Why James Madison Trembled at the Prospect of An Article V Convention

Everyone ignores it. The federal government was able to usurp hundreds of powers not granted by our Constitution because state & local governments, hospitals, businesses, universities, farmers, individual citizens, & everybody else collaborated with the usurpations by taking federal funds to participate in unconstitutional federal programs.

The Real Agenda Behind Red-Flag Laws: Confiscations and Gun Controls

Former US Secretary of State John Kerry wants to destroy the farming industry because “Agriculture contributes about 33% of all the emissions of the world. And we can’t get to net zero—we don’t get this job done—unless agriculture is front and center as part of the solution.”

A Massive Transfer of Power

Over Children, From Parents to Governments

“We are fast approaching the stage of the ultimate inversion: the stage where the government is free to do anything it pleases, while the citizens may act only by permission; which is the stage of the darkest periods of human history, the stage of rule by brute force.” —Ayn Rand

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DANGER: Article V Convention Legislation filed in Congress: They Want a New Constitution

If Congress calls an Article V convention, you can be sure that a new Constitution will be imposed on us. The convention of 1787 was called “for the sole and express purpose of revising the Articles of Confederation”. But the convention proposed a new Constitution which had a new mode of ratification and which created a new form of government.

Mark Meckler’s “COS” Board

Member drafted a New Constitution For Gun Control

Whether or not State Legislatures should ask Congress to call an Article V Convention is one of the most important – and contentious – issues of our time. The Delegates to such a convention, as Sovereign Representatives of the People, have the power to throw off the Constitution we have and propose a new Constitution…

Defeat COVID Mandates by restoring the Genuine Meaning of the "privileges and immunities" and "due process" clauses

But since the federal and State governments are refusing to recognize our Rights, it falls on us to boldly step up to the plate and insist that our Rights be respected. You have no lawful, moral, or religious duty to submit to a government when it violates our Constitution and seeks to take from you the Rights God gave you.

The Death Blow: an Article V Convention to Replace Our Constitution

The fight over whether to have an Article V convention isn’t between Republicans and Democrats, or liberals or “conservatives”. It is spiritual warfare between those who want to keep our Biblically based Constitution of 1787;[1] and godless revolutionaries who want to get rid of our Constitution and set up the New World Order.

When the feds violate the Constitution, should we blame the Constitution?

At the outset, we should note that the title of Natelson’s paper incorporates a stratagem which creates the false belief that the States control the convention. The belief is false because the convention provided for by Art. V of the Constitution is a federal convention called by the federal government to perform the federal function of addressing our federal Constitution.

What the Constitution REQUIRES Congress to Do on January 6, 2021

Just as the cowards in Germany went along with Hitler; cowards in America are going along with the Left’s brazen theft of the recent election.Countries are destroyed by such cowards; and that may be the reason Revelation 21:8 lists cowards as the first to be thrown into the Lake of Fire: Tyrants couldn’t get to first base without the acquiescence of cowards.

Article IV, §4, US Constitution Requires Congress, Supreme Court, and the President to Stop the Steal

But not only did Barr not lift a finger to fight the fraud – he denied there was any fraud. He too shirked his constitutional Duty. Shame on William Barr!

A Constitutional Roadmap for Conquering Election Fraud

Election fraud strikes at the heart of our Constitutional Republic. Therefore, Congress, the federal courts and the Executive Branch [i.e., the "United States"] have the duty, imposed by Article IV, §4, to negate the fraud in order to preserve our republican form of government.

What Can We Do To Get A Reasonably Honest Election?

A disaster of monumental proportions is likely to be ahead for our Country if we don't take emergency action to get at least a reasonably honest election. Not only the President's seat, but also the entire US House, the Houses in the State Legislatures, one/third of the seats in the US Senate, and a proportional number of seats in the State Senates, are all at stake in the upcoming election.

Mail-In Voting? A "Political Question" Which Only State

Legislatures and Congress May Decide

It has become obvious that one of the purposes of the COVID-19 scam is to bring about unrestricted mail-in voting in the toss-up and Red States so that the upcoming presidential election can be stolen by the Left for the senile Joe Biden and his constitutionally ineligible running mate, Kamila Harris.

Our Constitution Provides Two Separate and Independent Methods for the Federal Government to "Call Forth the Militia" to Suppress Insurrections

We would be wise to celebrate the President's constitutional and statutory authority to protect us from the death and destruction being brought about – with the connivance of State & local officials – by the Marxist revolutionaries. When State and local governments refuse to protect their people from such death and destruction, the President has a clear power to intervene.

Why the States Must Nullify the National Voter Registration Act Now!

From the earliest days of our Republic, some years before our federal Constitution of 1787 was ratified; the Citizens of the States determined the qualifications for voting, and memorialized these qualifications in their State Constitutions.

USMCA “Trade Agreement”, the North American Union, an Article V convention, and Red Flag Laws: Connecting the Dots

The Globalists have long been in the process of setting up a dictatorial and totalitarian oligarchy over the United States. Now they are putting the last pieces in place. That is what is behind the pushes for the USMCA “Trade Agreement”, an Article V convention, and red-flag and other laws to disarm the American People.

Article 5 of the US Constitution: What “Convention of States Project” (COS) Isn’t Telling You

But today, various well-funded factions are lobbying State Legislators to ask Congress to call an Article V convention. One faction, the “Convention of States Project” (COS), claims to be for limited government and is marketing the convention to appeal to conservatives. COS claims (falsely) that our Framers told us to amend the Constitution when the federal government violates the Constitution.

So You Think Trump Wants To Get Rid Of The Fed?

Once the statutory promise to back Federal Reserve Notes with gold was rescinded, the sky was the limit on how much fiat “money” the Fed could create, lend to the US Treasury (and be added to the national debt), in order to fund still more massive, grotesquely unconstitutional, and out of control spending

Read the Commerce Clause in the Light Cast by the Other Parts of Our Constitution

So Madison warns that we better stick with the original understanding; and not interpret the clause to mean that the federal government has the same broad power over interstate commerce that it has over commerce with the foreign Nations and with the Indian Tribes.

How States Can Man-Up And Stop Abortion

But I suggest, dear Reader, that we must purge our thinking of the assumption that we can’t have a moral and constitutional government unless Five Judges on the Supreme Court say we can have it. Since it is clear that federal courts have no constitutional authority over abortion, why do we go along with the pretense that they do?

The USMCA "Trade Agreement" Violates Our Constitution And Sets Up Global Government

On November 30, 2018, President Trump, along with the Prime Minister of Canada and the President of Mexico, signed the United States-Mexico-Canada (USMCA) "Trade Agreement". "Trade" is in quotes, because the document isn't about "trade" – it's about setting up global government. "Agreement" is in quotes because the document is a "treaty" – and that invokes the two-thirds ratification requirement of Art. II, §2, cl. 2, US Constitution.

The **USMCA Treaty ("Treaty")** was negotiated by U.S. Trade Representative, Robert Lighthizer. He is a member of the Council on Foreign Relations, which works to move the United States into the North American Union (NAU).[1]

The Treaty advances *the economic and regulatory integration* of the three Parties. It is the precursor to *the political integration* the globalists seek with the NAU.[2]

1. **Summary of objections to the Treaty**

Our Constitution and Declaration of Independence are the "organic law" of our Land.[3] [3] Treaties, like Acts of Congress, hold a lesser status: they are part of "the supreme Law of the Land" only when they are authorized by "organic law" – our Constitution (Art. VI, cl.2).[4]

While the United States is clearly authorized by Art. I, §8, cl.3 & Art. II, §2, cl.2, US Constit., to enter into Treaties with foreign Nations addressing Commerce;[5] the United States may not lawfully transfer *to global or multi-national bodies,* powers which "WE THE PEOPLE" *delegated to our federal government* when We ratified our Constitution. But that is

what the Treaty purports to do.

Even worse, the Treaty also purports to delegate to global or multi-national bodies powers which We ***never*** *delegated to our federal government* – but reserved to the States or the people.

The Treaty establishes a bureaucratic multi-national government which is to control all aspects of commerce and to which the United States, Mexico and Canada will be subject.

The Treaty incorporates by reference many other documents. Its frequent use of new terminology requires one to constantly refer to the various definition sections spread throughout the 34 Chapters. It engages in the pernicious practice of making a statement, and then qualifying it by phrases such as, "unless otherwise provided in this Agreement" and "unless the Parties decide otherwise".[6]

2. **Powers We delegated to our federal government**

When the People of the United States ratified our Constitution, *We "created" the federal government*. Article I *created* the Legislative Branch and itemized its powers. Article II *created* the Executive Branch and itemized its powers. Article III *created* the Judicial Branch and itemized its powers. Each Branch of the federal government is thus a "creature" of the Constitution and is completely subject to its terms. *None of the delegated powers may lawfully be re-delegated to global or multi-national bodies.*

The Treaty violates the following provisions of our Constitution:

- At Art. I, §1, We vested *in Congress*, all legislative Powers granted by our Constitution.
- At Art. I, §8, We granted *to Congress* the powers
    - Clause 1: To lay and collect Imposts (import tariffs)
    - Clause 3: To regulate Commerce with foreign

Nations
    - Clause 5: To coin Money and regulate the Value thereof
    - Clause 8: To issue Patents and Copyrights
- At Art. I, §9, cl. 1: Commencing January 1, 1808, We granted *to Congress* the power to control Migration (immigration) to the United States.
- At Art. II, §2, cl. 2, We granted *to the President* the power to make Treaties, provided two thirds of the Senators present concur.
- At Art. III, §2, cl. 1, We declared that *the judicial Power* of the United States ***shall*** extend
    - to ***all*** Cases arising under Treaties made under the Authority of the United States
    - to Controversies to which the United States shall be a Party
- At Art. IV, §4, We imposed upon the United States *the duties* to:
    - guarantee to every State in this Union a Republican Form of Government; and
    - protect each of the States against Invasion.
- At Art. VI, cl. 2, We declared that our Constitution, and Acts of Congress and Treaties authorized by the Constitution, is the "supreme Law of the Land".
- In the 10th Amendment, We declared that powers not delegated to the United States by the Constitution are reserved to the States or to the people.

Art. I, §8, cl. 1 – to "lay and collect Imposts"

Our Constitution delegates *to Congress* the power to set the amounts of the tariffs on foreign imports.

The Treaty divests Congress of the power to unilaterally determine our tariffs. USMCA Art. 2.4 [7] says:

"1. Unless otherwise provided in this Agreement, no

Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good.

2. Unless otherwise provided in this Agreement, each Party shall apply a customs duty on an originating good in accordance with its Schedule to Annex 2-B (Tariff Commitments)".

Art. I, §8, cl. 5 – to coin Money and regulate the Value thereof

Our Constitution delegates *to Congress* the power to control our money.[8]

But with the Federal Reserve Act of 1913, Congress and Woodrow Wilson unlawfully transferred power over our money to an international cabal of privately owned banks – the "Federal Reserve".

Shortly after WWII, the United States joined the World Bank and the International Monetary Fund (IMF).[9] James Perloff's article, *Council On Foreign Relations – Influencing American Government*, speaks of how the World Bank and IMF act as

"…a loan-guarantee scheme for multinational banks. When a loan to a foreign country goes awry, the World Bank and IMF step in with taxpayer money, ensuring that the private banks continue to receive interest payments. Furthermore, the World Bank and IMF dictate conditions to the countries receiving bailouts, thus giving the bankers a measure of political control over indebted nations."

The Treaty surrenders the United States' power over money and our economy to the IMF. USMCA Art. 33.1 defines "Article IV Staff Report" as the report prepared by the IMF respecting a country's adherence to Art. IV, Section 3 (b) of the IMF Articles of Agreement. **Section 3** provides that the IMF *shall* oversee the compliance of each member with its obligations under **Section 1** of Article IV. **Section 1** *requires* each member

to “direct its economic and financial policies toward the objective of fostering orderly economic growth with reasonable price stability”, and to foster “orderly underlying economic and financial conditions and a monetary system that does not tend to produce erratic disruptions” [i.e., our economy is to be planned by the IMF].

Article IV, §3 (b) of the IMF Articles of Agreement states that the IMF “shall exercise firm surveillance over the exchange rate policies of members”, and “shall adopt specific principles for the guidance of all members with respect to those policies”. USMCA Art. 33.4 confirms that the three Countries are “bound under the IMF Articles of Agreement to avoid manipulating exchange rates or the international monetary system”; but private manipulators (George Soros) don’t seem to be bound by that restriction.

USMCA Art. 33.6 establishes a Macroeconomic Committee which “shall monitor the implementation of this Chapter *and its further elaboration*.” Paragraph 5 of Art. 33.6 empowers the Committee to amend and issue “interpretations” of Chapter 33; and declares that such interpretations “**shall be deemed to be an interpretation issued pursuant to a decision by consensus of the Commission.”** USMCA Art. 1.4 defines “Commission” as “the Free Trade Commission” established under USMCA Art. 30.1.

Art. I, §8, cl. 8 – to issue Patents and Copyrights

The purpose of delegating the power to issue Patents and Copyrights *to Congress* is to **“**promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries**”.**

The Treaty subordinates these property rights to the collective. USMCA Art. 20.2 states:

“The protection and enforcement of intellectual property rights should contribute to the promotion of technological

innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations."

Article 20.3 prohibits the Parties from making any laws or regulations inconsistent with Chapter 20; and

requires that any measures to protect property rights be "*consistent with the provisions of this Chapter*". The Parties are "*to prevent the abuse of intellectual property rights by right holders*". Article 20.5 requires each Party to ensure "*that measures to enforce intellectual property rights do not themselves become barriers to legitimate trade" or "contravene this Chapter".*

Article 20.7 requires the Parties to ratify or accede to a long list of international "agreements" including the World International Property Organization's (WIPO) Patent Law Treaty. The WIPO is an agency of the United Nations.

The 64 pages of Chapter 20 have nothing to do with protection of property rights in Inventors. Instead, Chapter 20 subordinates ownership of those rights to the collective; and establishes the framework for global government of patents and copyrights.[10]

Art. I, §9, cl.1 grants *to Congress* power over Migration;

Art. IV, §4 *requires* the United States to protect each of the States against Invasion;

and Art. I, §8, cl. 15 authorizes the use of the Militia to repel invasions

Our Framers understood that *control over who enters our Country* is an essential element of sovereignty.

But the Treaty *subordinates* the United States' sovereign power

over immigration to global and multi-national bodies. USMCA Art. 16.2 declares:

"3. Nothing in this Agreement prevents a Party from applying measures to regulate the entry of natural persons of another Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, *provided that those measures are not applied in a manner as to nullify or impair the benefits accruing to any Party under this Chapter*." [italics added]

Article 16.8 declares:

"*Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions), Chapter 30 (Administrative and Institutional Provisions), Chapter 31 (Dispute Settlement), Chapter 34 (Final Provisions), Article 29.2 (Publication), and Article 29.3 (Administrative Proceedings),* this Agreement does not impose an obligation on a Party regarding its immigration measures." [italics added] [11]

USMCA Art. 23.1 cites the International Labor Organization's (ILO) "Declaration on Fundamental Principles and Rights at Work" (1998), as guiding the treatment of labor issues under the Treaty. The ILO is an agency of the United Nations (UN); and part of the ILO's "social justice" agenda is to formulate "*fair migration schemes in regional integration processes*".

*So **this is how** the UN is to dictate immigration policy for the "regional integration" of Canada, the United States and Mexico.*

Art. II, §2, cl. 2, grants *to the President* the power to make Treaties, provided two-thirds of the Senators present concur

Chapter 30 of the Treaty establishes the Free Trade Commission. It is the governing body of the bureaucracy which is created by the Treaty. Among other powers, the Commission

supervises the work of all committees and other subsidiary bodies established under the Treaty; has the power to merge or dissolve committees and other subsidiary bodies; and has the power to "consider" proposals to amend or modify the Treaty. While Art. 30.2, 2. (c) lists six areas where modifications of the Treaty are subject to completion of "applicable legal procedures by each Party", *it does not require that other types of modifications of the Treaty be subject to such approval of the Parties*.

And while USMCA Art. 34.3, 1. provides, "The Parties may agree, in writing, to amend this Agreement", *it doesn't say that is* ***the exclusive means*** *of amendment*. Accordingly, we must consider Art. 34.3 as providing an *additional* means of amendment.

USMCA Article 30.2, 2. (f) grants to the Commission power to "issue interpretations" of the Treaty; and the footnote thereto says that *its interpretations "are binding for tribunals and panels established under* Chapter 14 (Investment) and *Chapter 31 (Dispute Settlement*)."

And since, as noted above, the "interpretations" of Ch. 33 issued by the Macroeconomic Committee are considered as "interpretations" issued by the Free Trade Commission, *the "interpretations" of the Macroeconomic Committee* ***will also be binding on the tribunals deciding disputes*** *between the Parties.*

We thus permit the "creature" of the Treaty to modify the document under which it holds its existence![12]

Art. III, §2, cl. 1, grants to U.S. Courts the Power to decide *all* Cases arising under Treaties & *all* Controversies to which the United States is a Party.

In violation of our Constitution, the Treaty restricts the Parties to the dispute settlement procedures laid out in the Treaty.

Chapter 31 of the Treaty addresses resolution of disputes involving violations of the Treaty or "interpretations" of the Treaty issued (or "deemed to be issued") by the Free Trade Commission. Disputes are heard by a panel of five drawn from a roster of up to 30 individuals appointed by the Parties. The panel is to make findings of fact and determinations and issue a report. If the disputing Parties don't agree on the report, the complaining Party may suspend various benefits held by the responding Party under the Treaty.

Article 31.3 limits the Parties' choice of a forum for dispute resolution to that set forth in the Treaty or in another international trade agreement to which the disputing Parties are signatories.

Article 31.20 permits a Party to *intervene* in proceedings already pending in a domestic judicial or administrative forum which involve the interpretation or application of the Treaty. The purpose of such intervention is to inform the domestic tribunal of the "interpretations" of the Treaty issued (or "deemed to be issued") by the Free Trade Commission. *Thus, the "interpretations" of the Treaty issued by the "creature" of the Treaty are to be foisted on our domestic courts and administrative law judges!*

Note that Art. 31.21 *expressly forbids* a Party from *making a law which grants a right of action against another Party* on the ground that a measure of the other Party is inconsistent with the Treaty.

3. **Powers reserved by the States or the People which the Treaty transfers to global organizations**

Our Constitution is one of enumerated powers only. Most of the powers delegated to the federal government over the Country at large are listed within Art. I, §8. See this Chart.

Labor

We did not delegate to our federal government power over labor issues. However, beginning in the early 1900s, we permitted our federal government to exercise, *by usurpation*, powers over labor issues.[13] As a result, we got the federal Department of Labor, a host of Acts of Congress addressing labor issues, and a plethora of Rules issued by the Department and published in Title 29 of the Code of Federal Regulations. The Department, its Rules, and the Acts of Congress are unconstitutional as outside the scope of powers delegated. The Rules are also unconstitutional as in violation of Art. I, §1, US Constit.

Chapter 23 of the Treaty transfers those usurped powers to the **United Nation's** International Labor Organization (ILO).

