Episode 1,332: Should Libertarians Support Secession?

Guest: Brion McClanahan

WOODS: Seems like just last week we were talking.

MCCLANAHAN: I think it was.

WOODS: As a matter of fact; yeah, as a matter of fact. But I enjoyed that one so much, and our laughter there, it was just so much fun. And then Lew Rockwell ran on his site the text of my email newsletter where I promoted that episode, so we got more listeners. It was a lot of fun. So what we want to do today is look at an article on Libertarianism.org, which is a kind of mainstream, Beltway-style libertarian website. And I occasionally see the Cato Institute tweet out this particular article from February 2012. Every few months one of them tweets it out, and it's called "Why 'Libertarian' Defenses of the Confederacy and 'States' Rights' Are Incoherent." Now, of course, I would love to hear how they address Lysander Spooner's opinion on this subject, but alas, no mention of Lysander Spooner anywhere in the piece. So it's by a fellow named Jonathan Blanks. He's not a — I mean, they don't say anything about him other than he works at Cato, and you looked him up a little bit. He doesn't seem to be a historian or anything — which, by the way, I'm not of the snobby opinion that if you're not a credentialed historian you're not entitled to an opinion, but I'm just saying that, if he were, we would want to say that and just explain what his credentials are. But he ain't got none in this area.

So let me begin by just reading the first two paragraphs of the piece. He says:

"There is a strain of libertarian contrarianism" — so right away, right away by word seven, it's: *My opponents can't possibly be sincere. They're just cranks who like to be on the other side of everything.*

MCCLANAHAN: [laughing] That's right. Just contrary people. You're right. It's ridiculous.

WOODS: By the way, that's not to say I haven't met some people like that in the libertarian world, let's face it. But all right, he says: "that holds that the Confederate States of America were within their 'rights' to secede from the Union. Such contrarianism on this particular topic is detrimental to the larger cause of liberty, because the logic of this argument relies upon relinquishing individual rights to the whim of the state. Indeed, as there is no legal or moral justification for supporting the Confederacy in the Civil War, it is impossible that there could be a libertarian one."

Now, the second paragraph: "The legal argument against secession is straight-forward. Beyond the simple fact that most countries don't provide for their own dissolution at the outset, the Constitution is not silent on the use of force by the federal government. Article I Section 8 clearly grants Congress the power to put down insurrections, as the South was well aware. As recently as 1859, that power had been used by then-Union colonel Robert E. Lee to put down John Brown's mindless and bloody raid on Harpers Ferry."

Okay. Oh gosh, Brion, there are more paragraphs even after these, but why don't we —

MCCLANAHAN: [laughing] There's 11 pages of this. Eleven pages.

WOODS: [laughing] All right, so how do you — first of all, do you want start with the first paragraph? What do you think — yeah.

MCCLANAHAN: Okay, well, a couple of things I underlined here: "the whim of the state," "individual rights to the whim of the state." This is a very strange view of what happened in the South, and I run into this a lot. People will say the states seceded. But the way this happened —and people don't often realize this. They think, well, maybe the legislature called a session. These states succeeded through popularly elected conventions. So they called a convention of the people of the state, so the people of the state succeeded, and that's the foundation of American government. And we go back and we talk about what are the states? Well, the founding generation would have said that they're the people of the states. I mean, you look at how the Constitution was ratified. It was ratified in convention of the states. Now, I know Marshall would say, well, that was only because it was convenient; otherwise, it was the whole people. We can get into all that argument all day long. But the fact is the people of the states seceded, so it wasn't the whim of the states. This was, in some cases, unanimous that these conventions left the Union.

WOODS: Yeah, but on the other hand, don't people say these conventions were just dominated by big planters and stuff like that?

MCCLANAHAN: Well, they do say that. In some cases, you do have you do have a large number of these large planters. But not everyone there was a large planter, and certainly even in some cases, there was some debate about secession, and still the majorities in these conventions were larger than that which would have supported independence in 1776. So I don't buy the argument that, okay, yeah, there were some large planters, there were slave owners. Yeah, I mean, that's a granted. That happened. But the fact is we still have to look at who was driving these things out. And would that have been any different if they were in the United States? These large planters dominated the congressional delegations, the state governments. It didn't really matter. So what are they supposed to do? Say, "You know what? You large planters, you can't vote. We're just going to let these people vote, because posterity will look back and say just the large planters drove us out of the Union." That's not going to happen. And even the middling plantation owners, the small plantation owners, even non-slaveholders voted for secession, a lot of them. So this was a comprehensive movement towards the secession. I don't think that you can get away with saying it's the whim of the state.

