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NEWS RELEASE – MN GOP US Senate candidate bobagain publishes book review of POWER DIVIDED IS POWER CHECKED, by Jason Lewis, whose "Dangerous Opinions are unknown, unreported on, and unchecked" – will host ZOOM book discussion for media Monday at noon

Note: this is a .pdf version of the NEWS RELEASE, with the book review text at the end

Contact: votebobagain@gmail.com, cell: (612) 812-4867 (www.votebobagain.com is running)

Minneapolis, July 31, 2020 –Minnesota GOP US Senate candidate and self-described "candidate-journalist" Bob "Again" Carney Jr. ("bobagain") will host a Zoom Press Availability Monday, Aug. 3rd at noon to discuss POWER DIVIDED IS POWER CHECKED, a 2011 book by his GOP primary opponent, Jason Lewis. He will go through the text of the amendment, demonstrating its disastrous consequences. Members of the media and Editorial Boards may request a Zoom meeting, either hosted by the Carney for Senate campaign, or by a requesting entity, or may call bobagain to talk about the book over the phone.

"Unless we act now, our country is heading for a Civil War. Our level of division – seeing the other side as dangerous and evil, rather than seeing our common, flawed humanity – must be resisted and stopped," bobagain said.

Lewis concludes his book by promoting an inconceivably disastrous "Civil War II" Constitutional amendment. His amendment would drastically overextend States Rights and eviscerate the Interstate Commerce power of Congress. It appears to entirely cancel the explicit Section 8 General Welfare power of Congress. Finally, the amendment would give States a Constitutional right to succeed from the Union. Succession is what President Lincoln and men of Minnesota's 1st Infantry Regiment died to prevent. "Since Social Security and Medicare are Constitutionally founded on that General Welfare power, it appears both would

be abolished! The Lewis amendment would trigger succession and destroy the Union – the United States of America," bobagain said.

After reading Lewis' book, bobagain was shocked. "I had assumed that since he has been on two general election ballots for the U.S. House (winning one,) any past expressions of "Dangerous Opinions" – something that was advanced as grounds for impeachment and removal during the 1805 Impeachment trial of Supreme Court Justice Samuel Chase – would have already been surfaced and widely publicized. Not only was I wrong about that, my worst fears are realized. "I am both publishing my detailed book review, and hosting the Monday ZOOM Meeting, to give the media an opportunity to participate in a careful examination of what are truly Dangerous Opinions expressed in the book," bobagain concluded.

<end>

Prep and pd for by Carney for Senate Committee, 4232 Colfax Ave. So., Mpls., MN 55409

Note: the BOOK REVIEW starts on the next page

BOOK REVIEW by Bob "Again" Carney Jr., (updated 8-6-20)

S - E - C- O - N -D ---- D – R – A – F – T

POWER DIVIDED IS POWER CHECKED: The Argument for States Rights

By Jason Lewis, Bascom Hill Publishing Group, Minneapolis, MN, copyright © 2011

Brief Background – This book was published near the crest of the Tea Party movement backlash that followed President Barak Obama's 2008 election. Republicans rode the Tea Party wave in the 2010 mid-term, gaining 63 House seats and ousting Speaker Nancy Pelosi. Lewis was nearing the end of a 20-year career in talk radio, where he rose to national syndication and a guest substitute role for Rush Limbaugh. Amazon's site shows 32 ratings, with an average of 4.2 out of 5, and 80% a 4 or a 5. There are chapter notes and suggestions for further readings, but no index.

Main argument of the book – Mr. Lewis views states rights as a kind of "vertical check and balance" – allowing State governments to check and balance federal power, which he believes has grown far beyond what he sees as the limits of "enumerated powers." Regarding checks and balances among the horizontal dimension of three branches, he sees the idea of "co-equal branches" as a departure from the ideas of the Founders, who saw the legislature as pre-eminent. He traces America's divergence from a limited federal government with enumerated powers to the Civil War, the result of which he argues was the de facto creation of a "United State," with growing and unchecked power that threatens our liberty. In Chapter 7 Mr. Lewis cites James Madison, who wrote in Federalist #39: "[the] proposed government cannot be deemed a national one, since its jurisdiction extends to certain enumerated objects only, and leaves to the several states a residuary and inviolable sovereignty over all others."

