

The Value of Secession in Constitutional Evolution

Jenna Bednar
jbednar@umich.edu

September 2016

Abstract

Secession threats abroad and nullification threats within the United States are a display of defiance that threaten the existence of federal unions. What do these secession threats imply for the robustness of these unions? Conventionally, secession threats are viewed as a bargaining point where the subgovernment threatening secession benefits at the expense of the rest of the union. In this paper I introduce an extended perspective on the value of secession threats, conceiving of them as information-generating moves. The radical negotiation spurred by a serious threat causes a union to explore federal arrangements with uncertain consequences.

In order to make this argument I sketch a model of legal evolution. This model suggests how constitutional legal code shares similarities to genetic codes, and applies insights from biological evolution to suggest a framework for analyzing the dynamics of constitutional law, highlighting the information-generating process of evolution. Using these insights, I make three points: (1) the existence of secession options both eliminates the possibility of optimal federal system performance and is necessary to build performance toward the second-best; (2) secession threats can create shifts in the allocation of authority that would not happen under ordinary operation (i.e., unstick a federal union from a local equilibrium); (3) whether this destabilization is useful is a function of the volatility of the environment.

Imagine a world where secession threats were not possible. Would those of us who live in federal unions be better off? Most analyses of secession lies in one of two clusters; economic arguments that treat secession as a strategic instrument in federal bargaining, and moral arguments that weigh secession's necessity as a means toward a population's self-determination.

In this paper I break from conventional treatments of secession to focus on the function of institutions as information providers. In order for federal systems to continue to structure governance well, they need to be able to adapt to changing circumstances. Adaptation requires innovation and learning. Institutions can shape the capacity of a system to learn.

While theories of institutions-as-information-generators exist, they don't capture the dynamics of interest to us here, with our concern for federal adaptation. Therefore the heart of this paper introduces a theory of legal evolution that is tied to biological models in order to be specific about the consequences of a mechanical process. While the evolutionary model of law is necessary for a proper establishment of my primary argument here—that secession threats can have value to a federal system—the implications of the model have greater reach.

I use the perspective of information-provision and the model of evolution to make a claim for the conditional value of secession. I draw three conclusions about secession based on results from biological evolution: (1) the existence of secession options both eliminates the possibility of optimal federal system performance and is necessary to build performance toward

the second-best; (2) secession threats can create shifts in the allocation of authority that would not otherwise happen; (3) whether this destabilization is useful is a function of the volatility of the environment.

1 What Institutions Do

We begin by placing the study of secession within the frame of positive political theory. In this research paradigm, agents make choices in order to best achieve their goals, subject to the constraints of information, their own resources, and the choices that others make. The last three constraints—information, endowments, and incentives—are features of the choice problem that positive political theory scholars label as “institutions”.

In this section I lay out two functional theories of institutions, as distributors of welfare and as information providers. Theories of secession emphasize the distributional effect that secession has on welfare. I make an argument that it can have an important effect on information as well.

1.1 Secession as Threat

In the early 1990s, the fledgling democracies of eastern Europe had constitutional choices. These choices would set the tenor of governance within their countries for decades to follow, and so constitutional scholars made many recommendations about constitutional design, including whether the eastern European countries would follow the lead of the Soviet Union and include a

secession clause in their constitution. Sunstein (1991) fretted:

“To place such a right in a founding document would increase the risks of ethnic and factional struggle; reduce the prospects for compromise and deliberation in government; raise dramatically the stakes of day-to-day political decisions; introduce irrelevant and illegitimate considerations into those decisions; create dangers of blackmail, strategic behavior, and exploitation; and, most generally, endanger the prospects for long-term self-governance.”

That’s an astonishing list of bads; I print it in full because it captures the concern shared by many constitutional scholars about secession clauses. Sunstein recognized the case for secession as a moral and political right, but not as a legal right. He objected to making such a menacing instrument cheap.¹

Most of the scholarly literature on secession focuses on its value to a subpopulation, where its threat becomes a bargaining chip that destabilizes a union (Roeder 2007, Meadwell 1009, Elkins, Ginsburg, and Melton 2009). Groups threaten to secede while bargaining for more resources; wealthy territories seem particularly prone to separatist movements because their ability to support themselves makes the threat credible. Often, secession threats are tied to differences in language, race, history, or religion, and secession becomes the instrument of self-determination. I have found that the existence of relatively inexpensive exit options reduces the overall productivity of a federal union, even if those options are not exercised (Bednar 2007).

