



Written by [Luis Miguel](#) on March 31, 2023

Yes, Secession Is Constitutional. The 10th Amendment Proves It.

E pluribus unum.

The principle behind that short Latin phrase is just as controversial now as it was at two of the most important junctures in American history: the War for Independence and the Civil War.

As division continues to grow between left and right and between Democrat and Republican, ideas such as secession and “national divorce” are increasingly raised and debated.

While the political establishment has long claimed that the secession question was definitively settled by the North’s victory during the Civil War, recent developments have proven the universal truth that in politics, nothing is ever truly settled — the winds are continually shifting back and forth like a pendulum.

Indeed, a [growing number](#) of Americans are in favor of secession, with some [polls](#) indicating that as many as 37 percent of the country supports it.

Given the tough realities of today, secession can appear an enticing option. Why should leftist and conservative states continue together when our politics are so abhorrent to one another?

In that respect, there are strong cases to be made for secession. And there are also legal justifications for it. The Constitution may not have a “secession clause” in it; but then, it’s common sense that no government ever plants within itself the framework for its own demise.

But that does not mean secession is unconstitutional, illegal, treasonous, or insurrectionist.

In fact, for all of the complex debate surrounding the subject, the constitutionality of secession is simple to prove:

First, it is crucial to establish that, even though they didn’t use the term, the Founders believed in a natural right of secession, which they articulated very explicitly in the Declaration of Independence:

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature’s God entitle them....

That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation



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on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

It is very important to remember one thing: Simply because the Constitution does not name a right or freedom does not mean it doesn't exist. The 10th Amendment clearly states that "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."

Thus, The People, and the states that The People created, naturally possess every right and freedom that God has granted them. And, as the 10th Amendment states, the federal government is legally permitted to only restrict those rights in the limited ways that the Constitution explicitly delineates.

In other words, if the Constitution doesn't say the federal government *can* do it, then the rightful assumption is that it *can't* do it; and if the Constitution doesn't prohibit the states and the people from doing something, then the rightful assumption is that they *are* allowed to do it (it's up to state governments to work out what's going to be legal or illegal within state boundaries).

The way this applies to secession is very simple:

The Constitution does not have to outline a secession process or right in order for it to exist; the above-quoted language from the Declaration of Independence demonstrates that the Founders acknowledged a fundamental natural right to secession. They fought an entire war against Great Britain on the basis of their acknowledgement of that right.

Recall that the opening paragraph speaks of being able to "assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them," something they accomplish when they "dissolve the political bands which have connected them with another."

Moreover, recall that the Declaration states that "That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government."

If The People have a God-given right to dissolve the political bands that tie them to another and to assume their natural "separate and equal station," then, under the 10th Amendment, The People and the states retain that right unless the Constitution delegates it to the federal government or prohibits it to the states.

As it is, the Constitution has *no provision* prohibiting a state from seceding. Therefore, the logical conclusion, based on the 10th Amendment, is that the states *do* have that right.

Many of those who oppose the notion of secession make the argument that there is no right to secession because the Constitution does not have a secession provision anywhere within its text.

As we have just seen, that argument holds no validity, because, under the standard of the 10th Amendment, the burden is never on the states or the people to prove that they have a right; rather, the burden is always on the federal government to prove that the Constitution delegates it a given power that otherwise would rightfully belong to the states.

For example, the war-making power would naturally belong to the states if the Constitution did not prohibit it to them by delegating it exclusively to the federal Congress in Article I, Section 8.

So while there are many valid questions and arguments, including whether secession is the right



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solution at all or whether [nullification](#) and a return to true federalism are more viable answers to current federal overreach, the fact remains that secession is moral, legal, and constitutional.



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