...) [but] an intelligible principle of right, necessarily resulting from the nature of man.”¹¹¹ Here, two legal paradigms are clearly confronted: on the one hand, the “natural-law” paradigm, which defines law as universal, objective and not subjected to the will and arbitrariness of majorities or rulers; on the other hand, the “positive-law” paradigm, a legal philosophy that states that a law is legitimate inasmuch as it has been passed by a legislative power. Spooner would clearly subscribe the “natural-law paradigm.”

This idea of natural law has a very straightforward corollary: any law passed that contradicts the principles of natural law is illegitimate and should not be obeyed; and this is where the Constitution comes into play: as the supreme law of the land, the Constitution must reflect those principles of justice which are intrinsic to human nature. It was Spooner’s belief that slavery was intrinsically contrary to the most basic principles of human nature since the concept of property is not applicable to human beings. “No man can own another man’s body”, claimed Spooner in his pamphlet on intellectual property¹¹². Thus, “the constitution of the United States, not only does not recognize or sanction slavery, as a legal institution, but that, on the contrary, it presumes all men to be free.”¹¹³

In fact, it does not only presume all men to be free, but it also states it explicitly. As Spooner reminded,

the preamble expressly declares that ‘We the people of the United States’ establish the constitution for the purpose of securing justice, tranquility, defense, welfare, and liberty, to ‘ourselves and our posterity’ (...) And there is nothing in the constitution that can limit this word “people,” so as to make it include a part, only, of “the people of the United States.” The word, like all others, must be taken in the sense most beneficial for liberty and justice.¹¹⁴

In other words, the Constitution recognizes the freedom of all the people in the United States without excluding any particular collective.

¹¹¹ Spooner, *The Unconstitutionality of Slavery* (1860), in *The Collected Works of Lysander Spooner 1834-1886*, vol. 3 (1858-1862), p. 62.

¹¹² Spooner, *The Law of Intellectual Property*, p. 241.

¹¹³ Spooner, *The Unconstitutionality of Slavery*, p. 57.

¹¹⁴ *Ibid.*, p. 232.

It must be conceded, however, that Spooner's legal approach to the abolition of slavery did not attract many supporters. In fact, most anti-slavery activists belonged to the Anti-Slavery American Society, whose approach differed radically from that of Spooner.

Mainstream Abolitionism: the Anti-Slavery American Society

The Anti-Slavery American Society was founded in 1833, contributing to the emergence of an anti-slavery wave that lasted until the abolition of slavery in the United States in 1865. It was born as a pacific organization that demanded the immediate abolition of slavery. It held hundreds of meetings and conferences all over the country speaking about the evilness of slavery, congregating speakers as acclaimed as the runaway slave Frederick Douglass.

Its leader, William Lloyd Garrison, was a native of Massachusetts. His radical, outspoken opposition to slavery made him the most controversial figure among all abolitionists. Unlike Spooner, Garrison believed that the Constitution ratified the institution of slavery in the United States and, thus, it had to be abolished, going so far as to claim that the Constitution was "a covenant with death, and agreement with hell."¹¹⁵ Garrison's claim was grounded on the fact that slavery had not been explicitly banned in the Constitution in the dawn of the American republic, delegitimizing the Constitutional text as a whole from the very moment it was approved.

Wendell Phillips, another abolitionist leader from New England, also condemned the Constitution for tolerating slavery. In his review of Spooner's *The Unconstitutionality of Slavery*, he attempted to refute Spooner's arguments in support of the Constitution as an anti-slavery document. Phillips started off criticizing Spooner's concept of law: "Mr. Spooner's doctrine is, that only what is just and right is law."¹¹⁶ According to Phillips, this "forced interpretation of legal maxims (...) is subversive of all sound principles of Government and of public faith."¹¹⁷ In a blatantly positivist stand, Phillips pointed out that

¹¹⁵ Garrison as quoted by Shively, *The Collected Works*.