And then he says there's no legal or moral justification for supporting the Confederacy. No legal? I mean, this is where he gets into paragraph two. So this first paragraph is so

problematic, and then he just doubles down in paragraph two. So do you want me to go into that and start talking about legality of secession or my argument for this?

WOODS: Yeah, let's talk about — I mean, let me just say, "Beyond the simple fact that most countries don't provide for their own dissolution at the outset," that's not an argument. That doesn't mean anything.

MCCLANAHAN: No.

WOODS: That's like a Lincolnian argument that just doesn't mean anything.

MCCLANAHAN: Yes, exactly right. So when you look at this — and there's two arguments against secession. One, Article I Section 8 doesn't say that a state can leave the Union, and two, Article I Section 10 says that states can't form Confederacies. So Article I Section 10 is the powers denied to the states. Article I Section 8 are the powers granted to the general government. But when you say Article I Section 8, there's no power in the Constitution to leave the Union, well, of course not, because all the powers that weren't listed there were reserved to the states, so if they don't say we can't succeed in Article I Section 10, they can. This was how the Constitution was sold across the board to the people who ratified it in the conventions. So this argument that, well, because it doesn't say you can't succeed doesn't mean it means you can't do it — no, that's the complete — you don't even understand ratification. You don't understand original intent. You don't understand how this process worked. So clearly he doesn't know this. And I don't fault him for that, because this is one thing that people often use. *Well, it has to say you can secede, so you can't secede*. The fact that it doesn't say that they can or can't secede means that they could. And in fact, you had three states who said we're going to have resumption clauses as a conditional ratification — Virginia, New York — and so we're going to make sure that if the general government abuses its powers, we're out of here. We're going to leave this Union. Now, we can talk about how these resumption clauses were ultimately rejected, but still, people recognized and James Wilson sold the Constitution on the fact, in the State House Yard Speech, that look, if it doesn't say we can do it, we can't do it. Everything else is left to the states. And so if it doesn't deny the states the power of seceding, leaving the Union, then the states can leave the Union.

WOODS: All right, yeah, let me jump in on this ,because the point of a government with enumerated powers, a federalist system, is that you don't list the powers of the states in the Constitution; you list the powers of the federal government. And then you say everything not listed remains with the states.

MCCLANAHAN: Right.

WOODS: So because there's no prohibition on secession in Article I Section 10 and there's no positive right of the federal government to suppress secession —

MCCLANAHAN: In Article I Section 8, yeah.

WOODS: Now, but he's going to talk about putting down insurrections, and he's going to claim that that's what the South is engaged in, and so we should get into that. But I'll start off by saying that what really matters here is the debate between the compact and nationalist

theories of the Union, because if you believe in the compact theory — and all the evidence supports the compact theory. I will hear no dissenting voices on this. All the evidence supports it. There's not a stitch of evidence for the nationalist theory, which is why you don't even see a coherent attempt to articulate a nationalist theory until probably the 1830s. Who would even bother trying? There's no evidence for it. The point is that the states obviously are the constituent parts of the Union, and I've argued this at great length. On the show notes page, I will put some defenses of the compact theory, because once you have that, that the states are the constituent parts, they're the creators of the Union — well, if they can accede to the Union, they can secede from the Union. They don't yield sovereignty. They're exercising their sovereignty by joining the Union, and they could just as well exercise it by withdrawing. This was a generally understood principle of international law in the 18th century. So I've got to put defenses of compact theory. So that's a lot of what it relies on.

But also, I mean, if you are a nationalist, you would look at the Southern secession as being an insurrection, because your brain won't allow you to conceive of the idea of a constituent part exercising its sovereign powers and withdrawing, because there are no constituent parts. It's one, giant, indivisible blob. So instead of saying this sovereign body is making a sovereign a decision by means of its sovereign powers, instead, what the nationalist sees is an arbitrary grouping of individuals have decided to resist the government. That's not the way it happened.

MCCLANAHAN: That's John Marshall. I mean, they're getting into John Marshall's argument in *McCulloch v. Maryland*, but that's beyond — you're right. And one thing I will say: there's not a compact theory. It's a compact fact. I mean, I'll never use that theory. That's even giving a little bit too much, saying there's a theory.No, it's not a theory; it's a fact. If you go back and look at the ratification process, it's a fact that the Constitution was a compact between the states. Marshall notwithstanding, who said — again, at the beginning, I said he argued that they had ratifying conventions because they couldn't do just one large convention, so we had to do it in the states. No, that's not why they did it that way. They did it that way because they knew the states were parties to the document, so they had to agree to it within the states themselves.

