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ARTICLE VI, NOT ARTICLE V

CONGRESSIONAL SCORECARDS: HOLDING OFFICIALS ACCOUNTABLE

NULLIFICATION: THE FOUNDERS' SOLUTION TO FEDERAL OVERREACH

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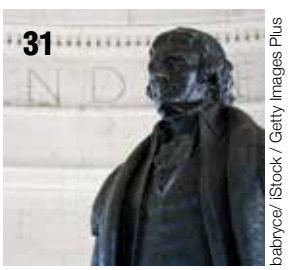

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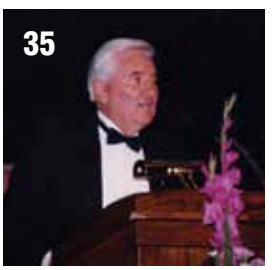

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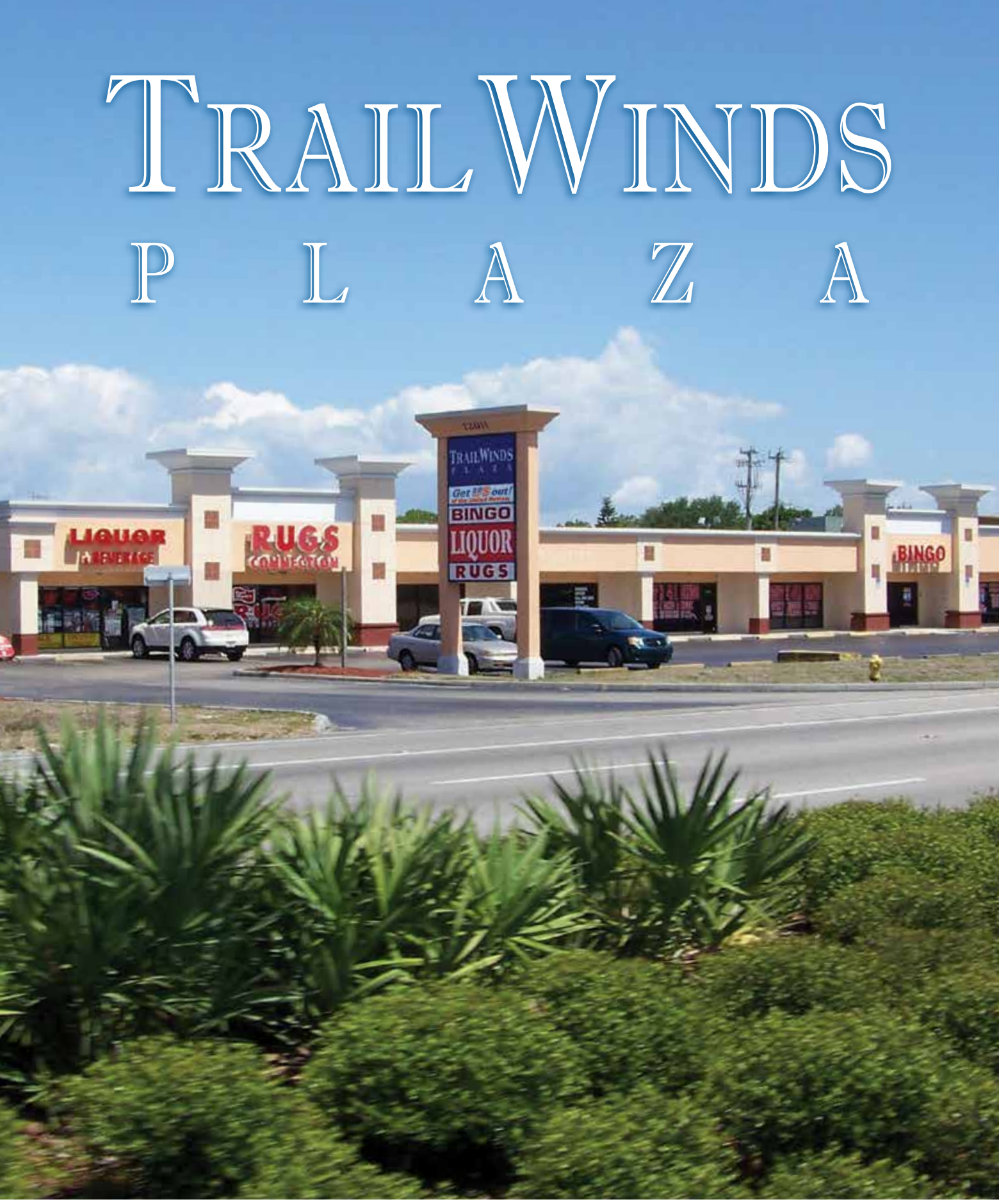

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Our Constitutional Firewalls

Throughout history, government has been a force for good and for evil. Unfortunately, more often than not, government has oppressed the very people it is supposed to serve.

Just consider the monstrous crimes against humanity committed by modern totalitarian "isms" — communism, Nazism, and fascism — during the last century alone. The body count of innocent victims intentionally killed by their own government outside of war numbers in the hundreds of millions.

But government has also been used as a force for good. Such was the case when America's Founding Fathers created our own government, which has been aptly described as the greatest experiment in liberty in history. Under the U.S. Constitution, the people prospered. They did so because they were free and able to keep the fruits of their labor, as well as to pursue their dreams and happiness without government interference.

The Constitution is maligned in some circles these days as a racist document that only benefits white people, but the accusation is blatantly false. The end of the evil institution of chattel slavery in America, which existed throughout history and throughout the world, was facilitated by the Constitution of 1787, which allowed for Congress to (as James Madison put it) "terminate forever" the importation of slaves to America as of 1808. This is exactly what Congress did. Later, slavery was ended via the 13th Amendment, in the aftermath of the bloody Civil War.

It may at first glance seem incongruous that government can do so much harm, yet be such a boon for humankind. A statement attributed to George Washington explains the seeming paradox simply and succinctly: "Government is not reason; it is not eloquence; it is force! Like fire, it is a dangerous servant and a fearful master."

A fire that's used to heat a home can burn down the house if it escapes the confines of the fireplace and chimney that contain it. The Founding Fathers fully understood this regarding the nature of government. The new government they created possessed enough power to protect freedom, but not enough power to extinguish freedom. Moreover, to prevent the fire of government from getting out of control, they erected a number of crucial firewalls. Those include a written Constitution limiting the federal government to a few, specified powers, dividing those few powers among three branches of government (the legislative, the executive, and the judicial), checks and balances intended to prevent the branches from exceeding or abusing their powers, and reserving to the states or the people all powers not delegated to the national government by the Constitution.

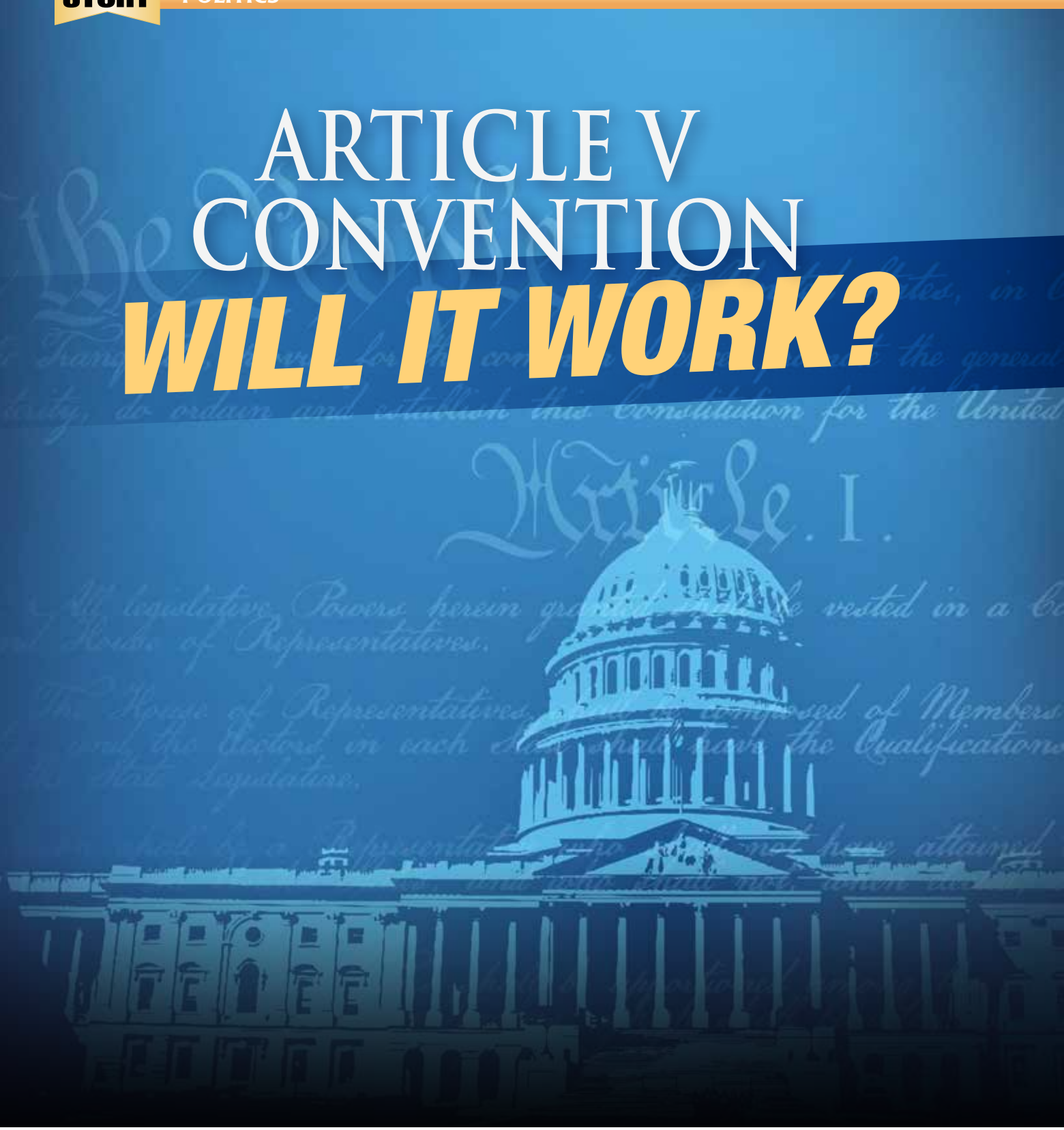
Over the years the Constitution has served the American people well. Yet there is no question that government has far exceeded its proper authority and that the intensifying inferno threatens to leave America a smoldering ruin. A growing number of Americans realize this and want to bring the fire under control. Yet there is disagreement on how to accomplish this. Many want to control the fire by amending the Constitution via a new convention (the first since 1787), as provided for in the Constitution's Article V. Others oppose the Article V Convention approach, noting that it makes no sense to change the Constitution, as the problem is not the Constitution, but lack of adherence to it. *The New American*, an affiliate of The John Birch Society, is in the latter camp, and in this Special Report we present our case.

That case includes the fact that, if an Article V Convention is called, the delegates will include not just constitutionally minded Americans but also "progressive" liberals who would use a convention to further their own agenda — getting rid of the Second Amendment, for instance. It also includes the realization that the way to get elected officials to obey the Constitution is to create sufficient understanding among the people who vote them into office.

Even though the Constitution is now being ignored and violated routinely, it is essential to prevent its loss, since when the American people are sufficiently informed, they will bring about its enforcement. But if the Constitution is lost in the meantime, they will have nothing to go back to.

— Gary Benoit

ARTICLE V CONVENTION
WILL IT WORK?



America has not had a Constitutional Convention since 1787. The result then was a blessing. But holding a new convention today could end up being disastrous for the nation. This article explains why.

by Christian Gomez

A growing number of Americans distrust the federal government. According to a Pew Research Center poll, published on June 6, 2022, "Only two-in-ten Americans say they trust the government in Washington to do what is right 'just about always' (2%) or 'most of the time' (19%)." Similarly, according to a Monmouth University poll, released on May 12, 2022, 79 percent of Americans surveyed said that they believe the country has "gotten off on the wrong track."

Most Americans recognize that an all-out war is being waged against the Republic and every American's individual liberty. Whether it's mass shootings, gun control, abortion, election fraud, or the teaching of critical race theory and LGBTQ "gender identity" in public schools, virtually every conceivable assault has been used to frustrate and rile up Americans. Behind all of this smoke, a fire is raging.

Some have suggested that the best way to put out this fire is with an Article V Convention. Pro-convention advocates and organizations, such as Convention of States (COS) Action, argue that the Founding Fathers gave us Article V "for such a time as this," taking the phrase from the biblical book of Esther. Are they right? Is now such a time? Or will a convention that will open up the Constitution for amending or rewriting merely play into the hands of the very arsonists stoking the flames?

Before these questions can be answered, it's important that we properly understand Article V.

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"We the People": The Constitution, and the federal government it established, derived its authority from the American people. A Constitutional Convention is the ultimate embodiment of the sovereign will of "We the People" through their selected delegates to frame, revise, or amend the Constitution.

What Is Article V?

The fifth article of the U.S. Constitution, Article V, is the amendment article. It provides two methods for proposing amendments to the Constitution and two modes of ratification. Either Congress proposes amendments (when two-thirds of both houses see fit), or a *convention* (called by Congress) proposes amendments if two-thirds of the state legislatures apply for it.

In either case, the proposed amendments officially become part of the Constitution when "ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress." If a new constitution comes out of the convention, however, it could have its own mode of ratification.

All 27 amendments to the Constitution, including the first 10 (the Bill of Rights), were initially proposed and passed by Congress and afterward sent to the states for ratification. Never in the 230-plus years of American history since our Constitution was ratified has a convention been used to propose amendments.

The Framers of the Constitution created Article V in order to provide for a peaceful and orderly method to correct any defects or errors, such as a lack of safeguards of the people's unalienable rights. By defects they did not mean a lack of adherence to the Constitution, or violations of the Constitution, by elected officials. Instead, they meant a failure to protect or safeguard the God-given rights and individual liberty of the people. By amending the Constitution, such errors could be remedied without resorting to chance or violence. The Bill of Rights, for example, was a correction of a defect.

On June 11, 1787, at the Federal Convention, Colonel George Mason said of the new Constitution, "The plan now to be formed will certainly be defective, as the Confederation has been found on trial 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."

Mason was concerned that the proposing of amendments would mainly be dependent on Congress. Hence, the convention method was included to allow delegates of the people to propose amendments.

COS Action repeatedly claims, as one of its key arguments, that Mason said Article V should include a convention method so that, whenever Congress or the federal government becomes tyrannical and violates its constitutional limitations, the states could in turn propose amendments to the Constitution in order to rein them in. Attorney Michael Farris, on behalf of COS, wrote:

> George Mason demanded that this provision [the convention for 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

Christian Gomez is research project manager for The John Birch Society.

> in order to rein in the abuse of power by the federal government.

In reality, neither Mason nor any other Framer of the Constitution said anything of the sort. What Mason did say, as mentioned earlier, was that the Congress may become oppressive and not agree to amendments. According to *Madison's Notes on the Debates in the Federal Convention of 1787*,

> Col. MASON thought the plan of amending the Constitution exceptionable & dangerous. As the proposing of amendments is in both the modes to depend, in the first immediately, 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. [Emphasis added.]

COS Action has taken Mason's words out of their original context in order to fit its narrative. Madison warned of the strategy to use amendments as a pretext to get a new constitution.

The Constitution already sets limits on the federal government via enumerated powers. The notion that amendments can be used to limit or restrict powers that were never given to the federal government by the Constitution in the first place, or that an Article V Convention can be used to regulate the behavior of those who already violate the Constitution, is illogical.

What Is an Article V Convention?

An Article V Convention is a *federal* convention designed to propose amendments to the *federal* Constitution. By definition, an Article V Convention is a federal Constitutional Convention.