¹¹⁶ Wendell Phillips, *Review of Lysander Spooner's Essay on the Unconstitutionality of Slavery*, (Massachusetts: Applewood Books, 2008), p. 8.

¹¹⁷ *Ibid.*, p. 4.

people were compelled to obey any law passed by the legislative power, no matter how unjust it may be, until Congress repealed it.¹¹⁸

Phillips then criticized Spooner's idea that the Constitution made all American people free, and offered the example of the treatment given to the Indian tribes:

The Constitution did not make citizens of all the people. The Indians, for instance, were people, residing and born within the limits of the United States. That the Constitution did not make them citizens is very evident from the fact that they are several times referred to in it, as an independent body, under the name of "the Indian tribes."¹¹⁹

A consequence of Phillips' criticisms or not, it must be noted how Spooner ended up disavowing the Constitution by arguing that it could not be supported by "honest men who know its true character."¹²⁰ This shift was the result of Spooner's embrace of anarchism, which became explicit in the 1860s with the publication of his work *No Treason*.

5.3 *No Treason: An Anarchist Manifesto*

The outbreak of the Civil War was seen by most abolitionists as an opportunity to finally put an end to slavery in the United States. It is well known how the conflict was deemed a struggle between freedom and slavery; liberty and bondage; in short, between the rightful North and the evil South. Yet the war was far from being an anti-slavery crusade. Instead, Lincoln's ultimate aim was to preserve the Union, as he admitted in a letter to Horace Greeley, editorialist of the New York Tribune, in August 1863:

If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing all the slaves, I would do it; and if I could save it by freeing some and leaving others alone, I would also do that. What I do about slavery and the colored race, I do because I believe it helps to save the Union.¹²¹

Be it as it may, the truth is that most abolitionists did not hesitate to support the Union during the Civil War in an exercise of political pragmatism.

¹¹⁸ Phillips as discussed by Martin, chap. VII.

¹¹⁹ *Ibid.*, p. 68.

¹²⁰ Spooner as quoted by Shively, *The Collected Works*.

¹²¹ Abraham Lincoln, "A Letter to Horace Greeley" (August 22, 1863). Retrieved on June 2, 2015 from the World Wide Web.

Spooner represented an exception. He was one of the few northerners that harshly criticized the Union for bringing about “this horrible, unnecessary and, therefore, guilty war.”¹²² In his three-part pamphlet *No Treason* (1867-70), Spooner argued that the Southern states had been unfairly accused of committing treason when seceded from the Union while, at the same time, he demolished the social contract theory that legitimized the political authority of the government, thus arguing for a society based on voluntary relations.

Let us start off by analyzing Spooner’s defense of the Confederation’s right to secede and why it is not accurate, in Spooner’s view, to state that they committed treason. It is to be reminded how the classic social contract theory as stated by Locke claims that government rests on the consent of the governed. According to Spooner, there is only one rightful way of interpreting this idea: “the separate, individual consent of every man who is required to contribute, either via taxation or personal service, to the support of the government.”¹²³ And he continues: “if a man has never consented or agreed to support a government, he breaks no faith in refusing to support it.”¹²⁴ Thus, it is impossible that a person that has never given his consent to support a government or that has publicly stopped doing so commit treason because the concept of treason “implies treachery, deceit, breach of faith.”¹²⁵ To put it in simple terms, the idea of treason implies the breach of a contract, but a person cannot be bound by a contract that he has never agreed to sign.

This brings us to the key issue in Spooner’s theory of government and refers the issue back to our starting point: his refutation of the Lockean social contract theory and, as a result, his rejection of the Constitution as a binding contract between the government and the people. To begin with, *No Treason* debunks that foundational myth of the social contract theory: the idea that governments rest on voluntary support, either explicit or tacit, of the citizenship. Spooner pointed out that the Constitution, as any other contract between parties, only bound those who agreed to the sign it, namely the Founding Fathers. It cannot be imposed to “succeeding generations” without their voluntary agreement; doing so would

¹²² Spooner, “A Letter to Charles Sumner” (1864).