Lewis traces what he sees as a pattern of both the expansion and the distortion of 14th Amendment's Section 1 provisions for "equal protection of the laws," along with "due process" and "privileges and immunities of citizenship." In demonstrating this he relies heavily on The Fourteenth Amendment and the Bill of Rights, by Harvard Law Professor Raoul Berger, but seems unaware of Professor Berger's more recent and powerful Government by Judiciary: the Transformation of the 14th Amendment; that's unfortunate because it seems to more directly address the whole sweep of arguments Mr. Lewis presents. The 14th Amendment has been held to extend to the States

"fundamental" rights from the first eight Amendments of the Bill of Rights. In addition to the 14th Amendment's Section 1 provisions, Lewis repeatedly addresses what he sees as the federal judiciary's highly elastic understanding of the federal power to regulate interstate commerce. His more general theme is that the Civil War was a Constitutional disaster in that it resulted in what he calls a "United State" – all of the overreach is based on usurping the plenary residual sovereignty of the States. Consider the 10th Amendment, which states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." We sometimes lose sight of the phrase: "nor prohibited by it to the States." As Lewis demonstrates, powerful arguments can be made for all kinds of State police power to effectively regulate the behavior of people in ways that would be violations of the Bill of Rights if done at the federal level. The nub of the dispute is really whether the 14th Amendment amounts to prohibiting such exercises of the police power by States. Altogether, the analytical thrust of his arguments is well grounded in Conservative academic thinking.

When considering the "General Welfare" and "Interstate Commerce" powers of Congress, Lewis moves forward to the Progressive Era – but centers more on the years of FDR's New Deal, which effected what can fairly be considered as radical reinterpretations of both. The New Deal's Constitutional foundation rests on a number of cases widely understood to be a "switch in time by nine" – essentially amounting to a kind of de facto deal reached by FDR and the Supreme Court. In return for Roosevelt's forbearance on his threat to increase the size of the Supreme Court, thereby obtaining a majority of Justices who would approve what he was doing, the Supreme Court greatly expanded the Constitutional understanding of what the federal government could do when invoking their "General Welfare" and/or "Interstate Commerce" powers. By attacking this, as Lewis does, vast areas of federal activity and power – everything from the modern regulatory state to Social Security and Medicare – are called into question.

The concluding Chapter 7, titled "The Last Resort," brings forth his solution -- a proposed Constitutional Amendment that would drastically overextend States Rights, eviscerate the "General Welfare" and "Interstate Commerce" powers of Congress, dismantle Social Security, Medicare and the New Deal, and give States a Constitutional right to secede from the Union. We'll go through this proposed amendment's provisions – each provision is indented and the words are italicized, comments follow. By the way, I don't know why he chose the word "refrained" instead of "restrained" – but he did, it's not a typo.

Except where expressly stated, nothing in this Constitution or its Amendments shall grant to the executive, legislative, or judicial branch of the federal government jurisdiction over the several states.

This prohibition of federal interference extends to but is not limited to all matters in the nature and substance of state legislation, providing such law affords its protections equally to all citizens and whose implementation is consistent with common law procedures of "due process."

Comment: The overall effect of this is to drastically expand States Rights. As just one example, the Fourteenth Amendment is used as a basis to apply the First Amendment's requirements to the States. State Constitutions have separate provisions, and those would remain in effect for each State. But neither Federal Courts nor State Courts could apply the First Amendment's restrictions to anything not involving a law passed by Congress.

The general welfare clause in the preamble and in Article 1, Section 8, of this Constitution shall not be construed to grant the federal branches of government any extended powers not previously or subsequently and specifically enumerated in this Constitution.