Black's Law Dictionary — the nation's premier legal dictionary used by law students, lawyers, and judges — has, since its second edition printing in 1910, consistently defined the term "constitutional convention" as "A duly constituted assembly of delegates or representatives of the people of a state or nation for the purpose of *framing*, *revising*, or amending its constitution." (Emphasis added.) The fifth edition of *Black's Law Dictionary*, published in 1979, further states, "Art. V of the U.S. Const. provides that a Constitutional Convention may be called on the application of the Legislatures of two-thirds of the states." An Article V Convention is in fact a Constitutional Convention.

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Making the call: According to Article V of the U.S. Constitution, either Congress proposes amendments to the Constitution (when two-thirds of both legislative chambers see fit), or a convention proposes amendments if two-thirds of the state legislatures apply for it. In the second method, Congress calls the convention and plays a vital role until the convention convenes.

What Is a Constitutional Convention?

A convention is a formal gathering of deputies or delegates — chosen and recognized by the people they represent — for a common purpose. The convention in Article V exercises a sovereign function as defined earlier by *Black's Law Dictionary*. It is a convention with the purpose of proposing modifications (plural) to government, if you will. Seeing as the convention by definition represents the people at large, it has power and scope that supersedes established governments. As such, the convention cannot be limited, because it is the epitome of the sovereign will of the people. The Declaration of Independence clearly reads, "it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security," referring to the people. James Madison invoked this right in *The Federalist*, No. 40, to justify the actions of the delegates in the 1787 convention, writing that it is "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.'"

It was the general view at the time that conventions representative of the people were the only legitimate bodies able to draft, alter, or amend constitutions. Thomas Jefferson in his *Notes on the State of Virginia* observed, "The other states in the Union have been of the opinion, that to render a form of government unalterable by ordinary acts of assembly, the people must delegate persons with special powers. They have accordingly chosen special conventions to form and fix their governments."

Congregationalist minister Samuel West, regarded as one of the most influential citizens in Massachusetts at the time, said, in his election sermon of 1776, "It is the major part of a community that have the sole right of establishing a constitution and authorizing magistrates; and consequently it is only the major part of the community that can claim the right of altering the constitution, and displacing the magistrates." In other words, for a constitution to be created and possess legal binding authority, it must originate from the majority of the people themselves.

In order to achieve this, West explained,

"hence comes the necessity of appointing delegates to represent the people in general assembly." Of this, historian Gordon S. Wood writes in *The Creation of the American Republic 1776-1787*, "Thus it followed that it was assemblies representing the community that had the right to establish or alter a constitution. And most in 1776 agreed."

A legislative assembly, such as a legislature, congress, or parliament, has the sole authority to make laws. However, the convention — comprised of delegates representing the people — possesses the exclusive authority to *write* or amend a constitution. No matter what name is used to describe the convention in Article V, it still possesses unlimited power. At a convention, delegates can go through every single article in the Constitution and rewrite each one, remove some or all, replace some or all, or add some, which would ultimately result in an entirely new Constitution. Constitutions establish and bind their respective governments. And in our current political, cultural, and economic climate, "who knows what would come out of it," as the late Justice Antonin Scalia stated in an episode of *The Kaleb Report* in 2014, referring to an Article V Convention.

The colonel's concern: Colonel George Mason worried that the Congress would be oppressive and that "no amendments of the proper kind would ever be obtained by the people." He felt Congress might stand in the way of the proposing of amendments, thus the need for the convention method.

Who Calls the Convention?

Under Article V, *Congress* calls the convention when two-thirds of the states apply. States do not call the convention. The *only* power that is guaranteed to the state legislatures in the convention method is that of *applying*, or making the "Application," to Congress for the convention. The authority of Congress *cannot and should not be ignored*. Congress' power to call a convention includes setting its location, time, and date, and creating the process for the selection of delegates to the convention.

Article I, Section 8, Clause 18 of the U.S. Constitution, also known as the Necessary and Proper Clause, clearly states: "The Congress shall have Power … To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, *and all other Powers vested by this Constitution* in the Government of the United States, or in any Department or Officer thereof." (Emphasis added.) Calling a convention is a power vested in Congress by Article V of the Constitution. In fact, the very first two words of Article V are "The Congress."

The Supreme Court affirmed this in *Dillon v. Gloss* (1921), when it opined, "As a rule, the Constitution speaks in general terms, leaving Congress to deal with subsidiary matters of detail as the public interests and changing conditions may require, and *Article V is no exception to the rule*." (Emphasis added.)

But again, COS makes the false claim that "The Necessary and Proper Clause does not apply to Article V at all, because when Congress acts pursuant to Article V, it is not acting in its regular, legislative capacity," further adding, "The federal courts have ruled that Congress' attempt to use Article I power to affect the Article V process through ordinary legislation was unconstitutional." COS then points to *State of Idaho v. Freeman.*

However, this case has absolutely nothing to do with the Necessary and Proper Clause. The question in *State of Idaho v. Freeman* was not whether Congress has power to enact legislation pursuant to Article V, but rather *how much* power. *State of Idaho v. Freeman* called into question "the validity of Idaho's act of rescinding its prior ratification of the proposed 'Equal Rights Amendment' to the Constitution of the United States, and the constitutionality of Congress' act in extending the time period in which ratifications may be received." In other words, the two questions were: 1) Is a state allowed to rescind its previous ratification of a proposed constitutional amendment and, 2) does Congress have the authority to extend the time period for the ratification of a proposed amendment?

In its decision, the Court declared that "a state has the power and right to rescind a prior ratification of a proposed constitutional amendment at any time *prior* to the unrescinded ratification by three-fourths of the states of the United States" and that "Congress' attempted extension of the time for the ratification of the … [proposed Equal Rights Amendment] was null and void." This has absolutely no bearing on or relation to Congress' vested constitutional power of calling a convention.

Once the convention convenes, only the deputies or delegates to the convention (not the state legislatures or Congress) have the authority to draft the rules for governing the convention, to elect the president of the convention, and, most importantly, to write the actual text of the proposed amendments or potentially draft and propose a new constitution. When assembled at the convention, the delegates are not subordinate to the state legislatures or Congress. They are the sovereign representatives of the people at large, with the convention being a sovereign body.

Is It a "Convention of States"?

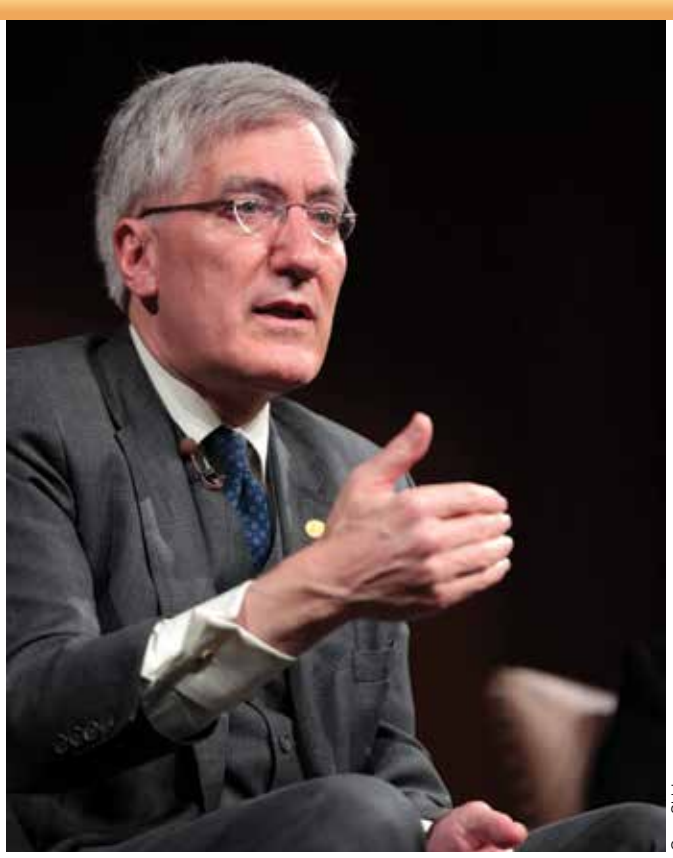
An Article V Convention is a federal function, called by the federal government to amend the federal Constitution. As such it is not a function, nor under the purview, of the state governments. As stated before, an Article V Convention is a *federal* Constitutional Convention. An Article V Convention is *not* a "Convention of States." There is no such thing as an "Article V Convention of States."

Not only is the phrase "Convention of States" nowhere to be found in the text of Article V, but prior to 2013, hardly anyone referred to an Article V Convention as a "Convention of States." Labeling an Article V Convention as a "Convention of States" can be traced to September 16, 2010, when convention-promoter Robert Natelson announced in a speech:

> I'm going to put our concepts on "reset."… The Constitution gives the convention a specific name — a convention for proposing amendments — and I think we should call it that or perhaps an Article V convention, an amendments convention, or a *convention of the states*. (Emphasis added).

Natelson changed the name. In 2013, attorney Mark Meckler founded the organization Citizens for Self-Governance, which that same year launched its Convention of States Project, now officially Convention of States Action, or simply COS Action.

In a memo sent to the members of the Ohio Senate General Government Budget Committee on May 23, 2022, Meckler and national legislative strategist for COS Action Rita Peters explain why they use the name and refer to an Article V Convention as a "Convention of States." In the memo, they claim, "'Convention of states' is the label first applied to an Article V convention for proposing amendments by the General Assembly of the Commonwealth of Virginia when it passed the first application for an Article V Convention to propose the Bill of Rights in 1788."



GageSkidmore

Conservative? Robert P. George, a member of COS Action's legal advisory board, co-authored the so-called Conservative Constitution for the National Constitution Center's Constitution Drafting Project to replace the current Constitution. George's Conservative Constitution guts the Second Amendment and authorizes gun control.

While Virginia's application from 1788 for an Article V Convention did use the phrase "convention of the States," the resolution went on to call it a "convention […] of deputies from the several States." Likewise, New York's application from 1789 for an Article V Convention (the second application passed under Article V) also referred to it as a "Convention of Deputies from the several States." The specific phrase "Convention of States" or "convention of the states" appears in no other application for an Article V Convention prior to 2010.

However, the term "Convention of the States" was actually *first* applied to the Federal Convention of 1787 — the very same convention that COS insists was *not* a "Convention of States" because it was the convention that drafted the current Constitution. While the Convention of 1787 was referred to as a "Convention of the States" numerous times, a federal Constitutional Convention under Article V is not. Regardless of what name is used to identify an Article V Convention, it is by definition a convention with power *over and above* proposing amendments, which is why it cannot be "limited," or limited to a single subject.

Meckler and COS are claiming that the terms "Convention of States" and "Constitutional Convention" have completely different meanings. On their website, COS states, "It is not a convention of delegates but a convention of states.… This is also a matter of history. In 1788, the Virginia legislature correctly called this process a 'convention of states' in the first application ever passed under Article V." In a video titled "Why the American Framers inserted Convention of States into the Constitution," posted on the YouTube channel for Convention of States Project on October 16, 2020, Mark Meckler said that "the second part of Article V gives the states, two-thirds of them, the power to call and convene a Convention of States for proposing amendments."

They also define a "Convention of States" to mean an Article V Convention limited to amending the Constitution. They claim that a "Convention of States" is only for amending the Constitution, whereas the term "Constitutional Convention" they define to mean a convention exclusively for framing or writing a new constitution.

Meckler and the COS organization often repeat this and have led many to believe that the states, specifically the state legislatures, have the power to call the convention. Because the states call the convention, Meckler and COS claim, they will in turn control the convention, while Congress simply sits powerless on the sidelines.

These claims are utterly false. Congress calls the convention and plays a role until

the convention convenes. Yet, COS's false distinctions between a Constitutional Convention and a "Convention of States" has gone a long way toward convincing state legislators that a "Convention of States" could never exceed its "limited" authority and draft an entirely new constitution.

An Article V Convention can propose an entirely new constitution, as evident by the new constitutions that have already been drafted and are ready to be submitted to a convention if called. Such drafted constitutions include the "Constitution for the Newstates of America," published in the book *The Emerging Constitution* (1974) by Rexford G. Tugwell — an avowed socialist; *Constitution for the New Socialist Republic in North America*, a booklet published by the Revolutionary Communist Party, USA; "A New Constitution for The United States," also known as the "Democracy Constitution," published in *Democracy: A Journal of Ideas*; "The Libertarian Constitution," published on the website of the National Constitution Center (NCC); and "The Progressive Constitution," also published on the NCC's website.

In fact, one of the latest constitutions already written and prepared to be submitted comes from Robert P. George. On November 8, 2021, while participating in a roundtable discussion organized by Pennsylvania lawmakers, Mark Meckler identified Robert P. George as being on COS's legal advisory board. By then, George had already co-authored "The Conservative Constitution" for the NCC's Constitution Drafting Project to replace the current Constitution, and it is anything but "conservative." For example, it would gut the Second Amendment. Section 12 of the "Conservative Constitution" reads in part:

> Neither the States nor the United States shall make or enforce any law infringing the right to keep and bear arms *of the sort ordinarily used for self-defense and recreational purposes*, provided that States and the United States in places subject to its general regulatory authority, *may enact and enforce reasonable regulations on the bearing of arms, and the keeping of arms by persons determined, with due process, to be dangerous to themselves or others*. [Emphasis added.]

Based on this language, who gets to decide what constitutes "ordinarily used for self-defense and recreational purposes"? How would leftist lawmakers and future courts interpret what is meant by "reasonable regulations"? Who would someone such as U.S. Attorney General Merrick Garland say fits the description of "persons determined, with due process, to be dangerous to … others"? Even a so-called conservative constitution, such as the one co-authored by George, would be like giving matches to an arsonist.

To say that a convention under Article V is a "Convention of the States" and not a Constitutional Convention, because a Convention of States is only for amending rather than rewriting the Constitution, is completely disingenuous and ignores the historical record. Simply put, an Article V Convention is *not* a "Convention of States," and to claim that the states control the convention process is utterly false.

Face of the movement: Mark Meckler, a technology law and internet privacy attorney from California, founded Citizens for Self-Governance, which in 2013 launched its Convention of States Project. Meckler and COS falsely claim that an Article V Convention is a "Convention of States" and not a federal Constitutional Convention.

GageSkidmore

What About Ratification?

According to Article V, any amendments, whether proposed by Congress or a Constitutional Convention, officially become part of the Constitution "when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress." When it comes to a Constitutional Convention, the mode of ratification is only relevant if amendments come out of the convention. If the convention delegates draft and propose an entirely new constitution — containing its own mode of ratification — then the new constitution would be ratified in accordance with its new mode of ratification, as was the case with our current Constitution.

However, even if the delegates to the convention restrain themselves to only producing new amendments, the three-fourths requirement for ratification is by no means any safeguard or guarantee against terrible amendments from becoming part of the Constitution. In fact, three-fourths of the state legislatures thought it was a good idea when they ratified the federal income tax (16th Amendment) and the direct election of U.S. senators (17th Amendment). If you love filing and paying income taxes to the federal government, you can thank three-fourths of the states!

When the delegates met in Philadelphia in 1787 with "the sole and express purpose of revising the Articles of Confederation,"

they were repeatedly reminded that any alterations they made had to be "confirmed by the legislatures of every State," in accordance to Article XIII of the Articles of Confederation. Instead — and to our benefit — they wrote an entirely new and far-superior Constitution. But rather than being ratified by the Confederation Congress and "afterwards confirmed by the legislatures of every state," as Article XIII required, the new Constitution was ratified using its own mode of ratification. Article VII of the current Constitution reads, "The Ratification of *the Conventions of nine States*, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same." (Emphasis added.)