¹In contrast, Weinstock (2001) argues that secession rights ought to be included in a federal constitution to regulate their use; with a legal right comes a process for using it. Chen and Ordeshook (1994) write that secession clauses can serve as coordination devices, informing each party of likely strategies that the other governments will take.

By making options available—even when those options are not exercised—the health of the union is affected. In a federal system, each participating government bases its own willingness to make sacrifices upon its faith that other members will make similar sacrifices. The mere possibility of secession reduces the expected value of the union. Cheap secession rights essentially doom the union; and moderately costly ones reduce the overall performance of the union. The United States’ Civil War preserved the union, but also established a precedent for costly secession, boosting the strength, and performance, of the union. Democratic theorists recognize the usefulness of secession as a last-ditch means to refuse an overreaching government (eg Buchanan 1991, 2006; Norman 2006).

These arguments about secession are related to the distributional function of institutions, whether in allocating material goods or authority. We commonly think of governments as servants of their constituents, setting policy according to a function that aggregates preferences to determine which obtain priority. In positive political theory, institutions assume the role of these aggregation mechanisms that establish the social choice. Institutions designed differently may differ in the way that they sum up citizens’ desires. Depending on the institution in play, the choice might match the preference of the median voter, or favor the status quo, or protect minorities through a supermajority selection criterion. Multiple institutions may interact, each representing a different aggregation method. Choices made can be sequenced through a formal process: legislatures initiate bills, delib-

erate, perhaps through two differently composed houses, and then handed to an executive to accept or reject; this act may be final, or may return to the legislature for an opportunity to override the veto. This method of analyzing institutions, as preference-aggregation mechanisms with distributional effects, is so prevalent that my colleague George Tsebelis uncontroversially subtitled his excellent contribution to the field, *Veto Players*, “How Political Institutions Work” (2002).²

Within this preference-based frame, the institution of federalism provides a new wrinkle: it is a mechanism that says what preferences will *not* be aggregated en masse. As Oates (1972, 1999), among others, tells us, federalism is valued because of its ability to satisfy distinct priorities simultaneously. If preferential differences are clustered geographically, then there’s an opportunity to make everyone happier by decentralizing some choices, as long as there are no spillover effects from the differences between regional policies.

This last caveat of Oates’ Decentralization Theorem—that no spillovers exist—is what bothers most opponents of secession. When one region lays claim to exercising authority within its boundaries according to its own preferences, its actions may annoy or injure those in other parts of the union. Sometimes the dispute is a zero-sum struggle for control over finances or resources, but it may also include choice over language, or involvement of religion, or treatment of minority populations, topics about which a region

²See, for other recent works, Cooter 2000, Bueno de Mesquita et al 2004, Thelen and Mahoney 2015.

may have distinct preferences and to exercise them affects the welfare of residents in the remainder of the union. Wherever there is intergovernmental bargaining, institutions shape the compromise that results.

1.2 Institutions as Providers of Information

The limitation of the preference-based perspective is that it misses, or at least undercounts, a key function of the institutions of governance: they provide information. Institutions certainly do select winning preference arrays, distributing divisible goods. But institutions distribute information as well as goods; they aggregate information about the problem space and solutions to those problems. Different institutions have different informational consequences. When the problem is not how to divide a pie, but instead how to cooperate for mutual advantage, institutions can facilitate the revelation of information, or establish mechanisms for punishment and reward that incentivizes cooperative behavior.³

Most of the institutions-as-information-providers scholarship focuses on improving exchanges: setting conditions for long-distance trade, or overcoming collective action problems, or managing shared resources. But institutions also shape the *quality* of information that is produced. Krehbiel (1994) stirred controversy with his deemphasis on the distributional consequences of the congressional committee system: decisions taken in committee differ

³Foundational work includes Axelrod (1984), Olson (1965), Ostrom (1990), and Milgrom, North and Weingast (1990).

from the floor median, and that structure provides information to Congress. Chwe (2001) described how institutions affect the diffusion of information and the development of common knowledge. Page (2006) describes how institutions that incorporate diverse perspectives make better decisions. And McCubbins and Schwartz (1984) describe different congressional methods for oversight.