Article 23.1 defines "labor laws" as the statutes and regulations of a Party that are directly related to "internationally recognized labor rights" such as the "right" to collective bargaining; and which *require* Parties to make laws to provide wage-related benefits payments for workers such as profit sharing, bonuses, retirement, and healthcare.

Here are some of the dictates set forth in the Treaty with which US laws and agency rules must comply:

- At Art. 23.2, the Parties affirm their obligations stated in the ILO's Declaration on Rights at Work and Declaration on Social Justice for a Fair Globalization (2008).
- Article 23.3 dictates that "Each Party *shall* adopt and maintain in its statutes and regulations, and practices thereunder," various rights, as stated in the ILO's Declaration on Rights at Work; and "Each Party *shall* adopt and maintain statutes and regulations, and practices thereunder, governing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health."
- Article 23.5 *requires* each Party to "effectively enforce

its labor laws".

- Article 23.9 *requires* each Party to implement policies to protect workers against employment discrimination on the basis of sex, pregnancy, sexual orientation, *gender identity*, and caregiving responsibilities; and to provide job-protected leave for birth or adoption of a child and care of family members; and to protect against wage discrimination.[14]

Additional Reserved Powers transferred to global or multi-national bodies

The USMCA Treaty is long and complex: see the Table of Contents. Here are brief comments on some of the other *powers reserved by the States or the People* which are unlawfully transferred by the Treaty:

- Chapter 19 addresses digital trade. Article 19.5 *requires* each Party to maintain a legal framework governing electronic transactions consistent with the principles of the UNCITRAL Model Law on Electronic Commerce 1996. That model law is a product of the United Nations Commission on International Trade Law.
- Chapter 21 addresses competition policy. Article 21.1 *requires* each Party to maintain and enforce "national competition laws" which proscribe "anticompetitive business conduct". The Parties are to apply those laws to "*all commercial activities in its territory.*" Article 21.4 *requires* each Party to adopt or maintain national consumer protection laws or regulations that proscribe fraudulent and deceptive commercial activities.
- Chapter 24 addresses environmental laws. Article 24.3 *requires* each Party to ensure that its laws provide for high levels of environmental protection. Article 24.4 *requires* each Party to enforce its environmental laws. Article 24.9 *requires* each Party to control the production and use of substances which deplete or change

the ozone layer [and on & on for 30 pages].

4. **The Death of the Republican Form of Government**

In a "republic", the sovereign power is exercised by representatives elected by the People.

Article IV, §4, US Constit., requires the United States to guarantee to every State in this Union a Republican Form of Government.

But the USMCA Treaty, time after time, delegates the exercise of sovereign power to various panels, Committees, Commissions, UN organizations, and others – not one of which is elected by the People.

5. **Don't fall for the carrot dangled in your face!**

The Treaty reportedly contains some tariff benefits to various industries in the United States such as the auto and dairy industries. Their profits (at least for a while) should increase as a result of the Treaty. And for that, We are to surrender our sovereignty to the ***globalists***?!

6. **The 1815 Free Trade Treaty between the United States and Great Britain**

On Dec. 6, 1815, President James Madison sent this treaty to the Senate for ratification. It is two pages long. Unlike the USMCA Treaty, it doesn't set up a government over the United States and Great Britain–thus proving that trade treaties need not surrender our sovereignty. And Madison's treaty doesn't require a lawyer skilled in sniffing out dirty tricks to understand what it does.

7. **Conclusion**

In Federalist No. 22 (last para), Alexander Hamilton said that one of the problems with the Articles of Confederation (AOC), our *first* Constitution, was that it was never ratified by the

PEOPLE. Because the only foundation for the AOC was the consent of state legislatures, questions had arisen concerning its validity.

This is why Art. VII of our *second* Constitution (the one we have now) provides for its ratification by *Conventions* held in each of the States. In support of the ratification method set forth in Art. VII, Hamilton wrote:

"…The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE. The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority." [caps are Hamilton's].

This is why our Constitution begins with, "WE THE PEOPLE". WE consented to it.

But the USMCA Treaty sets up global government over the economic issues covered by the Treaty. *It is NOT to be submitted to THE PEOPLE for their consent*. The globalists who infest our Legislative and Executive Branches (the latter of which, as the Perloff article points out, has been dominated by the Council on Foreign Relations for over 70 years) want the Treaty ratified by a simple majority vote in Congress.[15]

The USMCA Treaty is illegitimate; and the global government it imposes is tyrannical.

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Endnotes:

[1] Here is the Council on Foreign Relations' Task Force Report on the NAU.

[2] The US Constitution is unique. It is (1) ***a written*** Constitution (2) which ***created the federal government;*** (3)

listed the handful of powers granted to the federal government; and (4) has as its Foundation ***the Consent of The People***. As our "Organic Law", it is the standard by which the lawfulness of legislative Acts and Treaties is measured. **Its existence undermines the political integration of Canada, Mexico, and the United States.** That's why the globalists want an Article V convention – to get a new constitution for the US which won't stymie their plans.

[3] "Organic law" is "the fundamental law, or constitution, of a state or nation…"

[4] On the lesser status of **treaties** in relation to our Constitution: *The objects on which the United States may enter into treaties are restricted to the enumerated powers* delegated to the federal government – see authorities cited in this paper. On the lesser status of **Acts of Congress**: Federalist No. 78 (11th & 12th paras) says that when an Act of Congress violates the Constitution, "the Constitution ought to be preferred to the statute"; judges "ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental."

[5] See authorities quoted here.

[6] The treaty is long, intricate, and tricky. This paper addresses only parts of it. We are insane to allow treaties "… so voluminous that they cannot be read, or so incoherent that they cannot be understood…" Federalist No. 62 (4th para from end).

[7] To get an idea of the extent of the regulations on custom duties, skim all 72 pages of Chapter 2.

[8] And our money is to be based on gold & silver (Art. I, §10, cl. 1). In Federalist No. 10 (next to last para), Madison

warns against “A rage for paper money…or for any other improper or wicked project…”.

[9] Perloff says the initial planning for the World Bank & IMF was by the Council on Foreign Relations.

[10] Ayn Rand warned 60 years ago in Atlas Shrugged that if we didn’t change course, our Inventors and Authors would lose their property rights.

[11] They left out Chapter 17, which addresses cross-border financial services. Art. 17.5, 1. (d) (iv) declares:

“No Party shall adopt or maintain… a measure that…imposes a limitation on… the total number of natural persons … that a … cross-border financial service supplier may employ and who are necessary for, and directly related to, the supply of a specific financial service…”

[12] To allow the “creature” of a treaty to modify the treaty under which it holds its existence *violates the Fundamental Principle of free government*. See this paper under subheading 1 and its endnotes.

[13] Our Framers said that if we want the fed. gov’t to have a power the Constitution doesn’t grant, we should amend the Constitution to delegate the additional power – *we must not permit it to exercise the power by usurpation*. See this paper under the subheading, “Washington’s Farewell Address”.

[14] The footnote to USMCA Art. 23.9 says the United States’ existing policies regarding the hiring of federal workers is sufficient to fulfill the obligations set forth in Art. 23.9. We can be sure that the requirements of Art. 23.9 will later be extended to all employment in the United States.

[15] Twelve Republican US Senators, by letter of Nov. 20, 2018,

urged Trump to send the "Agreement" right away so it could be passed by the lame duck session of Congress *by a simple majority vote*.

Why Supreme Court Opinions Are Not The "Law Of The Land", And How To Put Federal Judges In Their Place

Central to the silly arguments made by the "Convention of States Project" (**COSP**) is their claim that 200 years of Supreme Court opinions have increased the powers of the federal government (as well as legalized practices such as abortion); that all these opinions are "the Law of the Land"; and we need an Article V convention so we can get amendments to the Constitution which take away all these powers the Supreme Court gave the federal government.

But the text of Article V contradicts COSP's claim. Article V shows that our Constitution can be amended only when three fourths *of the States* ratify proposed amendments. The Supreme Court has no power to amend our Constitution. And it's impossible for an amendment to take away powers our Constitution doesn't grant.

1. **First Principles**

Let's analyze COSP's silly argument. We begin by looking at First Principles.

- The Judicial Branch was *created* by Art. III, §1, US

Constitution. Accordingly, it is a "creature" of the Constitution.[1]

- The federal government came into existence *when* the States, acting through special ratifying conventions held in each of the States, ratified the Constitution.[2]

Since the Judicial Branch is merely a "creature" of the Constitution, it follows that *it is subordinate to the Constitution*, and is completely subject to its terms. It may not annul the superior authority of the States which *created* the Judicial Branch when they ratified the Constitution;[3] and as a mere "creature" of the Constitution, it may NOT change the Constitution under which it holds its existence![4]

2. **Supreme Court Opinions are *not* "the Law of the Land"**

Article VI, cl.2, US Constit., the "supremacy clause", defines "supreme Law of the Land" as the Constitution, and acts of Congress and Treaties which are authorized by the Constitution. Supreme Court opinions aren't included!

Furthermore, Art. I, §1, US Constit., vests all law-making powers granted by the Constitution *in Congress*. Our Constitution doesn't grant any lawmaking powers to the Judicial Branch.

So why does everybody say, as we heard during the Kavanagh confirmation hearings, that *Roe v. Wade* is "the Law of the Land"? Because Americans have been *conditioned* to believe that the Supreme Court is superior to our Constitution; that their opinions about our Constitution are "law", and we are bound by them unless and until they issue new opinions which release us from their previous opinions.

3. **Organic & statutory law and the totally different "common law" precedent followed in courts**

Americans have been conditioned to ignore the huge

distinctions between organic and statutory law, on the one hand; and *the common law* which is embodied in the *precedents* followed by judges in litigation.

Organic Law

Black's Law Dictionary defines "organic law" as

"The fundamental law, or constitution, of a state or nation, written or unwritten;[5] that law or system of laws or principles which defines and establishes the organization of its government."

The organic laws of the United States are

- The Declaration of Independence – 1776
- Articles of Confederation – 1777
- Ordinance of 1787: The Northwest Territorial Government
- Constitution of the United States – 1787

The Articles of Confederation was our first Constitution. It was replaced by our Constitution of 1787 when it was ratified June 21, 1788. The Northwest Ordinance was superseded by the transformation of the area covered by the Ordinance into States [pursuant to Art. IV, §3, cl. 2, US Constit.].

Do you see how absurd is the claim that the Supreme Court, a mere "creature" of the Constitution of 1787, has the power to change *the Organic Law of the United States*?

Statute Law

Black's Law Dictionary defines "statute law" as the

"Body of written laws that have been adopted by the legislative body."

As we saw above, all legislative Powers *granted by our Constitution* are vested in Congress (Art. I, §1). Acts of Congress qualify as part of the "supreme Law of the Land" only

when they are made *pursuant to Authority granted to Congress by the Constitution* (Art.VI, cl. 2). When Acts of Congress are not authorized by the Constitution, they are mere usurpations and must be treated as such.[6]

Common Law

The "common law" applied in courts in the English-speaking countries *came from the Bible*.[7] The Bible has much to say about our relations with each other: don't murder people, don't maim them, don't steal, don't bear false witness, don't tell lies about people, don't be negligent, don't cheat or defraud people, and such. The Bible provides for Judges to decide disputes between people and empowers Judges to require the person who has violated these precepts to pay restitution to the person whom he harmed. So, e.g., the Biblical prohibitions against bearing false witness and slandering people became our modern day concepts of slander, libel, and defamation. These principles were applied in the English courts from time immemorial, and are applied in American Courts. Modern day American attorneys litigate these common law concepts all the time. So if I am representing a client in an action for say, fraud, I look at the previous court opinions in the jurisdiction on fraud, and see how the courts in that jurisdiction have defined fraud – i.e., I look for "precedents" – the courts' previous opinions on the subject – *and I expect the Judge on my case to obey that precedent*.[8]

THIS is the "common law". It is "law" in the sense that it originated with God's Word; and from "time immemorial" has been applied *in the Courts* of English speaking countries. **But this precedent is binding or persuasive *only* on courts.[9]** As precedent *for judges to follow*, it is never "the law of the land"!

So, keep these three categories – *organic, statutory, and common law* – separate, and do not confuse *court precedent* with the "Law of the Land". The latter is restricted to the

Organic Law, and statutes and treaties authorized by the Organic Law.

Now let's look at the constitutional jurisdiction of the federal courts.

4. **What kinds of cases do federal courts have constitutional authority to hear?**

The ten categories of cases the Judicial Branch has authority to hear are enumerated at Art. III, §2, cl. 1, US Constit.[10]

The first category is cases "arising under this Constitution". In Federalist No. 80 (2nd para), Hamilton shows these cases concern "*provisions expressly contained*" in the Constitution. He then points to the restrictions on the authority of the State Legislatures [listed at Art. I, §10], and shows that if a State exercises any of those prohibited powers, and the federal government sues the State, the federal courts would have authority to hear the case (3rd & 13th paras).

So if a State enters into a Treaty, or grants Letters of Marque & Reprisal, or issues paper money, or does any of the other things prohibited by Art. I, §10, the controversy would "arise under the Constitution" and the federal courts have constitutional authority to hear the case.

Likewise, if a State passed a law which violated the Constitution – say one requiring candidates in their State for US Senate to be 40 years of age – instead of the 30 years prescribed at Art. I, §3, cl. 3 – the federal courts have constitutional authority to hear the case.

So *the purpose of this category is to authorize the Judicial Branch to* ***enforce*** *the Constitution* – not re-write it!! [11]

Now let's look at one way the Supreme Court butchered our Constitution in order to strike down State Laws they didn't like.

5. **How the Supreme Court violated the "arising under" clause to hear cases *they have no constitutional authority to hear***

Let's use "abortion" to illustrate the usurpation. Obviously, "abortion" is not "expressly contained" in the Constitution. So abortion doesn't "arise under" the Constitution; and the constitutionality of State Statutes prohibiting abortion doesn't fit into any of the other nine categories of cases federal courts have authority to hear. Accordingly, federal courts have no judicial power over it. *The Supreme Court had to butcher words in our Constitution in order to usurp power to legalize abortion.* This is what they did:

The original intent of §1 of the 14th Amendment was to extend citizenship to freed slaves and to provide constitutional authority for the federal Civil Rights Act of 1866. That Act protected freed slaves from Southern Black Codes which denied them God-given rights.[12]

Now look at §1 where it says, "nor shall any state deprive any person of life, liberty, or property, without due process of law;"

That's the "due process" clause. As Professor Berger points out [ibid.], it has a precise meaning which goes back to the Magna Charta: it means that a person's life, liberty or property can't be taken away from him except by the judgment of his peers pursuant to a fair trial.

But this is how the Supreme Court perverted the genuine meaning of that clause: In *Roe v. Wade* (1973), they looked at the word, "liberty" in the due process clause and said, "liberty" means "privacy", and "privacy" means "a woman can kill her unborn baby".[13]

And they claimed they had jurisdiction to overturn State Laws criminalizing abortion because the issue *arises under* the

Constitution at §1 of the 14th Amendment! [ibid.]

The Supreme Court redefined words *in Our Constitution* to justify the result *they* wanted in the case before them.

The Supreme Court didn't "enforce" the Constitution – they butchered it to fabricate a "constitutional right" to kill unborn babies.

And the lawyers said, "It's the Law of the Land"; the People yawned; and the clergy said, "the Bible says we have to obey civil government – besides, we don't want to lose our 501 (c) (3) tax exemption!"

6. **What are the remedies when the Supreme Court violates the Constitution?**

The opinions of which the convention lobby complains constitute *violations* of our Constitution.[14] The three remedies our Framers provided or advised for judicial violations of our Constitution are:

1. In Federalist No. 81 (8th para), Hamilton shows Congress can impeach and remove from office federal judges who violate the Constitution. *Congress is competent to decide whether federal judges have violated the Constitution!* Impeachment is their "check" on the Judicial Branch.
2. In Federalist No. 78 (6th para), Hamilton shows the Judicial Branch must rely on the Executive Branch to enforce its judgments. If the President, in the exercise of his independent judgment and mindful of his Oath to "preserve, protect and defend the Constitution", determines that an opinion of a federal court is unconstitutional; *his Duty* is to refuse to enforce it. *The President is also competent to decide whether federal judges have violated the Constitution!* Refusing to enforce their unconstitutional judgments is his

"check" on the Judicial Branch.

3. On the Right & Duty of the States – *who created the federal government when they ratified the Constitution* – to smack down their "creature" when their "creature" violates the Constitutional Compact the States made with each other, see Nullification: The Original Right of Self-Defense.

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Endnotes:

[1] "*Creature*" is the word our Founders used – e.g., Federalist No. 33 (5th para) & Jefferson's draft of The Kentucky Resolutions of 1798 (8th Resolution).

[2] Art. VII, cl. 1, US Constit., sets forth ratification procedures for our Constitution.

[3] Madison's Virginia Report of 1799-1800 (pp 190-**196**).

[4] Madison's Journal of the Federal Convention of 1787 shows that on July 23, 1787, the Delegates discussed who was competent to ratify the proposed new Constitution. Col. Mason said it is "the basis of free Government" that only the people are competent to ratify the new Constitution, and

"…The [State] Legislatures have no power to ratify it. They are the mere creatures of the State Constitutions, and cannot be greater than their creators…"

Madison agreed that State Legislatures were incompetent to ratify the proposed Constitution – it would make essential inroads on the existing State Constitutions, and

"…it would be a novel & dangerous doctrine that a Legislature could change the constitution under which it held its

existence…."

It's equally novel & dangerous to say that the Supreme Court may change the Constitution under which it holds *its* existence.

[5] It is said England doesn't have a written constitution.

[6] Acts of Congress which are not authorized by the enumerated powers are *void.* They are not made "in Pursuance" of the Constitution and have supremacy over nothing. Federalist No. 27 (last para) says:

"…the laws of the Confederacy [the federal government], as to the ENUMERATED and LEGITIMATE objects of its jurisdiction, will become the SUPREME LAW of the land; to the observance of which all officers, legislative, executive, and judicial, in each State, will be bound by the sanctity of an oath. Thus the legislatures, courts, and magistrates, of the respective members [the States], will be incorporated into the operations of the national government AS FAR AS ITS JUST AND CONSTITUTIONAL AUTHORITY EXTENDS…" [capitals are Hamilton's]

See also Federalist No. 33 (last 2 paras) and Federalist No. 78 (10th para).

[7] John Whitehead mentions the Biblical origin of the common law in The Second American Revolution.

[8] Art. III, §2, cl.1 delegates to federal courts power to hear "Controversies between Citizens of different States." Much of the litigation conducted in federal courts falls into this category. These lawsuits aren't about the Constitution. Instead, they involve the range of issues people fight about in State Courts: personal injury, breach of contract, business disputes, fighting over property, slander & libel, etc. In deciding these cases, federal judges are expected to follow the "common law" precedents.

[9] In Federalist No. 78 (next to last para), Hamilton discusses how judges are bound by "precedents" which define and point out their duty in the particular cases which come before them.