Mark Meckler and COS repeatedly claim that all states did ratify the new Constitution. Here's what actually happened: The Constitution was officially ratified on June 21, 1788, when New Hampshire became the *ninth state* to ratify it — the bare minimum required for ratification under Article VII of the current Constitution. On September 13, 1788, with only 11 of the 13 states having ratified the Constitution, the Confederation Congress passed a resolution stating that it "has been ratified in the manner therein declared to be sufficient for the establishment of the same [i.e., Article VII], and such ratifications, duly authenticated, have been received by Congress, and filed in the office of the secretary." Neither North Carolina nor Rhode Island had yet ratified the new Constitution.

In fact, the Articles of Confederation became obsolete before the current Constitution was ratified by all 13 states. The First United States Congress, under the Constitution, began on March 4, 1789, and George Washington was sworn in as the President of the United States under the U.S. Constitution on April 30, 1789. North Carolina ratified the Constitution several months later, on November 21, 1789. And Rhode Island became the 13th state to ratify the Constitution on May 29, 1790 — nearly two years after its official ratification. Clearly, the new Constitution was adopted *before* being "confirmed by the legislatures of every State," as required by Article XIII of the Articles of Confederation.

If Not Article V, Then What?

The answer is enforcement and nullification. Nullification is firmly grounded in the text of the U.S. Constitution. Specifically, Article VI binds state legislators — along with members of Congress, judges, and all other officers at large — to their oath "to support this Constitution."

Article VI also states, "This Constitution, and the Laws of the United States *which shall be made in Pursuance thereof* … shall be the supreme Law of the Land." (Emphasis added.) State legislators are required to uphold and implement only those laws that are "made in Pursuance" to the Constitution. Any laws not "made in Pursuance thereof" are therefore not the "supreme Law of the Land," and as such, state legislators are under no obligation to enforce or carry out their provisions.

Instead, they should nullify such laws within the boundaries of their state. Whereas it may take years or decades for three-fourths of states to apply to Congress before Congress calls a convention, nullification by those states' respective legislatures would stop unconstitutional laws immediately. If, say, South Dakota and Ohio want to stop the enforcement of a blatantly unconstitutional federal action, they would not have to wait on 32 other states to act. (For more on how nullification can and *is* being used to rein in the federal government, see page 31).

Those seeking real ways to extinguish the fire should avoid the time, energy, and financial resources that would be wasted in getting states to apply to Congress to call a convention that would no doubt destroy the Constitution. Instead, the same time, energy, and resources should be invested in educating the electorate and holding elected officials accountable to the Constitution and their oath. An excellent tool to hold one's U.S. representative and senators accountable and to educate others on how they are voting on key issues is *The New American's* "Congressional Scorecards." (For more about the scorecards, see page 28).

No one should be conned by COS, Mark Meckler, and others into supporting a convention that has the power to rewrite the Constitution. One need not fix what is not broken. If the current batch of representatives and senators in Congress are the problem, then change those members of Congress — *not the Constitution!*

In chapter four, verse 16 of the book of Hosea, the prophet laments, "My people are destroyed for lack of knowledge." Likewise, the Prophet Isaiah observes in Isaiah 5:13, "Therefore my people are gone into captivity, because they have no knowledge." While much can be gleaned

Library of Congress

Progressive rewrite: Rexford Tugwell, an avowed socialist, was hired by the Ford Foundation to write a new constitution for America's then-upcoming bicentennial in 1976. Tugwell's "Constitution for the Newstates of America" appeared in his book *The Emerging Constitution.*

from these passages, they share a principle that could be applied to any people and nation — the consequences of forsaking or neglecting knowledge, in our case, knowledge of the Constitution. In 1831, Alexis de Tocqueville observed the following during his travel in America: "In New England, every citizen receives the elementary notions of human knowledge; he is moreover taught the doctrines and the evidences of his religion, the history of his country, *and the leading features of its Constitution*. In the States of Connecticut and Massachusetts, *it is extremely rare to find a man imperfectly acquainted with all these things, and a person wholly ignorant of them is a sort of phenomenon*." (Emphasis added.)

Ask yourself this: What is your congressman's understanding of the Constitution? How about your neighbors' and that of other voters in your congressional district? The present destruction and loss of individual liberty in America stems not from a Constitution riddled with errors and defects. Rather, it stems from a lack of knowledge of the Constitution. An ignorant electorate could never hold their elected officials accountable to the Constitution and their oath of office. The less familiar the electorate are with the Constitution, the less likely they are to elect constitutionalists into office in the first place. And no amendment to the Constitution is a substitute for a well-educated electorate, as even a good constitutional amendment would still require an educated electorate to see that it is properly understood and upheld. An excellent antidote to remedy Americans' constitutional illiteracy is The John Birch Society's educational *Constitution Is the Solution* video lecture series. The videos can be obtained as a DVD box set on ShopJBS.org, or can be viewed for free on JBS.org/Constitution/Video/.

As part of stopping the present movement for an Article V Convention, Americans in states that have previously passed and sent to Congress applications to call a convention must put pressure on their state legislators to rescind those applications.

To reiterate, the above can be summarized in the following nine key points:

• Article V is for the *correction of errors or defects* in the Constitution (for example, the inclusion of the Bill of Rights was a correction of a defect);

Piotrekswat/iStock/GettyImagesPlus

No safeguard: Three-fourths of the states — which convention promoters insist would block the ratification of any bad or partisan amendments — thought it was a good idea when they ratified the progressive income tax (16th Amendment) and the direct election of U.S. senators (17th Amendment).

• an Article V Convention is a federal *Constitutional Convention*;

• a convention is the ultimate embodiment of the *sovereign will of the people at large* through their selected delegates who possess the power to rewrite the Constitution;

• the convention method was added so that Congress was not the *only* body to propose amendments — it was never meant to rein in the power and jurisdiction of the federal government;

• *Congress* calls the convention;

• an Article V Convention is *not* a "Convention of States";

• ratification by three-fourths of the states is *no* safeguard against bad amendments;

• nullification, under Article VI, is the only constitutional remedy for the states to stop federal tyranny within their borders; and

• an educated electorate is essential to safeguarding liberty.

Putting Out the Fire

A federal Constitutional Convention, under Article V, is not a "Convention of States," and as such will not extinguish the aforementioned fire. Those stoking the flames of the fire currently raging through America would love nothing more than to have the opportunity to rewrite the Constitution. An Article V Convention, even one called with good intentions, could be the final spark that reduces the Constitution and the American Republic into a heap of ashes. Rather than helping the arsonists burn down individual liberty and the Constitution, patriots and supporters of the Constitution should join the educational and action-oriented efforts of pro-constitutionalist organizations such as The John Birch Society to help keep the Republic and preserve the Constitution. The U.S. Constitution remains the greatest roadblock to tyranny and collectivism. All Americans must preserve freedom by enforcing the Constitution rather than promoting a convention to amend or rewrite it. ■

NATELSON'S ARTICLE V

Robert Natelson is typical of those calling for a modern-day Constitutional Convention, and he has some seriously flawed ideas as to how a convention actually works.

by Don Fotheringham

America's Founders felt certain their work would at some future time need amending, so they wrote Article V of the Constitution, which offers two methods of amending said Constitution. The first method provides for amendments to originate in Congress. The second method provides for the states to request a convention for introducing amendments.

Why two methods? The original 1787 draft called for only one method, in which all proposed changes would come through Congress. But one of the delegates, George Mason, expressed concern that Congress might become oppressive and therefore "no amendments of the proper kind would ever be obtained by the people." At that point the delegates moved "to require a convention on the application of 2/3 of the states." This second method was agreed upon, and that's how we got the convention avenue of Article V.

The first method, through Congress, is quite simple. All 27 amendments to our Constitution have come through this avenue. The second method, by convention, is not so simple; it requires applications from two-thirds of the states. Since no Article V Convention has ever been held, and since we know so little about this method, those who promote a modern convention exploit that information gap when calling for a convention.

One promoter of such a convention is former law professor Robert G. Natelson, who heads the Independence Institute's Article V Information Center and is the author of *The Law of Article V*.

Natelson is also the author of the February 25, 2021 *Epoch Times* article "How a Convention of States Really Works." Here, he gets off to a bad start. There is no such thing as a "Convention of States." That definition is nowhere found in the U.S. Constitution. But it's a nice clause for supporting a second myth, one that purports to grant convention-level powers to the state legislatures.

By designating an Article V Convention as a "Convention of States," Natelson can posit a second falsehood, that "the states control the convention." Presumably, those words are meant to assure state legislators that they can safely support a convention while under the false impression that it will be limited by the state resolution calling for it.

Robert G. Natelson

The Original Constitution

Why is this pure poppycock? Because a state legislature is not superior to the convention that created it. Conventions operate under the supreme authority of the people. But Natelson reverses that doctrine and assures legislators that they can make the changes and control the convention. That idea was repudiated by James Madison during the Convention of 1787. According to the *Record of the Federal Convention*: "Mr. Madison thought it clear that the Legislatures were incompetent to the proposed

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changes. These changes would make essential inroads in the State Constitutions, and it would be a novel and dangerous doctrine that a Legislature could change the Constitution under which it held its existence."

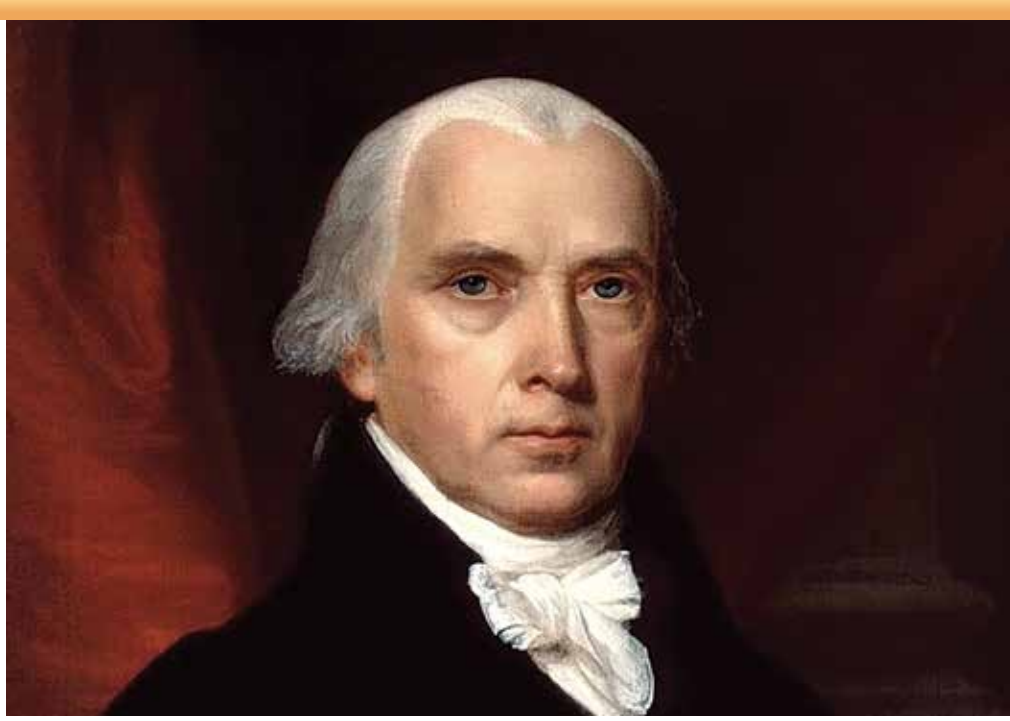
In his *The Epoch Times* article, Natelson wrote, "In an earlier, widely shared essay I contended that state legislatures should require Congress to call a 'convention of the states.' Article V of the Constitution empowers such a convention to propose constitutional amendments to correct federal dysfunction."

Again, Natelson applies his misleading title: "Convention of the States." Then he says Article V "empowers such a convention," but Article V grants no power whatsoever. Then he offers a reason for amending the Constitution, "to correct federal dysfunction," but Article V makes no provision for a state application to specify a purpose. Why? Because the state merely applies for the convention, and when called, the convention itself sets its own agenda, makes its own rules, and proposes its own amendments. That's exactly what George Washington did at the outset of the 1787 Convention.

Natelson also wants term limits for Congress, and asks, "Why hasn't it happened?" Then he answers: "Because Congress refuses to propose a term limits amendment, and we haven't had the guts to call a convention to propose one."

Sorry, Mr. Natelson, but that is not the reason. We do not have term limits because we already had term limits under the Articles of Confederation and they did not work. They led to a perpetual lame-duck Congress. Instead of term limits, the Founders gave us frequent elections. Roger Sherman, who was one of the most important members of the 1787 Convention, explained, "Frequent elections are necessary to preserve the good behavior of rulers. They also tend to give permanency to the Government, by preserving that good behavior, because it ensures their re-election." Limited terms, which were then called "ineligibility for re-appointment," were discussed extensively during the 1787 Convention and rejected unanimously by our Founders.

Claiming Congress doesn't have "the guts to call a convention" shows Natelson's real intent. He sees term limits as a hot button to spur on his quest for a convention. By contrast, Alexander Hamilton understood the spurious notion of term limits and explained, "Nothing appears more plausible at first sight, nor more ill-founded upon close inspection."



The power is in the people: Contrary to the belief of some calling for a new Article V Convention, James Madison did not believe state legislatures could or should control a convention. The wishes of state legislatures would provide no safeguard over such a convention if it is called.

The most incredible claim of Natelson and his convention backers is that conventions of the Article V variety are common, ordinary events that take place all the time.

State legislators who refuse to support an Article V Convention are often accused of not obeying the Constitution. But, again, it is important to understand that Article V establishes a process. Its choices are 100-percent optional. Only after 34 states have applied for a convention does any rule come into force. At that point, Congress must call the convention.

Natelson and his cohort don't like us referring to an Article V Convention as a "Constitutional Convention." And why are they so adamant about that? Because they want state legislators to see Article V as something less than the Convention of 1787, something incapable of making major changes in our system of government. Once Natelson establishes that notion, he takes his prey to the next level of absurdity and alleges that "there are really two kinds of conventions." That's right — he wants everyone to think that an "Article V Convention" is one kind and that a "Constitutional Convention" is another. Amazing. For more than two centuries, no historian ever knew that!

As with his other allegations, Natelson's two-convention ploy does not hold up against the official record. When drafting the text of Article V, Roger Sherman explained that the delegates were "leaving future Conventions to act in this matter, like the present Convention according to circumstances." Our Founders left no doubt that the Article V avenue brings about the same type of Constitutional

Convention in which they were currently engaged. It matters not whether an Article V Convention proposes one amendment or 20, the power is inherently there and it has no limits.

Convention lobbyists like to cozy up to state legislators and tell them that Article V was created just for them, for the day when the federal government would exceed its powers and state legislatures would need the convention avenue for reining in the federal government. Clever line, but it's entirely false — it cannot be found in the official record. Moreover, it makes no sense. Everyone knows overgrown government is not the fault of our Constitution, but comes from reckless violations of it. Only a vigilant electorate can keep our elected officials in line. You cannot amend the Constitution to remove a power that was never granted.

The most incredible claim of Natelson and his convention backers is that conventions of the Article V variety are common, ordinary events that take place all the time. Hundreds of interstate meetings, they say, are tantamount to an Article V Convention. Hey, no big deal — we have such conventions whenever two or more states need to deliberate on boundaries, highways, or bridges, etc. This is utter nonsense. A Constitutional Convention is an exclusive assembly of a free people engaged in the government-making or amending process. It is not an ordinary state-to-state compact.

We hear repeatedly that nothing bad could come out of a convention because if there were anything bad in it, three-fourths of the states would never ratify it. But doesn't everyone know that each convention is sovereign and makes its own rules? Today's convention is no less powerful than yesterday's, and delegates would have the same leeway George Washington, James Madison, and Alexander Hamilton had when they changed the ratification number from 13 states to nine. The language in today's Constitution does not control tomorrow's convention. There are no limits on the sovereignty of the people, and therefore a new convention could, and likely would, establish a new mode of ratification.