Comment: One of the biggest consequences of this provision is what appears to be a requirement to abolish both Social Security and Medicare; Medicare was an amendment to the original New Deal Social Security law. In 1937, the U.S. Supreme Court uphold the original Social Security law, based on the general welfare clause in Article 1, Section 8, which states [emphasis added]: "*The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States*[.]" The U.S. Supreme Court has said Congress has the power to alter or abolish Social Security. It could be argued that since that decision the federal government's annual information sent to Americans about the status of their Social Security taxes paid and current provisions regarding their benefit amounts to changed circumstances that a future Court decision could take into account. However, the amendment text seems clear in its effect that both Social Security and Medicare would simply have to be shut down entirely. Because this would be a Constitutional provision, according to our default understanding of the amendment process, nothing the federal government has told Americans about what they've paid in taxes or their benefits under current provisions would have any relevance. Needless to say, this would be an incredible shock to the financial plans of a vast majority of Americans. But Social Security/Medicare is just one example – much of the complicated web

of America's economy depends on the Section 8 "General Welfare" power of Congress that this amendment appears to cancel. Therefore, from a practical point of view it seems obvious that the amendment Mr. Lewis is advocating for would never be adopted – but that doesn't change the fact that he's advocating for it.

> *This Amendment also defines commerce among the states as only those economic transactions conducted between two or more states, and not those transactions conducted by parties or entities residing in the same state regardless of their impact upon commerce among the states. Furthermore, regulating commerce among the states may be used only to ensure the free flow of commercial transactions voluntarily established among the several states; it does not include the requirement or the elimination of economic transactions without further Amendments to this Constitution.*

Comment: The power of Congress to regulate interstate commerce has become virtually putty in the hands of courts. This provision attempts to drastically reverse that. But difficulties abound. Here's just one example: while the word "entities" obviously was chosen as a way to include corporations, what does it mean for a corporation to "reside" in a State? Corporations can be subject to a State sales tax by having a physical presence in a state, and they are incorporated in a state. But how can a corporation – an ephemeral legal fiction that, unlike ghosts, no one claims to have ever seen – "reside" anywhere? In the age of e-commerce, we also have the difficulty that so many products and services are either entirely virtual or are physically produced with parts from all over the world, and then physically delivered to a location. How do we define and categorize what can be a vast jumble of events and processes that add up to "…*those transactions conducted by parties or entities…"* whatever they may be, and however the concept of "residing" might apply to them? Today, right now, we at least have a body of case law which has developed gradually, and lawyers who are knowledgeable about it and can offer some guidance as to how it applies to what people and business are thinking about doing. Predictability isn't perfect, and you can argue that the federal role is too big – but Congress can still at least attempt to impose limits, which can be elaborated at length and with detail that is impossible to do on the large-post-it sized spaces available to Constitutional amendment authors. People who attempt to write Constitutional language are undertaking a daunting task – how to be both succinct and clear? After all, Courts must interpret the language. When you introduce vague ideas -- like a corporation that somehow "resides" somewhere -- the ultimate result from a new line of federal case may be impossible to predict. The only thing we can be sure about is that there will be a line – probably a very long line –

of plaintiffs seeking to spin the new Constitutional language in a way that benefits them. If this provision were to enter our Constitution, our only real certainty would be decades of confusion.

Finally, we have the most central, dangerous, and unpredictable provision of all:

> *It is also hereby established that any state whose inhabitants desire through legal means and in accordance with state law to leave this union of the several states shall not be forcibly refrained* ["refrained" is not a typo] *from doing so by the federal government of these United States.*

The remaining five pages of the book are devoted entirely to supporting this provision; here's an extended excerpt – more than half of the five pages -- starting with a real whopper that is bracketed, as is an additional supplemental editorial comment later in the excerpt (the excerpt is indented with tighter line spacing):

> "Uncomfortable as it may seem to some, this is not a radical idea. [**Comment**: It ***is*** a radical idea to propose establishing by Constitutional amendment an explicit right of secession *after* the Civil War was fought to prevent this!] The states, under Article VII, voluntarily ratified a Constitution of checks and balances in order to preserve their independence. Jefferson's 'wise and frugal government which shall restrain men from injuring one another' was to 'leave them otherwise free to regulate their own pursuits of industry and improvement.' And notwithstanding Lincoln's noble wish of the 'last best hope of earth,' the American idea was always more than a blind allegiance to the nation-state. It was a patriotism and belief of the ideals behind it, including the notion of the voluntary compact.
>
> "Limiting monopoly government returns the law to its rightful place. Enlightenment philosopher John Locke put forth the fundamental principle that 'the end of law is not to abolish or restrain but to preserve and enlarge freedom; for in all states of created beings capable of laws, where there is no law, there is no freedom. For liberty is to be free from restraint and violence of others…' He had also reasoned that no one born in 'perfect freedom to order their actions and dispose of their possessions and persons as they think fit, within the bounds of nature,…' would voluntarily give up his or her liberty for anything but self-government. Hence, Jefferson's dictum that governments derive 'their just powers from the Consent of the Governed…'
>
> "No one argues for an unwise rush to succeed. But there are no assurances that our governing class will ever abide by the limits of the Constitution. There must be an ultimate safety valve. If the voluntary compact were reestablished, merely the threat of secession would curb the appetites of federal power. According to DiLorenzo, had succession been an option before the Civil War, the 'same reasons that led the colonists to form a Union in the first place

