

Oregon Counties Vote to Secede Into Idaho



By Paul Engel

- Five counties recently vote to leave the State of Oregon and join the State of Idaho.
- Pundits have claimed this is nothing new, that several states have done this before. But is that true?
- What are the constitutional ramifications if that were to happen?

By now most of you have probably heard the reports of counties that have voted to break away from Oregon and become part of Idaho. While this type of vote is not an unheard of development and many pundits have claimed there is precedent, should these counties get their wish it would be a first time event in American history. Let's cut through the political positioning, wishful thinking, and questionable constitutional analysis to see what it would take for these counties to move between states.

On May 18, 2021 the voters in five counties voted to secede from the state of Oregon and join the state of Idaho. Malheur, Sherman, Grant, Baker, and Lake counties join Jefferson and Union counties, who had already approved measures last year. I've read and heard quoted a few comments on this vote, many claiming that there is precedent for it. They point to the states of Kentucky, Maine, and West Virginia as examples. What is being proposed in Oregon though, is unique in our history.

Why Change States

Oregon, like many states with large urban populations, has a

schizophrenic personality. Voters in urban areas tend to prefer centralized control, large government programs, and restrictions on rights that are disfavored by the political class. For these reasons, they tend to vote for members of the Democratic Party. Rural areas, on the other hand, tend to prefer local control, different government programs, and like exercising the rights disfavored by those in the urban areas. In other words, they tend to vote for members of the Republican Party. In states where the urban population is around half of the state's number, this tends to lead not only to a serious divide in how people think the state should be run, but an almost "tail wagging the dog" mentality, when the voters in the majority of the state are overruled by the population of a major city. Having lived most of my life in upstate New York State, I am very familiar with this phenomenon.

Most people in this situation, like me and my family, simply move to another state. But what if you don't want to move? Do you stay and suffer under a regime you disagree with? Do you fight to change the system which is stacked against you? Or, do you try to move your county rather than your family?

Oregon's Solution

New states have been created from other states in the past. Kentucky in 1792 and West Virginia in 1863 were created out of Virginia, and Maine was created from Massachusetts in 1820. There has been talk for years of California dividing up and creating new states as well. However, what the voters in Oregon are asking to do has never been done before in American history. Rather than creating a new state, which has been done, they wish to transfer territory from one state to another.

The U.S. Constitution includes a process for new states to be formed from the territory of one or more states, but there is nothing about territory being transferred from one state to

another. Should the move continue, it brings up some very interesting constitutional questions.

Most people I've read or heard talk about this secession say that the move would have to be approved by the legislatures of both Oregon and Idaho, and then be approved by Congress. After all, this is the process used to create Kentucky, Maine, and West Virginia, isn't it? Is that what the Constitution says?

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

U.S. Constitution, Article IV, Section 3, Clause 1

There would be no new state being admitted to the union. So, unlike the states used as examples in these articles, Article IV, Section 3, Clause 1 does not apply. Does that mean the states wouldn't require the approval of Congress? No. Even though a new state would not be admitted to the union, what these counties are asking for is an agreement between the two states, an interstate compact.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

U.S. Constitution Article I, Section 10, Clause 3

If these states wish to enter into an agreement to transfer territory between them, Article I, Section 10, Clause 3 of the Constitution says they would need the consent of Congress.

While I try to avoid political discussions here, I don't see how you can discuss the transfer of territory on this scale without doing so. The Oregon legislature is currently controlled by the Democratic Party, while the legislature of Idaho by the Republican. Would the democrats in Oregon want to transfer the representation in Congress to a republican held state? Would the Republicans in Idaho want to take on the responsibility of this new territory? There may be additional tax revenue from these new citizens, but what about the costs of maintaining this new territory? And don't forget the re-organizing of both legislatures. Not only would this move require redistricting, depending on each state's Constitution, but it may also require changing the size of their legislature. Since the census will not be taken again until 2030, no change in apportionment would happen until then. Would the legislature in Oregon trade the short-term consolidation of power for the long-term loss of representation? Then there's the politics of Congress to consider. Would Congress, which is currently controlled by the Democratic Party, wish to see this territory and the associated seats in the House and Presidential Electors transferred to Idaho? My instincts are that the legislatures both in Oregon and Washington, D.C. would not look favorably upon such an agreement.

Conclusion

The Oregon vote is quite interesting to me. It shows both the desire of the people to change and their willingness to fight for their land. Is that enough? As of the writing of this article, I don't know how the legislature of Oregon will respond to this vote. Are the legislators willing to trap people in an unhappy situation to further their political goals? We've seen that before in world history, and it doesn't end well. Does Oregon let these counties go, like a jilted lover wanting only what is best for the target of their affection? Do Idaho legislators want these counties? Sure,

they mean more representation in Congress and the Presidential elections, but that does not come without a cost. What do the people of Idaho think about absorbing some of their neighbors?

I think the answer of how Congress would respond is a simpler one to answer. Whichever party controls the houses will do what is best for their party, not for the residents of these two states. Therefore, I doubt a house of Congress controlled by the Democratic Party would approve, while one controlled by the Republican might. Since it would probably take years before such an agreement would even make it as far as consideration by Congress, your guess is as good as mine as to how they would vote.

What this vote, along with prior votes in California, should prompt among all Americans is a fundamental question of freedom in a Constitutional Republic. What is the responsibility of a state when dealing with minority opinions? Should population centers overrule the will of the people of the rest of the state? How can these legislatures best represent the will of the people? We have a bi-cameral Congress specifically to prevent large population states from running rough-shod over those with smaller populations. Should states look at that model and consider something similar in their legislature? Should our states have one house with district apportioned by population and another by land? Would allowing counties to transfer to a state where they think they would be better represented be a good thing? And what about the long-term ramifications of having more fluid state lines? To me, these are all valid questions that we should be asking, not just in Oregon and Idaho, but in every state of the nation. The discontent shown in Oregon, California, and probably several other states, should not be brushed off as if they're just "sore losers". These are symptoms of a much more serious problem in our nation and the growing divides between us. Our unwillingness to allow others to live as they see fit and our desire to impose our will on others, is creating

schisms this nation not seen since the 1860's. Rather than looking for politicians or programs to solve our problems, perhaps we should listen to George Washington:

And since the preservation of the sacred fire of liberty, and the destiny of the Republican model of Government, are justly considered as deeply, perhaps as finally staked, on the experiment entrusted to the hands of the American people.

George Washington's First Inaugural Address, 1789

If we are to preserve the sacred fire of liberty and this experiment in self-government, We the People must be worthy of the trust our Founding Fathers placed in us. I pray we figure that out soon. Because the last time this nation was so divided, we had a Civil War.

© 2021 Paul Engel – All Rights Reserved

E-mail Paul Engel: paul@constitutionstudy.com

[BI0: Paul Engel founded The Constitution Study in 2014 to help everyday Americans read and study the Constitution. Author and speaker, Paul has spent more than 20 years studying and teaching about both the Bible and the U.S. Constitution. Freely admitting that he “learned more about our Constitution from School House Rock than in 12 years of public school” he proves that anyone can be a constitutional scholar. You can [find his books on Amazon](#) and Apple Books. You can also find his books, classes and other products at the Constitution Study website (<https://constitutionstudy.com>).]