The 21st Amendment — the repeal of prohibition — tells us a lot about "reliance" on the ratification process. Utah, along with many of the southern states, had no intention of legalizing the sale of liquor, so they did not intend to ratify the 21st Amendment. But Congress and the liquor lobby polled the dissenting states and formed ratifying conventions of those who favored repeal. In Utah, for example, they found 27 people willing to ratify, formed them into a convention, and passed the 21st Amendment against the will of the great majority of citizens. Please beware: Do not rely on popular opposition to kill a bad amendment, whether it comes through Congress or a convention.

Absent the caliber of men who founded our country, Article V has lain dormant for over two centuries. That's because the convention avenue raises two serious questions: What, in our constitutional structure, needs to be changed? And who, in a modern convention, could be trusted with such awesome power? ■

NOTABLE QUOTES

"If a General Convention [called by unanimous consent or by Article V] were to take place for the avowed and sole purpose of revising the Constitution … an election into it would be courted by the most violent partizans on both sides; it … would no doubt contain individuals of insidious views, who … might have a dangerous opportunity of sapping the very foundations of the fabric."

— James Madison, November 2, 1788

"New York has written circular letters to the legislatures to adopt the other mode of amendment, provided also by the constitution that is to say to assemble another federal convention. In this way the whole fabric could be submitted to alteration."

— Thomas Jefferson, December 25, 1788

"I think it would be very foolhardy, it would be a tragic mistake, to hold a constitutional convention for this one purpose. I say it would be foolhardy and dangerous because if we hold a constitutional convention, every group in the country — majority, minority, middle-of-the-road, left, right, up, down — is going to get its two bits in and we are going to wind up with a Constitution that will be so far different from the one we have lived under for 200 years that I doubt that the Republic could continue."

— Senator Barry Goldwater (R-Ariz.), February 26, 1979

"Well, constitutional conventions are kind of prescribed as a last resort, because then once it's open, they could take up any number of things."

– President Ronald Reagan, interview with the *Los Angeles Times*, January 20, 1982

"Perhaps, that is, it is time to rewrite our Constitution, written in a language long lost and forgotten, with ideals and expectations too far from the ordinary ken of constitutional readers, in a language we once again understand, with a meaning that is once again our own."

— Lawrence Lessig, May 1993

"I certainly would not want a Constitutional Convention. I mean whoa. Who knows what would come out of that?"

— Justice Antonin Scalia, April 17, 2014

"Article V of the Constitution has only 22 words about a convention for proposing amendments, but the most important is the word 'call.' Since only Congress can 'call' the convention, it means that states have no control over who can be a delegate, who makes the rules, who sets the agenda, or who wields the gavel."

— Phyllis Schlafly, May 23, 2016

"But the U.S. Constitution is not the problem, and an 'Article V Convention' is not the solution.… Make no mistake, the threat of losing our constitutionally protected rights at a convention — which will be attended by powerful, well-financed special interests and establishment insiders — is very real.… There is much to be done to save our ailing Republic and restore liberty, but a convention in our current climate is not the answer."

— Former Representative Ron Paul (R-Texas), September 18, 2017

"Show me a single state where Constitutionalists comprise a majority of the state legislature. At this point in history, an Article V Convention of the States would be a disaster."

— Representative Thomas Massie (R-Ky.), December 9, 2021

"Congress writes the call. And Congress will do more than just a ministerial function.… They could write it to do whatever they want it to do. And if you think that the corrupt Insiders in Washington, D.C. are going to let a convention to change and alter the Constitution to make it what people believe will be tighter and restrained, I think you don't understand what's happening in Congress. I'm a big believer that it isn't the Constitution that's the problem, it is the people who ignore the Constitution that usurp power and abuse the constitutional power that they ostensibly have."

— Representative Andy Biggs (R-Ariz.), February 16, 2022

BALANCED BUDGET AMENDMENT

Some conservatives are proposing a Balanced Budget Amendment to rein in out-of-control federal spending, but is this the right answer?

AP Images

Out of date: In April 2020, when this picture was taken, the national debt stood at $24 trillion. Two years later, the debt has reached $30.5 trillion and is growing at a dizzying pace. The debt to GDP ratio is the highest in American history, with no ceiling in sight.

by Charles Scaliger

For a few decades, America's national debt and annual deficit spending have captured public and political attention. Calls for a Balanced Budget Amendment (BBA) to somehow rein in out-of-control government spending and the massive deficits and debts that accompany it have issued periodically from both political parties. Amending the Constitution to compel venal politicians to exert fiscal discipline sounds viscerally appealing, but would it actually solve the problem? And how do today's multitrillion-dollar debts and deficits compare with historical levels of federal government spending and indebtedness?

Charles Scaliger, a longtime contributor to The New American *and former academic at an American university, now lives and works in East Asia.*

The Debt Crisis

On January 8, 1835, a unique and wonderful event transpired in American history. On that forgotten date, President Andrew Jackson paid off the entire U.S. national debt, putting the federal government in the black for the first and only time in its entire history. This blessed interlude of solvency was remarkably short-lived; by January of the following year, the national debt had reappeared, in the now-negligible amount of $37,000. Aside from that single American *annus mirabilis*, the national debt has been a permanent fixture of American politics. America began her existence as an independent nation deep in debt from the economic ravages of the Revolutionary War, and subsequent conflicts, from the War of 1812 onward, have added to the tally. At several points in American history, the debt as a percentage of gross domestic product (or GDP, a figure more or less equivalent to the national income) has reached dangerous levels, including the Civil War and World War II. In 1946, the national debt-to-GDP ratio hit a new record level at 119 percent. But by the following year, as the postwar boom gained steam, the debt to GDP was already trending downward, at a still worrisome but much-improved 103 percent. Ten years later, in 1957 (a recessionary year), the debt to GDP had declined, aptly enough, to 57 percent, and by the end of the 1960s, it was down in the vicinity of 35 percent. Until well into the 1980s, the debt-to-GDP ratio remained under 40 percent, although the illusionary effects of inflation caused the actual dollar amount of the debt to soar.

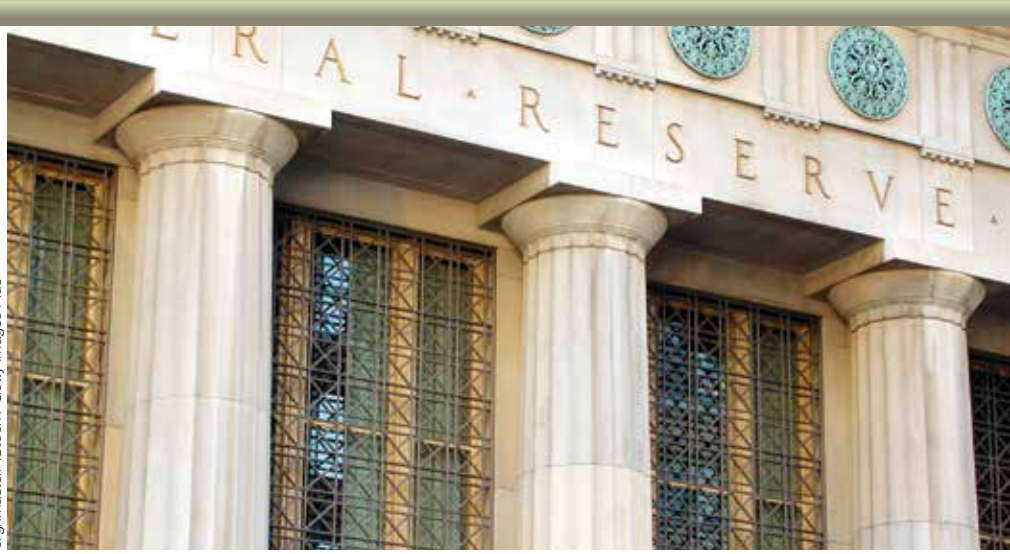
But in 1985, the debt-to-GDP ratio edged above 40 percent for the first time in decades, beginning a more or less accelerating rise that has continued into the 2020s. Only three years after passing 40 percent, the debt-to-GDP ratio surpassed 50 percent, and just four years after that — in 1992 — it breached 60 percent. Through the rest of the '90s and early 2000s, the ratio hovered between the mid-50 and low-60-percent level, before exploding into the stratosphere with the onset of the Great Recession. In 2009 it jumped to 82 percent, and by 2012 had reached 99 percent. In 2014 it breached 100 percent for the first time since 1947, and by 2019 it sat at 107 percent. Then came the Covid

pandemic, the ensuing economic contraction, and the massive federal stimulus programs. Result: The debt-to-GDP ratio jumped to 129 percent in 2020, a new all-time high in American history. It eased off slightly in 2021, but remained in record territory, at 124 percent.

Thus we have, since the mid-1980s, piled on national debt at an unprecedented pace and have reached truly unprecedented levels — all without experiencing a crisis anywhere close to the severity of the Civil War, World War I, the Spanish Flu pandemic, the Great Depression, or World War II. In fact, most of the growth in debt has occurred in times of relative peace and prosperity; in 2001, for example, the year of the 9/11 attacks, the ratio remained unchanged from the previous year, at 55 percent, and in 2002, during the onset of the War on Terror, it increased by only two percent. The big jumps, at least in recent years, have been triggered by massive stimulus and bailout programs in response to the Great Recession and the Covid pandemic.

When the stock market crashed in 1929, the national debt was only 16 percent of the GDP, a very modest figure by modern standards. Two years into the Great Depression, the figure still stood at a relatively modest 22 percent. But by the middle of the 1930s, the ratio had reached 40 percent, and by the end of that lost decade, 50 percent — figures much more in line with what modern Americans have become accustomed to, and, as we have seen, comparable to what was achieved in the 1960s through early 1980s. What we have not seen in the nearly 100 years since the Great Depression is anything close to a return to pre-1930 figures. What has changed?

The answer is fiat money, meaning money not backed by gold or silver. In 1933, under FDR, America's first true leftist president in the modern sense of the word, America went off the gold standard, meaning that American citizens not only could no longer convert dollars into gold on demand, they were also prohibited from owning any gold other than jewelry. While a very limited gold standard for non-American citizens holding U.S. dollars was reinstated as part of the Bretton Woods agreement in 1944, Americans have effectively lived under a fiat money regime since 1933. This means that, from that year onward, there have been no limits on how much money the American Federal Reserve System, in cahoots with the Treasury Department, can create, because it is no longer required to redeem paper money for specie on demand. And it is no accident that, in 1933, the debt-to-GDP ratio surpassed 40 percent for the first time, a roughly minimum level it has maintained ever since.



orgnmaster/ iStock / Getty Images Plus

No reserves: The American dollar, no longer backed by gold or silver, is inherently inflationary, because the Federal Reserve must continually create new money to cover new government debt. In a fiat money system, debt is inextricably bound to money creation.

Amending the Constitution to compel venal politicians to exert fiscal discipline sounds viscerally appealing, but would it actually solve the problem?

The relationship between fiat money and the national debt is fairly simple in principle. Governments and banking systems cannot simply manufacture money and throw it out of helicopters; they need some kind of plausible pretext for adding new money to the existing supply. That pretext is usually debt. Via various artifices like "open market operations," governments create new money by selling debt to their own central banks — in America's case, debt issued by the Treasury is purchased by the Federal Reserve — which pays for the new government debt by creating new money, i.e., by inflation. In other words, governments finance deficits and debts by expanding the money supply. The higher the inflation, the faster the national debt grows, and vice versa. Thus fiat currency is license for a government not only to print money without limit, but also to borrow without limit. It is no accident that the modern post-World War I era has been both the age of inflation and the age of debt, not only in the United States but all across the world. And by "inflation," we do not mean only rising gas and food prices; we also mean less widely-recognized manifestations of inflation such as stock and asset bubbles of all kinds, which are also driven by the process of fiat money creation in response to excessive government borrowing and spending.

Will a BBA Solve the Problem?

Yet the solution to the problem of burgeoning deficits and debts pushed by political leaders and opinion-molders is a "balanced budget amendment" that would allegedly straitjacket our fiscally irresponsible leaders by making deficit spending, except in times of national emergency, illegal. If government were required by law to balance the budget every year, goes the

reasoning, ballooning deficits and out-of-control debts would be things of the past.

In the first place, as we have seen, the efficient cause of towering modern national deficits and trillion-dollar annual budget overruns is a fiat money system that requires enormous levels of debt in order to offset the government's continual appetite for printing money. As Federal Reserve Chairman Mariner Eccles explained to an incredulous Congress back in the fateful year 1933, "[debt] is what our money system is. If there were no debts in our money system, there would be no money."

Eccles was perhaps a little more forthright in making such admissions than his modern counterparts at the Fed, but the principle has not changed: Fiat money is to debt what oxygen is to fire. Get rid of fiat money, and you will kneecap government's ability to run up gargantuan, unsustainable debts. Besides, fiat money is unconstitutional; the American Founders already had a lot of experience with fiat money and inflation during the Revolutionary War, and had no intention of foisting such poisonous fruit on their posterity. This is why the Constitution empowers Congress to "coin money" (*not* to "print money") and, for good measure, explicitly prohibits the states from having anything other than gold and silver as legal tender. A first and most critical step toward fiscal sanity and reining in out-of-control borrowing and spending will be to get rid of unconstitutional fiat money and reinstate the precious-metal standards of the past.

Besides the temptation, endemic to the fiat monetary system, to borrow and print money, there is a second major problem: widespread spending on completely unconstitutional programs. In fact, just about everything referred to as a "government program" is outside the pale of constitutionality. It has been estimated that, if government were to refrain from spending money on everything not authorized by the Constitution, the federal budget would shrink to a fraction of what it is now. The vast majority of non-military spending, for example, would be disallowed, including entire departments, such as the Department of Education, the Department of Housing and Urban Development, and the Department of Health and Human Services, whose respective mandates are nowhere countenanced in the Constitution. Such matters, to the extent that they merit government oversight at all, are the concern of state, not national government.

But even if all of this were not true, how would a Balanced Budget Amendment even work? The dozens of proposals for such have usually included a provision for "emergency spending," while otherwise requiring Congress' annual expenditures to equal annual revenue. House Joint Resolution 32, issued last year, is perhaps the most recent such, and includes a provision for deficit spending only if authorized by a two thirds majority vote in both houses. In other words, a Balanced Budget Amendment would only tweak the standards for deficit spending, not eliminate it altogether. And given the dozens of "national emergencies" now on the books, it would not be hard for politicians to concoct new "emergencies" to keep the deficit-spending gravy train from being derailed.

Nor can debts and deficits be outlawed absolutely. Governments — like individuals — do sometimes face genuine crises that up-front taxation and by-the-books budget line items cannot adequately address. Credit and borrowing, while risky, remain important features of public and private finance. But the solution to the debt and deficit problem is not to try to rein in the current perverse system, whose intrinsic features (inflation and fiat money) incentivize unlimited borrowing and spending. The proper solution is, first, to abolish the fiat monetary system and replace it with the bimetallic standard required by the Constitution, and second, to end all unconstitutional government spending. These two dramatic steps would result in a "Great Reset" that would be truly salutary; they would jolt America back to the fiscal sanity and low rates of taxing, borrowing, and spending that were the rule before the 1930s. And unlike the forced austerities of the Biden administration — the crushing energy prices, spiraling inflation, chronic underemployment, ever-higher taxes, etc. — the dislocation entailed by such a change would be brief and lead to an enormous expansion of opportunity and prosperity. Americans need not be gulled by the misleading promises of "balanced budget amendments" to restore fiscal sanity and prosperity; a return to Constitutional money and limits on government spending will do the trick. ■

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Sound money: Money backed by specie (gold or silver) is the only way to stop the flood of new money and the irresponsible deficit spending that enables its creation. A Balanced Budget Amendment, by contrast, would do little to fix the problem.

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Uninformed voters have consequences: If Nancy Pelosi and Chuck Schumer were term-limited out of office, who would replace them? Without first changing the understanding of the voters who elected them, it is ludicrous to think they would be replaced by constitutionalists.

