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Fred E. Foldvary

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## **THE ETHICAL, GOVERNMENTAL, AND ECONOMIC ELEMENTS OF SECESSION**

*Fred E. Foldvary\**

### **Introduction**

Secession is a withdrawal of persons, space, and goods from the jurisdiction of the original governing unit. Let the seceding entity be called the "new realm" and the entity it withdraws from be called the "old realm."

Such withdrawal and disassociation implies issues of ethics, governance, and economics that are interrelated, and are most meaningfully treated as an integrated foundational theory of secession. This foundation creates a benchmark, which can be applied flexibly to actual ethnic and territorial conflicts. While the ideal benchmark is itself usually politically infeasible, it nevertheless can play a key role in presenting the direction towards reform most consistent with ethical standards, rights-protecting governance, and sound economic policy.

### **Universal ethics and secession**

If there is no ethic that transcends culture and applies universally to humanity, then the question of secession, as with other political topics, is simply one of power and desire. There could be analysis on practical matters, but in the end, governance would be emptied of any quest for justice. People do, for the most part, sense that there is such as a thing as morality beyond personal views, and such has been the topic of inquiry among moral philosophers since antiquity.

There are perhaps many paths towards a universal ethic; the one taken here is in the tradition of the natural-law philosophers of the European

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\* Fred Foldvary is a Lecturer in Economics at Santa Clara University. He is also a faculty associate at the Civil Society Institute of Santa Clara University.

enlightenment and Age of Reason, especially that of John Locke. In his *Second Treatise* (1690), Locke wrote that there exists a law of nature that can be derived using reason: "being all equal and independent, no one ought to harm another in his life, property, health, and possessions."

Locke's harm rule can be reformulated into basic rules for a universal ethic, which omit the redundant terminology of "ought" and also includes the good, as follows (Foldvary, 1980):

1. Acts are evil if and only if they initiate invasive and coercive harm to others;
2. Acts are good if they are welcomed benefits to others; and
3. All other acts are neutral.

Note that the avoidance of good acts is not an evil, so that a person is ethical if he refrains from committing evil. A person is virtuous if he does moral good, but doing good is not a moral obligation.

If this universal ethic is indeed the unique moral imperative for humanity, it forms the moral basis of proper governance. Government is only morally legitimate to the degree that its laws and policies are in accord with the universal ethic.

The universal ethic also gives meaning to moral rights (human rights and natural rights being synonyms of the moral rights determined by the universal ethic). A person has a moral right to X if (and only if) the negation of X is morally evil. For example, the right to own property implies that it is evil for others to steal that property. That one has a right to free speech implies that it is evil for others to negate that speech, such as by prohibiting and punishing it.

The universal ethic also gives meaning to the concept of liberty. A society has political liberty and is a truly free society if its laws fully implement the universal ethic and do not go beyond it. Within a constitution

based on the universal ethic, an organization may do whatever its members voluntarily consent to. Thus, churches or associations may enact arbitrary restrictions, but only if entry into and exit from such organization is voluntary.

### **The Ethical Implications for Governance**

The ultimate elements of ethics, governance, and economics are persons and land. All goods are produced from these original factors. The relationship of persons to one another and to land is the essence of the secession question. Title to key monuments and buildings can also be an important issue, of course, but, as the saying goes, they come with the territory.

Taking the premise of human equality, in the Lockean and Jeffersonian sense of equal human worth (not outcomes), to its logical conclusion, there is no ethical basis for any one human being imposing rule on another unwilling equal human being (aside from children and the mentally incompetent, topics that will not be dealt with here). Therefore, all governance must morally be voluntary. Any imposition of rule on an unwilling subject is an invasion into his domain, hence morally evil. Moral equality implies that all persons are equal self-owners.

Imposed rule makes the ruler master and the ruled, to some degree, a slave, in contrast to the equality premise from with the universal ethic derives. Only if a person commits an act of coercive harm does he legitimately fall within the jurisdiction of others, and even then, only to the degree necessary to obtain restitution and to protect society from threats from this person.