[10] In Federalist No. 83 (8th para), Hamilton says:

"…the…authority of the federal …[courts]…is declared by the Constitution to comprehend certain cases particularly specified. The expression of those cases marks the precise limits, beyond which the federal courts cannot extend their jurisdiction…"

[11] James Madison agreed that the purpose of the "arising under this Constitution" clause is to enable federal courts to enforce the Constitution. At the Virginia Ratifying convention on June 20, 1788, he explained the categories of cases federal courts have authority to hear. As to "cases arising under this Constitution", he said:

"…That causes of a federal nature will arise, will be obvious to every gentleman, who will recollect that the states are laid under restrictions; and that the rights of the union are secured by these restrictions. They may involve equitable as well as legal controversies…"

[12] This is proved in Harvard Professor Raoul Berger's meticulously documented book, **Government by Judiciary: The Transformation of the Fourteenth Amendment**.

[13] In **Roe v. Wade (1973)**, the Supreme Court said under Part VIII of their opinion:

"…This right of privacy, whether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action, as we feel it is … is broad enough to encompass a woman's decision whether or not to terminate her pregnancy…"

[14] Many Supreme Court opinions violate our Constitution. Wickard v. Filburn (1942), discussed HERE, is another of the most notorious. But we elect to Congress people who don't know our Constitution or The Federalist Papers; and they are unaware of their Duty – imposed by their Oath of office – to function as a "check" on the Judicial Branch by impeaching federal judges who violate our Constitution.

What The Framers Really Said About The Purpose Of Amendments To Our Constitution

One of the silliest of the many unsupported claims made by those lobbying for an Article V convention is that our Framers said that when the federal government *violates* the Constitution, the remedy is to *amend* the Constitution.[1]

It shouldn't be necessary to point out that their claim makes as much sense as saying that since people *violate* the Ten Commandments, God should *amend* the Ten Commandments.[2]

And since none of our Framers said such a silly thing, the convention lobby can't produce a quote where it was said.

Even so, some have believed it and repeated it to others. *Americans!* We must demand that people ***prove*** their claims before we believe what they tell us.

I will show you **original source documents,** and you can see for yourself what our Framers really said about the purpose of

amendments to our Constitution.

Madison's Journal of the Federal Convention of 1787

James Madison was a delegate to the federal convention of 1787 where our present Constitution was drafted. He kept a daily Journal. I went through it, collected every reference to what became Article V, and wrote it up – here it is.

Madison's Journal shows what our Framers said at the convention about the purpose of amendments to our Constitution:

- Elbridge Gerry said on **June 5, 1787**: the "novelty & difficulty of the experiment requires periodical revision."
- **George Mason said on June 11, 1787**: **The Constitution now being formed "will certainly be defective**," as the Articles of Confederation have been found to be. **"Amendments therefore will be necessary**, and it will be better to provide for them, in an easy, regular and Constitutional way than to trust to chance and violence. It would be improper to require the consent of the Natl. Legislature, because they may abuse their power, and refuse their consent…The opportunity for such an abuse, may be **the fault of the Constitution** [i.e., a defect] **calling for amendmt**." [boldface mine] [3]
- Alexander Hamilton said on **Sep. 10, 1787**: amendments remedy *defects* in the Constitution.[4]

The Federalist Papers

In **Federalist No. 43** at 8, Madison said the purpose of amendments to the Constitution is to repair "discovered faults" and "amendment of errors"; and "amendment of errors" and "useful alterations" would be suggested by experience.

In **Federalist No. 85** (13th para), Hamilton said useful amendments would address the "organization of the government, not…the mass of its powers"[5]

Throughout **Federalist No. 49**, Madison warned *against* a convention for proposing amendments, and showed that a convention is neither proper nor effective to restrain government when it encroaches.

Madison's letter of August 28, 1830 to Edward Everett (p. 383-403)

Madison says:

"Should the provisions of the Constitution as here reviewed be found not to secure the Govt. & rights of the States agst. usurpations & abuses on the part of the U.S…" (p. 398)

So he is talking about **provisions – *defects* – in the Constitution which permit the federal government to abuse the States**. He goes on to say:

"…the final resort within the purview of the Constn. lies in an amendment of the Constn…"[6]

So he's saying that **when a defect in the Constitution** exposes the States to abuses by the federal government, the remedy is to amend the Constitution.

To fully grasp Madison's point, we must look at his letter in its historical context of the Tariff Act of 1828: The southern states bought manufactured goods from England. England bought southern cotton. But infant industries in the Northeast couldn't compete with the English imports. So during 1828, Congress passed a Tariff Act which imposed such high tariffs on English imports that the southern states could no longer buy them. England stopped buying southern cotton. This devastated the southern economy. So South Carolina wanted to nullify the Tariff Act (the "Tariff of Abominations"); and developed a theory that a State had a "constitutional right" to nullify *any* federal law, and the nullification would be presumed valid, unless three-fourths of the States said it wasn't valid.

Madison opposed South Carolina's theory *because the Tariff Act was constitutional* – it was authorized by Art. I, §8, cl. 1, US Constitution. States can't nullify a constitutional law![7]

But while the Tariff Act was *constitutional*, it was *abusive*: Article I, §8, cl. 1 was being used to benefit infant industries in the Northeast at the expense of the southern states.[8]

So what's the remedy "within the purview of the Constitution" for the Tariff Act of 1828? Madison doesn't spell it out – but obviously Art. I, §8, cl. 1 could be amended to say that Congress may impose tariffs only to raise revenue to carry out the enumerated powers; and may not impose tariffs in order to benefit domestic industries, or to benefit one section of the Country at the expense of other sections.[9]

Washington's Farewell Address

In his Address, Washington warns that we must require people in the federal government to confine themselves within their constitutional powers; and we must not permit one department [branch] of the federal government to encroach on the powers of the other departments (p. 15-19). He then says,

"If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed." (p.19)

So Washington is talking about what the people may come to see as *defects* in the Constitution:

- If we want one branch of the federal government to have a power which the Constitution delegates to another

branch, we should amend the Constitution to *redistribute* that power.[10]

- If we want the federal government to have a power the Constitution doesn't grant, we should amend the Constitution to delegate the additional power. No matter how desirable it is for the federal government to have the additional power, we must not permit it to exercise the power by usurpation.[11]

And this is what Alexander Hamilton, who along with James Madison assisted Washington in drafting his Farewell Address,[12] had previously said in Federalist No. 78: The representatives of the people [Congress] may not violate the Constitution even if a majority of their constituents want them to:

"…Until the people have, by some solemn and authoritative act, annulled or changed the established form, it is binding upon themselves collectively, as well as individually; and no presumption, or even knowledge, of their sentiments, can warrant their representatives in a departure from it, prior to such an act…" (5th para from the end)

Our Constitution isn't defective, it's ignored!

Our Constitution is a 5,000 year miracle. Our problem is everyone ignores it. The solution is to dust it off, read it, learn it, and enforce it. Downsize the federal government to its enumerated powers.

Demand Proof of what people say before you believe them.

If Americans would follow the example of the Bereans (Acts 17:11) *and demand proof of the claims the convention lobby makes*, they would spot the false claims and preserve our blessed Constitution. Judges & Juries require trial lawyers to prove their claims. Demand the same from lobbyists for a convention!

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Endnotes:

[1] Michael Farris claimed [but couldn't link to a quote because Mason didn't say it]:

"George Mason demanded that this provision [the convention method of proposing amendments] be included in Article V because he correctly forecast the situation we face today. He predicted that Washington, D.C. would violate its constitutional limitations and the States would need to make adjustments to the constitutional text in order to rein in the abuse of power by the federal government."

[2] Amendments can't "rein in" the fed. gov't when it "violate[s] its constitutional limitations" because when it does so, **it is ignoring *the existing limitations* on its powers**. *Hello?*

[3] **Mason's concern was that the new fed. gov't wouldn't agree to amendments needed to correct *defects* in the new Constitution**:

- Under the Articles of Confederation (our 1st Constitution), amendments had to be approved by the Continental Congress and all of the States (see ART. 13). So Art. V of the new Constitution dispensed with the requirement that Congress approve amendments.
- Who should be able to *propose* amendments? Madison wanted Congress to propose all amendments, either on their own initiative or at the request of 2/3 of the States. But Mason said the States should be able to propose amendments without asking Congress because Congress might become oppressive and not permit the States to get the necessary amendments.

So the convention method was added. And it provided a way for

States to propose amendments. *But it also provided a convenient opportunity to get a new Constitution, since the delegates would have that transcendent right, recognized in our Declaration of Independence, to throw off one government and write a new constitution which creates a new government.*

George Mason hated the new Constitution. He said on Aug. 31, 1787 that he "would sooner chop off his right hand than put it to the Constitution as it now stands"; and if it wasn't changed to suit his views, **he wanted another convention.** *Everybody knew that to get a new Constitution, you need a convention*.

Madison and the other Framers went along with adding the convention method because they knew the people had the right to meet in convention and draft a new Constitution whether or not the convention method was added to Art. V [e.g., Madison's letter of Nov. 2, 1788 to Turberville p. 299 at 2.]; and they couldn't stop People in the future from doing what they had just done. So Madison, Hamilton & John Jay promptly started warning of the dangers of another convention: see the Brilliant Men handout.

[4] Here's an illustration of what States soon saw as a defect in our Constitution: Art. III, §2, cl. 1 delegated to federal courts the power to hear cases "between a State and Citizens of another State". But when a citizen of South Carolina sued the State of Georgia, the States were outraged! See **Chisholm v. Georgia, 2 U.S. 419** (1793). So the 11th Amendment was ratified to take away from federal courts the power to hear such cases.

[5] The Constitution drafted at the federal convention of 1787 delegates only a tiny handful of powers to the fed. gov't. See this chart.

[6] Madison continues, "… according to a process applicable by

the States." Madison always said that when States want amendments, they should ask their congressional delegation to propose them. E.g., Madison's letter of Nov. 2, 1788 to Turberville (p. 299 at 2.).

[7] See Madison's Notes on Nullification (1835) HERE (p. 573-607).

[8] The Tariff Act of 1828 violated our Founding Principle (2nd para of the Declaration of Independence) that the purpose of government is to secure the rights God gave us. *God never gave us the right to be free of competition in business.*

[9] In the very next paragraph, Madison says that when there is a pattern of usurpations and abuses, we must step outside of the Constitution and resort to the original right of self-defense: resistance, i.e., nullification or revolution (p. 398).

[10] E.g., Art. I, §8, cl. 11 delegates *to Congress* the power to declare war. But if we want the President to have that power, we should amend the Constitution to delegate that power to the President. *We must not permit the President to exercise that power by usurpation!*

[11] If we wanted the fed. gov't to exercise power over labor unions, wages & hours, safety standards, food & drugs, manufacturing standards, agriculture, energy, housing, transportation, education, medical care, the environment, etc., etc., etc., **we should have amended the Constitution to delegate those powers to the fed. gov't.** *But we ignored Washington's advice, and permitted the fed. gov't to exercise those powers by usurpation*.

[12] The Introduction to the Farewell Address (p. 3) says that George Washington composed it with the assistance of Alexander Hamilton and James Madison.

States Determine Qualifications For Voting And Procedures For Registration, And Only Citizens May Vote

1. Summary

The federal government is usurping the powers of the States, *expressly retained* by Art. I, **§2**, cl. 1, US Constitution, to determine qualifications for voting. And by perverting Art. I, **§4**, cl. 1, it is also usurping the States' *reserved power* to determine procedures for registration of voters.

Consistent with Principles of Republican Government, *every State in this Union has restricted voting to Citizens*.[1] But on October 26, 2010 in *Gonzales v. Arizona*, a three judge panel on the US Circuit Court of Appeals (9th Cir.) construed the **National Voter Registration Act of 1993 (NVRA)** and asserted that Arizona has no right to require applicants for voter registration to provide proof of citizenship. I wrote about it at the time HERE. On rehearing, the en banc Court of Appeals agreed with the panel; and on June 17, 2013, in *Arizona v. The Inter Tribal Council of Arizona, Inc.*, the Supreme Court affirmed.

A few months thereafter, California passed a law which permits illegal aliens to get drivers' licenses; and during 2015, consistent with the unconstitutional NVRA, passed "Motor Voter" providing that when one gets a drivers' license, one is automatically registered to vote.[2]

The federal government is unlawfully mandating that illegal

aliens be allowed to vote in our elections.

2. The Concept of "Citizenship"

Emer de Vattel's The Law of Nations **was a Godsend to our Framing Generation because it provided the new concepts our Framers needed to transform us *from* subjects of a Monarchy *to* Citizens of a Republic.**[3] **Book I, Ch. XIX, defines "citizens", "inhabitants" and "naturalization":**

- **"Citizens" are the members of the civil society who are bound to it by certain duties, subject to its authority, participate in its advantages and in the rights of citizens [§212].**
- **"Inhabitants" are foreigners who are permitted to settle in the country and are subject to its laws, but do not participate in all the rights of citizens [§213].**
- "Naturalization" is the process whereby the country grants to a foreigner the quality of citizen, by admitting him into the body of the political society [§214].

So "citizens" have civic advantages and political rights which are not extended to "inhabitants" – and certainly not to aliens who have unlawfully entered a country.[4]

Accordingly, our Constitution permits only Citizens to serve in Congress (Art. I, §2, cl. 2 & §3, cl. 3); the President must be a "natural born Citizen" (Art. II, §1, cl. 5); Article IV, §2, cl. 1 & §1 of the 14th Amendment refer to the "privileges and immunities of citizens"; and the 15th, 19th, 24th, and 26th Amendments[5] refer to voting by "Citizens".

3. The Federalist Papers show that voting is a privilege of *Citizens* alone

The slaves in America were "inhabitants", not "citizens".

They weren't allowed to vote. Federalist No. 54 (5th para from bottom) tells us:

"…The qualifications on which the right of suffrage depend are not…the same… [in the several States]. In some of the States the difference is very material. In every State, a certain proportion of inhabitants are deprived of this right by the constitution of the State, who will be included in the census by which the federal Constitution apportions the representatives… the Southern States might… [insist]…that **the slaves, as inhabitants**, should have been admitted into the census according to their full number, in like manner with other inhabitants, who, by the policy of other States, **are not admitted to all the rights of citizens…**" [boldface added] [6]

In Federalist No. 60 (1st, 2nd and last paras), Hamilton speaks of the "fundamental privilege" of citizens to vote, and that citizens who are conscious and tenacious of their rights would flock to the places of election to overthrow tyrants. In Federalist No. 61 (2nd para), Hamilton speaks of "the suffrages of the citizens", and of voting as an "invaluable privilege".

Over and over, The Federalist Papers show that voting is restricted to citizens:

"In republics, persons elevated from the mass of the community, **by the suffragees of their fellow-citizens**, to stations of great pre-eminence and power…" (No. 22, 6th para from bottom) [boldface added]

"If we consider the situation of the men on whom **the free suffrages of their fellow-citizens** may confer the representative trust, we shall find it involving every security which can be devised or desired for their fidelity to their constituents (No. 57, 7th para) *** "… that **each representative of the United States will be elected by five or**

six thousand citizens…" (No. 57, 7th para from bottom) [boldface added]

"There is a peculiarity in the federal Constitution which insures a watchful attention in a majority both of the people and of their representatives to a constitutional augmentation of the latter. The peculiarity lies in this, **that one branch of the legislature is a representation of citizens**, the other of the States…" (No. 58 at 3.) [boldface added]

"…A small number of persons, **selected by their fellow-citizens** from the general mass, will be most likely to possess the information and discernment requisite to such complicated investigations …" No. 68 (3rd para) [boldface added]

4. Webster's 1828 Dictionary shows our Founding Generation saw voting as restricted to citizens

Suffrage is:

"1. A vote; a voice given in deciding a controverted question, or in the choice of a man for an office or trust. Nothing can be more grateful to a good man than to be elevated to office by the unbiased **suffrages of free enlightened citizens**."

Citizen is:

"5. In the United States, a person, native[7] or naturalized, who has the privilege of exercising the elective franchise…"

Franchise is:

"1. … the right to vote for governor, senators and representatives, is a *franchise* belonging to citizens, and not enjoyed by aliens…"

Inhabitants and aliens may not vote unless they become naturalized citizens ***and*** meet whatever additional qualifications for voting are set forth in the State

Constitution. Naturalization is:

"The act of investing an alien with the rights and privileges of a native subject or citizen. *naturalization* in Great Britain is only by act of parliament. In the United States, it is by act of Congress,[8] vesting certain tribunals with the power."

5. State Constitutions set forth the Qualifications for Voting

When we operated under the Articles of Confederation (our first federal Constitution),[9] the States determined the qualifications for voting in state and local elections and in elections to the Continental Congress. These qualifications were set forth in the State Constitutions, and varied from State to State.

In our federal Constitution of 1787, *the States expressly retained (at Art. I, §2, cl.1) their pre-existing power to determine the qualifications of voters*; and ordained that those whom they determined were qualified to vote in elections to their State House of Representatives would thereby be qualified to vote for their federal Representatives to Congress.

Our Framers specifically rejected the idea that the new Congress *or* the State Legislatures would determine who was eligible to vote. Instead, only *The People* of each State were competent to define the right of suffrage for their State, and their definition was enshrined in their State Constitution.

In Federalist No. 52 (2nd para), James Madison tells us:

"**…The definition of the right of suffrage is very justly regarded as a fundamental article of republican government**.[10] It was incumbent on the convention, therefore, to define and establish this right in the Constitution. To have left it open for the occasional regulation of the

Congress, would have been improper … To have submitted it to the legislative discretion of the States, would have been improper … To have reduced the different qualifications in the different States to one uniform rule, would probably have been as dissatisfactory to some of the States as it would have been difficult to the convention. The provision made by the convention … must be satisfactory to every State, because it is conformable to the standard already established, or which may be established, by the State itself. It will be safe to the United States, because, **being fixed by the State constitutions, it is not alterable by the State governments…"**[boldface added]

Remember! *Since the federal and state governments are merely "creatures" of constitutions, they have no power to determine who may vote.* That power belongs to the "creators" of the governments. Only The People are competent to set the qualifications for voting; and our determinations are enshrined in our State Constitutions.

6. The States reserved power to determine procedures for voter registration

Our Constitution of 1787 created a federal government to which we delegated only "few and defined" powers [see chart]. Nowhere in the Constitution did we delegate to the federal government power to dictate procedures States must use in registering voters. *Accordingly, it is a "reserved" power*.[11] Until the federal government usurped power over this issue, the States always determined their own procedures for registration. Justice Thomas wrote in his dissent [at II. A. 2]:

"This understanding of Article I, §2, is consistent with powers enjoyed by the States at the founding. For instance, ownership of real or personal property was a common prerequisite to voting … To verify that this qualification was satisfied, States might look to proof of tax payments… In

other instances, States relied on personal knowledge of fellow citizens to verify voter eligibility. . . States have always had the power to ensure that only those qualified under state law to cast ballots exercised the franchise.

Perhaps in part because many requirements (such as property ownership or taxpayer status) were independently documented and verifiable, States in 1789 did not generally "register" voters . . . Over time, States replaced their informal systems for determining eligibility, with more formalized pre-voting registration regimes. . . But modern voter registration serves the same basic purpose as the practices used by States in the Colonies and early Federal Republic. The fact that States have liberalized voting qualifications and streamlined the verification process through registration does not alter the basic fact that States possess broad authority to set voter qualifications and to verify that they are met."