You're right, though. If you think as a nationalist, you can't conceive of it any other way. There was an insurrection, an arbitrary — it's a Lincolnian argument. Again, this Lincolnian idea, and this is how he sold it. There is a faction in the states that are rebelling against the constituted authority. The faction was unanimous, or 80%, 70%. I mean, you're looking at such large percentages. So the faction would be the people that opposed it. And this is the Bill Bennett argument. Don Livingston told me one time, if we were to have a secession today — and he said it, this was back in the early 2000s, maybe late '90s, early 2000s. He said if there was one person in a state that said they — if a state seceded and one person said they didn't want to leave that state, then we would send in the Army to defend that one person. So yeah, I mean a faction to them would be 99%, 99.9%. That's a faction. It's ridiculous. So they're using the means that were given them to agree to the document to get out of the Union. So I don't know if we can say much else about this, but his argument is bad from the beginning.

WOODS: Now, before we go on to the [sighs] third paragraph, let's —

MCCLANAHAN: [laughing] There are too many paragraphs.

WOODS: [laughing] I know.

MCCLANAHAN: It could take four episodes to go through this.

WOODS: Nevertheless, let's still say something about: what does the Constitution have in mind when it says the Congress can put down insurrections? Does it mean something like a state seceding? What's actually involved in that?

MCCLANAHAN: Right, well, according to the Constitution, in order for that to happen, the states themselves have to request for federal interference and to actually come in and participate in putting down this insurrection. And this is an interesting topic, because we know that these states wouldn't ask for it. And if you go all the way back to the Whiskey Rebellion, this is when we first start seeing what can happen here.

So you have this Whiskey Rebellion in the 1790s, and Alexander Hamilton is agitating to send in the Army to the hills of Pennsylvania to put down these farmers. And Washington is reluctant. He's saying, I don't know if we should do this. And in fact, the Supreme Court Chief Justice, John Jay, at the time says it's illegal for us just to send in the Army. We can't do it. We can't send the militia. It's illegal, because the state of Pennsylvania hasn't asked for it. And even the governor of the state, Thomas Mifflin, who was at the ratifying convention, he knew the process, he knew how this whole thing works, said, *No, we've got this taken care of*. But of course, Hamilton ultimately persuades Washington that it needs to be done. And then you've got James Wilson of Pennsylvania, the arch nationalist, who was on the bench, the federal bench on the Supreme Court, and he says, *Yep, we can do this because I'm going to say it can happen. We've got this Militia Act, so we're going to send in the Army*. By James Wilson doing that, he undermined the entire understanding of how that particular part of the Constitution was supposed to be interpreted.

And of course, that's the only historical evidence Lincoln needed to then send in the troops: that there's an insurrection, we don't need the states because there's a combination too powerful to suppress, and this is the kind of language that's used, so we're just going to send in the Army to put down this insurrection against constituted authority because they attacked Fort Sumter. But the whole point of that was that the states were still central in that process. The general government couldn't just send in the Army unless the states asked for it. And that's where that part is missing in Lincoln's process there in 1861.

WOODS: All right, now let's move on to the next paragraph, because in the next paragraph he's conceding that, to some extent, if you're going to embrace the American tradition at all, secession is part and parcel of that because the Declaration of Independence, he correctly acknowledges, is a secession document, which is interesting because that's not the usual line that critics like this take. They usually take the Harry Jaffa line that the Declaration of Independence authorizes revolution but not secession. You know, it's these ridiculous, hair-splitting distinctions. So he admits that. But he says that doesn't mean that every single secession is morally justified. Okay, so we can say that, yes, we don't rule out the secession, but we don't universally embrace it either. Now to me, the difficulty with that is that means: well, then who gets to decide if a group of states gets to succeed? So it's the central government that gets to decide if they're morally pure enough to secede. Well, gee, you think you're stacking the deck in a particular way?

MCCLANAHAN: Right, yeah. Who decides that? I mean, do we send it off to an international tribunal? Do we just gather some people on the street and say, "Hey, do you think these people are right?" Who does decide? I think the people themselves of the state and those that

can vote, those who participate in the polity, they would be the ones that would decide if the act would be morally justified. And again, in this case, the people of the states of the South decided that it was morally justified that they would secede. We're looking back on this, this is an armchair quarterback from 2018 or whenever he wrote this thing. It's ridiculous to get into this argument. The people at the time decided they were morally justified in doing it, and so therefore they did it. And you know, should the general government be involved? Absolutely not ,because they're going to say no. Would the British have said that it's okay for the American colonies to leave in 1776? Oh, well, let's see, are you morally justified on this? Let's just put this to debate in the Parliament. Of course, they would have said no. So what do you do then? It's a weak argument and a stupid argument, to be honest, because it just doesn't make any sense. Who decides? The people themselves that are pulling off the process of secession.