All associations must therefore have an exit option in order to be morally ethical, i.e. not evil. The laws of marriage must allow for divorce. The laws of employment must allow employees to leave and employers to

terminate employees. And, the laws of community must allow members to have one or more exit options. As James Buchanan (1996) has stated, the availability of the exit option limits the ability of governments to exploit residents, and the internal and external exit options also induce more efficient governance and public finances.

Except in totalitarian states, people have been free to emigrate and change citizenship, the external exit option. But a second option, the internal exit, is to withdraw from the jurisdiction of an association or government without moving out. That option requires an analysis of land.

### **The Ethics and Economics of Land**

The classical economic meaning of "land" includes all natural resources and all natural opportunities. "Natural" means anything prior to and apart from human action. Types of land include real-estate space (the three-dimensional usable space at, above, and below the surface of the earth), materials in their natural state (e.g. undiscovered oil in the ground), the electro-magnetic spectrum, water as provided by nature, wildlife, and the genetic endowment of the earth (all the varieties of genetic programming).

The most relevant type of land in the secession question is that of real estate space and the important material resources in a particular place. Let us first focus on real-estate space.

The ownership of any asset consists of a bundle of rights. The two key bundle categories are rights of possession, including rights of use and transfer, and rights to the return or yield of the asset. These two bundles are separable. A tenant, for example, is granted some rights of possession for a certain time interval in exchange for payments to the title holder, who retains the rights to the yield, i.e. the rental.

I turn again to John Locke for the ethical basis of the ownership of

land. Locke stated that one may appropriate unclaimed land for one's use, with the proviso that land of equal quality is freely available for others. Nobody is harmed by a claim of exclusive title to previously unclaimed land if one can obtain free land of the same quality elsewhere.

The Lockean proviso implies that if land of similar quality is no longer free, one's title is placed in moral doubt. The land now has an economic rent, meaning that it potentially can earn a return to the title holder. Who then has the rights of possession and of the rent?

Land is a necessary factor of production; all economic activity must take place in space, and uses goods ultimately taken from material natural resources. Rights of possession are therefore necessary if one is to exercise one's self-ownership and engage in labor to produce wealth. Property rights of possession facilitate the exchange to land to those putting it to most productive use. What is not necessary is a title to the economic rent of land. By economic definition, economic rent is that portion of the yield not needed to put the factor of production into effective use. All pure land rent (exclusive of the value of improvements that attach to land) is economic rent, since the land is always, already, there by nature. The pure land rent of space arises from the natural advantages of a location and from the demand due to population and commerce, apart from any labor and capital goods provided by title holders. Thus, the payment of rent has no disincentive effects and does not increase the rent.

To grant the economic rent of land to whoever happens to have acquired land would be an arbitrarily unequal privilege to first comers or heirs of conquerors. The premise of moral equality implies that all pure land rent be the equal property of all human beings on earth, as the least arbitrary assignation of the rent.

The separation of the rights to the rent and of possession has very practical applications. Consider a territory where oil is located in the new realm, which secedes from the old realm. The officials of the old realm would resist secession in part because the oil resources would be transferred to the new realm. But if the secession agreement specifies that the rent from the oil be shared on an equal per-capita basis, then much of the sting is removed from the secession, since the economic benefits of the oil are reflected in the rent, which the old realm will have a share of. In effect, the residents of the new realm compensate those of the old realm for the removal of that share of the natural resource.

The shared rent can also serve as a primary source of public revenue, making it possible to reduce taxes, which have a disincentive effect. Henry George (1879 [1975]) proposed that all public goods could be financed from economic land rent, making possible the abolition of other taxation. But even if other taxes remain, or all the rent is not tapped for public finance, to the degree that rent is collected, the economies of the realms will benefit from the reduction of the excess burdens of taxes such as on income, sales, and value added.

