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Parting Company Is an Option

My last essay in *The Freeman*, “How Did We Get Here?” (March), provided clear evidence that Congress and the White House, as well as the courts, had vastly exceeded powers delegated to them by our Constitution. To have an appreciation for the magnitude of the usurpation, one need only read Federalist 45, where James Madison, the acknowledged father of our Constitution, explained, “The powers delegated by the proposed Constitution to the Federal Government, are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people; and the internal order, improvement, and prosperity of the State.”

Short of some kind of cataclysmic event, liberties lost are seldom regained, but there is an outside chance to regain them if enough liberty-minded Americans were to pursue Free State Project’s proposal to set up New Hampshire as a free state. Free State Project (www.freestateproject.org) intends to get 20,000 or so Americans to become residents of New Hampshire. Through a peaceful



political process, they hope to assume leadership in the state’s legislature and executive offices, reduce burdensome taxation and regulation, reform state and local law, end federal mandates that violate the Ninth and Tenth Amendments to the Constitution, and restore constitutional federalism as envisioned by the nation’s Founders.

Since there is only a remote possibility of successful negotiation with Congress, the courts, and White House to get them to obey the Constitution, it is my guess that liberty could only be realized by a unilateral declaration of independence—namely, to part company—in a word, secede. While our Constitution is silent about secession, there is clear evidence that our Founders saw it as an option.

On March 2, 1861, after seven states had seceded and two days before Abraham Lincoln’s inauguration, Senator James R. Doolittle of Wisconsin proposed a constitutional amendment that said, “No State or any part thereof, heretofore admitted or hereafter admitted into the Union, shall have the power to withdraw from the jurisdiction of the United States.” Several months earlier Representatives Daniel E. Sickles of New York, Thomas B. Florence of Pennsylvania, and Otis S. Ferry of Connecticut proposed a constitutional amendment to prohibit secession. One is immediately faced with the question: would there have been any point to offering these amendments if secession were already unconstitutional? Moreover, the ratification documents of Virginia, New York, and

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Rhode Island explicitly said that they held the right to resume powers delegated should the federal government become abusive of those powers.

Madison Objects

There's more evidence. At the 1787 constitutional convention, a proposal was made to allow the federal government to suppress a seceding state. James Madison rejected it saying, "A Union of the States containing such an ingredient seemed to provide for its own 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."

Professor Thomas DiLorenzo, in his revised *The Real Lincoln*, provides abundant evidence in the forms of quotations from our Founders and numerous newspaper accounts that prove that Americans always took the right of secession for granted. Plus, secession was not an idea that had its origins in the South. Infuriated by Thomas Jefferson's Louisiana Purchase in 1803, the first secessionist movement started in New York, Massachusetts, Connecticut, and other New England states.

The preponderance of evidence shows that states have a right to secede. The Constitution probably would have never been ratified if the states, sovereign nations as per the 1783 Treaty of Paris that ended the war of independence with Great Britain, had not believed they had a right to secede. The only barrier to secession is the brute force of the federal government, as witnessed by the costly war of 1861 that produced only one decent result—the elimination of slavery. Since the issue of secession was brutally settled, it left a devastating legacy for future generations of Americans. The federal government is free to run roughshod over the restrictions and safeguards the Framers imposed on the federal government.

Self-determination is a human right we all should respect. If some people want socialism, that is their right, but it is not their right to use force to make others who wish to be left alone be part of it. By the same token, liberty-minded Americans have no right to impose their will on socialist-minded Americans. A far more peaceful method is for each to simply part company.

One wonders whether the brutality witnessed in 1861 would be repeated if New Hampshire seceded—massive troops along with today's deadly modern military equipment and Americans killing Americans. □