7. The federal government has usurped the States' powers to determine who may vote and determine procedures for voter registration

The National Voter Registration Act of 1993 (NVRA) purports to require States to "accept and use" a federal voter registration form! The Ninth Circuit asserted that since the federal form doesn't require applicants to provide documentary proof of citizenship, the States may not require it. This paper exposes some of the false arguments made by the Ninth Circuit's three judge panel, and sets forth what Hamilton and Madison actually said as to the genuine meanings of Art. I, **§2**, cl. 1 and **§4**, cl.1: Arizona's Proposition 200: What The Constitution Really Says About Voter Qualifications & Exposing The "Elections Clause" Argument.

But the Supreme Court affirmed the Ninth Circuit. **Justice Scalia, who wrote the majority opinion, swept Art. I, §2, cl. 1 under the rug and ignored Hamilton's and Madison's explanations of Art. I, §4, cl. 1.** Scalia asserted:

"The Clause's [Art. I, §4, cl. 1] substantive scope is broad. "Times, Places, and Manner," we have written, are "comprehensive words," which "embrace authority to provide a complete code for congressional elections," including, as relevant here and as petitioners do not contest, regulations relating to "registration"…." [12]

Scalia said,

"…the NVRA forbids States to demand that an applicant submit additional information beyond that required by the Federal Form…"

and concluded,

"… the fairest reading of the statute is that a state-imposed requirement of evidence of citizenship not required by the Federal Form is "inconsistent with" the NVRA's mandate that States "accept and use" the Federal Form…"

So what should we do when federal courts issue unconstitutional opinions?

8. Our Framers said nullification is *the natural right*, which all admit to be a remedy against insupportable oppression

The federal government has refused to control our borders and, as a result, we are being invaded. The federal government is demanding that invaders be allowed to vote in our elections. We have no obligation to obey unconstitutional dictates of the federal government. See Nullification: The Original Right of Self-Defense. What does your State Constitution say about qualifications for voting? Demand that your State government enforce your State Constitution.

And Remember! As Hamilton told us in Federalist No. 78 (6th para), federal courts can only *issue* judgments – they must rely on the Executive Branch to enforce them. *So the*

President's "check" on usurping federal judges is to refuse to enforce their opinions. States must ***man up*** and obey the Constitution instead of unconstitutional dictates of the federal Legislative and Judicial Branches. Do you think that President Trump will send out US Marshalls or the National Guard to FORCE States to allow illegal aliens to vote? The iron is hot – the time to strike is *now*.

Endnotes:

[1] Justice Alito's dissenting opinion in *Arizona v. The Inter Tribal Council of Arizona, Inc.* says (2nd para):

> "…**Exercising its right to set federal voter qualifications, Arizona, like every other State, permits only U. S. citizens to vote in federal elections**, and Arizona has concluded that this requirement cannot be effectively enforced unless applicants for registration are required to provide proof of citizenship…" [boldface added]

[2] The California legislature thus violated Article II, Section 2, California Constitution which says, "A United States citizen 18 years of age and resident in this State may vote."

[3] That Vattel had such influence is proved HERE.

[4] All men everywhere possess the rights God gave them. But in a civil society, the members possess *political or civic rights* which are not extended to inhabitants, lawful visitors, or illegal alien invaders.

[5] With these four Amendments, the States agreed they would not deny suffrage to Citizens *on account of* race, being a female, not paying the tax, or being between 18 to 21 years of age. States retain power to deny suffrage to any Citizen *on account of* other factors (e.g., illiteracy, being on welfare, or stupidity).

[6] Freed slaves were naturalized by §1 of the 14th Amendment.

[7] Vattel §212: "The natives, or natural-born citizens, are those born in the country, of parents who are citizens." [See §§ 215-217 for other places babies may be born as natural-born citizens.]

[8] Art. I, §8, cl. 4, US Const.

[9] The Articles of Confederation were ratified July 9, 1778.

[10] A "republic" is a state in which the *exercise* of the sovereign power is lodged in representatives elected by the people.

[11] "*The powers not delegated* to the United States by the Constitution … *are reserved* to the States, respectively, or to the people." (10th Amendment) [italics added]

[12] Counsel for the State of Arizona made a strategic error in failing to challenge the constitutionality of the NVRA as outside the scope of powers granted to Congress *and* as in violation of Art. I, **§2**, cl. 1 and **§4**, cl.1, US Const.

Honest Discourse About Article V Convention Needed

Whether States should ask Congress to call a convention under Article V of our federal Constitution is one of the most important issues of our time. The Delegates to such a convention, as Sovereign Representatives of The People, have

the power to throw off the Constitution we have and set up a new Constitution – with a new and easier mode of ratification – which creates a new government.[1][1]

Americans need the Truth. But former law professor Rob Natelson's recent article in The Hill is filled with *ad hominems* and misstatements. Natelson is legal advisor for pro-convention groups such as "Convention of States Project" (COSP).

"Poisoning the well" fallacy

Natelson characterizes those who oppose an Article V convention as "big government advocates"; "Washington insiders" who protect "judges and politicians who abuse their positions"; chanters of "talking points" from the "disinformation campaign" of the 1960s and early 1970s who have "no real expertise on the subject"; and, like those involved in "voter suppression efforts", use "fear and disinformation" to discourage citizens from exercising their rights.

And while such tactics clearly resonate with COSP's cheerleading squad; [2][2] others immediately recognize the preemptive *ad hominem* attack known as the "poisoning the well" fallacy. That fallacy is committed when one primes the audience with adverse information or false allegations about the opponent, in an attempt to bolster his own claim or discount the credibility of the opponent.

Obviously, Natelson's characterizations don't constitute proof that he is right, and opponents are wrong.

Misrepresentations, omissions, and irrelevant "academic research"

1- Natelson asserts

> "Our founders designed this [Article V convention] as a way

> the people could fix the federal government if it became abusive or dysfunctional".

But he presents no proof – and can't because *no one* at the federal convention of 1787 (where our present Constitution was drafted) said such a thing. As proved in The George Mason Fabrication, the Delegates agreed that the purpose of amendments is to correct *defects* in the Constitution.

2- Natelson asserts:

> "Any proposals must… be ratified by 38 states before they become law."

That's not true. While any *amendments* to our Constitution must be ratified by 38 States; our Declaration of Independence says it's the "self-evident" Right of a People to abolish their government and set up a new one.

We invoked that Right in 1776 to throw off the British Monarchy.

In 1787, we invoked that Right to throw off our *first* Constitution, the Articles of Confederation; and set up a *new* Constitution – the one we now have – which created a *new* government.

How did we get from our first Constitution to our second Constitution? There was a convention to propose *amendments* to our first Constitution!

The Continental Congress resolved on February 21, 1787 to call a convention to be held at Philadelphia:

"for the sole and express purpose of revising the Articles of Confederation".

But the Delegates *ignored* this limitation – they *ignored* the instructions from their States – and they wrote our second Constitution.

And in Federalist No. 40 (15th para), James Madison invoked the "precious right" of a People to throw off one government and set up a new one, as justification for what they did at the federal "amendments" convention of 1787.

We can't stop that from happening at another convention. Furthermore, any new constitution will have its own mode of ratification. Whereas Art. 13 of the Articles of Confederation required amendments to be approved by the Continental Congress and all of the then 13 States; the new Constitution provided at Article VII that it would be ratified by 9 States.

Any proposed *third* constitution will have *its* own mode of ratification. The proposed Constitution for the Newstates of America is ratified by a national referendum (Art. XII, §1). The States don't ratify it – they are dissolved and replaced by regional governments answerable to the new national government.

3- Natelson asserts that "academic research" shows:

> "…how the convention is chosen and operates: It is a meeting of state representatives of a kind very common in U.S. history…The convention follows a pre-set agenda and attendees are subject to state legislative direction."

But Natelson doesn't mention the federal "amendments" convention of 1787. *That* convention involved *Delegates who ignored the instructions from their States[3]* [3] *and from the Continental Congress,* and resulted in a new Constitution with a new and easier mode of ratification. ***That* is the "meeting" which is relevant to the convention Congress has the power to call under Article V of our Constitution.**

The "calling" of a convention by Congress is governed – not by Natelson's "meetings" – *but by provisions in our Constitution.* Article V delegates *to Congress* the power to "call" a

convention; and Article I, § 8, last clause, delegates *to Congress* the power to make laws "necessary and proper" to carry out that power.

As to the sovereign powers of Delegates, look to the Declaration of Independence, the federal "amendments" convention of 1787, and Federalist No. 40 – not to Natelson's "meetings".

4- In an earlier article, Georgetown law professor David Super cited Coleman v. Miller (1939) to show that as amending the Constitution is a "political question"; the courts are unlikely to intervene.[4]

Natelson responded that *Coleman* is a 79-year old "minority opinion the courts have long repudiated"; but doesn't show where the Supreme Court "repudiated" its opinion.

What *Coleman* shows is this: we can't expect federal courts to ***make*** Delegates obey instructions. *No one* has power over Delegates – Delegates can take down one government and set up a new one.

Conclusion

Here's an idea: Let's all read our Declaration of Independence and Constitution; elect *only* people who have also read them, know what they say, and agree to obey; and then let's downsize the federal government to its enumerated powers.

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Endnotes:

[1] *This is why* James Madison, Alexander Hamilton, four Supreme Court Justices, and other luminaries warned against an Article V convention.

[2] At 5:25-7:35 mark. Archived HERE.

[3] The States' instructions are HERE at endnote 9.

[4] When a power is delegated to a "political" branch [legislative or executive], federal courts ["judicial" branch] traditionally abstain from interfering and substituting *their* judgment for that of the branch to which the power was delegated.

The "Compact" Gimmick To Circumvent The Powers Granted To Congress By Article V

The **supremacy clause** at Article VI, clause 2, US Constitution, says:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

Two bills, SJR 31 & HJR 49, which purport to provide for the selection and control of "commissioners" to an "interstate convention" for "proposing amendments" to our federal Constitution, have recently been filed in the Virginia General Assembly. The bills assert that such an "interstate convention" is authorized by Article I, §10, clause 3; the 10th Amendment; and Article V of our Constitution.

As shown below, the bills are unconstitutional because they

seek to circumvent Article V, and are not encompassed within Article I, §10, clause 3, or the 10th Amendment. Under the supremacy clause, they would be struck down.

1. **What Article V says about amending our Constitution**

Article V says:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing amendments…"

Our existing 27 Amendments were obtained under the first method: Congress proposed them and sent them to the States for ratification or rejection.

We've never had a convention under Article V – *they are dangerous!* If Congress calls an Article V convention, our existing Constitution could be replaced with a new Constitution which sets up a completely new structure of government.[1]

Nevertheless, the People granted *to Congress* at Article V the power to "call" a convention; and *to the Delegates* to the convention, the power to "propose amendments".[2]

Yet the Convention of States Project (COS), in brazen disregard of the plain meaning of Article V, has long insisted that *the States* "call" the convention; *the States* propose the amendments for the convention to rubberstamp; and *the States* will have total control over the Delegates to the convention.

SJR 31 & HJR 49 are an implicit admission that we who oppose an Article V convention have proved our point: *Congress really does* "call" the Convention; and pursuant to its grant of power to "call" the convention, *Congress really is* granted by Article I, §8, last clause, the power to make all laws

"necessary and proper" to carry out the powers granted to Congress by Article V; and *the States actually have no power* over an Article V convention – except to ask Congress to "call" one.[3]

The Congressional Research Service Report dated April 11, 2014 likewise reflects Congress' clear awareness that it alone has the power to organize and set up an Article V convention. The Report says:

"First, Article V delegates important and exclusive authority over the amendment process to Congress…" [page 4]

"Second . . . Congress has traditionally laid claim to broad responsibilities in connection with a convention, *including . . . (4) determining the number and selection process for its delegates;*[4] (5) setting internal convention procedures, including formulae for allocation of votes among the states; . . ." [page 4] [italics added]

And contrary to COS's previous assurances that the States would have total control over an Article V convention, the CRS Report says on page 27:

"In the final analysis, the question what sort of convention?" is not likely to be resolved unless or until the 34-state threshold has been crossed and a convention assembles."

In other words, *we'll have to get a convention before we know what the Delegates are going to do!*

1. The new Gimmick to circumvent Congress' powers under Article V

SJR 31 & HJR 49 make the bizarre claim that Article I, §10, clause 3, which says:

"No State shall, without the Consent of Congress … enter into any Agreement or Compact with another State…",

is really talking about an "interstate convention" for the States to meet and "propose amendments" to our Constitution!

First of all, our federal Constitution doesn't address "interstate conventions"![5] State and local governments and private organizations may hold nationwide conventions (gatherings) on an endless list of matters: trade shows, book fairs, sports events, high school marching band contests, agricultural fairs, meetings of County Sheriffs, whatever they like! And they don't need permission from Congress.

Secondly, a "Compact *with another State*" within the meaning of **Article I, §10, clause 3**, is separate, distinct, and totally *unrelated* to **the Article V convention *called by Congress*** for the purpose of addressing our federal Constitution. "Compact", as used in Article I, §10, clause 3, means binding agreements or contracts *between States* which deal with state matters. Traditionally, "compacts" have been used to resolve such matters as boundary disputes *between States*; and may be used to address various other issues *between States*.[6]

Article V governs amendments to our Constitution – not Article I, §10, clause 3! Virginia may not lawfully set up any gimmick to circumvent the powers granted by Article V *to Congress.* And Congress may not lawfully approve a "compact" which violates our Constitution!

Thirdly, SJR 31 & HJR 49 claim **the 10th Amendment** gives States the power to hold an "interstate convention" to propose amendments to the Constitution. *Rubbish!* The 10th Amendment addresses powers "*reserved to the States…or to the people*." It is inapplicable here because no powers respecting an Article V convention were reserved to the States: **The People granted *to Congress* the power to "call" an Article V convention**; and ***to the Delegates,* the power to "propose amendments**". The only power the States have is *to ask Congress* to call the convention.

Once the requisite number of States has applied to Congress, it's out of the States' hands. Pursuant to Article I, § 8, last clause;[7] *Congress* has the power to make all laws necessary and proper to carry out its power to "call" the convention. And *then*, our Fate is in the hands of the Delegates; and they can do whatever they want – as they did in 1787.

III. The new Gimmick attempts to circumvent the Plenipotentiary Powers of the Delegates to an Article V Convention.

Article V shows on its face that *the convention* is the deliberative body. The Delegates hold the Power to "propose amendments"; or, to do what our Framers did at the federal "amendments" convention of 1787 (invoke the 2nd paragraph of the Declaration of Independence) and write a new Constitution which creates a new government.

So, while the States are free to propose amendments *to their Congressional Delegations* [and this is what James Madison advised];[8] the States have no authority to dictate the amendments to be proposed at the convention called by Congress.

And as shown in "Why states can't prevent a runaway convention" and "Delegates to an Article V Convention can't be controlled by state laws!" attempts to control Delegates with "unfaithful delegate" laws are laughably ineffective.

Apparently, the convention lobby now concedes that "unfaithful delegate" bills won't work, since with SJR 31 & HJR 49, they attempt to circumvent the plenipotentiary powers held by Delegates to an Article V convention, by fabricating a new kind of convention (meeting) out of Article I, § 10, clause 3!

1. The solution is to enforce the Constitution we already have

Americans don't know what our Constitution says and don't care what it says. They want what they want; and elect politicians like themselves. The politicians made a mess. To fix the mess, Americans must read our Declaration of Independence and Constitution, and enforce them with their votes and by repudiating unconstitutional federal programs. State and local governments must enforce our Constitution by renouncing federal funds to implement unconstitutional programs and by nullification. See also James Madison's specific suggestions on how States & Citizens can resist federal usurpations.

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Endnotes:

[1] This is why Brilliant Men (Madison, Hamilton, four US Supreme Court Justices, and other eminent jurists and scholars) have warned against another convention. And this flyer sets forth the Facts of the federal "amendments convention" of 1787 at which our existing Constitution was drafted to replace our first Constitution (the Articles of Confederation).

[2] The issue in U.S. v. Sprague (1931) was whether the 18th Amendment (Prohibition) should have been ratified by conventions in each State instead of by State Legislatures. The Supreme Court held that **Article V "is a grant of authority by the people to Congress"** and that **the people "deliberately made the grant of power to Congress in respect to the choice of the mode of ratification of amendments."** Accordingly, Congress had authority to select ratification of the proposed 18th Amendment by State Legislatures instead of by conventions in each State.

[3] THIS handy chart lists who has the power to do what respecting an Article V convention.

[4] Congress is under no obligation to permit States to participate in the Convention. Congress has the power to appoint its own members, federal judges, or whomever else they want as Delegates!

[5] "Convention" has several meanings. It can be a meeting or gathering, such as a national convention of County Court Clerks or architects; **or** it can refer to a treaty with foreign countries, such as the Hague and Geneva Conventions on the laws of war. The author of SJR 31 & HJR 49 may have fallen victim to the Fallacy of Ambiguity since he slips and slides between the two meanings. "Compact" in Art. I, §10, cl. 3, means "agreement" or "contract" – not meetings!

[6] E.g., States could properly enter into "Compacts", within the meaning of Art. I, §10, cl. 3, wherein they agree to prohibit waste being discharged into a River shared by them; or respecting the construction of a hydroelectric dam on the River. Even though the federal government has no delegated authority to deal directly with such issues; the requirement of Consent by Congress to such Compacts is proper because States situated above or below the proposed dam could be affected by the dam.

Neither the Federalist Papers nor Madison's Journal of the Federal Convention of 1787 set forth what our Framers meant by "compacts" at Art. I, §10, cl.3. Here are two secondary sources: The Evolving Use and the Changing Role of Interstate Compacts: A practitioner's guide, by Caroline N. Broun & Michael L. Buenger (see pages 1-9 for the historical basis of "interstate compacts"). See also Justice Story's "Commentaries on the Constitution of the United States" (1833), Book 3, Ch. 35, §§ 1395-1403.

[7] *Former law professor and pro-convention operative* Rob Natelson's statements to the contrary are untrue. See "Rob Natelson perverts the Necessary and Proper Clause and thinks in circles".

[8] E.g., Madison's letter of Nov. 2, 1788 to Turberville (pages 297-301) at the end of Madison's point 2 [and then read Madison's point 3!]

Convention of States Project's "Simulated Convention" A Dog And Pony Show

Foundational Knowledge

Our Constitution delegates only a handful of powers to the federal government. But 100 years ago, we started electing Progressives (Fabian socialists) to State and federal office. With the enthusiastic approval of the American People, the Progressives set up the socialist regulatory welfare governments (state and federal) we now have. It's unconstitutional; but Americans didn't care because *they* were being taken care of by the governments, and their children were getting "free" public school educations.

So for the past 100 years, the federal and state governments *and the American People* have ignored our Constitution.

Now that our socialist system is collapsing, along comes the **"Convention of States" Project (COS),** blames all our problems on the federal government, and claims we can fix the federal government's *violations* of our Constitution by *amending* the Constitution.[1]

And they say amendments which will "rein in the abuse of power

by the federal government" when it "violate[s] its constitutional limitations",[2] can be obtained only at a convention called by Congress pursuant to Article V of our Constitution.