would likely have become more appealing to both sections, and the Union would probably have been reunited.'

"On the other hand, we know what happens to our blood and treasure when peaceful dissolution is forbidden. The British Constitution [**Note:** England has a "Canon" of written documents, along with history and tradition, that are seen by many as comprising a "British Constitution" -- but there is no written "British Constitution" in the form of a single, agreed to document comparable to the federal Constitution] did not allow the colonies the option [of] breaking free and the Civil War mindset categorized secession as rebellion. The result was years of carnage, killing, and anarchy. President John F. Kennedy recalled in 1962 that 'Those who make peaceful revolution impossible will make violent revolution inevitable.'

"The truth is: there is little hope for a meaningful return to federalism as long as those who shape our political institutions are willing to use the power – military and otherwise – of the federal government as the ultimate deterrent.

"Bastiat reminds us that 'law is force, and that, consequently, the proper functions of law cannot lawfully extend beyond the proper function of force.' The legitimate task of government, therefore, is to prevent the illegitimate use of force (or fraud) by others. The state oversteps its bounds by using its monopoly on force to oppress, and that's why we limit its powers. The paradox restated then 'is to prevent people from doing through government that which they would do in the absence of government. The very purpose of constraints on government is the same as the purpose of government.'"

There are massive problems with what Mr. Lewis is proposing.

Even if we were to establish as a Constitutional right the principle of a State's right to secede, this would be far less like a divorce, and far more like a surgical operation to separate twins… except that what we're talking about is more like google-tuplets. In some cases literally tens of millions of people in a State are literally "joined at the wallet" -- if not altogether "joined at the hip." Let's take our favorite example: Social Security and Medicare as a starting point. If a State secedes, does that mean that all of its citizens would be both exempted from any further tax obligation for these programs, and would no longer be eligible for any benefit from either program? It would certainly seem that the citizens of a "former United State" would be free from paying the taxes. But what about people who are already retired? Some retired Americans move to other countries because the cost of living is lower – they still receive Social Security income, and are still covered by Medicare. Let's keep in mind how the cash flow of Social Security works -- the Social Security taxes of people currently working are paying the benefits of people who are retired. If the citizens of the now- seceded State are no longer paying the taxes,

where would the cash flow come from that pays for Social Security and Medicare benefits from? Going back to our "google-tuplets example, what if a State votes to secede by 51% to 49%? There is no provision for a super-majority threshold in the proposed amendment. And of course, anyone too young to vote is frozen out of the decision.

In general, what about the rights of the minority that doesn't want to secede?

With state and federal laws and government programs so inextricably interwoven, how would this entire social fabric be unwoven?

What about national parks, military installations, federal land and property, and mineral rights?

What about student loan debt?

What about people who work in one State but live in another State?

What about people who would be living in a seceded State, but telecommuting to a State that is still in the Union?

How would borders be treated? Open? Closed? Some hybrid?

At the time of the Civil War, a "war between the States" was possible in the sense that the citizens of each State tended in most places and most case to coalesce overwhelmingly toward one side or the other. With the "big sort" process that has been going on throughout America for decades – whereby people with shared values have tended to concentrate geographically -- it seems inevitable that for any State that did reach a majority vote to secede, there would be geographic concentrations where a large percentage of people did not favor secession. Could there be a "two state" solution for seceded States -- like the one being considered for Israel and the West Bank?

We saw recently that BrExit was divisive, dislocating, and difficult to carry out. On the one hand, it did in fact happen. But on the other hand, the overall level of integration between Britain and the European Union, while extensive, was still far less than the level of integration between and among the States of the United States.