Whereas the discussion here is centered on territorial communities, Gordon Tullock (1985) and others have proposed also non-territorial constitutions for contractual associations. Tullock notes the example of the Millet system of the old Turkish empire, under which autonomous non-Muslim religious communities were formed. Tullock proposes "associations with quasi governmental power," which would be "without a geographic 'locality.'" They would provide services that are not geographical in scope, somewhat like what churches provide today. Aspects of law which these "sociological" associations could assume could include those concerned with family, probate, and contract.

### **A Benchmark Model of Righteous Secession**

Posit an old realm "A" with citizens "C;" for simplicity, all residents will be considered citizens. A subset of citizens "b" wish to secede and form a new realm "B," while the complement subset "a" wish to remain citizens of the old realm.

One of the typical problems with secession is that unless C<sub>b</sub> forms a compact contiguous territory, there will be C<sub>a</sub> interspersed within the territory of B, and if the whole territory secedes, this is involuntarily imposed on C<sub>a</sub>. Such forced secession would be just as much an imposition, and equally unjust, as the prevention of the secession of the C<sub>b</sub>.

One possibility would be for the contiguous territory of B to secede, but with C<sub>a</sub> retaining citizenship in A. But then the question is, would the laws of B apply to C<sub>a</sub>? There could be some body of law and policy that would not apply to C<sub>a</sub>, such as schooling and family law. But much of policy, such as criminal law and taxation, usually would, because in law and historically, territory has trumped citizenship, aside from exceptions such as diplomats and, in some cases, religious figures. Non-citizen residents of the USA are subject to American and State laws. Some laws apply to citizens regardless of location; for example, US citizens abroad are subject to US income taxation and have the right to vote in US elections.

But most law and its enforcement is attached to territory. If a criminal flees the US, he becomes outside the reach of US law enforcement unless there is some agreement between the foreign country and the US, in which case it is still the authority of the foreign country that has jurisdiction in allowing US law enforcement to enter. All residents must usually pay the taxes imposed in the jurisdiction. Most culturally-aligned law is confined to a territorial jurisdiction. For example, California prohibits gambling within its territory, but cannot prevent its residents from gambling outside the



boundaries of California. The US federal government prohibits some medical procedures, which US citizens can obtain abroad.

Because much law and policy is territorial, the citizens of A located in B could find little comfort in remaining Ca. They would vote in the elections for A, but would have to live under B rules which they not only disagree with but would have no vote voice with which to oppose them.

The option which would prevent involuntary rule would be to allow land titles held by Ca to remain in A if the title holder so desired. Landowners who did not wish to secede would keep their land in the old realm A. The seceding territory would consist only of the lands under the title of Cb, those wishing to be in B, plus some share of the governmental land.

Let us first ignore governmental land and assume all land is under private title. The new realm B would consist only of the land whose titles are held by landowners wishing to secede. In addition, tenants who rent and don't own land could secede their citizenship and be citizens of B residing in A. If the landlord wishes to remain in A and the tenant wishes to be in B, the rights of possession of the land lord would prevail with respect to the territory.

This territorial division only holds for the rights of possession and the legal jurisdiction over the territory, which itself is also a governmental right of possession. In this benchmark model, the economic land rent of all the land in A and B would be the property of all the residents of A and B with equal per-capita shares. A and B could form a confederation A+B that would collect the rent and then distribute it either to the individual citizens as a dividend (as in fact Alaska does with its oil royalty revenue) or to the governments of A and B in proportion to their populations, or a mixture of the two. If the governments obtain the rent, it could replace taxes on labor

and capital, reducing the tax burdens of the citizens and industry. The confederation could also set up courts to resolve disputes between citizens of A and B, and have title to some disputed areas.

It should be emphasized, for clarity, that the rent paid to the confederation would be only for pure land, and not for any improvements to land, so that any value derived from buildings, infrastructure, and landscaping (draining, flattening) would not be included in the land rent.