THE FOLLY OF *TERM LIMITS*

Almost everyone recognizes that lame-duck congressmen are less responsive to their constituents. So why would anyone want to create more lame ducks via term limits?

by Gary Benoit

Adding an amendment to the U.S. Constitution to balance the federal budget (the subject of the previous article) is arguably the single biggest reason why conservatives want to call a Constitutional Convention. But there are other reasons too, among them term limits, the subject of this short piece.

The argument for term-limiting congressmen out of office is that their removal will enable others to be elected who will be more in tune with the wishes of the people. But does this argument hold up under scrutiny?

It is ironic that many conservatives who genuinely believe that term limits would result in better congressional representation also believe (and rightly so) that lame-duck sessions of Congress are largely disconnected from voters. It is ironic because congressmen who are prohibited from running for re-election because of term limits are lame-duck congressmen, as are congressmen who were voted out of office yet continue to serve in Congress in a lame-duck session. In both cases, these congressmen do not have to worry about facing another election for the office in which they serve.

It is obvious that a lame-duck session, which meets after a new Congress is elected but before the newly elected Congress convenes, is not going to be nearly as responsive to the voters than the regular session prior to the election. After all, what influence do voters have over lame-duck congressmen who will not be returning to Congress when the new Congress convenes? Of course, in a lame-duck session even congressmen who were re-elected may feel more emboldened than otherwise to incur the wrath of their constituents by voting against their wishes, since the next election will not occur for another two years in the case of the House, or another six years in the case of the Senate.

Elections provide the people with powerful means for influencing their congressmen. And congressmen know that if they deviate too much from what their constituents want, they could well be voted out of office in the next election. On the other hand, lame-duck congressmen know that they have nothing to lose in how they vote. This is the case regardless of whether a lame-duck congressman is voting in a lame-duck session of Congress, or if he or she is being term-limited out of office. In fact, every congressman who is being term-limited out of office would be a "lame duck" during the entire period of his final two-year congressional term, not just during a short post-election, lame-duck session.

There are other reasons why term limits are a bad idea:

- Term limits would limit not only the number of terms a congressman serves, but would also limit the choice of voters. Voters who like their congressman and want to vote to keep him or her in office are no longer allowed to do so. Put another way, their franchise is limited.
- Term limits would force not just "progressive" socialists, but also solid constitutionalists, out of office.
- The candidates who are elected to take their place would not necessarily be an improvement. Far from it, in fact. Incumbents became incumbents by first being voted into office. Unless there is a change in the thinking and understanding of the people who elected them, why should we expect the people to do anything other than replace the term-limited socialists with like-minded socialists?
- Finally, in a very real sense we already have term limits: They're called elections!

Amending the Constitution to term-limit congressmen is not the answer. If the goal is to elect better congressmen, then what's needed is better-informed voters. Otherwise, the voters will be beguiled again and again by the politicians they elect no matter how many times they replace one politician with another. ■

Gary Benoit is editor-in-chief of The New American.

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Article VI, NOT Article V

There is a sure way to rein in a government that has overstepped its constitutional bounds. That solution is Article VI, not Article V.

by Steve Byas

Concerned that the central government created by the Constitution was venturing beyond the powers given it by the Constitution of the United States, Thomas Jefferson wrote in 1798, "In questions of power … let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

One would think that all Americans today would nod in hearty agreement with Jefferson, who penned the inspiring words of the Declaration of Independence setting forth the theory of government upon which our Constitution is based. Unfortunately, that is not the case,

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because there are some who wish to perform the very "mischief" would-be tyrants know that Constitution is designed to prevent.

We know that the Founders did not authorize the government that we now have, in practice, but intended to create a government with specific limitations on its powers. Even those on the Left surely know that the Constitution's Framers did not intend to create a government that could usurp authority from the states, control the minutia of our lives, and force a radical social agenda on the people.

They ignore what is actually in the Constitution, or twist its words in such a way as to allow their leftist agenda to be fully implemented.

We can either surrender to their nefarious goals, or we can choose to use the Constitution — as it is written — to "bind" them down from "mischief by the chains of the Constitution."

The risks of a new Constitutional Convention simply far outweigh any possible good that could come from such an undertaking at this time in American history, when the "progressive" Left is hell-bent on destroying our American way of life.

Article VI

Unfortunately, there are many conservative-minded Americans who essentially agree with those on the Left that the problem is not with those who would violate the Constitution, but with the Constitution itself. Of course, these conservative-minded Americans may staunchly oppose the leftist juggernaut. But they argue that the way to bring this juggernaut to a screeching halt is to change the Constitution via an Article V Convention, overlooking or ignoring the fact that the very clear language and limitation of powers in the existing Constitution stand in the way of the leftist juggernaut.

In other articles in this Special Report from *The New American*, we warn against the dangers of trying to solve the problem via an Article V Convention, noting for example that a modern-day Constitutional Convention could be hijacked by the Left to advance its "progressive" agenda and that there is no reason to expect that those who now so flagrantly violate the existing Constitution would suddenly faithfully abide by the amended version. The risks of a new Constitutional Convention simply far outweigh any possible good that could come from such an undertaking at this time in American history, when the "progressive" Left is hell-bent on destroying our American way of life.

But warning against what *should not* be done is not the same as advocating what *should* be done to solve the problem. And so, in this particular article, we focus on what *should* be done. Simply put, what is needed is adherence to the Constitution.

In fact, the Constitution explicitly requires adherence. Its Article VI states in part:

> 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.
>
> The Senators and Representatives before mentioned [in the Constitution], and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution.

Article VI makes clear that U.S. representatives and senators may not make any law they choose; they may make only laws that are "in pursuance" of the Constitution — that is, laws that are constitutional. Moreover, they, along with others entrusted with power, must take an oath to support the Constitution.

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Honor your oath: Every public official takes an oath to follow the Constitution of the United States. The problem is that so few honor that oath. We do not need a new Constitution; we need officials who will obey the current Constitution.

AP Images

Inform the electorate: Until Americans elect better members of Congress — and of their respective state legislatures — we can expect to see a lack of fidelity to our Constitution. The solution is to educate ourselves and our fellow citizens on the principles of the Constitution.

Obviously, if everyone who solemnly swears to uphold the Constitution were to abide by that oath, the problem would be solved.

Please note too that those who take the oath include not just federal but also state officials, who are also duty bound to uphold the Constitution. This is why state officials should exercise the power of nullification, which is when states refuse to cooperate in the enforcement of unconstitutional federal usurpations (whether by the federal Congress, judiciary, or executive branch) within their own state borders, and pass laws designed to frustrate the enforcement of those usurpations by the federal government. Nullification has been used successfully various times in American history, and it is a proper tool for enforcing the Constitution on the state level. (For more information about the power of nullification, see page 31).

The Solution

How then do we get those whom we elect to abide by their oath to the Constitution? This is where "We the People" come in, since it is "We the People" who are now voting into office those who are violating their oath.

The solution is to educate the electorate in the principles found in our present Constitution — limited government, individual liberty, separation of powers, checks and balances, and federalism — so they will then elect members of Congress and presidents who will actually follow their oaths to support our Constitution — our *present* Constitution.

As then-Congressman and later President James Garfield said on the occasion of our nation's centennial celebration on July 4, 1876, "Now more than ever before, the people are responsible for the character of their Congress. If that body be ignorant, reckless and corrupt, it is because the people tolerate ignorance, recklessness and corruption." On the other hand, Garfield concluded, "If it be intelligent, brave and pure it is because the people demand these high qualities to represent them."

In the 1830s, a French visitor to the United States, Alexis de Tocqueville, marveled at the knowledge the average American had of his own country's history and of its Constitution. "It is extremely rare to find a man imperfectly acquainted with all these things, and a person wholly ignorant of them is sort of a phenomenon."

James Madison spoke in 1788 to the Virginia Convention that ratified the Constitution, and made this very point: "But I go on this great republican principle, that the people have virtue and intelligence to select men of virtue and intelligence." And, if there be no virtue in our country, then, "No theoretical checks — no form of government can render us secure."

Americans rightly concerned with the drift of our public officials away from the constitutional principles that were designed to keep us a free people should not be looking to change the Constitution, but rather to enforce our Constitution. Why do we have so many members of Congress — and of our state legislatures — who are either ignorant of, or disdainful of, our Constitution?

It is time for Americans to look in the mirror.

Without an informed electorate, candidates who know and revere the Constitution have a difficult time getting elected, having to contend with a biased media and special-interest groups. The solution to reining in out-of-control big government and returning to constitutional principles is simple. Shortcuts such as term limits and a Constitutional Convention are at best meaningless, and at worst dangerous.

Rather, citizens must get involved in the hard work of saving our republic. The John Birch Society, the parent organization of *The New American*, has the game plan, the educational and action tools, and a network of chapters working in concert to create an *informed* electorate.

This is the solution — educate our fellow Americans in constitutional principles of limited government, federalism, separation of powers, and checks and balances — by emphasizing Article VI of the Constitution, which states clearly that the Constitution is the Supreme Law of the Land, and that public officials from local sheriffs to the president of the United States are oath-bound to follow that Constitution.

No one should think this is an easy task, but it can be done, if there be enough dedicated patriots to get it done. As Samuel Adams said, "It does not require a majority to prevail, but rather an irate and tireless minority, keen to set brush fires in people's minds." When that happens, the chains of the Constitution Jefferson spoke of will be fully applied once again. ■

ARTICLE V
TALKING POINTS

1. The primary precedent for an Article V Convention is the 1787 Constitutional Convention. However, the 1787 Convention went beyond its original purpose to merely revise the Articles of Confederation, did its work in secret, and changed the ratification rules. This is a frightening precedent for a modern-day convention.

2. Absolutely nowhere in the text of Article V does it say or guarantee that the delegates to the convention can only be current or former state legislators.

3. Absolutely nowhere in the text of Article V does it say or guarantee that voting at the convention will be based on "one state, one vote."

4. Absolutely nowhere in the text of Article V does it say or guarantee that a convention can be "limited" to a single-subject amendment.

5. In 2015, the late Supreme Court Justice Antonin Scalia stated, "This is not a good century to write a constitution." This is true: There are few statesmen today who emulate the Founding Fathers. Furthermore, the Deep State and the Left despise the current Constitution and the values the United States was founded upon. Why would we give them an opportunity to influence the rewriting or amending of the Constitution?

6. Article V was put in the Constitution for the correction of errors. However, no one on the Right who favors a convention can identify a single defect in the Constitution itself that needs to be corrected. If it isn't broken, then it doesn't need to be fixed.

7. Calls for an Article V Convention are premised on the fact that the legislative, executive, and judicial branches of the federal government are usurping their authority and ignoring the limitations imposed on them by the current Constitution. But if the federal government is ignoring the current Constitution, why should we expect it to obey a revised version?

8. Rather than change the Constitution, state legislators should enforce it by nullifying all unconstitutional federal laws, regulations, executive orders, and court rulings. Nullification has been successfully used multiple times by the states, and it carries far less risk than a Con-Con.

ARTICLE V
TALKING POINTS

9 Convention of States Action claims that if, after an Article V Convention and the ratification of new constitutional amendments, Congress continues to overstep its authority, we should educate members of Congress and their constituents on the need to obey those new amendments. If this is the case, why not simply forgo a convention and educate our elected officials and the electorate now to obey the current Constitution? There is simply no need for a convention that will at best have no effect, or at worst eliminate protections of our God-given rights.

10 Writing on the subject of an Article V Convention in the Fall 1990 issue of the *Hamline Law Review*, Federal Judge Bruce M. Van Sickle wrote, "A state does not have the power to limit a constitutional convention to particular topics." What makes those who claim otherwise confident that they are right and that this judge is wrong?

11 If told that three-fourths of states would stop the ratification of any bad or radical constitutional amendments proposed from a convention, remember: Three-fourths of the state legislatures also approved both the progressive income tax (16th Amendment) and the direct election of U.S. senators (17th Amendment).

12 Regarding term limits, the 22nd Amendment limited presidents to two terms, along with serving out no "more than two years of a term to which some other person was elected President." Since the amendment's 1951 ratification, term limits have, by and large, not resulted in the election of "better" or pro-constitutionalist presidents. Likewise, term limits on members of Congress will not yield better congressmen.

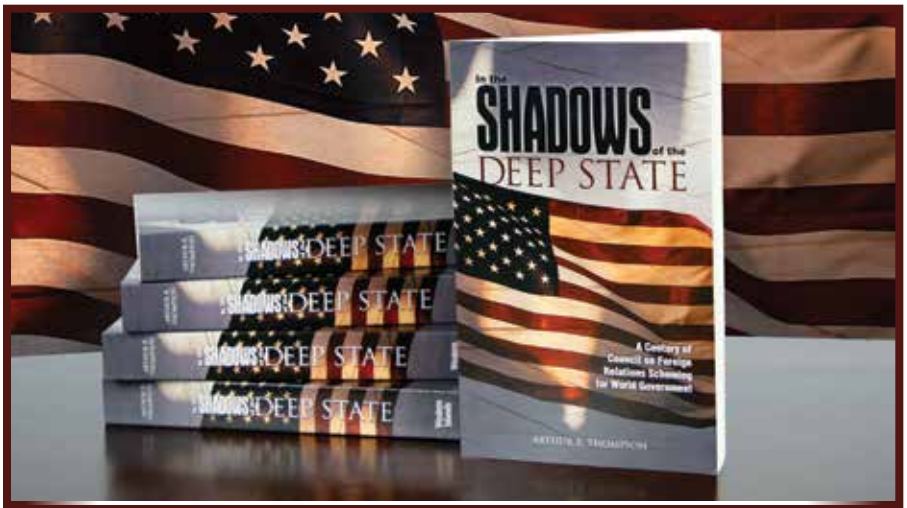
13 California has term limits for its state legislators. However, term limits have not improved the California State Legislature or resulted in the election of more conservative and constitutionalist legislators. Likewise, term limits on Congress will not yield any improvement.

14 Term limits would remove all accountability on members of Congress serving their last term, as they know they would no longer face voters. This would create a lame-duck Congress with no incentive to vote any better than they currently do.

15 Article I, Section 8 lists the powers specifically enumerated to Congress, including what it is allowed to spend money on. If members of Congress obeyed those strict limitations already imposed on them, not only would we balance the budget, but we'd have a surplus, thereby negating any need for a Balanced Budget Amendment.

16 Every single proposed Balanced Budget Amendment contains loopholes in case of a "national emergency," thereby constitutionalizing a way for never having to balance the budget.

17 No proposed constitutional amendment can substitute for an electorate and elected officials who are well-educated about the Constitution.



IN THE SHADOWS OF THE DEEP STATE

A Century of Council on Foreign Relations Scheming for World Government

By Arthur R. Thompson, CEO Emeritus, The John Birch Society

Learn about the history of the CFR and its key role in implementing the Deep State's agenda to bring about a one-world, socialist government.

Includes a 2019 CFR membership list, updates, and added addendums!

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Article V Convention: Will It Work?

America has not had a Constitutional Convention since 1787. The result then was a blessing. But holding a new convention today could end up being disastrous for the nation. **(July 11, 2022) TNA220711**

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CONGRESSIONAL SCORECARDS

Rein In Government by Holding Officials Accountable

by Peter Rykowski

Do you know how faithful your state and federal representatives are to the U.S. Constitution?

Article VI of the Constitution stipulates that all state and federal legislators, among other officials, "shall be bound by Oath or Affirmation, to support this Constitution." However, when examining our Republic's history, especially in the last century, it becomes clear that they have rarely followed their oaths.

