Talk of secession is a loser

By David A. Carrillo

News reports have revealed that the Yes California campaign (a.k.a. Calexit independence referendum) is run by Louis Marinelli of Yekaterinburg, Russia. Marinelli denies that Calexit is a Russian plot. But if it is, it’s a classic use of masked revolu, the Russian military strategy that contemplates clandestine measures such as infiltrating the political process of a country to split off part of its territory.

Regardless, Calexit is a foolhardy attempt at self-harm. Yes, California proposes a two-step secession process: a 2018 initiative measure to repeal a state constitutional provision that declares California to be an independent country. All that will be for naught. Expect the courts to bar this measure from appearing on the ballot — or strike it down if approved by voters — because the initiative process cannot make fundamental changes in the nature of state government. Revising the state Constitution to become an independent nation is the definition of a fundamental change. And citizens can sue to prevent secession because it would deny their rights guaranteed as U.S. citizens.

Even if these acts survived judicial review, they would have no legal effect. States have no power to secede. Neither the state nor federal constitutions permit leaving the Union, and the U.S. Supreme Court long ago rejected the idea that states can secede.

There is only one narrow path to secession: amending the U.S. Constitution, which requires approval by two-thirds of Congress and 38 of the states. This is a high bar — it has only happened 17 times in 226 years. Calexit does nothing to start that process. And even if that overwhelming consensus could be achieved here, it would be disastrous.

Once adrift, Californians would face a barrage of practical consequences: They would be stripped of their rights and protections as U.S. citizens. Seceding necessarily invokes epic political, economic and military instability. We’ll get no water from Nevada or Colorado, or the $105 billion in annual federal funding.

The fact that California is the sixth-largest economy in the world and the largest in the nation cuts two ways: The more valuable California is, the less likely Congress and the other states would be willing to let us go. And there’s no guarantee our fortunes would be equally robust once we’re alone. Maybe Russia might adopt us?

Other policy agendas are a far better use of the effort and resources expended debating this improbable scheme, like focusing on improving life for Californians, donating to nonprofits that advocate for your policy objectives, or pursuing national changes. Californians enjoy a privileged position relative to the rest of the republic. The California Constitution shields individual rights against the federal government, and we can use federalism to protect those rights.

We get that you’re frustrated. But trying to secede is unlikely to achieve any result, much less a positive one. If your house needs work, fix it; don’t burn it down.

Louis Marinelli, president of the Yes California secession campaign, at home in Yekaterinburg, Russia, last month.

— David A. Carrillo is the executive director of the California Constitution Center at Berkeley Law. He is joined in this view by Stephen M. Dernay and Brandon V. Stracker, center senior research fellows.