WOODS: But you know what? Just to be as honest as I can, let me raise an objection that, frankly, I haven't fully resolved in my own mind, which is that I could think of cases of secession that would make me very uncomfortable. So, for example, when Kosovo was seceding from Serbia, I was afraid that what would happen — we know full well, they're going to destroy Orthodox churches and there's going to be some violence. So I know that's going to be the outcome. Can I really just mindlessly cheer that secession? So that's my concern, that there can be circumstances in which there would be bad results with secession.

MCCLANAHAN: Well, sure, certainly. And this is where we get into majoritarian government and how far do you want to take government when you have these type of situations. I think something that you could say, we talk about the secession nowadays. For example, you've got people agitating for California secession and the leftists who are advocating for California secession. Well, there's a lot of people that don't like that government, so I think the morally responsible thing to do is say: okay, we're going to repatriate these people back into real states, right? We're going to take them out of the socialist California, and we're going to bring them in. We're going to do this out of humanitarian concern [laughing]. We're going to bring these people out of California. So maybe that's something that you start looking at: okay, well, if this is a bad secession, we can look at this and say there's going to be some nasty things happening. Let's try to do something to get some of the people out or do something to solve that type of problem. But when you start talking about political solutions, and look, not every group you're going to agree with and why they want to separate. So I come down on the side of, well, if it's the actual citizens of that area, then this is the polity. This is the people voting. Then they should be allowed to do it. And we have to deal with what can we do on the humanitarian side for those that might be affected by it. That is a difficult argument when you put it that way.

But in this case, when you compare apples to apples in 1861, the small minority in the North were those that are advocating for any type of civil or political or social liberties for slaves. Most Americans weren't really concerned about that too much at all. It was just a granted, even in the North. So Northerners weren't really concerned about the plight of slaves either. This was something that was political. And you had states that were opposed to secession, even slave states initially, because they thought it would be better be in the Union. So I just think this is a different scenario than, say, something nowadays when we're talking about other types of political successions, because we're comparing apples to apples here.

WOODS: Let's see. I don't want to skip anything that you think is worth discussing, but let's go on to where he says — well, it's kind of elaborating on his point that —

MCCLANAHAN: Well, the next two paragraphs I think are very important, paragraph four and five. And the reason I say they're very important, because, first of all, he says that Confederate sympathizer, "Confederate secession defenders," is what he calls people, will never say that they're in favor of chattel slavery, but "they rely on the assumption that secession is an unbounded right and thus a state may leave a country for whatever reason it chooses." One of the things that's interesting, of course, you just talked about the Declaration. He's missing part of that entire story, and I think that story is important. If he's going to say that Confederate secession was morally reprehensible, why doesn't he make the same case in 1776? He doesn't make the same case in 1776, because he's not being intellectually honest. In 1776, each state was a slave-holding state. Every state in the United States was a slave-holding state. In fact, some people on the left know this. I just saw the other day, when this Ben Shapiro statement about Hitler's baby or something — I don't know, I didn't really read it too much —

WOODS: Baby Hitler, would you kill baby Hitler?

MCCLANAHAN: Yeah, right. So there were lefties out there saying we should have killed baby George Washington, because then we wouldn't have an American war for independence, and then we could have abolished slavery in 1830. You see, that war, the British actually pegged that war as a war for slavery. There were two instances, one in New York — in New York. Not in the South, in New York — and one in Virginia, where the British made it an explicit part of the war to free slaves. So if we're saying that we're going to be opposed to an independence movement that is pro-slavery, then we have to oppose the original secession of the United States too. We can't have one and not the other. And I think this is where you get to intellectual dishonesty. Why is it that it's okay to pass over and say, well, the American war for independence, that's good, but every state was a slave holding state. Why is that good? And even at the end of the war, Washington wanted — there were a bunch of slaves on a ship, and they were going to be shipped out to Nova Scotia, and he wanted all these slaves brought back. The British just ignored him and sent them out anyways, because he said, *Look, this was confiscated property. You've got to bring our slaves back.* And the British just sent them out.

So if the British were the abolitionist position, well, why aren't we supporting the British in 1776? Why aren't we supporting the British in 1781? Why aren't we just saying Washington and all these guys were wrong. We should have never been independent from the beginning. Secession is completely morally reprehensible, even in 1776. Well, to say the Confederate secession was morally reprehensible, then you'd have to say the same thing about the American war for independence. And so I think this is one thing that we miss in all of that. It has to be emphasized they're the same. You can't have one without the other, and you can't say one is bad and one's good, because they both had slave-holding republics in those particular situations.

WOODS: I know Kevin Gutzman has also made an argument like this a number of times, so that's very interesting. Now, that kind of covers some of what he then does, unless you want to add further comment, in quoting from documents from South Carolina, Georgia, Texas, and Mississippi, indicating their rationale for secession. Do you want to say something about that? Because I get this a lot too, like I've never read these documents or something.