¹²³ Spooner, *No Treason I* (1867), in *The Collected Works of Lysander Spooner*, vol. 4 (1863-1873), p.134.

¹²⁴ *Ibid.*, p. 134.

¹²⁵ Spooner, *No Treason II* (1867), in *The Collected Works of Lysander Spooner*, vol. 4 (1863-1873), p. 145.

imply the violation of their natural right to enter in contracts and associations with other parties voluntarily.¹²⁶

It could be argued that people give their tacit consent every time they vote, and that that legitimizes the very existence of government and makes the social contract a valid contract between the State and the people. In Spooner's opinion, however, this could not be maintained. He claimed that "a man's voting under the Constitution of the United States is not to be taken as evidence that he ever freely assented to the Constitution."¹²⁷ The case is even regardless of whether you vote or not, you are not allowed to voluntarily terminate this alleged contract since the State refuses to recognize explicit dissent. By way of example, when the Southern states attempted to secede from the Union, they were not permitted to do so. Therefore, the social contract is a void contract inasmuch as citizens have never agreed to sign it or, if they have, they are not allowed to terminate the contract and secede.

In the third place, Spooner denied the validity of the authority-of-democracy argument by which the political authority of government would stem from the democratic process whereby a sufficient majority would confer authority to the government for it to rule a country at its own discretion. Spooner strongly opposed this idea of the legitimacy of majorities to impose their will over minorities: "majorities, as such, afford no guarantees for justice" was his main argument, and added, "to say that majorities, as such, have a right to rule minorities is equivalent to saying that minorities have, and ought to have, no rights, except such as majorities."¹²⁸

If the government does not rest on voluntary support of the governed as claimed by the supporters of the social contract, what is the nature of government then? Spooner does not hesitate to answer that the government bases its authority on the use of coercion. This becomes obvious in the very nature of taxes. Taxation is the most blatant manifestation that the power of the State resides in the use of force (or the threat to use force), and not in voluntary support. In a very ingenious passage that has gone down in history as one of the

¹²⁶ *Ibid.*, p. 142.

¹²⁷ *Ibid.*, p. 176.

¹²⁸ Spooner, *No Treason I*, in *The Collected Works of Lysander Spooner*, p. 131.

most famous anarchist texts, Spooner likens the State to a highway man. We shall quote it in full:

The fact is that the government, like a highwayman, says to a man: Your money, or your life. And many, if not most, taxes are paid under the compulsion of that threat. The government does not, indeed, waylay a man in a lonely place, spring upon him from the road side, and, holding a pistol to his head, proceed to rifle his pockets. But the robbery is none the less a robbery on that account; and it is far more dastardly and shameful. The highwayman takes solely upon himself the responsibility, danger, and crime of his own act. He does not pretend that he has any rightful claim to your money, or that he intends to use it for your own benefit. He does not pretend to be anything but a robber. He has not acquired impudence enough to profess to be merely a “protector,” and that he takes men’s money against their will, merely to enable him to “protect” those infatuated travelers, who feel perfectly able to protect themselves, or do not appreciate his peculiar system of protection. He is too sensible a man to make such professions as these. Furthermore, having taken your money, he leaves you, as you wish him to do. He does not persist in following you on the road, against your will; assuming to be your rightful “sovereign,” on account of the “protection” he affords you. He does not keep “protecting” you, by commanding you to bow down and serve him; by requiring you to do this, and forbidding you to do that; by robbing you of more money as often as he finds it for his interest or pleasure to do so; and by branding you as a rebel, a traitor, and an enemy to your country, and shooting you down without mercy, if you dispute his authority, or resist his demands. He is too much of a gentleman to be guilty of such impostures, and insults, and villainies as these. In short, he does not, in addition to robbing you, attempt to make you either his dupe or his slave.¹²⁹

Here, Spooner lays bare the contradiction on which the political authority of the State rests, namely: the State engages in some activities that, if carried out by an individual, would be considered wrong by virtually everybody. Taxation is a blatant manifestation of this. Spooner considers that there is little difference between the State depriving individuals of their property through taxation and a highwayman stealing someone’s belongings; and yet, the State is legitimized to use force to divest its citizens of the fruits of their labor whereas a highwayman would be put in jail for committing such a crime.