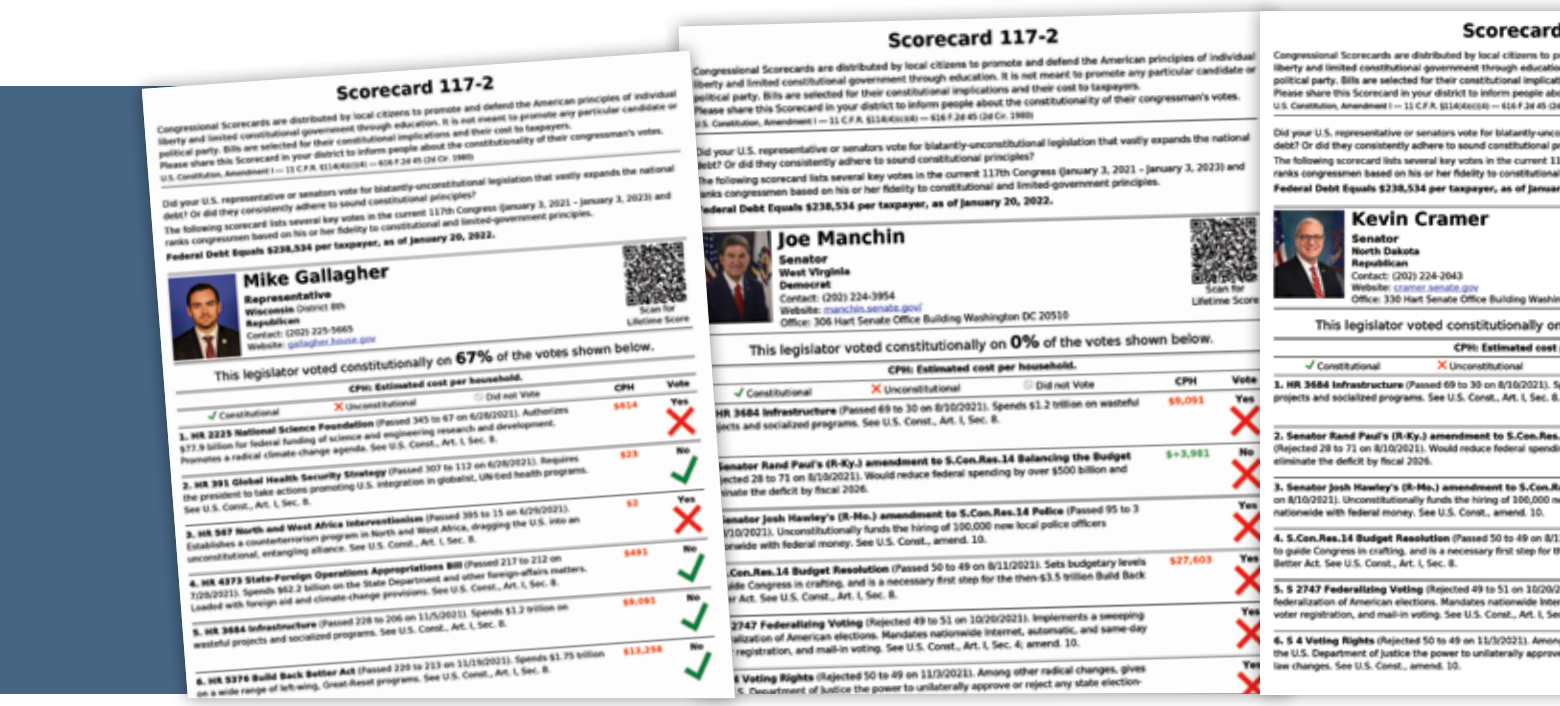
For example, the federal government routinely usurps powers not granted to it by the Constitution, and Congress has increasingly (and unconstitutionally) delegated its power to the executive branch. This has led to an out-of-control government that routinely infringes on Americans' fundamental, God-given rights. State legislators haven't performed much better, frequently acquiescing to federal overreach, abusing their power themselves, and pursuing false "solutions" such as a Constitutional Convention, or Con-Con.

Unfortunately, it is safe to say that many Americans are unaware of their state and federal legislators' performance. Some don't even know who their legislators are. How can such individuals hold their officials accountable or promote constitutional governance? Because of this lack of understanding, Congress and state legislators have been able to enact destructive and unconstitutional policies with impunity, sliding the United States ever closer to socialism.

The John Birch Society, the parent organization of *The New American*, is working to counter this by creating an educated and informed electorate, keeping with founder Robert Welch's prescription that "education is our total strategy, and truth is our only weapon." Such an electorate, in addition to understanding their legislators' performance, will elect candidates who support America's founding principles and will follow the Constitution, and will influence their existing officials to do so. This, rather than a Con-Con, will rein in out-of-control government.

Accordingly, *The New American* has created — and continues to create — effective tools to help Americans hold their elected officials accountable. One of these tools, as many readers might know, is "The Freedom Index," which is published biannually in *TNA* magazine and rates all 535 U.S. representatives and senators on their adherence to the Constitution. Many have found this index to be eye-opening.

Peter Rykowski is a research associate for The John Birch Society, manages JBS's legislative alerts, and is editor of the JBS Bulletin.



However, *TNA* now publishes a new tool, in addition to the "Freedom Index," to enhance these efforts: "Congressional Scorecards." These useful pamphlets focus on individual U.S. representatives and senators — rather than showing all 535 of them — so one can more effectively educate Americans on their congressman's fidelity to the Constitution.

The "Congressional Scorecards" are effectively a reincarnation of the old "TRIM (Tax Reform IMmediately) Bulletins." The latter, which displayed the voting records of individual U.S. representatives, along with the cost per household of each included bill, were enormously effective. Since they were inexpensive to print, tens of thousands of these bulletins were sometimes distributed in a single congressional district.

The "Congressional Scorecards" build upon this concept. As with the former "TRIM Bulletins," they include the cost per household, when applicable. This is effective because it shows Americans how big-spending bills affect them — and their families — personally; they are not abstract curiosities.

The "Congressional Scorecards" also have been enhanced in several important ways. First, they now include U.S. senators in addition to representatives. Additionally, unlike the "TRIM Bulletins," which only showed how congressmen voted on big-spending bills, the "Congressional Scorecards" include a wide variety of legislation, spending bills, as well as legislation related to national policy, foreign entanglements, gun control, federalism, election integrity, and other key topics.

Last, but not least, the current scorecards can easily be printed out by anyone with a home printer. This is an improvement from the "TRIM Bulletins," which required printing on legal-size paper.

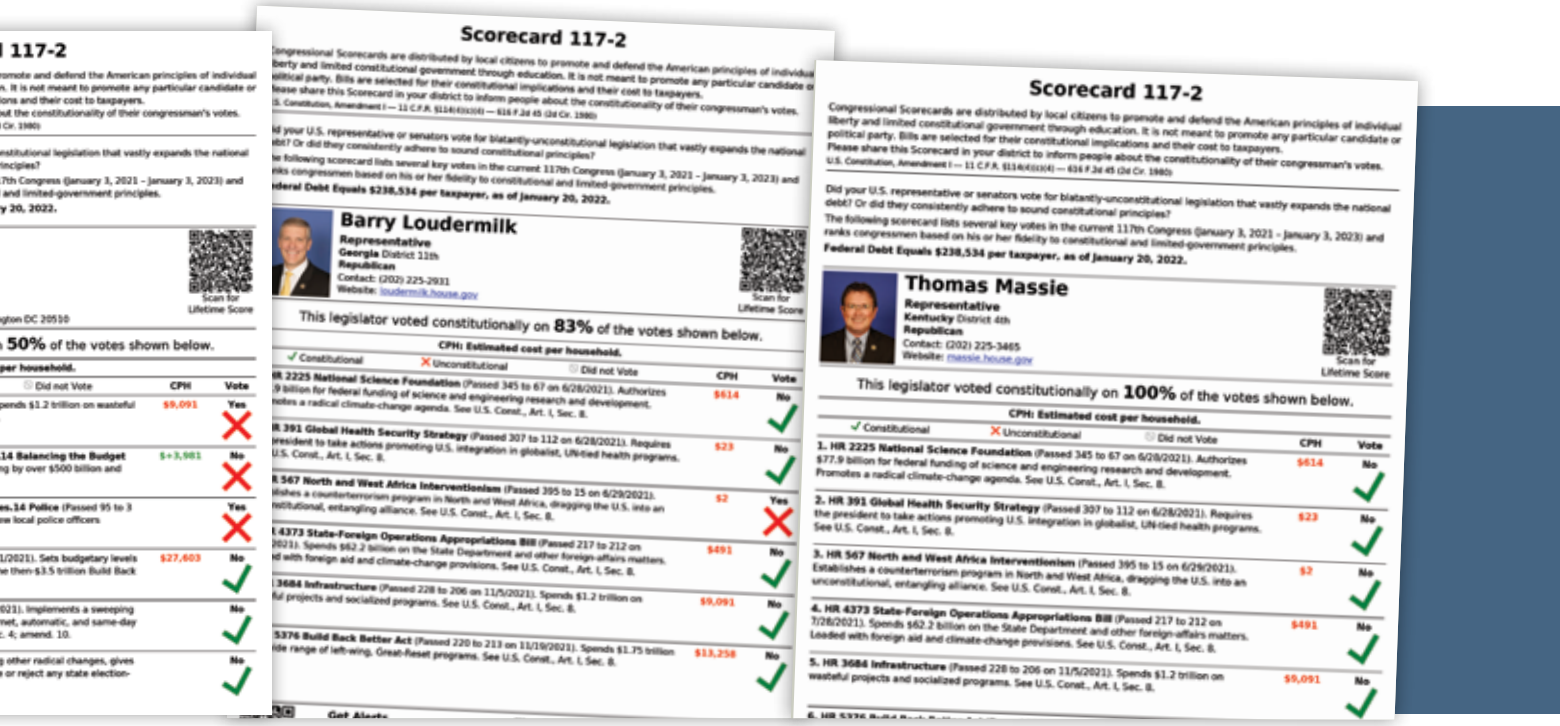
As stated above, and as implied by the title, the "Congressional Scorecards" only evaluate U.S. representatives and senators. They do not cover state legislators. However, especially in today's political climate, state legislatures are (at least) as important as Congress, frequently voting and setting policy on key matters such as medical freedom, election integrity, gun control, public education, nullification, and the Con-Con.

It is imperative to promote constitutional governance at the state level as well as in Congress. Accordingly, *TNA* is expanding the scorecards to also evaluate state legislators. This will enlarge the arsenal of tools patriots have available to promote liberty and hold their officials accountable. Readers are encouraged to regularly check TheNewAmerican.com as this new feature is rolled out.

It should be emphasized that both the "Congressional Scorecards" and the upcoming state-level scorecards are not political tools. Although JBS members are encouraged to engage in politics in their individual capacities, *TNA* and the JBS are nonpartisan organizations and take no part in political activity.

Accordingly, the scorecards should not be used to advocate for or against any candidate or political party, nor should they be distributed only immediately before elections. Rather, patriots should distribute them regularly throughout the year, and should focus on educating legislators and their constituents. If this is done, legislators will either begin voting constitutionally or, because of their newly educated constituents, suffer the electoral consequences.

With everything said above, readers are encouraged to access and distribute the "Congressional Scorecards." One can find them by accessing TheFreedomIndex.org, or by going to TheNewAmerican.com and clicking on the "Freedom Index" tab. Additionally, for help finding and printing the scorecards, and for additional advice on how to use them, one can access *TNA's* "Congressional Scorecard User Guide" at https://thenewamerican.com/freedom-index/user-guide/ ■



NULLIFICATION

THE FOUNDERS' SOLUTION TO FEDERAL OVERREACH

When the federal government ignores its constitutional limitations, states must enforce the Constitution by nullifying those usurpations — and many are already doing that.

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Rightful remedy: The principle and application of nullification stretch back to the Founding Fathers themselves. Thomas Jefferson, when drafting the Kentucky Resolutions of 1798, described it as "the rightful remedy" for countering federal usurpations.

by Peter Rykowski

Honest observers of our nation's governmental system must agree on one point: The federal government has far exceeded its constitutional limitations. From regularly violating Americans' God-given rights (including gun control and vaccine mandates) to exercising powers not delegated to it (including education policy and the Federal Reserve), the federal government is blatantly ignoring the U.S. Constitution.

State governments have an obligation to resist this federal overreach, but they cannot do so by just any means they choose — they must use the correct method. Some in the conservative movement are promoting an Article V Convention as the solution to an out-of-control federal government. However, this is a false solution that only threatens the Constitution and the God-given rights it protects.

Instead, rather than seeking to change the Constitution, state officials ought to enforce it — and the way to enforce it is by nullifying unconstitutional laws. In addition to being constitutionally sound, nullification has been, and is still being, successfully used to push back against federal overreach.

What Is Nullification?

Nullification refers to the principle that, when the federal government usurps power not delegated to it by the Constitution, states can act to ensure those usurpations are not enforced and, by extension, are null and void.

Nullification is firmly grounded in the text of the U.S. Constitution, specifically Article VI. It states, "This Constitution, and the Laws of the United States *which shall be made in Pursuance thereof* … shall be the supreme Law of the Land." (Emphasis added.) This clearly implies that laws not in accordance with the Constitution are null and void.

Additionally, the Constitution delegates only specific, enumerated powers to the federal government. The states, by contrast, retain the vast majority of powers, something James Madison affirms in *The Federalist,* No. 45. This is further cemented by the 10th Amendment, which makes clear that all powers not granted by the Constitution to the federal government are reserved to the states and to the people.

When the federal government usurps its power, state nullification under Article VI is a duty, not just an option. Article VI also declares that state legislators, executive officials, and judges "shall be bound by Oath or Affirmation, to support this Constitution." In the face of federal overreach, which state official is faithful to his oath: the one who acquiesces to the usurpation, or the one who resists? Clearly the latter.

Nullification stretches back to the Founding Fathers themselves. For example, Madison, writing in *The Federalist*, No. 46, stated, "Should an unwarrantable measure of the federal government be unpopular in particular states, which would seldom fail to be the case … the means of opposition to it are powerful and at hand. The disquietude of the people; their repugnance and, perhaps, refusal to cooperate with the officers of the Union; the frowns of the executive magistracy of the state;

the embarrassments created by legislative devices, which would often be added on such occasions, would oppose, in any state, difficulties not to be despised."

Nullification was first used just over 10 years later, in the Kentucky and Virginia Resolutions, written by Thomas Jefferson in 1798 and Madison in 1799, respectively. These resolutions condemned the Alien and Sedition Acts — which imposed criminal penalties on individuals who published criticism of the U.S. government — as unconstitutional. Furthermore, they asserted that state governments had authority to nullify, or interpose, the acts along with any other unconstitutional law, and they urged cooperation with other states to resist the acts' provisions. Although no other state joined Kentucky and Virginia, this was largely due to state legislators fearing arrest under the Alien and Sedition Acts and to many states being controlled by the Federalist Party, which supported the acts. Nonetheless, this incident illustrates the sturdy historical and constitutional basis for state nullification.

The Rightful Remedy

Not only is nullification constitutionally sound, but it is "the rightful remedy," as Thomas Jefferson put it, for countering federal-government overreach. The most obvious reason is that nullification attempts to enforce — not change — the Constitution, a document enshrining a federal government with *limited* powers.

Of course, the federal government currently operates far outside its constitutional limitations, having grown far beyond what the Founding Fathers could have imagined. However, this massive growth was not *because* of the Constitution or any of its provisions, but rather from officials *ignoring or misinterpreting* it. Indeed, if the Constitution were fully enforced, the federal government would shrink by at least 80 percent. A Constitutional Convention, or Con-Con, ignores this important fact in its push to change the Constitution. But, especially in today's political and cultural climate, any changes to the Constitution will surely authorize a far-larger federal government than the current Constitution permits.

Eastman Johnson

Not secession: Although detractors of nullification often conflate it with secession and defending slavery, such claims have no basis. In fact, Wisconsin and other Northern states used nullification against the Fugitive Slave Act of 1850, effectively assisting runaway slaves.