In each of these cases, institutions have distributional consequences, but mainly the authors want to understand how the institutional structure affects the quality of information available to the agents. Expressed preferences become information for the system. Ideas are batted about in institutional space. The institutional structure—methods of aggregation, ordering of decision-making, methods of reconsideration or rejection—select what ideas are considered and then subject those ideas to various filters. In an information-based theory of institutions, the institution’s function is to help society learn about the problem environment. The institution affects the search process; it affects how much information the agents have about the problem environment as they weigh policy alternatives.

When we focus on information we do so because of an interest in system performance rather than tallying winners and losers. A robust federation manages surprises and adapts to change (Bednar 2009). Doing so means that it must search to improve its ability to respond. The issues that a government is called upon to solve, and its capacity to solve them, is a function of its authority. The problem space may change for any number of reasons:

technology, interconnectedness, constituent sentiment. Automatic weapons, love between people of different races or same sexes, money and goods traveling around the world far faster than the wind—these are all social and economic features that people living 200 years ago couldn't contemplate. To manage the government's response to them well means learning about the problem environment. It means transforming thinking from the zero-sum mentality of the distributional approach to the positive sum that comes from learning, experimenting, reflecting, and responding. It requires an institutional structure that can embrace new ideas about the right way to resolve problems. Sometimes the government's capacity needs to expand, or transfer authorities between national and state levels. Sometimes we learn that we are now able to do better with less government altogether.

In this paper I make the case that secession might improve a federation's robustness, despite being the very thing that can cause a federal system to fail, because of its capacity to inject new information into the system. I first need to develop a theory of legal evolution. I'm building from theories of informal legal change, but tying them to a model of evolution from biology in order to expose underlying mechanisms of constitutional dynamics—how its future is a function of its past—in more detail.

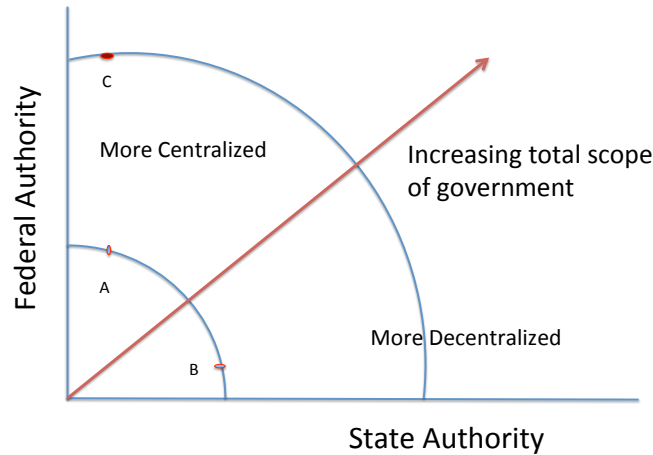
2 A Model of Legal Evolution

I have established as a working premise that in order for federal systems to be robust they must have an adaptive capacity (Bednar 2009). Constitutional amendment is rare, so constitutional change must occur through informal means, through the practice of governance (eg., Strauss 2001, 2010, Young 2007, Primus 2013, Amar 2012, Balkin 2011, Griffin 2016). The practice-based account of constitutional change credits political agents—government specialists, interest groups, and the public—with recreating the constitution as they go about their business of operating the government.⁴ The change agents are the governments themselves, as they push against boundaries of their authority, and the safeguards that review the constitutionality of new authority proposals: judicial, structural, political, popular, and intergovernmental (Bednar 2009). For example, Eskridge and Ferejohn (2010) see constitutional construction through legislative “superstatutes”.

In this section I provide a sketch of a model of legal evolution that borrows from biological processes and complex systems. I will lean on the intuitions of these theories: that meaningful constitutional change occurs within an institutional environment but outside of formal amendment; that the process of change is affected by the institutional structure; that multiple interpretations of the constitution may be held simultaneously by different constitutive parties; and that the process of change itself can be gradual. I first describe

⁴Llewellyn (1934) named these three groups. For a description of the practice-based theory see Griffin 2016.

Figure 1: Federalism's Authority Space



the specific constitutional feature of interest to us here: the distribution of authority between national and state governments.

2.1 Federalism's Authority Space

In *Federalist 46*, James Madison took up the question of which government, state or federal, would be dominant. His answer was neither—that the people alone determine each government's authorities, and by implication, whether the federal system will be more centralized or more decentralized. They also choose whether there will be more or less government overall. The distribution of authority between federal and state governments is a tool for the public's use, to craft a government that best addresses the public's needs.

