



Written by [Selwyn Duke](#) on June 21, 2022

SECESSION! Texas GOP Is Talking About It. Is This Legal?

These United States rose above colony status by, essentially, seceding from Britain. Texas became one of these United States a decade after seceding from Mexico. Now Texas State Republican Convention members are talking again about the possibility of seceding — from the United States.

Critics, of course, say secession would be illegal. The *Texas Tribune*, for example, writes in a subtitle that the “Civil War established that a state cannot secede.” But do wars establish anything from a legitimately legal standpoint? Only if you believe that “might makes right.”



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As to the Texas GOP’s action, its “State Republican Convention adopted a platform urging the Legislature to put a referendum before the people of Texas in November 2023 ‘to determine whether or not the State of Texas should reassert its status as an independent nation,’” the *Tribune* [reports](#). The Texas paper is clear about its position on this, too: “No, Texas can’t legally secede from the U.S., despite popular myth,” its title reads.

In thus contending, these critics generally cite things such as a legal case following the War Between the States. To wit: “In 1868’s *Texas v. White* decision, the Court said leaving the Union can happen only through one of two ways: ‘revolution’ or ‘consent of the States,’” as *Newsweek* [relates](#).

Of course, courts don’t make law anymore than wars do — they render *opinion*. An expert *Newsweek* cited, Richard Albert, director of Constitutional Studies at the University of Texas at Austin, essentially made this point. “Albert cited the Supreme Court’s 1868 ruling that Texas does not have the right to secede,” *Newsweek* also relates, “noting that it is ‘not just, or even mostly, a matter of law’ but is instead a ‘question of power.’” Yes, Mao [would have understood perfectly](#).

But for those more likely to believe that right makes might (as in breeding courage) and who care about pesky things such as law, what does the latter actually dictate? Would states really have entered the Union were they told it was like the Hotel California, “You can check out any time you like, but you can never leave”?

They wouldn’t — and didn’t — according to the late Professor Walter E. Williams. In a 2020 [piece](#), Williams reminded us that the Treaty of Paris, which ended the War of Independence (1776-’83), declared that the seceding former colonies were “free sovereign and Independent States.”

When delegates from these states met at the Philadelphia convention in 1787 to form a union, Williams also [writes](#),

a proposal was made to permit the federal government to suppress a seceding state. James Madison, the father of the Constitution, rejected it. Minutes from the debate paraphrased his opinion: “A union of the states containing such an ingredient (would) provide for its own



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destruction. The use of force against a state would look more like a declaration of war than an infliction of punishment and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound.”

During the ratification debates, Virginia’s delegates said, “The powers granted under the Constitution being derived from the people of the United States may be resumed by them whensoever the same shall be perverted to their injury or oppression.”

The ratification documents of New York and Rhode Island expressed similar sentiments; namely, they held the right to dissolve their relationship with the United States.

Ratification of the Constitution was by no means certain. States feared federal usurpation of their powers. If there were a provision to suppress a seceding state, the Constitution would never have been ratified. The ratification votes were close, with Virginia, New York and Massachusetts voting in favor by the slimmest of margins. Rhode Island initially rejected it in a popular referendum and finally voted to ratify — 34 for, 32 against.

This is just common sense. Would you join a club, organization, or union if you were told not only that you’d be subject to the entity’s rules, but that you could never, ever leave? What is this, the mafia?

Interestingly, “secession” is associated with Southern independence efforts (for obvious reasons) and, therefore, talk of it often stokes liberal prejudice. In reality, however, New England was the original secessionist hotbed, in the early 19th century, and some Vermonters talked about going their own way quite recently, under presidents [G.W. Bush](#) and [Barack Obama](#) both. There’s also the Alaskan Independence Party, California’s “Calexit” movement, and New Hampshire’s Free State Project along with a multitude of other secessionist efforts involving states, municipalities, and even neighborhoods within cities.

Yet from a practical standpoint, “Texexit’s” critics are correct. As *Newsweek* puts it, quoting Albert, This “‘is not a battle Texas could win,’ either through the war or in the courts.”

That is, as for *now*.

Most people are prisoners of their time and merely project its norms into the future when prognosticating. But history’s pattern is one of consolidation of geographical entities — and also of their dissolution. The Roman Republic/Empire’s birth, maturation, and fall exemplify this. And precious few in the 1980s imagined the Soviet Union would soon collapse. But it happened.

Nothing of this world lasts forever.

Ex-congressman Ron Paul once pointed out that while the U.S.’s dissolution isn’t likely right now, this could change if the federal government ceases being able to meet its obligations (i.e., providing Social Security payments and its multitude of handouts). The incentive to stay with a weak, Constitution-trampling central government would then be gone.

For sure is that keeping our country truly “united” requires more than just having the term in its name and the threat of force. It helps to ensure we’re *one* people, bound together with *one* common language, culture, and history. And balkanizing us via unwise immigration policies, racial identity politics, and intense anti-American/Western propaganda doesn’t help in this regard. It seems, though, that too many pseudo-elites haven’t gotten the memo.

Or maybe they have?



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