Article V provides that if two thirds of the States apply for it, Congress shall call a convention for proposing amendments to the Constitution.[3] [3] However, Delegates would have the right, as recognized in the 2nd paragraph of our Declaration of Independence, to throw off the Constitution we have and write a new Constitution which creates a new government. This has happened before!

Our first Constitution was the Articles of Confederation. It had defects, so on February 21, 1787, the Continental Congress called a convention to be held in Philadelphia "for the sole and express purpose of revising the Articles of Confederation". But instead of proposing amendments, the Delegates wrote a new Constitution, *with an easier mode of ratification,* [4] which created a new government. In Federalist No. 40 (15th para), James Madison invoked the Delegates' right to abolish our form of government, as recognized in the Declaration of Independence, to justify ignoring their instructions and drafting a new Constitution which created a new government.

So! Ever since the federal convention of 1787, it has been known that *any convention called to address our Constitution under Article V provides the opportunity to impose a new Constitution*. [5] That's why the enemies of our Constitution periodically push for an Article V convention.[6]

In response to the current push, constitutionalists are warning Americans that if Congress calls an Article V convention, a new constitution with a new mode of ratification is likely to be imposed – probably a new constitution which moves us into the North American Union.

COS's "simulated" Article V convention

So during September 2016, COS held an "invitation only" "simulated convention" in Williamsburg, Virginia attended by State Legislators handpicked by COS,[7] to show us that Delegates to a real Article V convention called by Congress will do nothing more than propose amendments.

And lo! At the "simulated convention", all the handpicked invitees did was propose six amendments to our Constitution – they didn't "run away" and propose a new Constitution with a new mode of ratification!

COS would like us to believe that their "simulated convention" proves that a real Article V convention called by Congress also won't run away when, in fact, it proves nothing except that handpicked COS invitees fall in line with the COS agenda.

Now let's look at the proposed amendments: COS posted them HERE; an archived copy is HERE.

COS's six amendments

Like *Newspeak* in George Orwell's "1984", the amendments would do the opposite of what COS claims.

"***Fiscal Restraints Proposal 1***":

> *"SECTION 1. The public debt shall not be increased except upon a recorded vote of two-thirds of each house of Congress, and only for a period not to exceed one year.*
>
> *SECTION 2. No state or any subdivision thereof shall be compelled or coerced by Congress or the President to appropriate money.*

So! Congress can't increase the debt unless they decide to increase the debt. Wow. This is "fiscal restraints"?

If *you* read through the Constitution and highlight the powers

delegated to the federal government, you will get a list of the objects on which Congress is authorized to spend money.

The reason we have a huge debt is because for 100 years, Congress has been spending on objects which aren't on the list of delegated powers. The States go along with it because they get federal funds for implementing unconstitutional federal programs in their States. 31.9% of the States' annual revenues is from federal funds. All this federal money is borrowed and added to the public debt!

To say that State Legislators display hypocrisy when they decry "out of control federal spending" when they have their hand out for all the federal money they can get, is an understatement. **The amendment *authorizes* such spending to continue for as long as Congress continues to approve increases in the debt! *The amendment legalizes – makes constitutional – all such spending and debt increases*!**

Section 2 gives us nothing. Our existing Constitution doesn't permit the federal government to require States or local governments to spend money.

"Federal Legislative & Executive Jurisdiction Proposal 1":

> *"SECTION 1. The power of Congress to regulate commerce among the several states shall be limited to the regulation of the sale, shipment, **transportation, or other movement of** goods, articles or **persons**. Congress may not regulate activity solely because it affects commerce among the several states.* [boldface added]
>
> *SECTION 2. The power of Congress to make all laws that are necessary and proper to regulate commerce among the several states, or with foreign nations, shall not be construed to include the power to regulate or prohibit any activity that is confined within a single state regardless of its effects outside the state, whether it employs instrumentalities therefrom, or whether its regulation or prohibition is part*

> *of a comprehensive regulatory scheme; but **Congress shall have power to define** and provide for punishment of **offenses constituting acts of war** or violent insurrection **against the United States**.* [boldface added]
>
> *SECTION 3. The Legislatures of the States shall have standing to file any claim alleging violation of this article. Nothing in this article shall be construed to limit standing that may otherwise exist for a person.*

Section 1: The original intent of the interstate commerce clause (Art. I, §3) is **to prohibit the States from imposing tolls & tariffs on merchandize as it is transported through the States for purposes of buying & selling; and to permit the federal government to impose duties on imports & exports, both inland & abroad.[8]**

With Roosevelt's "New Deal", the federal government began to *pervert* the original intent so as to exert power over whatever they wanted to regulate.

The amendment *legalizes* the perversions! It delegates to the federal government *powers it has already usurped* to regulate the sale, shipment, transportation, or other movement of goods and articles.

Furthermore: the amendment delegates to the federal government a sweeping new power over the movement or transportation of *persons* across state lines! It would, e.g., authorize the federal government to prohibit use of privately owned vehicles to cross state lines, and to require prior written permission to cross state lines. I saw in communist East Europe & the Soviet Union a system where governments control movement of persons. Will "Papers, please" be heard at checkpoints *in America*? **This *malignant* amendment would be *constitutional authority* to impose such a system here.**[9]

Section 2: The federal government has no existing constitutional authority to regulate *intra* state commerce, so

the first clause of this section adds nothing our Constitution doesn't already prohibit.

But the second clause **delegates to the federal government another significant new power *over persons***: it comes verbatim from Randy Barnett's so-called "bill of federalism":[10]

> "…*Congress shall have power to define and provide for punishment of offenses constituting acts of war or violent insurrection against the United States*."

Why does Barnett, who attended the "simulated convention" as "Committee Advisor", want the federal government to have this new power? What's an "act of war against the United States" – doing what the Bundys and their supporters did? **The amendment delegates to Congress the power to *define* "acts of war against the United States" – and to *re-define* it from time to time – to encompass *whatever* they want!**

We need to understand the implications of delegating such power to Congress. As with "treason" under the Tudors in England, anyone can be accused of "acts of war against the United States". Does Randy Barnett, *law professor*, understand the implications? James Madison understood them and thus said that "treason" must be defined *in the Constitution*; [11] *obviously, no one of Madison's caliber was at the "simulated convention"*.

Section 3: Our Framers didn't advise the States to file lawsuits against the federal government when it violates the Constitution! Our Framers told the States to *nullify* such violations.[12]

"Federal Term Limits & Judicial Jurisdiction Proposal 1":

> *"No person shall be elected to more than six full terms in the House of Representatives. No person shall be elected to more than two full terms in the Senate. These limits shall include the time served prior to the enactment of this*

Article."

This amendment is a feel-good palliative which caters to *Americans' pervasive desire for a quick "fix" which permits them to avoid dealing with the real causes of their problems*. See Term Limits: A Palliative not a Cure.

"*Federal Legislative & Executive Jurisdiction Proposal 2*":

> *"SECTION 1. The Legislatures of the States shall have authority to abrogate any provision of* ***federal law*** *issued by the Congress, President, or Administrative Agencies of the United States,* ***whether in the form of a statute, decree, order, regulation, rule, opinion, decision, or other form***. [boldface added]
>
> *SECTION 2. Such abrogation shall be effective when the Legislatures of three-fifths of the States approve a resolution declaring the same provision or provisions of federal law to be abrogated. This abrogation authority may also be applied to provisions of federal law existing at the time this amendment is ratified.*

Section 1: **Article I, §1, US Constitution, provides that all legislative powers granted by the Constitution shall be vested in Congress.** Only *Congress* may make laws [and laws are restricted to the powers granted in the Constitution].

Accordingly, executive orders and federal agency rules and orders are not "law".

The amendment would *supersede* Art. I, §1. It would elevate to the status of "federal law" every order or regulation burped out by bureaucrats in the executive branch; every executive order signed by every President; and every order barked out by jack-booted thugs working for federal agencies. And unless three fifths of States agree that you don't have to obey – you must obey or bear the consequences of violating what would be – thanks to this amendment – "federal law".

Section 2: James Madison, Father of our Constitution, showed how individual States or several States could carry out resistance to the federal government's unconstitutional encroachments. But the amendment would require 30 States to agree before any one State *or person* could defend itself!

"Fiscal Restraints Proposal 2":

> *"SECTION 1. Congress shall not impose taxes or other exactions upon incomes, gifts, or estates.*
>
> *SECTION 2.* ***Congress shall not impose*** *or increase* ***any tax****, duty, impost or excise* ***without the approval*** *of three-fifths of the House of Representatives and three-fifths of the Senate, and shall separately present such to the President.* [boldface added]
>
> *SECTION 3. This Article shall be effective five years from the date of its ratification, at which time the Sixteenth Article of amendment is repealed."*

This amendment doesn't impose "fiscal restraints" – it authorizes Congress to impose new and different taxes on us!

The words in boldface authorize Congress to impose "**any tax**" if three fifths of both Houses agree. "Any tax" includes a national sales tax *and* a national value added tax (VAT). Statists love the VAT because it raises a "gusher of revenue for spendthrift governments". This is what will *replace* the income, gift, and estate tax.

"Federal Legislative & Executive Jurisdiction Proposal 3":

> *"Whenever one quarter of the members of the United States House of Representatives or the United States Senate transmits to the President their written declaration of opposition to any proposed or existing federal administrative regulation, in whole or in part, it shall require a majority vote of the House of Representatives and*

Senate to adopt or affirm that regulation. Upon the transmittal of opposition, if Congress shall fail to vote within 180 days, such regulation shall be vacated. No proposed regulation challenged under the terms of this Article shall go into effect without the approval of Congress. Congressional approval or rejection of a rule or regulation is not subject to Presidential veto under Article 1, Section 7 of the U.S. Constitution."

As shown in The "Regulation Freedom" Amendment and Daniel Webster, rulemaking by federal agencies is unconstitutional as in violation of Art. I, §1 of our Constitution.

The proposed amendment would *supersede* Art. I, §1 and legalize such rulemaking! And the existing Code of Federal Regulations and the rulemaking process itself – which now violate the Constitution – would be made constitutional!

The solution to the burden created by unconstitutional federal agencies is to **do away with the agencies**! Downsize the federal government to its enumerated powers!

Conclusion

The "simulated convention" was a dog and pony show put on to produce amendments to con us into believing that a real Article V convention called by Congress won't "run away".

But it's impossible to fix federal usurpations of non-delegated powers with amendments, because amendments can't take away powers the Constitution didn't delegate in the first place. Thus, **the amendments the hand-picked attendees approved legalize powers already usurped or delegate sweeping new powers to the federal government *over States and individual persons***!

Statecraft is serious business which requires systematic study to master. The "simulated convention" shows we live in a time

of constitutional illiteracy where people of good intent can be misled by persons of "insidious views". **Heed the words of** Daniel Webster in his 4th of July Oration, 1802**:**

> *"The politician that undertakes to improve a Constitution with as little thought as a farmer sets about mending his plow, is no master of his trade. If that Constitution be a systematic one, if it be a free one, its parts are so necessarily connected that an alteration in one will work an alteration in all; and this cobbler, however pure and honest his intentions, will, in the end, find that what came to his hands a fair and lovely fabric goes from them a miserable piece of patchwork."*

Endnotes:

[1] If your spouse commits adultery, will your marriage be saved if you amend the vows to permit adultery? When People violate the Ten Commandments, will morality be restored if we amend the Ten Commandments to permit sin?

[2] Michael Farris' words in "Answering the John Birch Society Questions about Article V" or HERE.

[3] *None* of the Delegates to the convention of 1787 said the purpose of amendments is to rein in the fed. gov't when it usurps power. They said the purpose is to *fix defects* in the Constitution. See The George Mason Fabrication at subheading 4.

[4] Article XIII of the Articles of Confederation (AOC) required Amendments to the AOC to be ratified by the Continental Congress *and* all of the then 13 States. But Article VII of the new Constitution (the one we now have) provided that it would be ratified by 9 States.

[5] **The enemies of our Constitution knew from day one that they could get rid of our Constitution at an Art. V convention!** Our present Constitution was ratified by the 9th

State on **June 21, 1788**. In Federalist No. 85 (**mid-August 1788**), Hamilton addressed the arguments of the anti-federalists who were agitating for another convention in order to get rid of our new Constitution.

On **Oct. 27, 1788**, anti-federalist Patrick Henry introduced into the Virginia Assembly a Resolution asking Congress to call an Art. V convention. In Madison's letter to Randolph of Nov 2, 1788 (pages 294-297), he speaks of Henry's "enmity" "agst [against] the whole system" [the new Constitution]; and "the destruction of the whole system I take to be still the secret wish of his heart, and the real object of his pursuit."

[6] ***New** Constitutions are already prepared or being drafted*: e.g., the Constitution for the Newstates of America **is ratified by a national referendum** (Art. XII, §1). Globalists [e.g., the Council on Foreign Relations] who want to move us into the North American Union (NAU) need a new Constitution to transform us *from* a sovereign nation *to* a member state in the NAU.

[7] COS's page is archived HERE. See "who attended the simulation" in right column. [**Archived list of attendees is HERE or HERE.**]

[8] Proof of the original intent of the interstate commerce clause & how it was abused is HERE.

[9] Yet, Legislators from 44 of the States at the "simulated convention" approved this!

[10] See Barnett's Amendment 2 – Limits of Commerce Power". It's archived HERE.

[11]"Treason" is defined at Art. III, §3. In Federalist No. 43 (at 3.) **Madison warns that *the definition must be locked into the Constitution*. Otherwise, malignant people fabricate definitions as needed in order to condemn their enemies.**

Compare Art. I, §8, cl. 10 which delegates to Congress the power "To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations". In Federalist No. 42 (1st & 4th paras), **Madison points out that *this class of powers* is among those which "regulate the intercourse with foreign nations"** and so must be handled by the general [fed.] gov't. And since everyone's definition of the terms is different, the fed gov't should define them. This class of powers wouldn't affect private Citizens. For more on the *limited* criminal jurisdiction of the fed gov't over private Citizens, see What Criminal Laws are Congress Authorized To Make?

[12] See Nullification made Easy. And remember: State officials are required by the Oath at Art. VI to "support" the federal Constitution – *not to obey the federal government*!

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The "Regulation Freedom" Amendment And Daniel Webster

"The politician that undertakes to improve a Constitution with as little thought as a farmer sets about mending his plow, is no master of his trade. If that Constitution be a systematic one, if it be a free one, its parts are so necessarily connected that an alteration in one will work an alteration in all; and this cobbler, however pure and honest his intentions, will, in the end, find that what came to his hands a fair and lovely fabric goes from them a miserable piece of patchwork."

Daniel Webster, 4th of July Oration, 1802.

We live in a time of constitutional illiteracy. A recent survey found that only 26% of Americans can name the three branches of the federal government. Yet every Tom, Dick and Harry thinks he knows all about how to amend a document he never bothered to read. Our lawyers were indoctrinated in law school with the Supreme Court's *perversions* of our Constitution, and know nothing of *our actual Constitution.* We should read and learn the Constitution we have before we tinker with it or jump on the bandwagon of tinkerers. Otherwise, we destroy the "fair and lovely fabric" we were given.

Summary

Under our Constitution, Congress makes the laws, and the President enforces them. The powers of "making" and "enforcing" are **separated** *so that* the President and Congress may act as a "check" on each other.

But 100 years ago, Congress starting passing laws they had no constitutional authority to make, and delegated the details to be written in by agencies within the Executive Branch. This process continued and resulted in the Code of Federal Regulations which contains the huge body of regulations made by agencies within the Executive Branch. And thus we got the ***unconstitutional* administrative law state** under which every aspect of our lives is being increasingly regulated and controlled. [1][1]

And now appear those who, under the promise of limiting the regulatory administrative law state, propose an Amendment to our Constitution which would legalize it!

1. **Only the Legislative Branch has Constitutional Authority to make Laws**

Article I of our Constitution created the Legislative Branch of the federal government. Section 1 thereunder says:

"*All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives*."

That means what it says. Only *Congress* may make laws [and laws are restricted to the powers granted in the Constitution]; and laws may be made only by *elected* Senators and Representatives in Congress.

2. **The Executive Branch Enforces the Laws Congress makes**

Article II of our Constitution created the Executive Branch. A primary function of that branch is to enforce laws passed by the Legislative Branch. Since the President's Oath is to "preserve, protect and defend" *the Constitution*, he is obligated to refuse to enforce any Act of Congress which is unconstitutional.

3. **Rulemaking by Agencies in the Executive Branch**

But during the early 1900s, Congress began to make laws *outside the scope of* the handful of powers granted to the federal government, and delegated the details to be written by unelected bureaucrats in the Executive Branch.

This is now routine practice: Congress passes an overall statutory framework, and bureaucrats in the Executive Agencies write the rules to flesh it out. The Agencies *themselves* are often unconstitutional as outside the scope of powers granted in the Constitution. [2]

To illustrate: Congress passed – without reading – the over 2,000-page Obamacare act. Then it went to the Department of Health & Human Services (an unconstitutional federal agency) to have tens of thousands of *additional* pages of regulations added to fill out the framework.

This unconstitutional practice resulted in the infamous Code of Federal Regulations. The Code is so huge it's difficult to impossible to keep up with the rules and revisions which pretend to regulate one's trade, business, or profession.

The administrative law state and agency rules are unconstitutional! They violate Art. I, § 1, US Constitution, and are outside the scope of powers granted to the federal government.

So, what's the solution?

4. **The "Regulation Freedom" Amendment**

Roman Buhler of the "The Madison Coalition" says we should support the "Regulation Freedom" Amendment to the US Constitution:

"Whenever one quarter of the Members of the U.S. House or the U.S. Senate transmit to the President their written declaration of opposition to a proposed federal regulation, it shall require a majority vote of the House and Senate to adopt that regulation."

Do you see the trap the amendment sets? It **would legalize rulemaking by federal agencies in the Executive Branch and would thus *supersede* Article I, §1 of our Constitution**! **And the entire *existing* Code of Federal Regulations and *the rulemaking process itself* – which now *violate* the Constitution – would be made *constitutional!*** [3]

The amendment would thus bring about a fundamental transformation of our Constitution ***from*** one where Laws are

made by elected Representatives on only a handful of enumerated powers; ***to*** the administrative law state where laws are made by unelected, nameless, faceless bureaucrats in the Executive Branch (the same branch that accuses, prosecutes, and judges violations). The executive agencies would make whatever Rules they please—and they would stand unless Congress, which often doesn't even read the laws *they* pass, overrules it.

It protects 2nd Amendment Rights?

In an email dated November 10, 2017, Mr. Buhler said his proposed amendment "protects 2nd Amendment Rights".

But his amendment does the opposite – **it legalizes all the existing federal regulations which *restrict* firearms and ammunition**. Look at Title 27, Chapter II, Subchapter B, Parts 478 and 479 of the Code of Federal Regulations. As of now, every rule in Parts 478 & 479 is unconstitutional as outside the scope of powers delegated in the Constitution; violates Article I, §1; and violates the 2nd Amendment. But with Buhler's proposed amendment, *all those rules would become constitutional*!