Additionally, nullification has an immediate effect, as opposed to a Con-Con, which could take decades or longer to be concluded. For example, the movement to achieve a so-called Balanced Budget Amendment via an Article V Convention began in earnest in the 1970s. A half-century later, BBA advocates still have not succeeded in calling a convention. Similarly, the first Convention of States (COS) resolution was passed in early 2014. More than eight years later, COS is only about halfway toward reaching the 34-state threshold for calling a convention.

If federal-government overreach is such a serious problem — and it is — the convention process is far too slow, and far too dependent on multiple states acting in unison, for it to be a serious solution. (Of course, the purpose of Article V is to correct potential errors in the Constitution, *not* to rein in the federal government.) By contrast, nullification legislation can take effect immediately upon a state legislature's passage or governor's signing. Its implementation is not dependent on the actions of 33 other states or approval by the federal judiciary.

For nullification to succeed, state officials must be bold and courageous. Any state acting to enforce the Constitution and prevent the implementation of unconstitutional edicts will likely face significant opposition from the federal government, judiciary, media, big business, and others. Reining in the federal government will not come without a fight. However, if our leaders are bold and courageous, nullification — unlike an Article V Convention — can immediately and effectively push back against unconstitutional federal actions.

Nullification vs. Secession

Opponents of nullification sometimes conflate it with secession — the act of leaving the Union — or claim it will lead to national destabilization. Such claims have even come from COS Action. In early 2021, for example, a regional director of the organization, David Schneider, spoke out against a nullification bill in South Dakota. Among other statements, he claimed that nullification helped cause the Civil War and stated, "Wholesale nullifying leads to anarchy and nullification of the Constitution itself."

Such claims, however, have no basis in

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Still used today: State and local governments are currently using nullification to counter federal usurpations. For example, 15 states and counting have enacted measures preventing the enforcement of federal gun control, while hundreds of counties have done the same.

reality. First, nullification under Article VI only targets those federal edicts with no constitutional basis, while constitutional federal actions are upheld under this principle. In other words, nullification upholds the Constitution; it cannot, as Schneider claims, "[nullify] the Constitution."

Nullification and secession are very different principles. Rather than leaving the Union or rejecting the Constitution's authority, nullification upholds both the Constitution and the Union in the way the Founding Fathers intended. In this way — particularly since a Con-Con threatens limited government as well as the Constitution and the God-given freedoms it protects — secession and a Con-Con resemble each other far more closely than secession and nullification.

Unlike secession, nullification had no role in causing the Civil War, nor was it used to defend slavery. In fact, opponents of slavery — most prominently in Wisconsin — used nullification to prevent the enforcement of the Fugitive Slave Act of 1850, a law that unconstitutionally infringed upon individual freedom and state sovereignty. Not only this, but when the U.S. Supreme Court ordered Wisconsin to obey the law, the state's legislature and supreme court nullified *that* decision. The conflation of nullification and secession does not hold up under scrutiny.

Nullification in Action

Nullification has been successfully used multiple times throughout U.S. history, with the Kentucky and Virginia Resolutions and the nullification of the Fugitive Slave Act among the most prominent examples. However, nullification is not just a thing of the past; it is still being used today to push back against federal usurpations.

For example, state and local governments are employing nullification to counter federal gun-control efforts. Already, 15 states — either through legislation or gubernatorial executive orders — have enacted measures preventing, to various degrees, the enforcement of federal gun control. Additionally, counties are taking their own steps; by mid-2021, 61 percent of all U.S. counties had passed "Second Amendment sanctuary" measures, and that percentage continues to grow. While many of these measures are symbolic resolutions, some counties have enacted substantive ordinances.

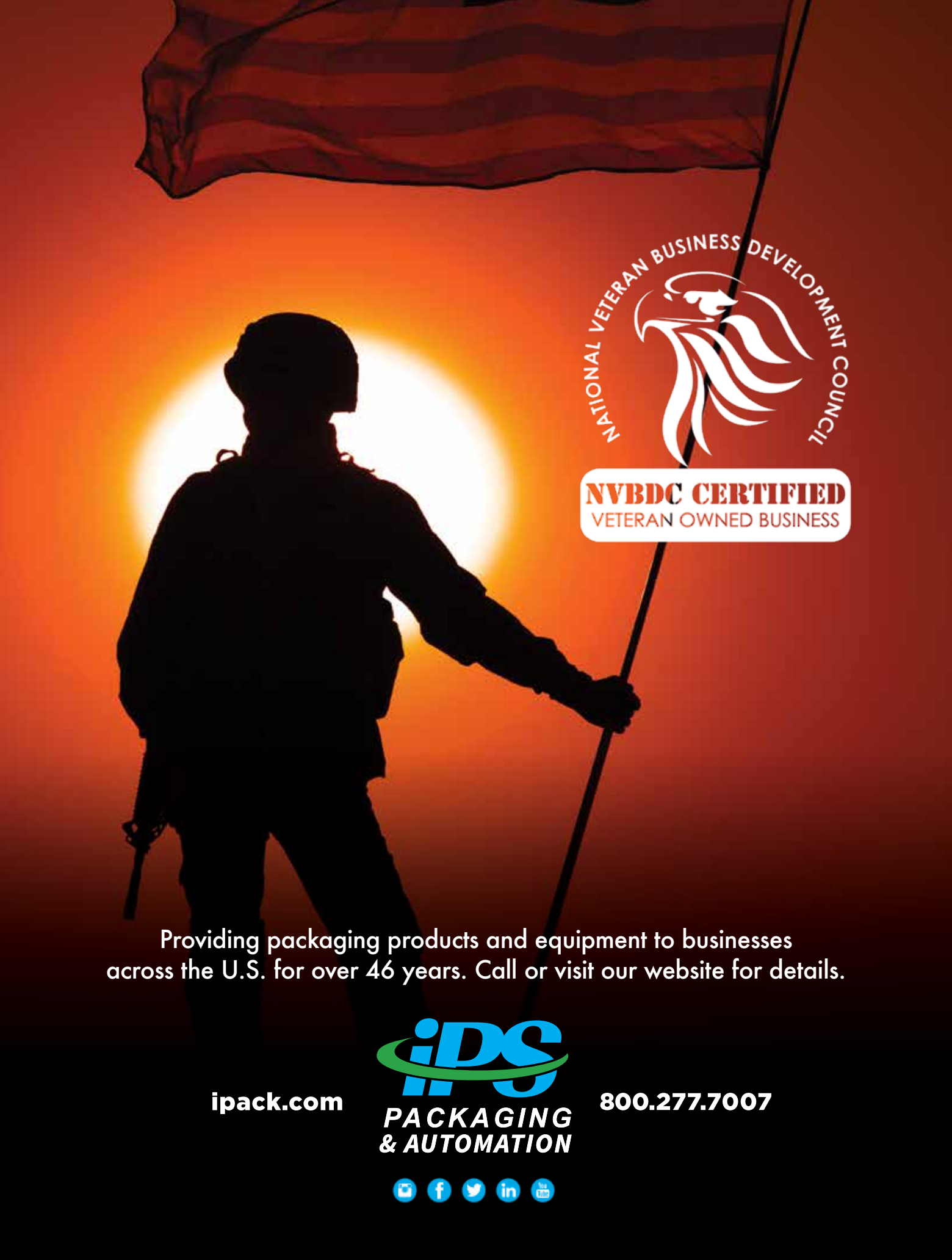
One of the strongest of these measures is Missouri's Second Amendment Preservation Act, enacted in mid-2021. Among other provisions, it catalogs a wide-ranging list of unconstitutional "federal acts, laws, executive orders, administrative orders, court orders, rules, and regulations," which effectively include the 1934 National Firearms Act and the 1968 Gun Control Act. The act then declares that such policies "shall be invalid to this state, shall not be recognized by this state, shall be specifically rejected by this state, and shall not be enforced by this state." It also includes enforcement mechanisms to ensure its provisions are followed.

State governments have also recently enacted legislation taking steps to bypass the unconstitutional Federal Reserve, thus nullifying it and enforcing the Constitution's monetary provisions. For example, 42 states have abolished taxes on precious metals such as gold and silver, while three have affirmed their validity as legal tender, thus encouraging their use. Meanwhile, Texas has taken the step of creating a state precious-metals depository, further reducing state dependence on the Fed.

Nullification is not confined to conservative-leaning states. For example, to date, 19 states have fully legalized marijuana in the face of a federal ban, and many more have legalized it for medical use. Regardless of one's views about marijuana use, the federal government's prohibition is unconstitutional under the 10th Amendment. Accordingly, state governments have authority to nullify this ban, and they have done so with great effect.

Many other pro-nullification bills have been enacted by state governments in recent years, and many more such bills have been introduced in state legislatures. The latter include legislation to nullify federal vaccine mandates, pro-abortion court rulings, unconstitutional federal deployments of state National Guard units, and unconstitutional federal spending, and to create formal processes for nullifying any unconstitutional federal action.

Nullification is already being used effectively, and many other promising bills and initiatives exist. However, it is imperative that state legislators enact the remaining measures, and that all state officials courageously enforce the Constitution in the face of heavy opposition. Accordingly, patriots must actively educate these officials and the general public about the benefits of nullification and the dangers of a Con-Con. By taking such action, we can significantly rein in the federal government. ■



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Faith FAMILY FREEDOM

Patriotic Americans Working to Prevent a Con-Con

by C. Mitchell Shaw

With the federal government constantly overstepping its constitutional boundaries — and growing the federal budget with each extra-constitutional step it takes — people across the nation realize there is a problem. Groups such as Compact for America, the Balanced Budget Amendment Task Force (BBATF), and Convention of States Action offer various plans to rein in the federal government by encouraging states to apply for an Article V Convention to amend the Constitution.

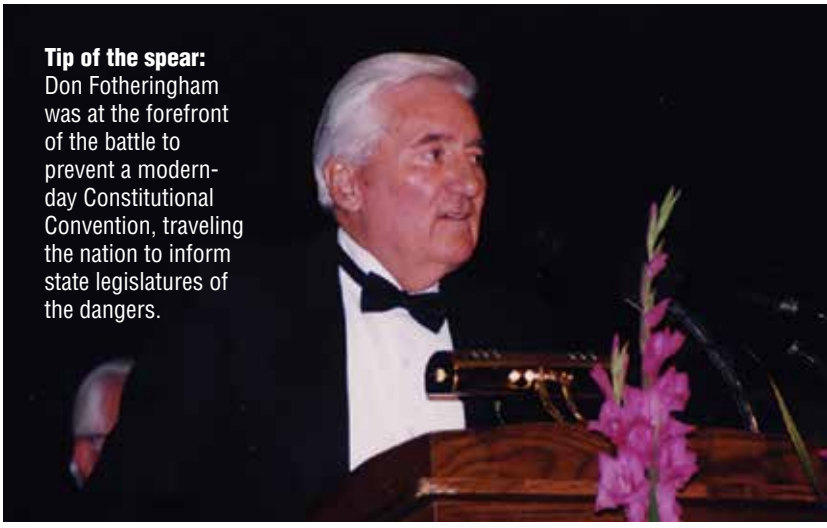
Almost all such groups — including the three listed above — deny that such a convention would be a Constitutional Convention with nearly limitless power to make sweeping changes to the Constitution, including the power to draft an entirely new Constitution. Their denials do nothing to set aside the reality: Even *Black's Law Dictionary* — the most widely used law dictionary in the United States — defines "Constitutional Convention" as "A duly constituted assembly of delegates or representatives of the people of a state or nation for the purpose of framing, revising, or amending its constitution" and lists the following example:

> Delegates to the constitutional convention convened in 1787 quickly dispensed with any thoughts of retaining the Articles of Confederation and turned, instead, to the creation of a new Constitution.

And while the leaders of those groups deny an obvious truth, a distinction must be made between those leaders and the followers who are deceived by that dishonest denial. Since those groups are well-funded — thanks to a handful of wealthy special-interest groups such as the Kochs and the American Legislative Exchange Council (ALEC) — many thousands of good, patriotic men and women have believed the lies they have been told: that what Compact for America, the BBATF, COS Action, and other such groups are proposing is a safe, reasonable, limited solution to a federal government that runs roughshod over the rights of the people and the states.

Thankfully, there are also many thousands of good, patriotic men and women who have examined the facts for themselves and are working daily to prevent a modern-day Constitutional Convention from drafting a document that would be a product of its age as surely as the Constitution of 1787 was a product of its age. To those men and women — both past and present — every American owes a debt of gratitude.

In the early 1980s, informed patriots became alarmed to learn that America was two states away from a modern-day Constitutional Convention. According to Article V of the Constitution, if two-thirds of the states apply to Congress for a convention, Congress is obliged to call one. Since there are 50 states, two-thirds is 34. By the time patriots began working to reverse the trend by



Tip of the spear: Don Fotheringham was at the forefront of the battle to prevent a modern-day Constitutional Convention, traveling the nation to inform state legislatures of the dangers.

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convincing states to rescind their previous calls, 32 states had already applied to Congress to call a convention.

At that time, Don Fotheringham was the John Birch Society (JBS) field coordinator for Idaho. He said he saw a report showing how close America was to a new Constitutional Convention and asked himself a question that shaped his thinking in regard to just how dangerous such a convention would be: Given the political climate (partisan divisions, creeping liberalism, and politicians who routinely violate their oaths to obey the Constitution), could our country even survive such a convention? And as relevant as that question was nearly 40 years ago, it is more so now. Consider the remoteness of the possibility that such a convention would not be positively dripping with Soros money. Consider the "leaders" of even Red states who go along with federal overreach when it benefits their states or their own political careers. Consider the historical fact that at the only such convention this nation has ever seen (1787), the delegates decided to overstep their original purpose of *amending* the Articles of Confederation and instead *scrapped them and drafted an entirely new Constitution.*

Recognizing the importance of preserving the Constitution, Fotheringham began working to expose the dangers of a Constitutional Convention. He told *The New American*, "It took time and effort to expose it — it was 13 years before the first state voted to rescind its application." He added, "Politicians don't like to admit they made a mistake." But once Florida rescinded its application in the mid 1990s, other states soon followed. It appears that what politicians really don't like is being the *first* to admit they made a mistake.

Within a few years of Florida rescinding, 11 other states followed suit. And — due to the efforts of Don Fotheringham and others — no other states made application to Congress for a convention during that time.

One thing that Fotheringham did was to reach out to well-known and well-respected jurists and law schools and asked their thoughts on a modern-day Constitutional Convention. As he told *The New American*, "The greatest advantage I had was, no matter what law school you contacted — whether it was Harvard, or Yale, or Duke, or wherever I went — all the constitutional scholars said, 'No, we do not want this convention.'" Fotheringham collected statements from nearly a dozen "constitutional specialists" who all said such a convention was a danger since it could not be limited in scope.

About that same time, Phyllis Schlafly — who founded the Eagle Forum and was famous for her opposition to the Equal Rights Amendment — coined the phrase "Con-Con" as an abbreviation for "Constitutional Convention" to show that it is a con job on the American people, who are being lied to in order to gain their support. Schlafly wrote, "I think the Con-Con issue is really diversionary. I've always been against Con-Con, from the very first the time the idea was raised. Everybody knows that."

Schlafly — like Fotheringham — traveled the nation, testifying before state legislatures of the facts of such a convention.

Schlafly's and Fotheringham's early work to expose the Con-Con helped protect the Constitution from the ravages of a convention. Their work also laid the foundation for those who would follow and have to pick up the mantle of defending the Constitution from those who would claim they are trying to save it by changing it.

It is no exaggeration to say that had it not been for Schlafly and Fotheringham, the Constitution would have faced a convention and would almost certainly have been replaced with a document much more to the liking of the very politicians who routinely disregard it.