MCCLANAHAN: *Oh, yeah, did you see these? Like miraculous discovery. I've never* — like we're going to say, "No, I've never seen those before."

WOODS: It is the American history equivalent of "who will build the roads?" Yeah, I never thought of that.

MCCLANAHAN: [laughing] *I've never seen those documents before. Wow, really? Those exist? I never knew that was there*. Yeah, okay, see, the argument I make about this — and it's something I talked about on *The Brion McClanahan Show* one time. I'm sure you've heard this Occam's razor thing, right, where it's the simplest explanation is the right explanation. So that's a theological argument, though, and it was about the existence of God. So it's completely different from a historical argument, which is so complex, right? Do we sit back and say, "Okay, in 1914, we had the assassination of Archduke Franz Ferdinand, and that's what started World War One." Would you be intellectually honest by saying that? Now, of course, we could say that was a spark. Certainly, that led Austria to invade Serbia, and then you had the mobilization. But was that the long-standing cause of the war? Was the war caused by one guy shooting another guy? You would be laughed out of the auditorium if you said that and were serious about it. *This was it. This was* the *thing that caused the war*.

So when you say that slavery — and we'll get into some other things, with how Lincoln — and he talks about some of this. But if you say slavery was it, that was the only thing, then you ignore 80 years of American history and the conflict between North and South going all the way back to even the Philadelphia convention itself when these things were brought up. And it was said, okay, we're going to have a Union that has the states, they only have so many things that they can't do, a few things, and they can do everything else. We have a union of states. So that was designed to solve these problems.

And he brings up the Cornerstone Speech too, which is Stephens, and one of the things I find interesting about that: he does say that this was the immediate cause of the late rupture and present revolution, the immediate cause, but there's also the long-standing causes. And that's something that Robert Toombs, who was also of Georgia, made a very famous speech when he brought up all the economic issues. These things were brought up. So everyone, they cherry pick. They say: well, here's Stephens, here are the secession declarations, and they forget and they ignore everything else. South Carolina actually had to secession declarations, one which was heavy on economics, one which wasn't. And so you have all this evidence out there, and they make this thing so simplistic, because that's what you do to get an A on a test, right? So that's what you do when the students want to know: I want a right and a wrong answer. Well, history is not the right and wrong answer. It's very complex. And I think that that's where we miss this stuff, when we start talking about a simple reason or simple rationale for the war. And even Stephens himself said he was misquoted in that speech. I mean, this is not word-for-word. He made a speech, and somebody wrote some stuff down, and he later said, I didn't really say it exactly like that. So you get into that issue too, what was actually said and what wasn't said.

And the point with the other thing, we can get into race, but where Stephen says, you know, white supremacy is essentially the foundation of our government, the white race, well, would that have been any different than the United States government? I mean, was that different than the US government? Was the US government not the same way? So again, this is kind of shock-and-awe history, but it doesn't take into the complexities of the situation.

WOODS: Let's look at where he says, "As an aside: that most soldiers of the Confederacy didn't have slaves or think they were fighting to preserve slavery is non sequitur." He says, "The argument against the South actions in the Civil War has nothing to do with the motivations of

its soldiers." But it is morally relevant in whether you think the North is justified in burning cities down and making kids eat rats for dinner.

MCCLANAHAN: Right.

WOODS: That is relevant, given that those kids and those families and most of those men, as we know from their diaries and letters, certainly were not fighting for slavery. It would be morally relevant as to whether — so in other words, if he's saying it's only the political elites who are to blame, okay, then at the very least, you would have to agree morally that a far preferable outcome would be a duel with the political elites of the South. Okay, if that's what you're really unhappy about, do that and then you'll be on our side for 99% of the issue, which is: leave these people out of it.

MCCLANAHAN: Right, well, the funny thing about that, and you look at the common soldier and what they said — in fact, James MacPherson — now, James MacPherson is no one who was — but he wrote a book, an interesting book, *For Cause and Comrades*, and his statement is — I mean, I'm paraphrasing, but it's essentially this: the Southern soldiers were almost to a man fighting against slavery, their own enslavement. They thought that they were being enslaved by the general government, so they're fighting against it.

And one of the things, as well — you know, you're right. When you get to the point, you know, going in, invading the South, burning cities, and the total-war tactics, even though some historians are saying that wasn't really total war. That was not total war at all. Total war is something else. This was just ensuring that you could knock out the infrastructure of the South so that they couldn't use it to defend themselves. Well, what is total war then? If you're burning cities and taking stuff from people and going in and destroying property, well, what is that?