Furthermore, the amendment would provide constitutional authority for the Bureau of Alcohol, Tobacco, Firearms and Explosives to make *whatever future rules they want* – and they would all be constitutional unless Congress objects and votes against them.

So the amendment vastly ***increases*** the powers of the federal government by legalizing what is now grotesquely unconstitutional.

5. **Daniel Webster's Warning**

We are in a state of moral, religious, intellectual, and psychological decline. We don't know what our Constitution

says, and didn't bother to find out. We elected people who didn't know and didn't care – and they made a mess.

To fix the mess, we must learn and enforce the Constitution we have and elect people who know it and obey it. We **can** gradually downsize the federal government to its enumerated powers. And as to Buhler's proposed amendment, heed Daniel Webster's warning:

"*…If an angel should be winged from Heaven, on an errand of mercy to our country, the first accents that would glow on his lips would be, Beware! Be cautious! You have everything to lose; you have nothing to gain. We live under the only government that ever existed which was framed by the unrestrained and deliberate consultations of the people. Miracles do not cluster. That which has happened but once in six thousand years cannot be expected to happen often. Such a government, once gone, might leave a void, to be filled, for ages, with revolution and tumult, riot and despotism…*"Webster's Oration.

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Endnotes:

[1] Administrative law judges in Executive Branch agencies decide whether violations of agency rules have occurred. The agencies thus act as lawmaker, prosecutor, and judge! Isaiah 33:22 says God is our Judge, Law-giver, and King. Because humans are corrupt, our Framers separated the functions into three ***separate*** branches of government: Legislative, Executive, and Judicial. And since the Oath of Office requires persons within each branch to obey *the Constitution* – not the other branches – each branch has a "check" on the other branches.

[2] Where's the constitutional authority for the Dept. of Education? Energy? Agriculture? Housing & Urban

Development? Labor? Environmental Protection? etc., etc., etc.?

[3] Our existing, but long ignored, Constitution limits federal power to the enumerated powers. But the proposed amendment would supersede that limitation because it permits the exercise of federal power on *whatever* the Executive Agencies make rules about!

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Transgenders In The Military – Who Decides?

In a case now pending before the US District Court for the District of Columbia,[1] the trial judge recently granted a preliminary injunction which purports to temporarily stop the Trump Administration from banning so-called "transgender" persons from serving in the Military.

But *we* will look at the real issue: Does the Judicial Branch of the federal government have constitutional authority to require the Legislative and Executive Branches of the federal government to permit transgender persons to serve in the Military?

Instead of going along with what *everybody says* – or expounding on *one's personal views* on the topic –let us consult and obey the US Constitution:

- Article I, Section 8, clauses 11 – 13, delegate to Congress the powers to declare War, grant Letters of

Marque and Reprisal, make rules concerning Captures on Land and Water; raise and support Armies; and to provide and maintain a Navy.

- Article I, Section 8, clause 14, delegates to Congress the power "To make Rules for the Government and Regulation of the land and naval Forces;"
- Article II, Section 2, clause 1, says, "The President shall be Commander in Chief of the Army and Navy of the United States…"

In Federalist Paper No 69 (6th para), Alexander Hamilton says:

"…The President is to be commander-in-chief of the army and navy of the United States. … his authority … would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and admiral of the Confederacy…"

So! **All** the powers over the Military which have been delegated by the Constitution are vested in the Legislative and Executive Branches of the federal government.

The Judicial Branch has *no role to play* in the organizing and operation of the Military Forces.

Pursuant to Article I, Section 8, clauses 11-14, *Congress alone* has the delegated authority to decide who may serve in the Military. If Congress issues Rules banning transgender persons from serving, then it is the President's job, as Commander in Chief, to enforce those rules.

Accordingly, instead of participating in the litigation before the federal district court, the Trump Administration should instruct the federal judge on the long-forgotten concept of "*Separation of Powers*" and advise the court, "*You have no jurisdiction over the Military – we will not participate.*"

1- Military courts and military lawyers in a nutshell

The Judicial Branch of the federal government was created by Article III, US Constitution. That Article created the supreme Court, and authorized Congress to ordain and establish, from time to time, such inferior courts as needed. Pursuant to that authority, Congress has established 94 federal district courts (where most federal trials are conducted), and 13 US Circuit Courts of Appeals.

The US Military has its own court system which is *not* part of the Judicial Branch of the federal government. The **military courts are "Article I Courts"** created by Congress in the Uniform Code of Military Justice (UCMJ).[2] They consist of trial courts where courts-martial are conducted; each Branch of Service has its own "Court of Criminal Appeals"; and the "US Court of Appeals for the Armed Forces" hears appeals from the Services' Courts of Criminal Appeals.

And when military commanders need legal advice, they get it from their own Service lawyers (this is one of the duties of lawyers in the Judge Advocate Generals' Corps).

The Judicial Branch of the federal government has no constitutional authority over the US Military.

2- Federalist Paper No. 80 and the meaning of "arising under"

Some may assert that the Judicial Branch has authority to determine who may serve in the Military because Article III, Section 2, clause 1 says,

"The judicial Power shall extend to all Cases…arising under this Constitution and the Laws of the United States…"

But they would be wrong. In Federalist No. 80, Alexander Hamilton explains the jurisdiction of the courts created by Article III: In the 2nd, 3rd, 4th, and 13th paragraphs, he shows that the purpose of the language quoted just above is to authorize the Judicial Branch **to enforce the Constitution** –

not re-write it; and **to enforce constitutional federal laws** – *not re-write them*.

Furthermore, in Federalist No. 81 (8th para), Hamilton addresses judicial encroachments on legislative authority, and reminds us that such encroachments need never be a problem because of the courts' *"total incapacity to support its usurpations by force"*; and because Congress may protect the Country from usurping federal judges by impeaching, trying, convicting, and removing them from office.

3- Political Questions

Accordingly, when a power is vested by the Constitution in the Legislative or Executive Branches [the "political branches"] the federal courts [the "legal branch"] have traditionally refused to interfere.

In Martin v. Mott, 25 US 19 (1827), the Supreme Court considered the Militia Act of 1795 which authorized the President to call forth the militia when *he* judged it necessary to repel an invasion.[3] The Court pointed out that the power had been confided [entrusted] by Congress to the President, and

"We are all of opinion, that the authority to decide whether the exigency has arisen, belongs exclusively to the President, and that his decision is conclusive upon all other persons."

In Foster v. Neilson, 27 U.S. 253 (1829), which involved a dispute between the United States and Spain over territory, the Court held that once those departments [Executive and Legislative Branches] "which are entrusted with the foreign intercourse of the nation" have asserted rights of dominion over territory, "it is not in its own courts that this construction is to be denied". "A question … respecting the boundaries of nations, is … more a political than a legal question; and … the courts of every country must respect the

pronounced will of the legislature."

Likewise, the power to determine who may serve in the Military has been delegated to the Legislative Branch of the federal government i.e., Congress. The Judicial Branch may not substitute its judgment for the Will of the Legislative Branch; and if it attempts to do so, Congress should employ the remedies suggested by Hamilton in Federalist No. 81.

4- The President's "check" on the federal courts

Finally, let's look at Federalist No. 78 (6th para) where Hamilton – unlike the pundits of today – tells us the Truth about the powers of federal courts:

"**…The judiciary …** has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL, but merely judgment; **and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.**" [boldface mine; caps are Hamilton's] [4]

An informed President who is a manly man will ignore *ultra vires* orders of the Judicial Branch.

5- Conclusion

Let us put the federal courts in their proper place! **Congress and the President have the recognized power to refuse to go along with unconstitutional or *ultra vires* acts of the Judicial Branch; and their Oaths of office *require* them to do so**. Congress also has the power to rid us of usurping federal judges via the impeachment process.

Endnotes:

1- The US District Court for the District of Columbia was established by Congress pursuant to **Art. III, §1**, US

Constitution.

2- Congress' authority to create the Military Courts is derived from **Art. I, §8, cl. 14**, US Constitution.

3- Article I, §8, clause 15, delegates to Congress the power, "To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions."

4- **I trust you see why Hamilton is viciously smeared.** The relentless attacks on our Framers have a purpose: Take them down – and our Foundation is destroyed. Hamilton wrote most of The Federalist Papers, which Madison and Jefferson recognized as the best evidence of the genuine meaning of our Constitution. What effect do these constant attacks on Hamilton have on peoples' respect for The Federalist Papers? *Beware of false friends and jealous men who undermine our Foundation*.

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Why States Can't Prevent A Runaway Convention

The danger of an Article V convention (which made James Madison "tremble", caused Alexander Hamilton "dread", and Chief Justice John Jay to say that another convention would impose an "extravagant risque") is this: the delegates to the convention can *run away*: instead of proposing amendments to our existing Constitution, they can write a completely new Constitution with a new – and easier – mode of

ratification.[1]

The convention lobby implicitly acknowledges this danger when they say State Legislatures should pass "unfaithful delegate" laws to control delegates.[2]

Accordingly, Wyoming passed a delegate law earlier this year which purports to empower the WY Legislature to "immediately recall" any delegate who makes an "unauthorized vote" at the convention, and to charge with a *felony* any delegate who fails to follow the WY Legislature's instructions on what he may do at the convention. The Texas delegate law purports to make "invalid" any "unauthorized vote" at the convention, and to empower the TX Legislature to recall any delegate who violates his instructions. But Tennessee takes the cake with its delegate law: Not only does the TN law purport to "void" votes cast at the convention by TN delegates which are outside the instructions or limits placed on the delegates by the TN Legislature – and then to prosecute such delegates for a *felony*; the TN law also asserts that if all TN delegates vote or "attempt to vote" outside the scope of the instructions or limits, TN's previously filed applications for an Article V convention are to be treated as "having no effect at all". Other States have passed similar laws.

Such laws are contrary to our Founding Principles and are based on false assumptions. Accordingly, they are unenforceable and ineffective.

1. **Self-evident Rights and the Declaration of Independence**

The Declaration of Independence is the Fundamental Act of our Founding.[3] It declares that all men are created equal; our rights are bestowed by God; our rights are unalienable; and the purpose of government is to secure the rights *God* gave us.

The Declaration is not "law" – it is *higher* than law, for it sets forth The Divine Standard which a Constitution – and the laws made pursuant to the Constitution – must meet.

It also declares that **a People have the self-evident right to throw off their government and set up a new one**. With that Principle firmly in mind, let's look at our first amendments convention; and then, at State unfaithful delegate laws.

2. **The federal convention of 1787**

After our Revolution, we operated under our first Constitution, the Articles of Confederation. But there were defects in the Articles, so on Feb. 21, 1787, the Continental Congress called a convention to be held in Philadelphia "*for the sole and express purpose of revising the Articles of Confederation*". The States also drafted instructions which purported to restrict delegates to proposing amendments.

But the delegates ignored their instructions and wrote a new Constitution [the one we now have]. In Federalist No. 40 (15th para), Madison invoked the **Declaration of Independence** and claimed, as justification for what they did,

"…the transcendent and precious right of the people to 'abolish or alter their governments as to them shall seem most likely to effect their safety and happiness,'…"

Yet State unfaithful delegate laws claim a power *to divest* The Representatives of the People – and *to criminally prosecute them for exercising* – what the Fundamental Act of our Founding declares is a "self-evident" right"!

3. **And what if the delegates make their proceedings *secret*?**

The State Legislators who vote for unfaithful delegate laws assume they will be able to know what is going on every minute of every day of the convention.

But Madison's Journal of the Federal Convention of 1787 (where our present Constitution was drafted) shows that on May 29, 1787, the delegates voted to make their proceedings secret.

If delegates to a convention today vote to make the proceedings secret, the States won't know what is going on – and can't stop it. And if delegates vote by secret ballot, the States would NEVER know who did what.

You might think that with cell phones & cameras, it's impossible to have a secret meeting. **But the American Legislative Exchange Council (ALEC),** which "induces" State Legislators to push the COS application for an Article V convention, **is experienced in conducting secret meetings with State Legislators.** WATCH this 6.5 minute video of a Georgia TV crew which attempted to get into a meeting held at a Georgia hotel of ALEC and Georgia Legislators.

ALEC, which supports the COS application for an Article V convention, is funded by the Koch Brothers and other mega-corporations. The Koch Brothers spend vast sums on State politicians (e.g., Texas), to get their support for the COS application. Do the Kochs want an Article V convention so they can get a new Constitution which transforms us *from* a sovereign nation *to* a member state of the North American Union? And if there is a convention, will armed guards keep the press out? If delegates have been bought by the Kochs, will they tweet & text to the world what they are up to behind closed doors?

4. **State Legislatures are "creatures" of their State Constitutions, and have no "competent authority" to control The Representatives of *The People* at an Article V convention**

Americans have forgotten a Principle which is the basis of free government: That political power originates with The People.[4] The People *create* governments by means of constitutions. Since a government is the "creature" of its constitution, it can't be superior to its Creator, The People.

This is why at the federal convention of 1787, where our

present federal Constitution was drafted, our Framers understood that only The People were competent to ratify the new Constitution. **George Mason said on July 23, 1787**,

"…The [State] Legislatures have no power to ratify it. They are the mere creatures of the State Constitutions, and cannot be greater than their creators…"

Keeping that Principle firmly in mind, let's look at Article V, US Constitution.

It provides that when two thirds of the State Legislatures ("mere creatures") apply for it, Congress is to call a convention. At that point, it is out of the State Legislatures' hands – the bell has tolled, and State Legislatures can't un-ring it. Congress "calls" the convention (sets it up); but when it assembles, the delegates, as Sovereign Representatives *of the People*, are not answerable to State Legislatures (which are "mere creatures" of the State Constitution) or to Congress (which is a "mere creature" of the federal Constitution). ***The delegates actually have the power to eliminate the federal and state governments* – and that is *precisely* what the proposed Constitution for the Newstates of America does**.

Delegates to a *federal* convention called by the *federal* Congress, to perform the *federal* function of altering or replacing our *federal* Constitution, are performing *a federal function*, not a State function. The delegates don't represent any government, federal or state.[5] They are supposed to represent The People; but in our corrupt time, they are more likely to represent the Koch Brothers (because *they* have the cash).

Dust off your copy of the federal Constitution we already have, read it and defend it. It filled all Europe with "wonder and veneration". If you don't do this, we will lose it.

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Endnotes:

[1] The proposed Constitution for the Newstates of America creates a totalitarian dictatorship. The States are dissolved and replaced by regional governments answerable to the new national government. *It is ratified by a national referendum* [national popular vote] (Art. XII, §1). Other proposed Constitutions are also waiting in the wings for a convention.

[2] The American Legislative Exchange Council (ALEC) claims their model delegate bill "will eliminate the possibility of a 'runaway convention' the reason most often cited by scholars for their opposition to an Article V Convention."

[3] Dr. Alan Keyes spoke of this on the radio some years ago; and I knew he had just handed me the Key to understanding our Constitution.

[4] See Federalist No. 22, last para (Hamilton).

[5] The term, "convention of states", is *a misnomer* which gives the false impression that *States* control the convention. In Rob Natelson's speech on Sep. 16, 2010 [now removed from free access] he said he will no longer call it a "constitutional convention", but will henceforth say, "convention of states" (pg.1-2).

This Chart illustrates who has the power to do what at an Article V convention.

From Duty To Be Armed To Permission To Carry

"If the central government has the authority to tell a state it must accept permits from all the other states, then it also has the authority to tell a state it may not accept a concealed permit from any other states. If the central government can do these things it can set up a national concealed carry permit scheme and in essence bring into existence a national arms registry. That is exactly where this is headed." Attorney Richard D. Fry[1]

Some are touting the federal Concealed Carry Reciprocity Act of 2017 (HR 38) as a bill which would expand our right to carry. But if you will walk with me for a few minutes, I'll show you a better path to take.

Let us look at the applicable First Principles, *to which I propose we return*.

1- Gun control is not an enumerated power delegated to the federal government

Our federal Constitution doesn't delegate to the federal government any power over the Country at Large[2] to restrict our arms. Accordingly, all pretended federal laws, regulations, orders, opinions, or treaties which purport to do so are *unconstitutional* as outside the scope of powers delegated. They are also unconstitutional as in violation of the Second Amendment.

The only power the federal government has over the Country at Large respecting arms is set forth at Article I, §8, clause 16 with respect to providing for the "organizing, arming, and disciplining, the Militia". Pursuant to this clause, Congress passed the Militia Act of 1792 which required every able-bodied male citizen (with a few exceptions) between the

ages of 18 and 45 to acquire a rifle, bayonet, ammo, ammo pouch, and report to his local Militia Unit for training.[3]

2- What does your State Constitution say about the right to keep and bear arms?

Each State has its own Constitution which addresses its State Militia and the right to be armed.

Now listen: No State may lawfully make any law which contradicts its State Constitution ***or*** which interferes with Congress' power to "organize, arm, and discipline, the Militia".

Accordingly, any State Statute which purports to require a permit before one may carry a gun is probably unconstitutional under that State's Constitution; and is certainly unconstitutional under the federal Constitution because Congress may lawfully *require* able-bodied male Citizens to acquire firearms and ammo and report to their local Militia Unit for training!

Do you see?

Now let's look at Title 18, US Code, Part I, Chapter 44, which HR 38 proposes to amend.

3- Title 18, US Code, Part I, Chapter 44 is *unconstitutional*

It sets up a complex federal regulatory scheme over firearms, *every word of which* is unconstitutional as outside the scope of powers delegated, and as in violation of the Second Amendment.

HERE it is, look through it (§§ 921-931).

4- What HR 38 actually does

HR 38 proposes to amend this existing federal regulatory scheme to insert a new provision [to be § 926 D] to require

States which have a statute which permits residents of their State to apply for a permit [!] to carry a concealed firearm

to allow persons from other States:

- who aren't prohibited by federal law from possessing firearms [!]; *and*
- who are carrying a photographic ID issued by a government body [!]; *and*
- who are carrying a concealed carry license or permit from the other State [!],

to possess or carry a concealed handgun (other than a machinegun or "destructive device") which has been shipped or transported in interstate or foreign commerce.

So! Even though a State Constitution, such as that for Connecticut,[4] prohibits the State Legislature from making ANY laws restricting firearms (such as imposing requirements for registration, a permit, government issued photo ID), a Citizen of Connecticut who exercises his constitutionally recognized right to carry *without* registration or a permit or a government issued photo ID, wouldn't qualify under HR 38 for concealed carry in another State.

To qualify for concealed carry in other States, the Citizen of Connecticut would need his State Legislature to pass a law [which is unconstitutional under the Connecticut and federal Constitutions], so that he could comply with an unconstitutional federal statute [HR 38], so that he could carry in other States which also would have to pass unconstitutional laws imposing permit requirements on those who carry concealed.

Do you see how *a God-given right* [self-defense] is thus converted into *a privilege* which is regulated, granted, or denied, by civil government?

HR 38 also provides that any person carrying a concealed

handgun in a State *under the reciprocity provisions* may also carry concealed in the public parts of National Parks and certain other lands under federal control. Lest you think this a gain, consider that: (1) The Constitution doesn't authorize the federal government to operate national parks and such like, and (2) the federal government has no lawful authority to impose registration requirements for carrying arms anywhere!