In Figure 1 I've drawn a minimal representation of the distribution of authority in a federal system. I first reduce all of the many competences that a government might have to a single dimension of "more" or "less" authority. I plot distributions along two axes representing the extent of the authorities allocated to each level of government—federal and state. Authority distributions can then be plotted as points on a plane. Along the x-axis is the extent of authority constitutionally allocated to the states, while federal authority is plotted along the y-axis. Relative centralization is measured along each blue arc: trace an arc up and to the left and the union becomes more centralized. The red diagonal vector measures total authority scope of government. At the origin there's no government; move outward from the origin and the government's scope of authority grows. As government grows more powerful, the arcs that represent different measures of relative centralization move outward from the origin. The vector also bisects each centralization arc; any plot above the red vector represents a distribution that would be characterized as "more centralized", while those below the vector are "more decentralized".

While no absolute measurement of federal distributions of authority exist, Figure 1 can be used as a visual device for relative comparisons as authority distributions shift in federal systems. In Figure 1 a shift from point A to B represents a transfer of an existing authority from the federal government to the state without any net change in overall governance. For example, the replacement of the American welfare program Aid to Families with Dependent

Children (AFDC) with Temporary Aid to Needy Families (TANF) shifted responsibility for key program details to the states without creating new authorities. A shift from A to C, in contrast, represents the creation of a new governmental authority, in this case one that is assigned entirely to the federal government. The USA PATRIOT Act⁵ is an example; it authorized the federal National Security Agency to collect en masse the private information of citizens and residents.

Extrajudicial interpretation of the rules determining the distribution of authority is an important part of constitutional development. Each safeguard can read the Constitution according to its own lens; as Griffin (2016) noted, the differing perspectives lead to different interpretations. As safeguards apply their interpretations, the authority distribution may shift. Consider the evolution of marijuana possession laws in the United States. Marijuana sale, possession, and use was first decriminalized in some states for medical purposes, and now, in two states, a market has been legalized by state legislation. In all 50 states, marijuana remains classified federally as a prohibited substance, and the Court continues to recognize federal government's authority. And yet anyone living in Colorado can walk into a marijuana dispensary and purchase marijuana, no prescription needed, and consume it without fear of criminal sanctions. Initially the Obama Administration suggested that it would pursue offenders of the federal law, but in the face of public pressure,

⁵The Act's name is a backronym: the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* of 2001.

it decided to stand down. In the marijuana example we can see the two-fold push and pull of authority dynamics. States proposed a change and the safeguards—here, the popular safeguards of public opinion—accepted it. (In most states, marijuana decriminalization was passed by direct democracy.) While the federal government would have the Court’s backing if they asserted their authority, they would not have the public’s support. For the moment, the distribution of authority has shifted in the states’ favor because of the shifting position of the public.⁶

Shifts in the authority space may come when the Court removes ambiguity about whether governments possess authority to legislate. The U.S. Supreme Court’s decision in *McDonald v. City of Chicago*⁷ determined that its interpretation of the Second Amendment in *Heller*⁸ applied to the states, not just to the District of Columbia. Following this ruling, states could no longer impose regulation to make it effectively impossible for individuals to own a handgun. In the eyes of those who believed that the government could regulate firearms to this extent, the *Heller* decision shifted the plot downward, vertically; the holding applied only to the federal government. *McDonald* shifted the plot leftward, shrinking the authority scope of the state governments. Had the Supreme Court heard the *McDonald* case first,

⁶Another beautiful example of multiple safeguards at work—judicial and extrajudicial—is in Canada’s Patriation Reference, where the Court pointed out that the constitution is the written Constitution plus conventions; while conventions are not upheld judicially, they are a vital component of the Canadian constitution.

⁷561 U.S. 742 (2010)

⁸*District of Columbia v. Heller* 554 U.S. 570 (2008).

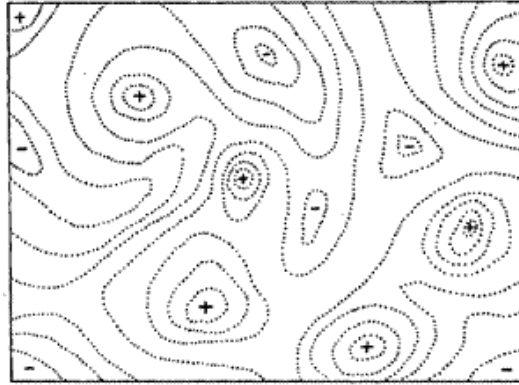
it may have both declared a new interpretation of the Second Amendment and argued that the limit applied to both federal and state governments at once. In this case, the plot would have moved downward to the left on a diagonal path aimed directly at the origin.