This is how Spooner’s anarchism made him oppose the war that other abolitionists had welcomed as an anti-slavery crusade. It was clear to him that the violation of individual rights could not be justified by appealing to a greater good, in this case slavery. It was clear also that the initiation of the use of force by the Northern army against the South an

¹²⁹ Spooner, *No Treason VI* (1870), in *The Collected Works of Lysander Spooner*, vol. 4, pp. 182-83.

aggression that violated the individual rights of the Southerners. Similarly, he regarded taxation as a blatant violation of the non-aggression principle, which, according to natural law, was an inalienable right that every human being was entitled to. In both cases, the State was the source of the violation of people's natural rights and, for this reason, it had to be abolished.

CONCLUSION: THE LEGACY OF LYSANDER SPOONER

In this dissertation, the author has attempted to present and critically discuss the figure and ideas of American individualist anarchist Lysander Spooner through the examination of his most significant works. The connecting threads that link the economic and political ideas contained in them are, on the one hand, his distrust towards the authority of the government, which would end up in an explicit embrace of anarchism; and, on the other hand, his relentless defense of the inalienable rights of individuals, namely, the non-aggression principle and private property rights.

The first part of this dissertation showed us how those connecting threads, anarchism and individualism, can be traced back to the ideas of Josiah Warren as well as John Locke. From Warren, Spooner learned the importance of individual sovereignty as opposed to the coercive nature of the government. The idea that private property rights are grounded on natural law and, thus, are an essential part of the human condition comes from the founding fathers of political liberalism, John Locke being the most important among them.

The detailed analysis of Spooner's economic ideas carried out in part three has revealed his flawed knowledge on some important issues such as the nature of interest rates in a market economy. As a result, his theories on banking and on the nature of value contain numerous flaws. With regard to banking, he mistakenly believed that an increase in the supply of money would make interest rates go down indefinitely. As for his theory of value, he assumed that the value of a good was determined by the amount of labor required to make it, an intellectual error that made him oppose wage labor. Yet it should be conceded that such theories are consistent with his political views whereby the State must play no role in the economic life of the country.

During his entire life, Spooner proved to be a man of deep convictions, to the point of starting his postal venture with the only aim of testing whether or not the constitutional right of free competition was respected by the governmental postal monopoly. His

intellectual honesty was reflected in his anti-unionism during the Civil War despite his strong abolitionist convictions. He was convinced that it was not acceptable to deny the South its legitimate right to secede from the Union.

Anarchism and individualism are the two basic pillars on which Spooner's philosophy rest. The author believes to have proved that the stateless society that he envisioned is the logical consequence of his radical defense of individual rights: if government is the main source of coercion, it must be abolished in order to reach a free society. Either as an economist, entrepreneur, abolitionist or political philosopher, all his ideas stemmed from this notion of the inviolability of individual rights.

Despite being a nineteenth-century intellectual, the relevance of his ideas have come down our time. Spooner's individualist anarchism was picked up in the 1960s by the American economist Murray Rothbard. Rothbard merged the radical defense of individual rights carried out by Spooner as well as his belligerent position against the State with the free market principles developed by the Austrian School of Economics in order to create a new political philosophy, which he called anarcho-capitalism. Anarcho-capitalism has nowadays hundreds of thousands of adherents all over the world.

On balance, Spooner's legacy could well be vindicated by those who consider freedom as the highest social value. By putting individual rights above all other considerations, Spooner revealed himself as one of the most important intellectuals in the defense of libertarian ideas.

Works Cited

Primary Sources

American & Commercial Daily Advertiser, February 28, 1844. Retrieved February 2, 2015 from the World Wide Web:

<<http://news.google.com/newspapers?id=unBBAAAIAIAJ&sjid=vrcMAAAAIAIAJ&dq=american-letter-mail&pg=4030%2C2169933>>

Jefferson, Thomas, "Letter to Richard Price Paris," (January 8, 1789). *University of Groningen*. Retrieved on January 20, 2015 from the World Wide Web.