The secession only of landholders wishing to secede could create a checkerboard pattern of jurisdiction, which some may find problematic. But fragmented jurisdiction already exists in several areas and works well. For example, Vatican City is an independent country within Rome, with agreements with Italy for various services, and Monaco is a tiny independent State next to France, which does not seem to present any difficulties. In Washington DC, the federal government administers some of the territory while the city government has home rule over the rest; indeed, the federal territory itself is split among the branches of government. West Berlin was under the occupation of three countries while having its own local municipal government.

Thus, fractures land jurisdiction can be dealt with by having a joint municipal or regional government under the jurisdiction of both A and B, as well as mutual agreements for services, as cities do when they permit police and other services from neighboring cities to enter and contract out services from neighboring municipalities.

Moreover, any difficulties encountered with fragmented jurisdiction would be self-correcting in the market for governance. If an isolated landowner would face difficulties seceding to B, then this is a cost of secession that would be weighed against the benefits, and if the cost is too high, he would not secede. Thus, that secession that takes place would have

benefits that exceed the costs for the owners; otherwise, it would not take place.

Another objection to secession by landownership is that titles to land are not absolutes but are functions of legal jurisdictions, so that land titles originate with the governmental state rather than in a state of nature. But as argued above, the imposition of rule without consent itself violates equal rights, and the rights of possession could be universally recognized, worldwide, so long as the rent is paid to humanity. In this Lockean interpretation, rightful title comes from the compensation to humanity of the rent regardless of who has the title so long as there was no force or fraud in obtaining the title, or if past conquests can no longer be reversed in any practical manner.

Given the secession of those landowners wishing to be in the new realm, what would happen if landowner Cb sells the property to a new owner who prefers to be in A? The secession agreement should allow the new owner to switch affiliation to A, so that the governance remains voluntary. Possibly, for administrative convenience, such shifts in jurisdiction could be made once annually or according to some schedule.

Now we can turn to the question of land under the title of the government of the old realm. If the territory of B is somewhat contiguous, governmental land within it should be transferred to B. Also, if a majority of the population or most of the land area in some recognized jurisdiction such as a city or province is in B, the governmental land should go to B. But if the jurisdiction is not clear, then the governmental lands that are ambiguous could be split among A and B according to the proportion of land value corresponding to the populations. If, say, A has one third of the population of A+B, then it could obtain one third of the government-held land value.

If B obtains less than its proportional share of land value, it is not that much of a disadvantage, since A will be paying rent to the common pool of A+B, and B will be compensated for any land it does not possess by getting its share of the rent.

Besides land, the old realm has capital goods, such as military bases, and liabilities, such as government bonds and social security liabilities. Justice and neutrality require that the new realm take with it its share of the national debt and be compensated if it does not obtain its population share of key governmental assets such as military bases and equipment. The rent payments can be used for such compensation so that payments come from future rental income rather than adding to current debt.

### **Secession in Governance**

Secession is not just a means of creating new countries, but can become a central element in governance in general. The general principle is that at any level of government, lower-level governments or individual residents may secede in part or in whole.

Suppose some residents of a city are not satisfied with their city's government school system. They would be able to withdraw from the city school district and either form their own district under the State school system or create a private school. They would also no longer have the tax liabilities that were formerly directed towards the city school district. If one secedes from some government service or jurisdiction, one also becomes exempt from its taxation. Parents who remove their children from the government school system and pay tuition to a private school would have a tax credit for that tuition and other school expenses, up to the governmental per-student average. Alternatively, some proportion of the property (real-estate) tax could be reduced.

Similarly, residents could substitute private garbage collection for the city service, or privatize their streets as some neighborhoods have done in St. Louis (Foldvary, 1994). Such service substitution would be accompanied by tax substitution. Such substitutive secession would promote more efficient and less interventionist government, as residents would be more able to choose their governance, promoting competition among governments for residents and their tax monies.