Here's what appears to be the bottom line: Far from functioning as any kind of "ultimate safety valve" a Constitutional right to State secession would be an invitation to chaos.

And (in case you haven't noticed,) America is also facing unprecedented challenges based on ideologies and agendas emerging from the political left. Mr. Lewis cites Bastait as warning: "The state

oversteps its bounds by using its monopoly on force to oppress…" But many on the left suggest that "structural racism" – really the whole social fabric of America since 1619 -- is a vast system of oppression. How can Mr. Lewis argue, as he appears to do, that while an "ultimate safety value" of succession is needed to safeguard against things like an expanded federal role in Obamacare that represent the use of a federal "monopoly on force to oppress…" a use of federal forces, the national guard, and possibly the invoking of Presidential emergency powers in response to recent civil unrest might all be ok? Unfortunately, developments from now to the November election and beyond may put Mr. Lewis to the test regarding a general concern about the use of a "monopoly on force to oppress…"

Here's my general point. The fabric of the civil society of any advanced post-industrial economy and polity is a fragile thing. In today's highly interconnected, complicated world, we must always consider the danger of suggesting or advocating things that could trigger a cascade of civil unrest and violence that at some point might become totally out of control. For modern America, both the idea of State succession and out-of-control civil unrest are things we must all constantly and actively guard against. Ultimately, the amendment Mr. Lewis has proposed is both totally unworkable and very dangerous.

Very simply: *We the People* must all strive to avoid the danger of an American Civil War II.

A broader critique -- Coming back now to the Civil War, Lewis suggests that President Lincoln could possibly have chosen a better path to avoid it: "emancipation compensation." This is an idea Lewis traces back to an August 8, 1787 Constitutional Convention speech by Gouverneur Morris, a Pennsylvania Delegate, who concluded (as recorded by James Madison): "He would sooner submit himself to a tax for paying for all the negroes in the U. States, than saddle posterity with such a Constitution." Before reaching this conclusion, Morris presented a harsh description and moral condemnation of how Slavery in America came about, and what it is. President Lincoln advocated in his December 1862 message to Congress for a Constitutional amendment to provide for federal government bonds, to be issued and retired over decades, to finance emancipation compensation. He argued it would end the bloodshed of the Civil War, but also anticipated the nation's future growth, claiming the long term structure of the financing would make the plan affordable. Earlier in 1862 Congress had passed and President Lincoln had signed the District of Columbia Compensated Emancipation Act, requiring emancipation in the District and paying about 900 slaveowners an average of about $300 per Slave. However, we need to keep in mind that the emancipation compensation Constitutional amendment proposed in December came after Lincoln had issued the September 1862 Emancipation Proclamation. In the heat of war it's easy enough to understand why many would have

been more inclined to simply continue with an already-ongoing policy of emancipation without compensation.

Looking forward to the New Deal, Mr. Lewis again seems to gloss over what amounted to a national disaster – the collapse of the economy and an inability of millions of Americans to find work. As with the Civil War and emancipation, something had to be done, and something was done.

As noted, Mr. Lewis displays a good foundation for presenting a conservative view of Constitutional law and States Rights. But he does both his readers, and frankly himself, a disservice -- by failing utterly to come to grips with any other point of view. One obvious counterpoint is the "Living Constitution" theory as expounded by Yale Professor Bruce Ackerman and others.