Lincoln, Abraham "A Letter to Horace Greeley" (August 22, 1863). Retrieved June 2, 2015 from the World Wide Web.

Locke, John, *The Enhanced Edition of John Locke's Two Treatises of Civil Government* (1689, 1764) (Indianapolis: Liberty Fund, 2014). Retrieved on January 19, 2015 from the World Wide Web.

"Marginal Utility" (2014). In *Encyclopaedia Britannica*. Retrieved June 14, 2015 from the World Wide Web.

Phillips, Wendell, *Review of Lysander Spooner's Essay on the Unconstitutionality of Slavery*, (Massachusetts: Applewood Books, 2008).

Spooner, Lysander, "A Letter to Charles Sumner" (1864). Retrieved February 10, 2015 from the World Wide Web.

Spooner, Lysander, *The Collected Works of Lysander Spooner 1834-1886*, 5 Vols, (Indianapolis: Liberty Fund, 2010).

The Adams Centinel, Jan. 1, 1844. Retrieved March 26, 2015 from the World Wide Web:

<<https://news.google.com/newspapers?id=-qwlAAAAIAIAJ&sjid=AvMFAAAAIAIAJ&dq=american-letter-mail&pg=7452,1312663&hl=en>>

Tucker, Benjamin, "State Socialism and Anarchism: How Far They Agree, and Wherein They Differ", *Liberty*, Vol. 5, No. 16 (March 10, 1888), pp. 2-3. Retrieved January 26, 2015 from the World Wide Web.

Warren, Josiah, *Equitable Commerce* (Harvard: A. E. Senter, 1849). Retrieved January 25, 2015 from the World Wide Web.

Secondary Sources

Becker, Carl L., *The Declaration of Independence: A Study on the History of Political Ideas* (New York: Harcourt, Brace and Co., 1922). Retrieved January 20, 2015 from the World Wide Web.

Böhm-Bawerk, Eugene, *The Positive Theory of Capital*, (New York: William A. Smart, 1891), in *Library of Economics and Liberty*. Retrieved March 13, 2015 from the World Wide Web.

Clayton, Joseph, *Robert Owen: Pioneer of Social Reform* (London: A. C. Fifield, 1908). Retrieved January 24, 2015 from the World Wide Web.

"Economía Clásica, Economía Neoclásica y Economía austriaca," Youtube video, 9:30. Posted by José Manuel González, January 11, 2012. Retrieved March 18, 2015 from the World Wide Web.

Foner, Philip, *History of Black Americans: From the Emergence of the Cotton Kingdom to the Eve of the Compromise of 1850* (Connecticut: Greenwood Press, 1983).

Haskell, Thomas, "Capitalism and the Origins of the Humanitarian Sensibility (Part 1)," *American Historical Review*, 90, No. 2 (April 1985), pp. 339-361.

Haskell, Thomas “Capitalism and the Origins of the Humanitarian Sensibility (Part 2),” *American Historical Review*, 90, No. 3 (June 1985), pp. 547-566.

Mack, Erik, “Locke on Property” (2013). *Mises Institute*. Retrieved January 19, 2015 from the World Wide Web.

“Marginal Utility” (2014). In *Encyclopaedia Britannica*. Retrieved June 14, 2015 from the World Wide Web.

Marx, Karl, *Value, Price and Profit*, (New York: International Co. 1969). Retrieved March 13, 2015 from the World Wide Web: <<https://www.marxists.org/archive/marx/works/download/pdf/value-price-profit.pdf>>

Martin, James J., *Men Against the State: The Expositors of Individual Anarchism in America, 1827-1908* (Colorado Springs: Ralph Miles Publisher, 1970), Kindle Edition.