Beyond such partial secession, households could also secede entirely from the city or county and form new jurisdictions. For administrative convenience, the seceding households could be grouped together as a new county. The official boundaries of cities and counties need not change; the seceding entities could be independent in substance as autonomous districts, while still formally remaining part of the jurisdiction on the map.

As analyzed by Buchanan (1991), a constitution would set forth only procedural requirements for withdrawal, not requiring any substantive grounds to justify the secession. The procedure would include the payment of mutual obligations, like a fair-property settlement in a divorce (p. 133), including a possible exit fee.

The sovereign levels of government, such as the United States and the 50 States, could retain "residual sovereignty." For example, if a person withdrew his land from the jurisdiction of both Virginia and the U.S.A., both could still claim to have nominal jurisdiction so far as the international and federal boundaries were concerned, but they would exercise no power within the seceding area except by contract.

If such secession options were universal for all jurisdictions within a country, it would shift power from top-down central control to bottom-up citizen empowerment. Corrupt and abusive officials would find themselves ruling over city hall but no residents or businesses, and be left with no tax

revenue.

A more radical structure of governance would place the initial political power at the neighborhood level. An association of neighborhood councils would elect the city government, and any neighborhood district would be able to secede entirely from the city. City councils would then elect representatives to a county government, and the county boards would send representatives to the State legislature. The States or provinces would then elect the federal or national parliament or congress. The direct election of officials at many levels would be replaced by multi-level governance where each level is elected by the next lower level, the citizens voting only for their neighborhood level.

Rather than losing political clout from not directly voting for the top officials, citizens would gain a great deal of leverage. If no favorable action is forthcoming at the top level, the residents would recall their local council. Fear of recall would spur the council to push for action at the next higher level, on up to the top. The small population of the local neighborhood would make the local council accessible and easily monitored.

Added to this multi-level voice option would be the secession option, where districts at any level would be able to secede from the level above it and create a new higher-level council. The result would be a flexible market for legislation with consent enabled by three methods: voting, emigration, and secession.

### **Applications to Territorial Conflicts**

The elements of the benchmark secession model include: 1) individual choice of citizenship; 2) secession by title holders of land; 3) confederal governance and joint sovereignty; 4) retaining nominal boundaries and sovereignty but with substantive autonomy for new realms; 5) sharing of the land rent among all residents.

The following cases show how the elements of secession can be applied to some real-world conflicts. For a more detailed list of secessionist regions and their characteristics, see Bookman (1992).

### *Israel and Palestine*

The Palestinian Arabs are attempting to secede from the State of Israel. For decades the Israeli Jews and the Palestinian Arabs have been engaged in a struggle for land. The elements of the benchmark model presented above could greatly facilitate a settlement. Israel and Palestine would be territories and governments under a confederation. All landholders, including governments, would pay a market rent to the confederation for all land held. The confederation would take title to the most disputed areas, such as the Temple Mount at Jerusalem. The confederation could also take title to water resources.

The payment of rent by those possessing land would compensate the residents of the other side. All residents in Israel and Palestine would be able to choose their citizenship, so that Arabs within the pre-1967 borders could choose to be citizens of Palestine, while the Jewish settlers in Judea and Samaria (the West Bank) would remain citizens of Israel. There could be joint sovereignty by Israel and Palestine over some disputed areas. With citizenship by choice, Israel would have less to fear from the return of Palestinian exiles, since they would not be voting citizens of Israel.

Eventually, other parties within the confederation could secede and create new member states. For example, there could be a Christian-based country as a third member if the Palestinian State becomes exclusively Islamic. There could also be secession from Israel by Jews who are not satisfied with their government, give up on changing it by the voting process, and form a new autonomous entity under the confederation. The formal boundaries of Israel could remain intact, the seceding realm becoming a fully

autonomous district with its own representation in the federation.