But regardless, one of the things that's often — maybe this piece was again written because this argument now has been much more circulated, but the original 13th Amendment, that is often called the Corwin Amendment, but there's a book by Daniel Cross — again, not a "neoconfederate" historian — but Daniel Cross, his *Lincoln and the Politics of Slavery*, where he says this was actually Lincoln's amendment. And people that don't know, the Corwin Amendment, or what Cross says is Lincoln's amendment, would have made slavery permanent in the Southern states. It couldn't have been abolished. The United States government couldn't abolish slavery, and the South still sought independence. So if they were really just saying, look, this is all about slavery, it's the only thing we're doing, that would have protected slavery forever. And there were Southerners who said, *Look, slavery is better protected in the Union than out. If we lose, slavery is gone* — I mean, they really thought that that would happen — *so we need to stay in the Union if we're really concerned about slavery*. But independence was a higher goal than anything else. And the fact that the South even at the end of the war was talking about abolishing slavery shows you that independence was more important to them than the institution itself.

So this argument that, *It's all about slavery, it's all about slavery from beginning to end*, is just completely ridiculous. There was so much evidence on the other side that the common soldier wasn't fighting for slavery. Even the Confederate government was willing at times to talk about the abolition of slavery. And the fact that the United States offered a carrot to say, look, we'll make slavery permanent if you just come back in, and they didn't do it shows that there was bigger issues here than just slavery.

WOODS: All right, so do you think then that it's — I was going to ask you a totally stupid softball question. I withdraw it. I was going to ask you: do you think it's reasonable then to say that libertarians are just being contrarian when they're concerned about this issue?

MCCLANAHAN: [laughing] Yeah, they're contrarian. They're definitely being contrarian. I think — well, I mean, look, this idea of contrarian, we get that a lot because we're on the fringe. *We're the fringe guys out there, so we're just the contrarians. We just want to cause waves and cause problems. We just won't get in line with these good* — you know, think about that. If you're saying you're contrarian, think about what that actually means. This guy is saying that people are contrarian. So you're not really a free thinker if you're not a contrarian person. If you're a contrarian person, that means you're a thoughtful person. You're thinking about things and trying to think, well, is there something else to this? If you're not contrarian, you're getting in line to go the bathroom in school, right? *Everybody get in line. This is what we're going to do. This is how you have to go. You have to walk here, get in a straight line*. So you know this whole idea of contrarianism, what does that even mean? It's kind of a stupid term anyways. But yeah, I mean, I think that I guess these libertarians would be contrarian, even though they say we are. So I don't know. One man's contrarian is another man's free thinker, I think, so maybe that's the case.

WOODS: Yeah, that's right. That's right. And it's not that the establishment interpretation of history and its moralizing about different issues is *always* wrong, but you know, it's a good rule of thumb that it should at least be challenged and examined, because the regime we have now depends on the standard narrative of the war.

MCCLANAHAN: Right.

WOODS: Because that narrative is: we can't let you stupid rubes get out from under our control. You need to be ruled by us, and there's no escape. There is no escape, not because we've argued correctly that there's no escape, but because our ipse dixit says there's no escape. You know, we have a Supreme Court case where, just as an aside, they say, *Oh, and by the way, this the secession was not allowed*. But here we have every argument in the world in support of that, and it's so funny to hear these people. It's like they're defending papal infallibility or something when they say, *Well, the Supreme Court has already spoken about that*.

MCCLANAHAN: Right.

WOODS: So in other words, you are incapable of assessing arguments on your own?

MCCLANAHAN: Right, and okay, if that's the case, then the Supreme Court, it also ruled in 1896 that segregation is legal. So is that the right decision, or are you going to side with the Supreme Court decision to say it's not?

WOODS: Or are you going to say that that was the right decision for approximately 60 years, and then suddenly it became the wrong decision?

MCCLANAHAN: [laughing] Right.

WOODS: This is ridiculous. You'd need to have a lobotomy to think this way.

MCCLANAHAN: Right, it's completely stupid. It's intellectually dishonest, and I think that's the problem. And the war is the holy grail of all of American history. It's why we spend so much time talking about it, because it does define what's going to happen in the United States moving forward. It really is. It's the transformation from a federal republic to a national government, and that national government, as he gets in later and will get into some of that in the piece, he defends nationalism in a way to ensure civil rights and civil liberties. And this, I think, is the most powerful argument that he has for his position. So I will say that, from the beginning, there is evidence that of, course, without some of the federal oversight, you would have had some serious problems with civil rights and civil liberties in the United States, not just in the South, but in the United States as a whole. So how do you wrestle with that? And so we can get into that if you want to.

WOODS: Yeah, let's do that, because that's what he is arguing in the last couple of paragraphs, so I would be curious to hear your response to that.