5- What's the solution?

Read our Declaration of Independence and federal Constitution. Then you won't fall for unconstitutional gimmicks like HR 38.

The gun rights organizations could perform valuable services to our Country by working for:

- the repeal of the entire *unconstitutional federal regulatory scheme* respecting arms;
- the repeal of all *unconstitutional State regulatory schemes*;
- the revitalization of the State Militia to replace the federally controlled National Guard;[5] and
- by providing more classes for Citizens in arms training.

And please stop lobbying *for* unconstitutional federal legislation!

E-Mail Publius Huldah: publiushuldah@gmail.com

Endnotes:

[1] From the late Attorney Richard D. Fry's email of Dec. 10, 2015 to US Senator Moran, a co-sponsor of SB 498, the Constitutional Concealed Carry Reciprocity Act of 2015. Richard, who was my Friend, sent me a copy of his letter.

[2] Pursuant to Article I, § 8, next to last clause, Congress has general legislative powers over the District of Columbia, military bases, dock yards, mints, federal courthouses and post offices, and such other places needed for Congress to exercise its enumerated powers. **The exercise of such powers by Congress over these small federal enclaves is restricted by the Bill of Rights – including the 2nd Amendment.** So Congress is prohibited from making, for these federal enclaves, any laws which infringe the Right of The People to keep and bear Arms. Congress may properly require individuals visiting federal prisons, the psych ward of military hospitals, the mint, federal courthouses, and such like, to leave their arms in their vehicles. But Congress may not require Citizens to obtain and carry a permit or photo ID as a condition precedent to carrying a firearm.

[3] The "Militia of the several States" were creatures of State Statutes – not of the federal government. Dr. Edwin Vieira's short video shows how the ***State*** Militia were replaced by the federally controlled National Guard.

[4] The Constitution of the State of Connecticut says at Article I: *"SEC. 15. Every citizen has a right to bear arms in defense of himself and the state."*

[5] See **A SERIOUS QUESTION FOR THE NRA**, by Dr. Edwin Vieira, re revitalization of the Militia of the several States. Dr. Vieira's mind is a delight.

The George Mason Fabrication

"…of those men who have overturned the liberties of republics, the greatest number have begun their career by paying an obsequious court to the people; commencing demagogues, and ending tyrants." Federalist No. 1 (5th para), Alexander Hamilton.[1]

Those who have read Article I, §8, clauses 1-16 of our federal Constitution know that it delegates only a tiny handful of powers (over the Country at large) to the federal government.

They also know that, for the last 100 years, the federal government has violated the Constitution by usurping thousands of powers not delegated.

So what do we do about it?

1. **The silly answer of the convention lobby**

The convention lobby says that when the federal government *violates* the Constitution, the solution is to *amend* the Constitution.

Now think about that: When a spouse *violates* the marriage vows, is the solution is to *change* the marriage vows? When people *ignore* speed limits, is the solution to *change* the speed limits? When people *violate* the Ten Commandments, is the solution to *change* the Ten Commandments?

Of course not! The solution is *obedience*: to the Constitution, the marriage vows, the speed limits, and God.

But the convention lobby moves from silliness to insidiousness: They say we can only get the amendments we need at an Article V convention.

2. **Why do they want a convention?**

From the beginning, the enemies of our Constitution wanted to get rid of it: On Aug. 31, 1787, George Mason said "he would sooner chop off his right hand than put it to the Constitution as it now stands"; and if it wasn't changed to suit his views, *he wanted another general convention*.[2] [2]

Such demands for another convention were made throughout the ratification process, and continued after our Constitution was ratified by the ninth State on June 21, 1788. James Madison, Alexander Hamilton, and John Jay, among others, addressed these demands in their writings.

A convention is the vehicle for getting a new Constitution. Today's enemies of our Constitution are spending vast sums of money to **buy** an Article V convention. Their hirelings are propagandizing the People and are pushing State Legislatures all over our Country to apply to Congress to call a convention.

Article V of our Constitution provides two methods of amendment:

- Congress proposes amendments and sends them to the States for ratification; ***or***
- Congress calls a convention if two thirds of the States apply for it.

Our existing 27 Amendments were obtained under the first method. We've never used the convention method because until recently, Americans understood the danger.

James Madison wrote in his Nov. 2, 1788 letter to Turberville that he "trembled" at the prospect of a second convention; and if there were another convention, "the most violent partizans", and "individuals of insidious views" would strive to be delegates and would have "a dangerous opportunity of sapping the very foundations of the fabric" of our Country.[3]

Alexander Hamilton "dreaded" the consequences of another

convention because he knew that enemies of our Constitution wanted to get rid of it: Federalist No. 85.[4]

The same goes for today. If there is an Article V convention, our enemies will have the opportunity to get rid of our existing Constitution and impose a new one.[5]

Different factions already have new Constitutions in hand or in preparation in anticipation of an Article V convention.[6]

The globalist elite [the Bush family, *et al*] want to move our Country into the **North American Union** (NAU). Under the NAU, Canada, the United States, and Mexico merge, *and a Parliament is set up over them*. Until recently, a copy of the Task Force Report on the NAU was posted at the website of the Council on Foreign Relations; now one must purchase a copy. The globalists need a new Constitution for the United States which transforms us *from* a sovereign nation *to* a member state of the NAU. To get this new Constitution, they need an Article V convention. See this brief commentary .

Now that you see what's at stake, let's return to the claims of the convention lobby.

3. **The Revisionist Account of the federal convention of 1787**

The convention lobby claims that, at the federal convention of 1787 where our present Constitution was drafted, *our Framers* gave us the Article V convention as the "solution" to federal usurpations. E.g., Michael Farris wrote:[7]

"George Mason demanded that this provision [the convention method of proposing amendments] be included in Article V because he correctly forecast the situation we face today. He predicted that Washington, D.C. **would violate its constitutional limitations** and the States would **need to make adjustments to the constitutional text in order to rein in the abuse of power by the federal government**." [boldface mine]

But Mason didn't say that. Nor did any other delegates say that. They weren't silly men; and they understood that amendments have *a very different purpose*.

4. **Our Framers said the purpose of amendments is to remedy *defects* in the Constitution**

James Madison was a delegate to the federal convention of 1787, and kept a Journal. I went through it, collected every reference to what became Article V, and wrote it up – here it is. Madison's Journal shows what the Framers really said about the purpose of amendments:

- Elbridge Gerry said on **June 5, 1787,** the "novelty & difficulty of the experiment requires periodical revision".
- **George Mason said on June 11, 1787**:

The Constitution now being formed "will certainly be defective", as the Articles of Confederation have been found to be. **"Amendments therefore will be necessary**, and it will be better to provide for them, in an easy, regular and Constitutional way than to trust to chance and violence. It would be improper to require the consent of the Natl. Legislature, because they may abuse their power, and refuse their consent…" [boldface mine]

- Alexander Hamilton said on **10, 1787** amendments remedy *defects* in the Constitution.

Other primary source writings of the time show:

- useful amendments would address the "organization of the government, not … the mass of its powers" (**Federalist No. 85**, 13th para).
- "amendment of errors" and "useful alterations" would be suggested by experience (**Federalist No. 43** at 8.)
- If "… the distribution or modification of the constitutional powers be in any particular wrong, let it

be corrected by an amendment in the way which the Constitution designates …" (**Washington's Farewell Address**, page 19)[8]

That's **what they really said.**

Amendments can't "rein in" the federal government when it "violates its constitutional limitations" because when it does so, **it is ignoring *the existing limitations* on its powers**. We cannot fix federal usurpations of non-delegated powers by amending the Constitution to say the federal government cannot do what the Constitution never gave it the power to do in the first place!

And look at recent history: The 1st Amendment didn't stop them from banning Christian speech in the public square. The 2nd Amendment didn't stop them from regulating the sale of firearms. The 4th Amendment didn't stop them from spying on us without a warrant. The 5th Amendment didn't stop them from regulatory takings. The 10th Amendment didn't stop them from usurping thousands of other powers not delegated.

Now let's look at the words of George Mason which the convention lobby has twisted and taken out of context in an attempt to justify their absurd and ruinous claim.

5. **The Dispute over the proper role of Congress in the amendment process**

Under the Articles of Confederation (ART. 13), amendments had to be approved by the Continental Congress and all of the then 13 States.

The dispute at the federal convention of 1787 was whether Congress – under the second Constitution then being drafted – should have any power over the amendment process.

Madison wanted Congress to propose all amendments, either on

their own initiative *or* at the request of two thirds of the States. On Sep. 10, 1787, he proposed this wording for Article V:

"The Legislature of the United States, whenever two-thirds of both houses shall deem necessary, or on the application of two-thirds of the Legislatures of the several States, shall propose amendments to this Constitution …"

But **Mason** said the States should be able to propose amendments without having to depend on Congress. On Sep. 15, 1787, Mason said, respecting Madison's proposed wording:

"As the proposing of amendments is in both the modes to depend, in the first immediately, and in the second ultimately, on Congress, no amendments of the proper kind, would ever be obtained by the people, if the government should become oppressive, as he verily believed would be the case."

Now remember! Mason agreed with the other delegates that the *purpose* of amendments is to remedy *defects* in the Constitution. Mason's concern was that Congress might not agree to amendments which would be needed to correct *defects*.

Footnote 8 shows that the 11th Amendment was adopted to correct *what the States saw as a defect in the powers delegated to the federal courts.* The 11th Amendment removed that delegated power from the federal courts. But what if Congress hadn't agreed to propose that amendment? *That* type of scenario is what Mason's words addressed.

Here are examples of other **defects** Congress might not agree to fix by amendment:

- The Tariff Act of 1828 was constitutional – it was authorized by Art. I, 8, clause 1. But it was *oppressive* because it benefited infant industries in the North at the expense of the Southern States. An amendment could

provide that tariffs may be imposed only to raise revenue to carry out the delegated powers of the federal government; and may not be imposed to benefit domestic industries, or to benefit one part of the Country at the expense of another part. *But Congress might not agree*.

- Slavery was permitted under our original Constitution. The federal fugitive slave laws (Art. IV, §2, clause 3) were *oppressive*. Slavery is a **defect** to be repaired by amendment. *But Congress might not agree.*

Do you see? Mason's words, read together, show that his concern was that Congress might not agree to amendments the States wanted to correct *defects* in the federal Constitution.

Neither Mason nor anyone else was so silly as to say that when the federal government "violates its constitutional limitations", the solution is to amend the Constitution.

6. **Why was the convention method added to Article V?**

That the convention method was added doesn't mean that all thought it a terrific idea. It was a compromise; and the delegates knew they couldn't keep future generations from doing what they themselves had already done twice: Invoking the Right, acknowledged in the 2nd para of our Declaration of Independence, to throw off one government and set up a new one. They invoked that Right during 1776 to throw off the British Monarchy; and during 1787, they invoked it again to throw off the Articles of Confederation – and the government it had created – and set up a new Constitution which created a new government.

In Federalist No. 40 (15th para), Madison specifically invoked this Right as justification for what they did at the federal convention of 1787: *They ignored* the Resolution of February 21, 1787 of the Continental Congress which called the convention "**for the sole and express purpose of revising the**

Articles of Confederation"; *they ignored* the instructions from their States;[9] and they drafted a new Constitution with a new mode of ratification (only 9 States needed to ratify our Constitution of 1787).

There is nothing which can stop the delegates to an Article V convention from doing the same thing. **And remember**: *New Constitutions are already prepared or in the works*.

7. **What's our real problem? Let's man-up and address *that***

Our problem today is not a defective Constitution. Our problem is ignorance, loss of virtue, and disobedience. Our Framers expected us to be virtuous and informed; and the States to ***resist*** federal usurpations.[10]

Are we no longer worthy of the Constitution our Framers gave us? If not, the globalists have plans for us, **and they need an Article V convention to impose them**.

Don't fall into the trap they have set for us. Open your eyes.

Endnotes:

[1] My friend Don Fotheringham and I discussed this issue; this paper reflects his valuable insights. His paper, "*Article V is Deliberately Vague*", is HERE; and his excellent book, "*The President Makers: How Billionaires Control U.S. and Foreign Policy*", is HERE.

[2] **Mason** didn't chop off his right hand. He, along with Edmund Randolph and Elbridge Gerry, refused to sign the Constitution: see Madison's Journal of the Federal Convention for Sep. 17, 1787. **Randolph** wanted the States to be able to propose amendments to the proposed Constitution, and then all would be submitted to and finally decided on by another general convention: Aug. 31, Sep. 10, and Sep. 15, 1787. **Gerry's** objections to the proposed Constitution were such that

"the best that could be done…was to provide for a second general Convention": Sep. 15, 1787.

Note well: The federal convention of 1787 was called "for the sole and express purpose of revising the Articles of Confederation", and all referred to it as a "general convention" [search HERE for "general convention", and you will see]. And in Madison's Nov. 2, 1788 letter to Turberville, he writes,

"…3. **If a General Convention were to take place for the avowed and sole purpose of revising the Constitution** it would naturally consider itself as having a greater latitude than the Congress appointed …" [boldface mine]

An Article V convention ***is*** a "general convention".

[3] **Madison opposed the convention method**: Federalist No. 49 (Feb. 1788); his letter to Turberville of Nov. 2, 1788; his letter to George Eve of Jan. 2, 1789; and on June 8, 1789, he circumvented the application previously submitted by Virginia on May 5, 1789 for an Article V convention, by introducing into Congress a proposed "bill of rights". That is the procedure we have followed ever since: When States want amendments, they instruct their congressional delegation to propose them.

[4] In Federalist No. 85 (Aug. 1788), **Hamilton** addressed the arguments of antifederalists who wanted another convention so they could get rid of our newly ratified Constitution. The "excellent little pamphlet" he refers to (9th para) was written during April 1788 by **John Jay** (first Chief Justice of the United States) and shows:

"the utter improbability of assembling a new convention, under circumstances in any degree so favorable to a happy issue, as those in which the late convention met, deliberated, and concluded."

Jay warned in his Pamphlet that a new convention would run "extravagant risques" [risks].

[5] Even though Article V speaks of "a Convention for proposing Amendments", the delegates will have the "self-evident" power, recognized in the 2nd para of our Declaration of Independence, to throw off our existing Form of Government and set up a new Constitution which creates a new government. And since the new Constitution drafted at an Article V convention will also have its own new mode of ratification, it is sure to be approved.

[6] The proposed **Constitution for the Newstates of America** is **ratified by a national referendum** [Art 12, § 1]. Here's the proposed **Constitution for "The New Socialist Republic in North America"**.

The **Constitution 2020 movement** **is backed by George Soros, Eric Holder, Cass Sunstein,** and Marxist law professors. They want a progressive Constitution in place by the year 2020.

[7] Farris' paper, "Answering the John Birch Society Questions about Article V", is HERE on the COS website; the copy I preserved is HERE.

[8] Our Constitution originally delegated to federal courts the power to hear cases "between a State and Citizens of another State" (Art. III, §2, cl. 1). But when a Citizen of South Carolina sued the State of Georgia, the States were outraged!

See **Chisholm v. Georgia, 2 U.S. 419** (1793). **So the 11th Amendment was ratified to take away from the federal courts the power to hear such cases.**

[9] ART. 13 of the Articles of Confederation required amendments **to be agreed to by Congress and all of the States**. **HERE** are the instructions the States gave delegates to the federal

convention of 1787:

- "alterations to the Federal Constitution which, **when agreed to by Congress and the several States, would become effective"**: Virginia, Pennsylvania, Delaware, Georgia, S. Carolina, Maryland, & New Hampshire.
- "**for the purpose of revising the Federal Constitution**": Virginia, Pennsylvania, North Carolina, Delaware, and Georgia;
- "**for the sole and express purpose of revising the Articles of Confederation**": New York, Massachusetts, and Connecticut.
- "provisions to make the Constitution of the federal Government adequate": New Jersey

[10] Nullification Made Easy and What Should States Do When the Federal Government Usurps Power?

Term Limits: A Palliative Not A Cure

May, 13, 2017

What's *the real problem* with our federal government? That people in Congress serve too many terms? And if we get an Amendment to limit their terms, will our Land be healed?

Of course not! *The real problem* is that the politicians ***we*** elect ignore our Constitution – yet ***we*** keep reelecting them.

As a result, the federal government exercises thousands of powers not delegated; but everyone goes along with it. The

States get federal funds for going along with unconstitutional federal programs; the People get all sorts of benefits, subsidies, and free stuff; and many live altogether at other peoples' expense. And all this free money is added to the national debt.[1]

Members of Congress also profit from ignoring our Constitution: By exercising the thousands of powers not delegated, they obtain endless opportunities to become rich, powerful, and important.

So, unless ***we*** turn over a new leaf, learn our Constitution and obey it, renounce unconstitutional federal programs and benefits, and demand that people in Congress also obey it; limiting their terms by an Amendment merely increases the turnover of politicians in Congress who ignore our Constitution – and to whom we must pay luxurious lifetime pensions.

What would happen if *we* turned over a new leaf?

For starters, if ***we*** required Congress to stay within the enumerated powers, two things would happen:

1. The job of US Senator or Representative would be so boring, few would want to be reelected. After all, how many times can you revise the bankruptcy code (authorized by I, § 8, cl. 4); fix the Standard of Weights and Measures (authorized by Art. I, §8, cl.5); and organize the Patent and Copyright Office (authorized by Art. I, §8, cl.8)?
2. There would be no opportunity to get rich while in Congress or build a power base. Also, the office would no longer attract those who go into politics for the sake of their own egos, pocketbooks, and neurotic power lust.

And if we also stopped pouring out the blood of our young people and our treasury for our constant military meddling all

over the world, there would be very little for Congress to do.[2]

After the cleanup period [see footnote 2], the job of US Senator or Representative would become so boring – *and so financially unrewarding* – it would be seen as a civic duty to be stoically endured for a short time – instead of a cushy ticket to personal wealth, power, prestige, and a luxurious taxpayer funded retirement for life.

So a term limits amendment is a feel good palliative[3] which distracts us from dealing with the real problem: People in Congress disregard the Constitution – but ***we*** keep re-electing them.

***We* could turn over a new leaf and fix our Country**. Do we have the wit and the will? Who among you is willing to challenge the status quo and urge that we change direction? If ever a nation needed to turn from its wicked ways, it is us.

You have a moral choice before you: Consider this advice from a friend; or jump on the bandwagon pulled by the globalists and clamor for an Article V convention.

Endnotes:

[1] The PEW Report shows what percentage of each State's revenue for FY 2014 was from federal funds [click on "select a state" to see your State]. Yet the "balanced budget" amendment lobby blames the federal government for out of control spending!

[2] A Congress which obeyed the Constitution would be very busy during the glorious time they were repealing unconstitutional federal statutes; dismantling unconstitutional federal programs, departments, and agencies; and impeaching and removing usurping federal judges.

[3] Unlike a "balanced budget" amendment, a term limits amendment

is ***not*** one of the worst ideas since sin. But it doesn't address the problem. We need to focus on *the real problem*, not on palliatives.