The distribution of authority moves frequently within federalism’s authority space, driven by states or the federal government pushing against their authority boundaries, and held in check by the safeguards’ interpretations of the constitution. The scope of government—the position in the authority space—is in tension with the cost of its scope; as governmental powers grow, so does the cost to citizens in the taxes required to support it and in limitations to their liberty. Sometimes the cost is worth the price, and sometimes not. It is also worth noting that the relationship between scope and effectiveness, and scope and cost, is not necessarily linear. Sometimes partially enabling a government to act only introduces regulatory obstructions that have insufficient weight to change behavior fully. The authority distribution space will have “sweet spots” where the allocation of authority leads to higher governmental performance.

2.2 A Legal Landscape

Thinking about the relative advantage of changing the distribution of authority (and the policies therefore available to the governments) is a knotty problem. Representing a complex dimensional problem in tractable form is challenging, but we need a simplification to make analysis possible. Evolu-

Figure 2: A Topological Landscape



Source: Wright 1932:358.

tionary biologists faced a similar problem. In the 1920s, biologists Sewall Wright (1932) and J.B.S. Haldane (1931) were developing mathematical theories of evolution using gene combinatorics. They theorized that different gene combinations were better or worse fits for the organism's environment. Darwin's studies suggested that evolution was not characterized by disjunctions but instead by sequential change. These scientists were developing genetic theories to explain phenotypic changes, and genetic evolution, too, was sequential, they surmised.

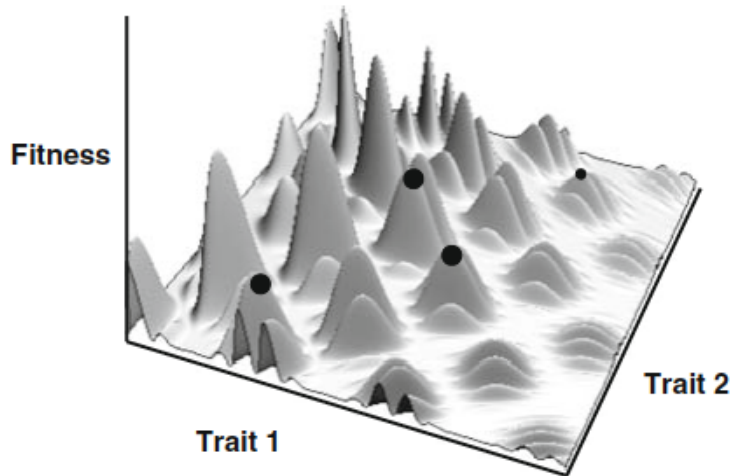
To simplify the explanation of the concept, Wright reduced the massive dimensional complexity of the combinatorics problem to two dimensions—say, body mass and leg length, or whatever. With this simplification, he could draw the problem topologically. (Perhaps people of that era were accustomed to reading surveyor's maps and could recognize the significance of

contour lines.) Figure 2 is the map he drew. Wright placed + or - symbols inside of the smallest circles to indicate whether the spot is a peak or valley, and the lines are altitude gradients. The figure thus represents a “fitness landscape”: moving around in the space represents how well-suited different genetic combinations are for their environment. Adaptive processes like natural selection pushed the evolutionary process to climb hills toward improved fitness. Evolution, then, could be understood as simply as going for a hike; change happened one step at a time, creating sequential pathways. With this simple illustration, the budding naturalist could come to understand genetic evolution viscerally, while musing during a daily ramble about the countryside. Some modern mathematical biologists disdain the crude simplification,⁹ but the fitness landscape remains one of the more recognizable, and useful, conceptual tools in evolutionary biology (eg, Carneiro and Hartl 2010). With modern graphing technology the landscapes are more often represented in three dimensions, as in Figure 3.

The application of the fitness landscape metaphor to federalism may be even more intuitive than to genetics. The fitness landscape captures two essential working assumptions: continuous space (a landscape has no holes), and a topography, where each location can be assigned a fitness measure, comparable to others. With federalism, we are already accustomed to thinking about the federal distribution of authority in two dimensions, as I did in Figure 1. We also can derive meaning from an origin and movements out of

⁹See an excellent discussion in Wilkins and Godfrey-Smith 2009.