MCCLANAHAN: Yeah, so when you look at — I'm trying to read my handwriting here [laughing], because I scribbled some stuff, but it's really badly scribbled. So he says — I like this phrase — "The anti-libertarian results of the Civil War are evident." Now, so he blames the South the result of the war, and the result of the war to him, of course, was extreme centralization. He does admit, well, we got this bad centralization, it's terrible, you have executive power. But is that really the South's fault, or is that the fault of the North for actually going to war? You know, there could have been secession without war. This is the question that people never — why do we have to have war? Could Lincoln have not let the South go? Could you have not had seven states in the South? You would have had a confederacy? You'd still have had Virginia, North Carolina, Tennessee — all these states were still in the Union. So could you not have had two confederacies on the continent and you would have no war? And then there would have been no centralization. But that wasn't going to happen. Lincoln made the conscious decision to go to war, and that's one of the parts that he just doesn't seem to answer.

But you get into this thing about the idea that you have the central authority ensuring that the states don't abuse power. And this is true. I mean, we can go back and look at states saying: Okay, we've had this system. Now we're going to create another system that's going to strip — and he uses the phrase, it's, "Those who defend the Confederacy in the name of liberty today must assume, against all historical evidence, that rationality and economic benefit would have otherwise trumped the exploitation and irrational hate that drove the institution of slavery. "I don't like the use of that word "hate" in this particular context. I think we throw that around too loosely.

WOODS: No, the word "hate" thrown around too loosely?

MCCLANAHAN: But this guy's obviously never read Eugene Genovese or Fogel and Engerman, which were standard texts. Did you have to read those, and *Roll, Jordan, Roll* —

WOODS: I read *Roll, Jordan, Roll*. That book was huge. I read *Roll, Jordan, Roll* in college, absolutely, and I read Fogel and Engerman in college in the same seminar.

MCCLANAHAN: *Time on the Cross*, right, but I don't think people are reading these books as much anymore. And when you read those two studies on slavery, which were, first of all, I think — I can't remember. I think it was Fogel who went on like *The Donahue Show* after this

book came out, *Time on the Cross*, and it was a huge sensation because, if you don't know what it is, basically says: look, the evidence shows that slaves weren't really abused that much, and so we have to rethink this institution. I mean, he was he was just —

WOODS: Yeah, he doesn't mean we have to say that it's desirable, we have to support it, but he's saying —

MCCLANAHAN: He's saying the evidence shows —

WOODS: — the casual assumptions of most people don't seem to be borne out by what we know now.

MCCLANAHAN: Right, he was excoriated for this. And you know, we had *Roots* in the '70s, so you had this pushback. And of course, he was called a racist. He's married to an African American woman, so how can this guy be racist? He's just looking at the evidence and saying this is what the evidence says. But the fact is, if you read these books and you read Genovese and you read *Roll, Jordan, Roll*, and you get a much more complex understanding. There wasn't hate involved here. Yes, the Southerners, slave owners thought that slaves were inferior. They thought that they were childlike creatures. They said these things over and over again. But these are people that also cooked their food and nursed their babies and were body servants. Is that a hate relationship? I mean, I think of hate as something where you just want to kill people. Just kill them for killing them. And you didn't see that. It was much more complex in the South. It's not — unfortunately I have to say this because it's 2019. I'm not defending slavery at all. It's a horrible institution. Any time you enslave people and force them against their will to do anything is a horrible situation. But we have to understand the complexities of it in order to really grasp the full history of the institution itself in the United States. So "hate" is such a bad word.

And then he doesn't even bring up — he does say that the North had some laws too and these kind of thing Jim Crow was invented in the North. C. Vann Woodward actually brought it up in his book *The Strange Career of Jim Crow*. Southerners were perplexed why the North was so opposed to Jim Crow, because they invented it. You go and look at Connecticut. They actually called it Jim Crow in Connecticut in the 1850s. There was a Southern lady who was traveling into Connecticut on a train, and she had her slave with her, and they forced her to go into the segregated car, because the Jim Crow law said that she had to go sit in the black-only car, because that's where you would have to go with your servant. So here we had Jim Crow in Connecticut in the 1850s, and they called it that. So it's so simplistic, it makes me sick to see anything that anybody would write like this where they don't understand the entire process or the complexities of American history at this point.