Compact for America's scheme for pre-ratification of a massive new taxes amendment

Do you remember the public discussions which went on for years about the proposed equal rights amendment to our federal Constitution? That's how it's supposed to be before an amendment is ratified: The People get an opportunity to hear the arguments, discuss it among themselves and their state legislators, and reject amendments which are bad.

What if someone found a way to circumvent this pesky public discussion, and get an amendment ratified before The People found about it? And even before the state legislators who ratified it found out what they had done? And what if this amendment delegated massive new taxing powers to Congress?

Such a scheme has been developed by Compact for America (CFA). They present their already prepared compact legislation to state legislators as a "balanced budget amendment"; and urge them to get it passed by their state legislature.

The provisions which authorize Congress to impose the new taxes, and which provide for pre-ratification of the new taxes amendment, are buried in some 15 pages of single-spaced excruciatingly convoluted and boring writing. Rare is the legislator who has the time to wade through the verbiage and figure out what it says.[1]

Once three fourths of the States have passed CFA's compact legislation, the new taxes amendment is thereby ratified.

So that's how an amendment to our Constitution which delegates massive new taxing powers to Congress can be ratified before The People know what has been done to them; and before the state legislators who did it find out what they have done to the American People.

The scheme has already been passed by state legislators in Alaska, Georgia, Mississippi, and North Dakota; has been filed in Missouri as SB 13; and is now pending in Arizona (HB 2226), where it passed the House on February 9, 2017, [2] and is now before the Senate.

Let's look at the particulars of the compact legislation.

I

HB 2226 does nothing to control federal spending or "balance the budget"

Section 1 of the Compact [page 2, line 16 of the pdf edition] allows Congress to spend as much as they take from us in taxes or add to the national debt! But that's what Congress has been doing!

Sections 2 & 3 [page 2, lines 20-37] permit Congress to raise the debt whenever 26 States agree.

Section 4 [page 2, lines 38 et seq.] is a joke: Who believes Congress will impeach a President for refusing to "impound" an appropriation made by Congress?

II

CFA's BBA is an actually a grant of MASSIVE new taxing powers to Congress.

The true purpose of the compact legislation is hidden behind

promises such as, “cutting federal spending”, “balancing the budget”, and “scaring Congress”. The true purpose of the Compact is to delegate to Congress MASSIVE NEW TAXING POWERS. Specifically, it authorizes Congress to impose a national sales tax and a national value added tax (VAT).

This is where the grant to Congress of the new taxing powers is set forth:

• Section 5 [page 3, lines 4-6] permits Congress, by a 2/3 vote of each House, to impose a new or increased “general revenue tax”.

• Section 6 [page 3, lines 24-26] defines “general revenue tax” as “any income tax, sales tax, or value-added tax levied by the government of the United States…”

There it is! All Congress needs to impose a national sales tax and/or a national VAT tax (in addition to the income tax) is a 2/3 vote in each House!

Section 5 also permits Congress, by a simple majority of each House, to impose a “new end user sales tax” which would replace the federal income tax. But nothing requires Congress to impose a “new end user sales tax” to replace the income tax.

It will be up to Congress to decide whether to impose a new national sales tax and/or VAT tax on top of the existing income tax (if they get 2/3 vote of each House); or whether to impose a new end user sales tax to replace the income tax (if they get only a simple majority in each House).

So! CFA’s version of a BBA is not about “balancing the budget”, or “scaring Congress”, or “reducing federal spending”. It’s about giving the federal government massive new taxing powers!

A value-added tax is a “turbo-charged national sales tax on

goods and services that is applied at each stage of production, not merely on retail transactions" and raises a "gusher of revenue for spendthrift governments worldwide."

III

When State Legislatures pass compact legislation such as HB 2226, they are actually pre-ratifying the new Amendment to the US Constitution which grants these massive new taxing powers to Congress.

Please note: If Arizona passes HB 2226, Arizona IS RIGHT THEN AND THERE RATIFYING THE AMENDMENT. I'll show you:

HB 2226 says in Article IV, Section 7 (e) of the Compact [page 6, line 43, et seq.]:

"When any Article of this Compact prospectively ratifying the Balanced Budget Amendment is effective in any Member State, notice of the same shall be given together with a statement declaring such ratification and further requesting cooperation in ensuring that the official record confirms and reflects the effective corresponding amendment to the Constitution of the United States…" [boldface mine]

Article IX, Section 1, of the Compact [page 11, line 41 et seq.] says:

"Each Member State, by and through its respective Legislature [passage of HB 2226], hereby adopts and ratifies the Balanced Budget Amendment."

There it is: If Arizona passes HB 2226, Arizona is thereby ratifying an amendment to the US Constitution which delegates massive new taxing powers to Congress.

When 38 States have passed legislation like HB 2226 – and when Congress approves it,[3] our Constitution is thereby AMENDED and Congress now has constitutional authority to impose a new national sales tax and a national VAT tax – even while keeping

and increasing the income tax.

The provisions of the compact which deal with a convention – Articles V through VIII – are a smokescreen which obscures from state legislators the fact that when they pass legislation like HB 2226, they are pre-ratifying the amendment to our federal Constitution.

The convention is a formality – a free trip at taxpayers' expense.

IV

What's the Solution?

Don't feed the beast by giving it massive new taxing powers. The solution is to downsize the federal government to its enumerated powers.

Our Constitution already limits federal spending to the enumerated powers – learn what those powers are, and enforce the Constitution we already have.

And use your heads! You who foolishly believe that a BBA [whether CFA's version or another version] will force Congress to reduce spending, know this: a BBA is a mandate for Congress to increase taxes, among other horrors.[4]

Footnotes:

1. Legislators don't have time to read the bills they vote on. That's why they have bill summaries. The Compact legislation filed in Arizona has two bill summaries: HERE and HERE.
Can *you* find where Arizona Legislators are informed they are pre-ratifying a new taxes amendment to the US Constitution if they pass the compact legislation?.
2. Click on this link: see the sponsors and the votes. *Do they know what they have done?.*

3. Pursuant to Article I, §10, last clause, US Constitution, CFA's Compact is not effective unless Congress approves it. Will Congress approve a Compact Amendment which delegates massive new taxing powers to them?.
4. The Arizona House also passed on Feb 9, 2017, HCR 2013 an application for an Article V convention which purports to be limited to proposing a "balanced budget" amendment (BBA). Do the sponsors and those who voted for it not *know that a BBA does the opposite of what they have been told* – that it removes the enumerated powers limitation on federal spending and creates a completely new constitutional authority to spend on whatever the feds want? See THIS short article.

People of Arizona! Get with your State Senators and put a stop to these reckless applications for an Article V convention. And to show that there is no limit to the damage a legislative body can do on one day, your Representatives also passed HCR 2010, the COS application for an Article V convention. The real agenda of the movers and shakers is to put our existing Constitution on the executioner's block – and you won't like the new Constitution.

Balanced budget amendment: The solution? or deathblow?

The BBA Made Simple

Say you want your Butler to buy some groceries; so you give him your credit card. You can:

1. Give him an ENUMERATED LIST of what you want him to buy: 1 chicken, 5# of apples, two heads of cabbage, a 2# sack of brown rice, and a dozen eggs. Whatever amount he spends for

these enumerated items will be charged to you.

2. Tell him he may spend on whatever he wants, and ask him to please don't spend more than 18% of your weekly income. But whatever amount he decides to spend (on pork and other things) will be charged to you.

The first illustrates how our Constitution is written: The items on which Congress is authorized to spend money are listed – enumerated – in the Constitution. To see the list, go HERE.

The second illustrates how a balanced budget amendment (BBA) works: It creates a completely new constitutional authority to spend on whatever the federal government wants to spend money on. And there is no enforceable limit on the amount of spending.

Our Constitution Limits Spending to the Enumerated Powers

Our Constitution doesn't permit the federal government to spend money on whatever they want. If Congress obeyed our Constitution, they would limit spending to the enumerated powers listed in the Constitution. Since the Constitution delegates to Congress only limited and narrowly defined authority to spend money, excessive federal spending is not the result of a defective Constitution, but of disregarding the existing constitutional limitations on federal spending.

Because everyone has ignored these existing limitations for so long, we now have a national debt of some $20 trillion plus a hundred or so trillion in unfunded liabilities.[1]

Various factions are now telling conservatives that the only way to stop out of control federal spending is with a BBA.

Obviously, that is not true. The constitutional answer is to downsize the federal government to its enumerated powers. Eliminate federal departments (Education, Energy, Agriculture,

Environmental Protection Agency, Housing and Urban Development, etc., etc., etc.), for which there is no constitutional authority.[2]

Since our Constitution delegates only a handful of powers to the federal government, most of what they've spent money on since the early 1900s is unconstitutional as outside the scope of powers delegated.

Yet our Constitution is still legally in place; and can be dusted off, read, and enforced by a Repentant People. They can shrink the federal government to the size established by the Constitution which created it.[3]

Using the Federal "Budget" to Snap the Trap on an Unsuspecting People

Our Constitution doesn't provide for a budget.

Spending is to be limited by the enumerated powers. Pursuant to Art. I, §9, clause 7, the Treasury is to publish periodic Statements and Accounts of the Receipts and Expenditures. Since the list of objects on which Congress is authorized to spend money is so short, it would be a simple matter to monitor federal spending and receipts.

But since the unconstitutional Budget & Accounting Act of 1921, Presidents and Congress have been putting into the "budget" whatever they want to spend money on.

Do you see that if the federal government is given constitutional authority (via a BBA) to spend money on whatever they want, they are ipso facto granted constitutional authority to exert power over whatever they want?

Oh, Americans! False friends lead you astray and confuse the path you should take. Under the pretext of imposing "fiscal responsibility" with a BBA, they would legalize the totalitarian dictatorship which has been developing in this Country for 100 years.

Creating the all-powerful federal government by Amendment
A BBA changes the standard for spending from whether the object is an enumerated power to whatever the federal government wants to spend money on.[4]

So a BBA would transform the federal government created by our Constitution from one of enumerated powers only, to one of general and unlimited powers because it would authorize Congress to appropriate funds for – and hence have power over – whatever they or the President decide to put in the budget!

A BBA Doesn't Reduce Federal Spending

A BBA wouldn't reduce federal spending because:

• all versions permit spending limits to be waived when Congress votes to waive them; and

• Congress can always "balance the budget" with tax increases. Compact for America's "balanced budget amendment" delegates massive new taxing authority to Congress: it authorizes Congress to impose a national sales tax and a national value added tax (VAT) in addition to keeping the income tax.

Typical Misconceptions

Americans think, "I have to balance my budget; so the federal government should have to balance theirs."

They overlook the profound distinctions between the economies of their own family unit and that of the national government of a Federation of States. Our federal Constitution sets up a system where Congress is to appropriate funds only to carry out the enumerated powers; and the bills are to be paid with receipts from excise taxes and import tariffs, with any shortfall being made up by a direct assessment on the States apportioned according to population (Art. I, §2, clause 3).

Americans also think that since States have balanced budget amendments, the federal government should have one. They

overlook the profound distinction between the federal Constitution and State Constitutions: [5]

• The federal government doesn't need a budget because Congress' spending is limited by the enumerated powers. Congress is to appropriate funds to carry out the handful of enumerated powers, and then it is to pay the bills with receipts from taxes.

• But State Constitutions created State governments of general and almost unlimited powers. Accordingly, State governments may lawfully spend money on just about anything. So State governments need budgets to limit their spending to receipts.

Conclusion

A BBA would have the opposite effect of what you have been told. Instead of limiting the federal government, it legalizes spending which is now unconstitutional as outside the scope of the enumerated powers; transforms the federal government into one which has power over whatever they decide to spend money on; and does nothing to reduce federal spending.

Twenty-eight States have already passed applications for a BBA. Go HERE to check the status of your State. Warn your friends and State Legislators. For a model your State can use to rescind its previous applications, go HERE and look under "Take Action" column, or contact me. Do not let the malignant elite complete their revolution by replacing our Constitution.

Footnotes:

1. State governments are voracious consumers of federal funds. THIS shows what percentage of your State's revenue is from federal funds. Contrary to what RINO State Legislators say, they don't want federal spending reduced: They want to keep those federal dollars flooding in.

2. George Washington’s Cabinet had 4 members: Secretary of War, Secretary of Treasury, Secretary of State, and Attorney General.
3. Our federal Constitution is short and easy to understand. The only way you can avoid being misled is to find out for yourself what it says. Be a Berean (Acts 17:10-12).
4. Amendments change all language to the contrary in the existing Constitution. Eg., the 13th Amendment changed Art. I, §2, clause 3 & Art. IV, §2, clause 3 because they were inconsistent with the 13th Amendment.
5. In Federalist No. 45 (3rd para from end), James Madison said:

“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.”

How a balanced budget amendment would give the government lawful unlimited

power

Does our existing Constitution permit the federal government to spend money on whatever they want?

No! It contains precise limits on federal spending.

Federal spending is limited by the enumerated powers delegated to the federal government. If you go through the Constitution and highlight all the powers delegated to Congress and the President, you will get a complete list of the objects on which Congress is permitted to spend money. Here's the list:

• The Census (Art. I, §2, cl. 3)
• Publishing the Journals of the House and Senate (Art. I, §5, cl. 3)
• Salaries of Senators and Representatives (Art. I, § 6, cl. 1)
• Salaries of civil officers of the United States (Art. I, §6, cl. 2 & Art. II, §1, cl. 7)
• Pay the Debts (Art. I, §8, cl. 1 & Art. VI, cl.1)
• Pay tax collectors (Art. I, §8, cl.1)
• Regulate commerce with foreign Nations, among the several States, and with Indian Tribes (Art. I, §8, cl.3)
• Immigration office (Art. I, §8, cl.4)
• The mint (Art. I, §8, cl. 5)
• Attorney General to handle the small amount of authorized federal litigation involving the national government (e.g., Art. I, §8, cls. 6 & 10)
• Post offices & post roads (Art. I, §8, cl. 7)
• Patent & copyright office (Art. I, §8, cl. 8)
• Federal courts (Art. I, §8, cl. 9 & Art. III, §1)
• Military and Militia (Art. I, §8, cls. 11-16)
• Since Congress has general legislative authority over the federal enclaves listed in Art. I, §8, next to last clause, Congress has broad spending authority over the tiny geographical areas listed in this clause.

• The President’s entertainment expenses for foreign dignitaries (Art. II, §3); and
• Since Congress had general legislative authority over the Western Territory before it was broken up into States, Congress could appropriate funds for the US Marshalls, federal judges, and the like for that Territory (Art. IV, §3, cl. 2).

That’s what Congress is authorized by our Constitution to spend money on. Did I leave anything out? I’m not infallible; so take a few minutes and, armed with a highlighter, read carefully through the Constitution and see for yourself.

Congress is to appropriate funds to carry out this handful of delegated powers; and it is to pay the bills with receipts from taxes.[1]

Pursuant to Article I, §9, clause 7, the federal government is to periodically publish a Statement and Account of Receipts and Expenditures. Citizens could use this Statement and Account – which would be so short that everyone would have time to read it – to monitor the spending of their public servants.

So that’s how our existing Constitution limits federal spending:

• If it’s on the list of enumerated powers, Congress may lawfully spend money on it.
• But if it’s not on the list, Congress usurps powers not delegated when it appropriates money for it.

It was unconstitutional spending and unconstitutional promises (Social Security, Medicare, etc., etc., etc.) which got us a national debt of almost $19 trillion, plus a hundred trillion or so in unfunded liabilities.

Since the Constitution delegates to Congress only limited and narrowly defined authority to spend money; the Constitution doesn’t provide for a budget.

We never had a federal budget until Congress passed the Budget and Accounting Act of 1921. By this time, the Progressives controlled both political parties and the federal government.

The Progressives wanted a federal budget because they wanted to spend money on objects which were not on the list of delegated powers.

A balanced budget amendment (BBA) would substitute a budget for the enumerated powers, and thus would legalize the current practice where Congress spends money on whatever they or the President put in the budget.

The result of a BBA is to legalize spending which is now unconstitutional – it changes the constitutional standard for spending from whether the object is on the list of enumerated powers to a limit on the total amount of spending.

• And to add insult to injury, the limits on spending are fictitious because they can be waived whenever Congress[2] votes to waive them.

And because a BBA would permit Congress to lawfully spend money on whatever is put in the budget, the powers of the federal government would be lawfully increased to include whatever THEY decide to put in the budget.

So a BBA would fundamentally transform our Constitution from one of enumerated powers only to one of general and unlimited powers – because the federal government would then be authorized by the Constitution to exercise power over ANY object they decide to put into the budget.

You must read proposed amendments and understand how they change our Constitution before you support them.

All federal and State officials take an oath to support the federal Constitution (Art. VI, clause 3). When people in Congress appropriate funds for objects not listed in the

Constitution; and when State officials accept federal funds for objects not listed, they violate their oath to support the Constitution. According to the PEW Report, federal funds provided an average of 30% of the States' revenue for FY 2013. Look up your State HERE. Were those federal funds used to implement unconstitutional federal programs in your State?

Power over education, medical care, agriculture, state and local law enforcement, environment, etc., is not delegated to the federal government: those powers are reserved by the States or the People. Congress spends on objects for which it has no constitutional authority; and bribes States with federal funds to induce them to implement unconstitutional federal programs. It was the unconstitutional spending which gave us this crushing $19 Trillion debt.

How do we go about downsizing the federal government to its constitutional limits?

We stop the unconstitutional and frivolous spending one can read about all over the internet.

We begin the shutdown of unconstitutional federal departments and agencies by selecting for immediate closure those which serve no useful purpose or cause actual harm such as the Departments of Energy, Education, Homeland Security, and the Environmental Protection Agency.[3]

Other unconstitutional federal departments and agencies must be dismantled and their functions returned to the States or The People.

An orderly phase-out is required of those unconstitutional federal programs in which Citizens were forced to participate – such as social security and Medicare – so that the rug is not pulled out from American Citizens who became dependent. The phase-out could be funded by sales of unconstitutionally held federal lands.

The federal government is obligated (Art. I, §8, cl. 11-16) to provide for service related injuries suffered by our Veterans.

The Constitution delegates to Congress the power to appropriate funds for "post Roads" (Art. I, §8, cl. 7). While there may be room for argument as to what is included within the term, "post Road"; clearly, some federal involvement in road building is authorized by our Constitution. State dependence on federal highway funds might be reduced by eliminating or reducing federal fuel taxes, and the substitution of fuel taxes collected by individual States. And there is nothing immoral about toll roads.

Since our Constitution was written to delegate to the federal government only the few and defined powers enumerated in the Constitution, we don't have to change the Constitution to rein in federal spending. The Constitution isn't the problem – ignoring it is the problem. Let us begin to enforce the Constitution we have.

Footnotes:

1. Our original Constitution authorized only excise taxes & tariffs on imports (Art. I, §8, clause 1), with any shortfall being made up by an apportioned assessment on the States based on population (Art. I, §2, clause 3).
2. Compact for America's (CFA) version of a BBA permits spending limits to be waived whenever Congress and 26 States agree. CFA's version also authorizes Congress to impose a national sales tax and a national value added tax in addition to keeping the income tax! See THIS Paper.
3. George Washington's Cabinet had four members: Secretary of State, Secretary of War, Secretary of Treasury, and Attorney General.

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