Figure 3: A Fitness Landscape in Three Dimensions



Source: Wilkins and Godfrey-Smith 2009:205.

it, where genetics has no similar measurable spatial corollary. At the origin (the lower left corner) there is no government; any movement into the interior of the plane represents expansion of governmental authority, growing larger as it moves away from the origin.¹⁰ Hence the continuity of space is uncontroversial, and the reduction to two dimensions is a conventional simplification.

The other key working assumption represented in the fitness landscape is that each point has a measurable value and that value can be compared to the value of other points within the set. In biological systems, the measure of fitness depends upon what the researcher is studying but it is always a

¹⁰There may be some theoretical maximum of zero liberty that bounds the space upward—totalitarianism—and its equivalent, if the maximal authority were distributed, bounding the space to the right.

measure of reproductive success. It shouldn't be confused with longevity or offspring produced; it is a probability of success.¹¹

While distributions of authority may be the product of political bargains, each distribution has a propensity for facilitating successful government based upon the capacity and cost of government with that authority. Depending on the nature of the problems to be solved, different capacities will have different propensities for success. For example, one might measure growth rate, or citizen satisfaction, or proportion of the population living in poverty.¹²

Wright used the landscape metaphor to help readers grasp the underlying evolutionary model of population genetics and the sequential path taken by evolutionary processes. The evolution of law has similar properties. As Griffin 2016 notes, one must pay attention to historicity in order to appreciate the potential and limits of change. The legal landscape of authority distribution is a representation of connected points, and the links are strongest between neighboring positions. Where the constitution is about to go is a function of where it sits now.

With the fitness landscape model in hand we can consider the process of

¹¹Because an idea or policy would be available at a particular distribution of authority does not mean it will be reached. The failure of any individual to meet with success is familiar in biology. Wrote Maynard Smith: "Fitness is a property, not of an individual, but of a class of individuals. ... [T]he phrase 'expected number of offspring' means the average number, not the number produced by some one individual. If the first human infant with a gene for levitation were struck by lightning in its pram, this would not prove the new genotype to have low fitness, but only that the particular child was unlucky" (Maynard Smith 1989:38).

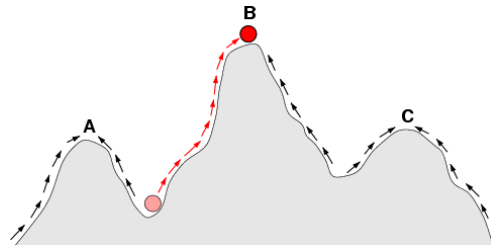
¹²The performance measures are estimates until realized, and people may have different estimates. This heterogeneity of landscape space is an interesting opportunity for future consideration.

constitutional evolution as an attempt to identify distributions of authority that work better for the union. The process requires both exploration—proposals of new authority distributions—and selection, where the union decides which proposals to accept or reject. Political systems tend to be conservative in exploration. Constitutional systems are regulated by safeguards that determine whether an idea, like a policy requiring a new governmental competence, is constitutional. Safeguards are responsive to political forces that often hold a short-term perspective, and so are biased toward movement that strictly improves performance. Furthermore, the capacity of federal systems to experiment may be limited by a tendency toward centralization, tilting distributions toward the upper section of the landscape (Kollman 2014). The system of safeguards is designed to limit the range of reasonable ideas to those within a close proximity to the current distribution.

In the language of genetic evolution, the constitutional change agents are “hill-climbers”. Hill-climbers search locally for improvements (extremist ideas are shunned in politics). They consider the altitude (performance) of the present location and those that immediately surround it. If any neighboring location is higher, a hill-climbing institution will select it. Localized search and movement will gradually move a system up a hillside to reach a peak, when the searching stops.

Local search has energy-saving advantages, but it can lead to lost opportunities. See Figure 4, a cartoon cross-section of the 3-D landscape. If the existing authority distribution is somewhere on hillside “B”, then the natural

Figure 4: The Problem of a Rugged Landscape



Source: Illustration by Claus Wilke who released it to the public domain under a Creative Commons License. Available at [commons.wikimedia.org, file:fitness-landscape-cartoon.png](https://commons.wikimedia.org/wiki/File:fitness-landscape-cartoon.png).

tendency of the institutional safeguards to explore locally and look upward is perfect. But if the landscape is rugged then it is quite possible that the existing distribution of authority is on a lower peak, perhaps at “A”, and the safeguards are hill-climbing toward a local optimum. With their exploratory tendencies, they will not discover the higher peak elsewhere.