McElroy, Wendy, “Benjamin Tucker, Individualism, & Liberty: Not the Daughter but the Mother of Order”, *Literature of Liberty Journal*, vol. 4, No. 3 (Autumn 1981), pp. 7-40. Retrieved January 26, 2015 from the World Wide Web.

McElroy, Wendy, “Benjamin Tucker, *Liberty*, and Individualist Anarchism”, *The Independent Review*, Vol. II, No. 3 (Winter 1998), pp. 421-434. Retrieved January 26, 2015 from the World Wide Web.

Odds, Kelly B., “The Challenge to the US Postal Monopoly,” *Cato Journal*, Vol. 15, No. 1 (Spring/Summer 1995), pp. 1.24. Retrieved March 25, 2015 from the World Wide Web.

Prychitko, David L. "Marxism." "Marxism". *The Concise Encyclopedia of Economics* (2008). In the *Library of Economics and Liberty*. Retrieved March 17, 2015 from the World Wide Web.

Rallo, Juan Ramón, “El Fiasco de la Teoría Marxista de la Explotación”, *El Blog de Juan Ramón Rallo*. Retrieved March 19, 2015 from the World Wide Web.

Rediker, Markus, *The Slave Ship: a Human History* (London: John Murray, 2007).

Riggenbach, Jeff, “Josiah Warren: The First American Anarchist” (2011). *Mises Institute*. Retrieved January 22, 2015 from the World Wide Web.

Rothbard, Murray, *History of Money and Banking in the United States: From the Colonial Era to World War II*, (Alabama: Ludwig Von Mises Institute, 2002).

Rothbard, Murray, “The Spooner-Tucker Doctrine: An Economist’s View”, *Journal of Libertarian Studies*, Vol. 20, No. 1 (Winter 2006), pp. 5-15. Retrieve

Shively, Charles, *The Collected Works of Lysander Spooner* (USA: M&S Press, 1971). Retrieved February 2, 2015 from the World Wide Web: <<http://lysanderspooner.org/node/5#s1>>

Whitaker, Albert C, *History of Criticism of the Labor Theory of Value*, (Ontario: Batoche Books, 2001). Retrieved March 15, 2015 from the World Wide Web.

APPENDIX

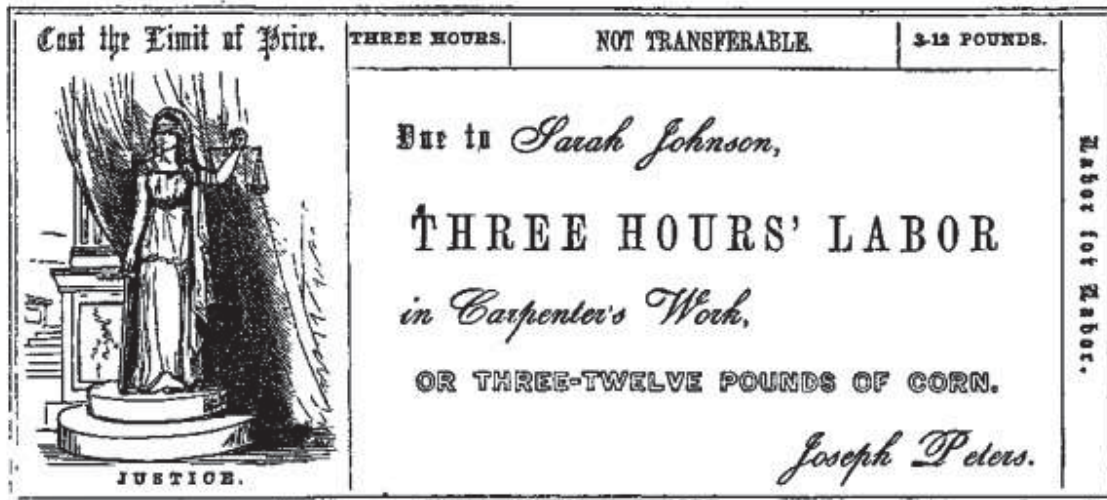


Fig. 1 – A Labor Note