Now, as far as the argument, what the states would have done, this takes into account the fact that the way that Reconstruction took place — I mean, the Southerners could say, look, the reason that the South was impoverished, the reason that we had these situations, was because this was forced on the South, and the South wasn't allowed to go through the same type of emancipation process that, say, New York could go through or New Jersey or Massachusetts. You had tremendous upheaval, and so there's naturally going to be some type of pushback against that. I mean, logically, can we think any other way it would happen? I mean, you had people that could vote, now they can't vote; people that couldn't vote, now they can vote. And you have the reins of power being transferred back and forth. I mean, did we really think there wasn't going to be some type of political upheaval here and that people

were going to be blamed and that there weren't going to be abuses? We know that happened. We know the South was abusing African Americans at times. We know that happened. But do we expect anything else? And so it's like saying the general government caused it; now the general government has to solve it. This is the same thing with the Federal Reserve. The general government caused the Great Depression. Now we have to actually have all these laws to solve the Great Depression, right? So this is the kind of argument we have with this situation where the states can abuse power. You had a general-government-created problem in the South that didn't exist beforehand. So that's my argument for this, that if the general government wrecks it, well, then you're relying on the same thing that wrecked it to fix it, and that's going to create issues in and of itself as well.

WOODS: Moreover, I can think in the world today of places with injustices, and I would not necessarily want the United Nations to be empowered to solve them.

MCCLANAHAN: Right.

WOODS: I mean, that's not a perfect analogy, because there are some problems in the world that are so intractable that I don't know if they'll ever, ever be solved. Whereas I do think there were ways in the United States that some of the postwar issues could have been solved organically and gradually. And incidentally, on racial issues, I have no doubt that people thought they were — I mean, I think some people were not as benign as we might think, but I do think there were plenty of people who thought they were helping, when they said: well, there's been housing segregation in America ,and that's led to educational segregation, and that's led to poor opportunities for black students, and so we're going to try and do something about this. And I think some of them, not all, but some probably just had good intentions. *We'll bus them around,* and this and that. And it turned out that this wound up making whites and blacks hate each other far more than they ever had, far more. They made the schools impossible to run. They destroyed the local, organic little patriotisms of neighborhoods and stuff. So there are plenty of times when top-down solutions, that a policy wonk thinks will surely work, don't actually work.

MCCLANAHAN: Right, and I think that there were well-meaning people — look, there were well-meaning people in the 19th century that wanted to help slaves and former slaves and that they wanted — and we can understand their position. Look, you have political power now. You want freedom. I understand all of that. And this was a difficult process, to say the least. And even the guy that made the Cornerstone Speech, if you know anything about Stephens, after the war was over, he made a very famous speech in the Georgia assembly, saying: *Hey, we have an obligation to treat our former slaves well and to make sure that they have everything they need, because these people were with us all the time during the war and before then. We have an obligation these people that are with us.* And so that's often missed too. We don't talk about that, that Stephens was saying we need to take care of these slaves.

And the other thing Lincoln was asked by Stephens at the Hampton Roads Peace Conference, "What are you going to do with the slaves" and Lincoln's response was, "Root, hog, or die." Basically, we're going to abolish slavery, and that's it. And we're just going to throw them the wolves, and that's all that's going to happen. Now, is that a responsible response to a huge crisis that was going to develop because you ended slavery immediately the way you did? Again, no other state in the Union at the time ever abolished slavery like that. It was always gradual. Massachusetts, New York, New Jersey, it was always gradual. There were conditions

put in place. Okay, we're going to make sure these things happen so these people can be integrated into society, and not just immediate and we're done, and then what do you do with it? So I think that's the irresponsible thing in all of this. The Lincoln administration was entirely responsible. I think maybe the people that participate in the Freedmen's Bureau, I think a lot of those people, particularly the teachers and others — I mean, they were, you know, people that were just concerned about what are we going to do here, how are we going to help these people? And there were Southerners concerned about the same thing, but you had a government-created crisis in the South that then people were looking for more government to solve the crisis that they created. And I think that's the main issue with all of this.

And it's not to say that — again, I'm not defending slavery. I'm not defending — I mean, I have to say this, because, you know, we're in 2019. The those things are horrible, and I think that we should try to come up with any way we can to come up with a solution to those problems. But when you look to government for solutions, and then you look to government for anything, it's going to create the mess that we had.

WOODS: All right, we'll leave it there. Of course I'm going to link to the article that we've been talking about at TomWoods.com/1332. And I'll probably have one or two other things up there. Didn't I write something down? I wanted to put something on the compact theory. So we'll definitely have some good stuff up there. And of course, you should listen to *The Brion McClanahan Show*, Brion spelled with an O, Brion. Check out Brion and his website, BrionMcClanahan.com. Opt in to his email list. He'll give you a free eBook, *Forgotten Founders*, and also an audiobook, so he gives you even more than I give you. And you'll get to hear a, may I say, contrarian historian periodically on your devices and in your email inbox. Thank you, Brion.

MCCLANAHAN: Thanks, Tom. I appreciate it.