

National divorce is... (and isn't...)

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February 25, 2023



When Rep. Marjorie Taylor Greene (R-Ga.-1st) revived her concept of national divorce, she set the whole country buzzing. But *CNAV* has, so far, found *no* commentator who understands what Rep. Greene proposes. Which is not to say that her proposal would end well – *CNAV* continues to say that it will not. But it *is* to say that some people can't even *read* what other people write. In fact, the national divorce would *not* work as Greene proposes it, and would be a *last resort* as everyone else *thinks* he understands it. Finally, *CNAV* would like to suggest an alternative, that the 2021 term of the United States Supreme Court makes possible.

National divorce – what it actually is...

Marjorie Taylor Greene first set forth *two* elements of her national divorce on New Year's Eve 2021. Actually she simply agreed with one other commentator who suggested them first. The two elements of her original national divorce were:

1. *Durational residency* requirements for U.S. citizens moving into “red States” from “blue States.” Durational residency means offering voter registration only to those who have been residents for a minimum time – say, one year. In 1972, the Supreme Court ruled durational residency unconstitutional. (*Dunn v. Blumstein*, 405 U.S. 330 (1972).) Obviously, implementing this element means overruling that precedent. States might then reciprocally waive durational residency for citizens moving between them – but only with the consent of Congress.

2. A “sin tax” for former “blue State” voters. While the Supreme Court has heard no case on point, *CNAV* doubts the Court would ever allow it. It would be a bill of attainder – declaring an entire class of people liable for a fine. In any case, no State has ever charged an entry fee for establishing domicile.

On President’s Day, she mentioned national divorce again and offered the results she sought. Under it, *each State government would have full power to impose whatever regime it wanted upon its residents*. Many federal functions would devolve upon the States; hence the federal government would be much smaller. But *only the “red States” would respect the rights most of their residents hold dear*. The “blue States” would not – and *the federal courts would not interfere*.

... and isn’t

Jack Posobiec talked about Greene’s proposal two days ago in the first eight minutes of his program, *Human Events Daily*.

He quoted several leftist commentators on various morning shows. Clearly those commentators *did not* understand the Greene proposal. Neither did “Poso,” for he defined national divorce as secession.

 | This is not viable. It is not possible. And I really don’t think that we should be spending that much time talking about it. I think that people might be saying it for good reasons and well-meaning reasons. But it’s also not going to happen.

At least, “Poso” *hopes* it will not happen, because civil war would, in his view, be the inevitable result. Perhaps he did not account for the case of secession by mutual agreement. He did, however, suggest that war would be inevitable. Todd Starnes almost admitted as much in his own commentary.

 | Our states have all the food, guns and our women folk are actually women.

Yes, and the Army of the Blue would attack the Army of the Red if only to seize the food.

Real secession movements

So far, *one* international secession movement exists: the Texit Movement. The Texas Nationalist Movement will try again this year to place on the ballot a referendum to create a Texas secession study committee. The last time they tried that, Texas State House leaders “chubbed” the measure – that is, killed it with procedural delays. But some of the “chubbers” lost re-election in 2022. Furthermore, TNM claims 66 percent support from their fellow Texans, according to a recent poll.

The most prominent *interstate* secession movement is the Greater Idaho movement. Eleven Oregon counties have voted thus far to secede from their State and join Idaho. *Last week, the Idaho House of Representatives voted 41-28 to invite them to join.* In history, four other States have formed as breakaway States:

- Kentucky (from Virginia),
- Maine (from Massachusetts), and
- Alabama and Mississippi (from Georgia).

West Virginia doesn't count; that "secession" was more like a capture during the War Between the States.

Never before have a group of counties actually left one State to join another. In any case, such changes require the consent of any State legislature concerned as well as of the Congress.

National divorce, Greene style – how to implement it

"Poso" has a problem with national divorce, and CNAV has a problem with national divorce. But they are not the same problems, because "Poso" and Greene have two different ideas, though "Poso" doesn't realize it.

Marjorie Taylor Greene's national divorce, to become real, involves two specific changes. First, it means dissolving most Cabinet departments. As CNAV said before, the Departments of State, Treasury, Defense and Justice would remain. These Departments deal with the core functions of any government, and must exist at the federal level. The State Department would take over the Census Bureau, and immigration and naturalization. Perhaps the Treasury Department would share the "customs" function with the State Department. (Passport issuance to citizens, and passport *control* for incoming visitors and returning citizens, is *always* a State Department function.) Border protection would go to Defense, where it belongs. (Homeland Security would devolve to the States – but that would require the second step.)

Second, the Constitution would require drastic amendment. To enhance "States' rights and State power" as Greene proposes, would require the outright repeal of Article I Section 10. Furthermore, States would gain the power to *ignore* the federal courts on matters of:

- Qualifications of electors,
- Alleged deprivations of life, liberty or property with or without due process of law, or even
- Recognition of the right to keep and bear arms.

CNAV has mentioned before the sort of changes in people's lives that would take place.

Why not do this instead?

Marjorie Taylor Greene does not seem to realize the extent of the sea change that came about in the 2021 Term of the United States Supreme Court. That Court handed down several thunderclap rulings that will let freedom lovers push back against the “administrative State.” That applies not only at the federal level but also at the State level.

New York State Rifle and Pistol Association v. Bruen came as close as ever to establishing an *absolute right* to keep and bear arms. Private owners of guns could push for that absolute right, as hard as “pro-life” people did. Yes, many States are defying *Bruen*. So, sue them again and again until the Supreme Court says, “Enough!”

Carson v. Makin is even more important, as is *Kennedy v. Bremerton School District*. *Carson* especially renders unconstitutional every federal law, State law, or State *constitutional* article, that mandates or allows discrimination, in the part of the government, against people of faith. Twelve States (Arkansas, Connecticut, Iowa, Maine, Maryland, New Jersey, North Carolina, Ohio, Rhode Island, Tennessee, Vermont, and West Virginia) never had “Blaine Amendments.” Louisiana had one, but *repealed* it. Every State that still has one, should repeal it. And every State that *doesn't* have one, should *stop acting as if it does*. That includes the State of Maine, but should also apply to the States of New Jersey, Rhode Island, and Vermont.

Down with the Administrative State!

The Supreme Court also severely weakened the Administrative State, at least at the federal level. In *West Virginia v. EPA*, the Court held that some things *must* be a matter of legislation, not rule-making. The Court *further* held that *technocracy* does not accord with the Constitution, either.

Here we see the other flaw in the Marjorie Taylor Greene national divorce proposal. It starts by abolishing all but four federal Cabinet departments – a good thing. But *then* it invites *States* to establish comparable departments and to make just the sort of arbitrary rules the Biden administration would like to make. If you lose your rights, it doesn't matter whether the order came from Washington, or Sacramento. (Or Albany, or Salem, or Olympia, or Springfield, or Annapolis, or Richmond.) Nor does it matter whether you lose your rights to a city government. So if a State or local government is abridging the Bill of Rights, *sue them*. The Constitution *does* forbid some powers to the States, as well as reserving others.

Freedom loving people *cannot allow* any State within something called the United States to revoke the Bill of Rights. Nor can they allow States to be arbitrary or capricious with administrative power. And we certainly don't want to see States set up “customs checkpoints” to stop people from bringing guns – or Bibles – into or through their territories.

A national divorce no longer looks attractive, when one considers the rights some people might lose.