A dynamic landscape further complicates the problem. If the problem space is not fixed but instead changes—and after all, it is exactly those changes in the policy environment or social preferences that require adaptation—then the relative benefit of different distributions of authority changes. Global maxima may become minima, and the process of discovery and change begins again, driving constitutional evolution.

3 Secession as Disruptor

The challenge of moving from Figure 4's A to B is a real challenge for systems that are stabilized through moderating tendencies of multiple veto players and median voters. The system needs a disruptor to introduce new ideas. Secession can play that role.

When groups make credible secession threats, and demand concessions, they introduce ideas into the discussion that could not be admitted through the filters of the regular institutional safeguards. The act of secession, or threatening to secede, is an act of identity formation as well as a bargaining tool, as Saideman, Dougherty, and Jenne (2006) point out. As secessionist groups canvass themselves about what they really want—accommodation? self-determination?—they crystallize their interests. In the course of this deliberation and introspection, most secession movements peter out. But the conversation brings new ideas about the distribution of authority to the system.

Importantly, and somewhat counterintuitively, secession brings new ideas to the system without damaging the existing institutional procedures. Secession differs from revolutions. With a revolution the whole government loses legitimacy. With secession, the government, as a system of safeguards, does not lose legitimacy. While secession may be used as a bargaining threat to change particular features of the government, for the most part it leaves the existing governmental apparatus unchanged, and demands concern the

distribution of authority, not the procedure for determining whether that distribution is meaningful. Once that adjustment to authority happens, the institutional safeguards can resume their modest hill-climbing work.

Secession as a way of exploring the constitutional space is not an unconditional good. It is perhaps all too obvious but still must be said: there's no guarantee that the new ideas introduced will actually be *good* ideas. Within the context of the landscape illustration, they could land the federation anywhere. Given the likelihood that secession threats introduce performance-decreasing ideas, the value of secession is a function of the volatility and roughness of the landscape. If the landscape is smooth or single-peaked (picture Mt. Fuji), or the problem space is changing very slowly, then secession is of no value at all. It is most useful as a means to leapfrog; to search alternatives far from the status quo.

Secession as a disruptive search mechanism is clearly biased: it will tend to generate ideas about authority distributions that favor the states. (That tendency is not absolute: authority changes in the wake of the U.S. Civil War strengthened federal, not state, authority.) If federal systems have natural centralizing tendencies, as Riker (1964) and Kollman (2013) hypothesized, then secession's pro-state bias is a useful counterweight.

The relative usefulness of secession for the system given its problem space is a different way of thinking about how the instrument of secession should be "priced". The cost of a secession threat should be a function of the complexity of the problem environment. The more volatile the environment, the less

it should cost. In a very complex, dynamic problem space, it may make sense—within the information-based perspective—to acknowledge secession as a legal right, defining procedures for its use.

4 Discussion

As I write, the possibility of “Brexit”—Britain leaving the European Union—is growing more real. Prime Minister David Cameron misplayed a secession threat, calling for a nationwide referendum on the question of secession, which passed in June 2016. Britain had demanded some changes to its relationship with the European Union, most controversially calling for the authority to deny EU citizens equal access to British welfare payments. Britain’s proposed shift in the distribution of authority would not be possible in the tight-locked EU system of safeguards, where changes require the consent of all 28 members. Cameron’s ability to threaten secession credibly opens up the set of ideas about where to move the authority distribution; but by calling for a national referendum, rather than operating through parliamentary channels, the negotiation process ended before any compromise could be found.

Secession threats are by definition a disruptive force in a federal system. Scholars tend to condemn secession for this disruptive characteristic. In this article I have made an argument that the possibility of secession can play an important role in bringing new ideas into a federal system. Federalism’s system of safeguards tend to reject large shifts in the distribution of author-

ity between federal and state governments. This conservatism can lead to getting “stuck” at local optima. Secession threats introduce large jumps on what I have called the constitutional authority landscape. These large jumps, or compromises that arise from their proposals, can improve the overall performance of the union. Further work can explore whether secession is merely a force of change or can lead to real progress in the union’s development.

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