Ackerman argues that the amendment process as spelled in Article V of the Constitution is not, in fact, the only way to amend the Constitution. He offers up an alternative, based on three main historical examples. The first is the Constitutional Convention itself – which went far beyond its original assignment to "fix" the Articles of Confederation -- which by its terms could only be changed with unanimous approval by the States. After meeting secretly for months, the Convention proposed instead an entirely new fundamental national law – the Constitution – to be deemed approved based on ratification by any group of nine State Conventions – with no amendments permitted. Of course, it worked – and the first ten amendments (the Bill of Rights) were quickly added. But as Professor Ackerman points out, from the point of view of the Articles of Confederation the whole process was illegal. Professor Ackerman then points out that the ratification process for the three Civil War amendments (XIII, XIX and XV) was deeply if not fatally flawed. Since Article V requires ratification by three fourths of the States – and more than one fourth had seceded to form the Confederacy, it is not surprising that problems, challenges, and controversies did arise. Maybe the best way to sum up is simply to say that on a de facto basis, those amendments were ratified by the Civil War itself. As America moved forward, direct challenges to the legal validity of the amendments, faded, but many Supreme Court decisions -- starting with the "Slaughterhouse Cases" opinion (1873) holding that the 14th Amendment's "Privileges and Immunities" clause only protects rights deriving from federal citizenship, and that a State's police powers were otherwise not restricted by the Amendment – were seen by many as amounting to a steady undermining of the power and scope of the Civil War amendments. Finally, Professor Ackerman sees the New Deal as emerging from a process by which, over multiple elections, an enduring political demand for fundamental change was recognized, and a combination of the appointment of new Justices and the open-eyed awareness of sitting Justices as to what was going on

around them resulted in an interpretive process that was effectively a Judicial ratification of a de facto New-Deal-amended Constitution.

Professor Ackerman's general point is that through either an explicit ratification process in the case of launching the Constitution, or for the Civil War and the New Deal, a multi-election process involving visible changes going on in the world, our Constitution can be, and is, amended on a de facto basis. In the Civil War case, a flawed Article V ratification process was followed first by decades of de facto undermining that was effectively ratified by the results of multiple elections, and then by decades of what can be seen as a possibly-overreaching restoration of the original driving force and vision of the three amendments. In the case of the New Deal there was no direct resort to the Article V amendment process – instead, a sufficient basis was found in the original text to support a major "re-understanding." Purely as a description of what's obviously been going on, it's hard to argue that this has not been happening. And it must also be acknowledged that there is at least a continuous if sometimes tenuous rooting of Professor Ackerman's "non-Article V amendment process" in language of the Constitution's text – although this is sometimes different from an more restricted effort to understand the meaning of the text only as it is believed those who wrote and ratified it understood it to be.

Of course, Mr. Lewis (and anyone) is free to disagree with Professor Ackerman, especially at the point when he shifts from a descriptive to a proscriptive posture – arguing that this "non-Article V amendment process" *should* happen -- at least in response to some major "world-changing" events or developments -- and should be openly embraced as something at least on an equal footing with the Article V process, if not superior to it. More recently, Professor Ackerman has been advocating for a "new Canon" of Constitutional documents serving as a foundation for Supreme Court opinions – one not limited to the original Constitutional text and amendments ratified using the Article V process, but more like the unwritten British Constitution in the sense that multiple documents, including both major Supreme Court opinions, and major national legislation for categories like Social Security and Civil Rights, would be explicitly and widely if not universally recognized as parts of the "new Canon." This whole approach is something Mr. Lewis fairly characterizes when he writes of the post-Civil War emergence of a "United State" rather than "the United States." There could have been ample opportunity for Mr. Lewis to engage with Professor Ackerman's arguments, operating from what Mr. Lewis might see as a "States Rights home field advantage." But unfortunately, Mr. Lewis does not tell his readers anything about this widely held "Conventional Wisdom" among lawyers, law school professors, political scientists, and others.

But beyond Mr. Lewis' failure to acknowledge or engage with other viewpoints – and Professor Ackerman's approach is not the only alternative – a further and explicitly moral issue must be raised. Mr. Lewis suggests there may have been ways like "emancipation compensation" to address the issue of Slavery. That might possibly be true. But while it is always a good idea to consider options and alternatives, this really evades the main issue. Slavery is at its heart a moral question. Mr. Lewis avoids the direct question: is it moral to allow some humans to own other humans as property?