### ***Northern Ireland***

The troubles that have kept Northern Ireland in conflict could be resolved with joint sovereignty by both the UK and Ireland, the individual residents being able to choose citizenship in either. Under joint rule there would be a Northern Ireland confederation with Irish and British members according to the desires of the landowners, who would pay rent to the confederation. Ethnic Irish residents could thus secede from the UK and become Irish citizens and members of the Irish province of the Northern Ireland confederation, while the Protestants could remain British.

### ***Quebec***

Quebec province, Canada, presents a typical case of an ethnic group, many of whose members desire to secede and become independent, while substantial minorities within the province, especially the First Nations peoples and the English-language speakers, wish to remain within Canada. If the majority in Quebec wishes to secede, the benchmark model could be applied by preserving the nominal boundaries of an independent Quebec. But the First Nations group within Quebec, which desire to remain in Canada, would be autonomous and, if they wish, affiliated with Canada. English-speaking and other residents who desire would remain citizens of Canada, and their land titles would be collectively an autonomous English territory, possibly affiliated with Canada. The English and First Nations residents would obtain a proportional amount of the land rent of Quebec, thus benefiting from their population share of the governmental lands.



### *Yugoslavia*

The current governing structures in Bosnia and Kosovo are not working well because minorities are forced to be under the authority of other ethnic regimes. The benchmark model could be applied in Bosnia to create a confederation with Muslim, Serb, Croatian, and possibly other members, each territory made up of the chosen affiliations of the landowners. All landowners, including governments, would pay a market rent to the confederation for lands held. No citizen would then be under involuntary rule by alien ethnic overlords.

In Kosovo, also, there would be a confederation in which the ethnic Serbs would have their own government. Eventually, most of the former Yugoslavia could again merge into one confederation, only this time; membership in the constituent nations would be by the chosen affiliation of each citizen. The Serbs in Bosnia, Serbia, Kosovo, etc., would most likely choose to all be in one Serb nation within the confederation, satisfying the desire for one Serb nation, but without imposing it on unwilling non-Serbs. Perhaps the Gypsies and ethnic Hungarians would form their own nations within the new Yugoslav confederation.

### *Kashmir*

Kashmir likewise has been in conflict between India and Pakistan since their independence. As with Northern Ireland, India and Pakistan could have joint sovereignty over Kashmir, each resident being free to choose his citizenship. A Kashmirian confederation would have two or more nations administering their local functions such as schooling.

### *Chechnya*

The Chechen problem is one most Russians would be glad to solve short of complete independence. Russians fear the dissolution of what is in effect a Russian empire over many ethnic groups. Realistically, the Russian

government is not likely to give up much power to its federal republic and regions. But Chechnya and some other peoples could be offered genuine autonomy, including the right to have their own currency and foreign relations, short of formal independence. Formal institutions often offer the emotional need to maintain territorial integrity felt by citizens of an old realm even when they lack substance. As a legal fiction, Chechnya would remain a republic within the Russian federation. But they would have de-facto sovereignty within some limitations, such as limited military power, under an agreement with Russia.

### *China*

The governing officials of China are attempting to bring Taiwan under their rule, having taken back Hong Kong and Macau. The desire of many Chinese for a united China could be satisfied without depriving the Taiwanese of their democracy and market economy restoring the Chinese empire as a confederation. They could call it the Commonwealth of China. The Commonwealth would have as members Tibet, Hong Kong, Taiwan, and Central China. Each member nation would have self-governance, and all citizens of the Commonwealth would be able to choose their governmental affiliation. Eventually, other parts of Central China would be able to become separate members of the Commonwealth.

The first communist constitution of China in 1931 recognized the right of self-determination of the national minorities in China, including the right to become independent. But after 1936 "there was no more mention of possible secession" (Bookman, 1992, p. 91).