It ultimately took fighting the Civil War, and a post-Civil War process that is still going on, for Americans to realize that the answer to this question is simply "No." But both realizing this, and working to correct it, has proven to be an enormously complicated and still-ongoing process. As we are always heading to the future, it seems inevitable that we will always be heading for both new penumbras and emanations from questions about Slavery and racism. But there are other important and enduring questions and issues. Consider the accidents and deaths that seem inextricably woven into the fabric of any industrial or post-industrial society. Most people know that every year about 40,000 Americans are killed in automobile accidents. America is actually doing relatively well for this category. In India that number is 300,000, in China it is 256,000, world-wide 1,350,000 people are killed each year. But did you know that each year in America over four million people are also injured by automobile accidents seriously enough to require medical attention? With our already-incredible and rapidly increasing capacity to automate things, when are we going to realize that -- purely from a moral standpoint -- continuing to operate our current transportation system amounts on an ongoing commitment to a system of random, mass human sacrifice, carried out on an industrial scale? What moral justification do we have for doing this? But here's another question to consider – it's a long one, but I'm putting it all in bold anyway: [Aside: one that Soren Kierkegaard might offer up if he were here today, idly smoking cigars on his park bench]: **How can we, as existing humans, limited by time, space, and all of our human frailties, determine how to allocate time, attention, and priority that we assign to one particular ongoing disaster rooted in a moral question, such as mass-human-sacrifice-by-transportation as compared to other ongoing disasters also rooted in a moral question, such as "structural racism" – while also remaining mindful of the time and energy it takes to stay alive, provide for ourselves, our families and loved ones, and try to maintain some kind of balance in our lives?**

We simply can't escape the fact that multiple society-wide moral questions, issues and challenges will always be with us. We also can't escape the fact that these questions can't only be answered

individually – in some way they must be answered as a society. Ultimately, secession could not have been a way to the Civil War – it would have amounted to a refusal to confront the inescapable moral wrong of Slavery. While some moral issues can be addressed by what amounts to a "division of labor" approach – the sum total of individual decisions to devote time, energy and resources towards a resolution, others, such as Slavery, require fundamental legal changes, and could have only been resolved through a society-wide "consent of the governed" approach.

Finally, we need to give a brief nod to the relationship between "individuals" and the societies that we live in. I put "individuals" in quotes, because in the years from the American Revolution to today, I think that the idea of an autonomous individual, capable of being guided by reason and making rational decisions, must be carefully examined, and should in any case not be taken as a given. A page or so back I mentioned Soren Kierkegaard, an Danish ordained Lutheran minister and known as the "father of Existentialism," who wrote in the 1840s and 1850s, at a time when industrialization was in full swing, and there was a kind of optimism that when combined with an establishment Church, everyone could simply be marched directly into Heaven. Kierkegaard saw this as both ridiculous, but also challenging – he explored and tried to explain what it means to exist and to be an individual human being who was capable of responding to Jesus Christ. More recently, Marshall McLuhan (1911-1980), a Canadian philosopher, was a founder of "media theory," which he viewed generally as "extensions of man" – not limited to ways of communicating and transmitting information. We should think of Jason Lewis as a kind of "creature of media" – shaped by the talk radio format he worked in. More generally, we should ask if talk radio itself, and not the debatable coherence, or danger, of the political ideology he argues for, is the main "message" from both Mr. Lewis and his book. If there were time, these lines of analysis would be pursued further – but… limited as we all are by time in space, were pretty much out of both for purposes of this review.

I'm not suggesting there are any easy answers here – only hard and seemingly endless questions.

Wrapping up – Mr. Lewis is an engaging writer with a story to tell. Unfortunately, the neo-States Rights approach he takes is fatally flawed in three respects. By attempting, in effect, to repeal all of American and world history from about 1900 forward, and much of it from post-Civil War era forward, his prescription would be incredibly dangerous. It would be a national disaster if it could be implemented at all – however, due to its vagueness and omissions the national disaster would feature a penumbra and emanations of confusion and chaos. Second, by failing to tell his readers of the theoretical foundation behind our "Conventional Wisdom" understanding of our Constitution and the

amendment process, he makes it far more difficult for dialogue and discussion to develop between people who hold different but intellectually respectable and coherent views of both what has been going on, and what should be going on. Third, and most fundamentally – in trying to escape from the reality that every society will always be facing moral issues, Mr. Lewis is fighting against a straitjacket: the fundamental post-Civil War reality that we are all in this together. Using free speech, listening to each other, and trying to find common ground and things we can agree on are not options. This is both all we can do, and the minimum that is required of each of us.

Mr. Lewis is the Minnesota Republican Convention-endorsed candidate for the US Senate in 2020 – **disclosure:** I am opposing him in the August 11th Republican primary.