A Commonwealth of nations should satisfy the desire to bring the parts of the former Chinese empire together in one greater China, but with self-governance for the residents of Taiwan and Hong Kong and national minorities. Once the Commonwealth is established, international and

domestic pressure could convince the governing officials of Central China to let Tibet also become a separate member. Taiwan and Hong Kong would be part of China but not under the rule of Central China.

### ***Rwanda***

Unitary governance has failed in Rwanda, as the Hutu and Tutsi have each sought to dominate the government. A confederation of Hutu and Tutsi national governments would let each ethnic group be self-governing, and their territories would be made up of the landholdings of the members, along with shares of the governmental lands. The sharing of the rent would reduce the desire of both groups to grab land, since it would have a carrying cost.

### ***Kurdistan***

The Kurds have had the misfortune of being split among several countries, mainly Iraq, Iran, and Turkey. Their desire to become one country involves irredentism rather than pure secession, i.e. the desire to merge with peoples in other countries and transfer territory from the other state to a new state or different state. A Kurdistan could be created having joint sovereignty with these three countries; hence, Turkish Kurdistan would be under joint sovereignty with Turkey, Iraqi Kurdistan with Iraq, and Iranian Kurdistan with Iran. The rent would be split in each of the three territories with both governments. Citizens in each would be free to choose their citizenship. If outright independence is politically infeasible, then the autonomous Kurdish regions of the three countries could still be united under a Kurdish confederation of the three, with some governmental functions.

### **Conclusion**

If human rights have any significant universal meaning, it is only within a universal ethic that transcends culture and personal viewpoints. The equality premise from which this ethic is derived requires the equal sovereignty of each person, hence each person choosing his governmental

affiliation. The equality premise applied to land provides for individual possession of land but equal shares of its rent. Applied to secession, each person has a moral right to the governance of his choice, and the several governments in a region can be under a confederation that collects the rent and coordinates inter-governmental affairs. Confederation keeps governmental economies of scale and scope, while leaving individuals free to live among their own ethnic and cultural rules.

Territorial and ethnic conflicts can be resolved flexibly by applying the concepts of confederation and choice in governance. The concepts of joint sovereignty and formal jurisdictions can facilitate compromises that leave ethnic groups with independence in practice if not in full form, and leave disputed territories in the possession of both parties. The payment of rent is the economic compromise of compensating others for loss of possession, the rent being fungible where land is not.

These elements of governance – confederation, joint sovereignty, citizenship by choice, substantive independence, and rent sharing – will not be easy to implement, and will be resisted, but they deserve to have a place in public and scholarly dialog as workable alternatives to otherwise intractable problems that have resisted other solutions.

#### **REFERENCES**

MILICA BOOKMAN, *THE ECONOMICS OF SECESSION* (New York: St. Martin's Press 1992).

ALLEN BUCHANAN, *SECESSION* (Boulder: Westview Press 1991).

James Buchanan, *Federalism and Individual Sovereignty*, 15 CATO J. Nos. 2-3, available at <http://www.cato.org/pubs/journal/cj15n2-3-8/html> (Fall/Winter 1995/6).

FRED FOLDVARY, *THE SOUL OF LIBERTY* (San Francisco: Gutenberg Press 1980).

FRED FOLDVARY, *PUBLIC GOODS AND PRIVATE COMMUNITIES* (Aldershot, UK: Edward Elgar Publishing 1994).

HENRY GEORGE, *PROGRESS AND POVERTY* (New York: Robert Schalkenbach Foundation 1975 [1879]).

JOHN LOCKE, *TWO TREATISES OF GOVERNMENT* (Thomas I. Cook ed., New York: Hafner Press 1690 [1947]).

Gordon Tullock, *A New Proposal for Decentralizing Government Activity* in *RATIONALE WIRTSCHAFTSPOLITIK IN KOMPLEXEN GESELLSCHAFTERN* 139-148 (Stuttgart: Verlag W. Kohlhammer 1985).