But while well-informed patriots not only fought the Con-Con movement to a

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To coin a phrase: Phyllis Schlafly — best know for her work opposing the Equal Rights Amendment — was the first to refer to the push for a modern-day Constitutional Convention as a "Con-Con" — both an abbreviation and an apt description, emphasizing the fact that proponents were attempting to "con" Americans.

standstill, but actually *reversed* the trend by convincing states to rescind and withdraw their applications for a convention, the forces bent on pushing for such a convention have not stopped pushing. Furthermore, they have changed tactics. Now, most of them deny that what they are calling for — and what Article V describes — is a Constitutional Convention, claiming instead that it is merely a "convention for proposing amendments." By this clever device, these groups have renewed the danger that America may face a Constitutional Convention that will be limited only by the imaginations of its delegates.

Fortunately, the work that Fotheringham and Schlafly began also continues. And the premier organization working to inform state legislatures of the danger of such a convention — and thereby prevent it from taking place — is The John Birch Society.

JBS field staff and volunteer members take the time and effort to inform others of the danger of a Con-Con, expose the organizations behind it, and testify before state legislatures to both prevent future applications for a Con-Con and convince states to withdraw previous applications.

Across this nation, JBS members and others who use JBS materials have fought a good fight and have been able — through great effort and expense of both time and money — to keep the danger at bay.

One man who has continued the work of Fotheringham and Schlafly is Robert Brown. A former field coordinator and regional field director for the JBS, Brown — a lifelong student of the Constitution — began his efforts to combat the Con-Con in about 2009. Since that time, he has given hundreds of presentations across the country, covering almost every state in the nation.

Brown told *The New American* that it is difficult to track the exact number of active applications from the states, since Congress — which is tasked by Article V with calling such a convention — has never made it clear how it aggregates those applications. Would applications need to be similar? Would they need to be identical? Would applications for a convention all count toward the two-thirds threshold regardless of the stated reasons for the applications? Congress has never decided.

Picking up the mantle: Robert Brown — like many other well-informed patriots across America — is continuing the good work of those before him, such as Fotheringham and Schlafly.

And since Article V states, "Congress … shall call a convention," it is in the power of Congress to decide. Brown also points out that this illustrates one great danger of such a convention: While advocates *claim* that the states would choose delegates, Article V does not say that. In fact, since "Congress … shall call" the convention, it is highly likely that Congress would at least have some say in choosing the delegates and setting the rules for the convention.

Brown also shows that there are other dangers associated with such a convention. In his presentations across the nation, he asks attendees a series of questions designed to bring those dangers to light. He asks whether anyone thinks lobbyists would have any interest in — and therefore attempt to influence — the outcome of the convention. He asks the same question about groups such as Antifa and BLM. He asks whether anyone thinks mainstream media would miss an opportunity to manipulate public opinion regarding the proceedings and outcome of the convention. Ditto foreign governments. These are all great questions that show the obligation of patriotic Americans to seriously weigh the promises of convention advocates against the facts.

Brown points out that the "leaders" of groups advocating for a convention are routinely dishonest. For instance, COS says — as mentioned above — that what they are proposing is something distinct from a Constitutional Convention, claiming that Article V does not describe a Constitutional Convention, but a "Convention of the States" to amend the Constitution. But, as Brown shows, the Founding Fathers referred to the Constitutional Convention of 1787 as "a Convention of the States for the sole and express purpose of revising the Articles of Confederation," and they instead drafted an entirely new Constitution.

As the fight to protect the Constitution from the ravages of a modern-day Constitutional Convention continues, groups advocating for such a convention continue to use deception and subterfuge to convince patriots to support this dangerous plan. But — thank God — there are thousands and thousands of other patriots who have taken the pains to examine the facts of the issue and are working on their own time and with their own money to expose the dangers. ■

The Convention of 1787

In 1787, the Articles of Confederation were trashed and replaced. Did the convention delegates exceed their legal authority?

by Robert M. Owens, J.D.

The U.S. Constitution was adopted in convention on September 17, 1787 at Independence Hall in Philadelphia. The convention had begun in May, and during the course of that hot Pennsylvania summer, stunning political events occurred — events that would forever alter the course of our nation; events tantamount to revolution.

Robert M. Owens, J.D. is a regional field director for The John Birch Society and host of the JBS program Constitution Corner. *Prior to joining the JBS staff, he spent 20 years as a trial lawyer and 10 years as a member of the JBS National Council.*

The Declaration of Independence shocked the world in 1776. A year later, in 1777, the Articles of Confederation were adopted as a perpetual binding compact between the states. The shackles of Britain were finally tossed aside in 1783 with the Treaty of Paris, which ended formal hostilities with King George III. For eight years, the United States was governed by the Articles of Confederation. However, a series of events, notably Shays' Rebellion, served as a catalyst to drive 12 of the 13 states to call for a federal convention to amend the Articles of Confederation. That convention was called to order in Philadelphia in May of 1787. The United States has not had another Constitutional Convention since.

There was no serious attempt to propose any amendments to the Articles of Confederation in Philadelphia. To the contrary, the Articles of Confederation were almost immediately "trash canned." A gag order was put in place to ensure all further deliberations were secret. The convention then went on to expressly violate provisions of the various state legislatures' authorizing resolutions that sent them to Philadelphia. The convention radically changed the ratification system in the Articles of Confederation to dramatically lower the threshold needed to ratify the new system of government (from 100 percent to two-thirds), and then bolted the door shut behind them by raising the supermajority threshold (from two-thirds to three-fourths) needed to modify the Constitution after its initial ratification.

Legal Authority to Act

Was this all legal? Was this a "runaway convention?" Was this another revolution? What legal authority did the 55 delegates to the 1787 Philadelphia Constitutional Convention have? The answers are revealed through an understanding of how a convention derives its power and how the concept of separation of powers applies to a convention in American jurisprudence.

In America, a Constitutional Convention is a sovereign body that derives its power directly from the people. There is

no intermediary. Its mandate is to fulfill the directives of the Declaration of Independence "to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness."

The doctrine of "separation of powers" is a key feature of the convention method of drafting a constitution. The concept of separation of powers is found again and again in many variations throughout American governmental structure. Examples include the bicameral legislature, the three branches of federal government, and the concept of federalism wherein federal, state, and local governments each play a separate and distinct role.

In the context of a convention for drafting a constitution, separation of powers refers to the fact that a legislature may enact laws that are subject to the Constitution, but they are incompetent to draft the form of government itself. Conventions are specifically tasked with drafting governmental systems, but they have no place promulgating laws pursuant to any system they develop. In this manner, a convention cannot tell a legislature what laws to pass, nor can a legislature limit or control a convention.

A philosophy that says a free people may form an entirely new system of government combined with an unrestrained convention thus provides a definitive answer to the questions posed above. An American federal Constitutional Convention is vested with specific authority to craft a system of government. So long as the convention does not violate "unalienable rights," the convention may construct, without further impediment, a system of government "in such form, as to them shall seem most likely to effect their Safety and Happiness."

"Counsel of Censors"

The evolution of American law on the matter of the power and autonomy of a Constitutional Convention grew from initial uses to craft state constitutions following the break with England, with the first example being employed in Pennsylvania and called a "Council of Censors." According to historian Gordon Wood, one of the foremost experts on Founding Era American history, the Council of Censors "did represent the first and only provision in 1776 for calling a body distinct from a legislature to amend a constitution, and as such was used effectively in 1786 by the Vermonters, who had in 1777 copied almost verbatim the Pennsylvania Constitution of 1776."

Massachusetts and New Hampshire soon followed Pennsylvania's example, and from there on, other states followed. Dr. Wood states, "Only a Convention of Delegates chosen by the people for that express purpose and no other, as the South Carolina legislature after four years of bitter contention finally admitted in 1787, could establish or alter a constitution." The end result was a mechanism that permitted for revolution when needed and provided for it in a peaceful way: "It not only enabled the Constitution to rest on an authority different from the legislature's, but it actually seemed to have legitimized revolution."

Accordingly, the delegates to the 1787 Philadelphia Convention were solidly within their legal rights to abrogate the Articles of Confederation and craft an entirely new system of government, inclusive of changing the ratification process. In fact, once a convention is convened, a revolution is not just possible, it is expected. To be clear, a Constitutional Convention in the American political experience has these critical ingredients that, when mixed, are greater than the sum of the initial parts:

- It provides an outlet for peaceful revolution, and the opportunity to enact a completely new system of government in conformity with the Declaration of Independence.
- It is subject to and protected by a separation of powers from federal and state legislative bodies. This fact prohibits a convention from both creating a system of government and then running that same system of government, and also prohibits legislative bodies from limiting or interfering with their designated work once they are convened.

Wise warning: Patrick Henry believed that the 1787 Convention far overstepped its mandate to amend the Articles of Confederation. While his concerns were well-placed, his arguments were ultimately rejected.

American vs. English Constitutional Conventions

The American concept of a Constitutional Convention differed from the English one. In England, the revolutionaries cut off the king's head, then asked "Now what?" The English convention method was born of necessity and most notably used in the somewhat awkward times when a monarch was being deposed by force or otherwise replaced. However, in the English example, the legal authority for a convention to act was wanting at best, and a convention was quite possibly treasonous. The only real determiner of legitimacy was which end of the sword you were standing at when the matter was called to question.

18th-century Misunderstandings, Modern Confusion

Modern historical treatments relating to the issue of the Philadelphia delegates' legal author-

ity to create an entirely new system of government have been hampered by poor scholarship. This is due in part to the fact that there was a wide view of the powers of a convention expressed by various people of importance at that time. No doubt this has led to confusion today in understanding the powers of a convention, as untrained historians can cherry-pick 18th-century quotes that match their desired position without understanding the context and acceptance of those various positions among their contemporaries. Opportunities for such confusion take several forms.

Rhode Island delegates refused to participate in the convention. Other delegates went to Philadelphia, saw the convention as having improperly overstepped its authority, and argued against the document it produced. Some agreed that the convention was out of bounds, but that the result was necessary and thus the usurpation was acceptable. None of these arguments won the day.

Shocked: John Lansing left the Philadelphia Convention because he felt the other delegates went too far when they scrapped the Articles of Confederation and wrote a new Constitution.

James Madison and those in his camp, often referred to as "Federalists," rejected these claims. Madison argued that the convention had absolute, unfettered legal authority to draft a new system of government. He cited the Declaration of Independence as authority. Madison's opinions and arguments ultimately won out both on the convention floor and in the ratification debates that followed.

Madison might have won the argument, but not without some controversy. On September 15, 1787, Rhode Island issued a resolution explaining why it refused to send delegates to the convention and why it saw the whole affair as unnecessary and dangerous. The resolution argued that a convention could very well mean the end of the Articles of Confederation: "As the Freemen at large here have the power of electing Delegates to represent them in Congress, we could not consistently appoint Delegates in a convention, which might be a means of dissolving the congress of the Union and having a Congress without a Confederation." The resolution further noted that such a result would be an open breach of Article XIII of the Articles of Confederation, describing the profound consequences of the broken "Compact" as causing the nation to be "all lost in a Common ruin."

There was organized opposition to Madison known as the Anti-Federalists. Chief among their number was Patrick Henry, who said of the convention, "That they exceeded their power is perfectly clear…. The federal Convention ought to have amended the old system — for this purpose they were solely delegated. The object of their mission extended to no other considerations." During ratification debates, a delegate from Pennsylvania, Robert Whitehall, objected even more vociferously:

> Can it be said that the late Convention did not assume powers to which they had no legal title? On the contrary, Sir, it is clear that they set aside the laws under which they were appointed, and under which alone they could derive any legitimate authority, they arrogantly exercised any powers they found convenient to their object, and, in the end, they have overthrown that government which they were called upon to amend, in order to introduce one of their own fabrication.

John Lansing was a delegate from New York. What he saw in the early days of the convention was so abhorrent to his view of the powers of the convention that he made a scene on the convention floor and then abruptly left Philadelphia on July 10, 1787, never to return. Just before he left, he made the following comments from the floor: "The power of the Convention was restrained to amendments of a federal nature…. The acts of Congress, the tenor of the acts of the States, the commissions produced by the several Deputations, all proved this…. It was unnecessary and improper to go further."

Others respected Founding Era luminaries and believed that legal boundaries were crossed, but such abuses were justified by the circumstances at hand. Edmund Randolph was a respected delegate from Virginia, and William Paterson was a delegate from New Jersey. Early in the convention process, the issue of the power of the convention was a matter of significant discussion. In the authoritative primary source document known as *Notes on the Convention*, which is a collection of handwritten notes taken by James Madison, the following exchange of ideas as to the legal authority of the delegates to scrap the Articles of Confederation took place on the convention floor, June 16, 1787:

Paterson: "Let us return to our States, and obtain larger powers, not assume them of ourselves."

Randolph: "Mr. Randolph was not scrupulous on the point of power. When the salvation of the Republic was at stake, it would be treason to our trust, not to propose what we found necessary. He painted

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Treasures of history: Out of Independence Hall came the Declaration of Independence and the U.S. Constitution. Would delegates to a modern Article V Convention be equal to the fine minds who formulated these two extraordinary documents?

in strong colours, the imbecility of the existing confederacy, & the danger of delaying a substantial reform."

The above conglomeration of failed arguments about the nature of how a convention derives its power and its relationship vis-à-vis state legislatures provides fertile ground for inexperienced historians to build arguments that the Constitution was the product of an illegal act, or that state legislatures can limit future conventions, or that the existing constitutional requirements for ratification are assured in the event of a future convention.

Madison's Legal Analysis

When properly understood in context, the matter of legal authority to act was resolved in favor of accepting the near-plenipotentiary nature of the power that is granted to an American Constitutional Convention. This fact is documented by Madison himself: "The people were, in fact, the fountain of all power, and by resorting to them, all difficulties were got over. They could alter constitutions as they pleased." Not only did this rationale carry the day on the convention floor, the argument was persuasively used to ratify the Constitution, as this statement from *The Federalist,* No. 40, suggests: "A rigid adherence in such cases to the former [limits of power imposed by the States], would render nominal and nugatory 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.'"

The *Corpus Juris Secundum* is the largest and most well-respected American legal encyclopedia in print. The entry with regard to a Constitutional Convention reads as follows: "The members of a Constitutional Convention are the direct representatives of the people and, as such, they may exercise all sovereign powers that are vested in the people of the state. They derive their powers, not from the legislature, but from the people: and, hence, their power may not in any respect be limited or restrained by the legislature. Under this view, it is a Legislative Body of the Highest Order and may not only frame, but may also enact and promulgate, a constitution." This entry in the *Corpus Juris Secundum* correctly identifies the nature of a Constitutional Convention with appreciation to separation of powers from a legislature and authority to create new systems of government pursuant to the Declaration of Independence.

Modern Legal Analysis

Multiple legal authorities have looked upon this historical record and have reached the conclusion that a Constitutional Convention is a special body with enormous power that cannot be controlled or limited by any legislature. Of special note, former U.S. Supreme Court Chief Justice Warren Burger addressed the issue and opined, "[It is my] opinion that there is no effective way to limit or muzzle the actions of a Constitutional Convention. The Convention could make its own rules and set its own agenda." Associate U.S. Supreme Court Justice Arthur Goldberg addressed the matter in an editorial published in the *Miami Herald*: "There is no enforceable mechanism to prevent a Convention from reporting out wholesale changes to our Constitution and Bill of Rights."

Revolution

Worldwide there have been a handful of political events somewhat approximating an American Constitutional Convention that have occurred since 1787. In every case there has been a radical change in governmental structure as a result. The first such example occurred the very same year the U.S. Constitution was ratified. The most recent is just now wrapping up.

In France, a convention called the National Constituent Assembly was formed in 1789. The same separation of powers that exists in the United States did not exist in France. By 1793, the Reign of Terror was in full force. The situation went from bad to worse, and then to worse yet.

In Chile, calls for a constitutional convention began in earnest in 2019. Spurred on by riots and youth movements, the convention convened in 2021. A once-booming oasis of prosperity in an otherwise bankrupt South America, Chile turned into a socialist hellhole virtually overnight. A radically different governmental structure was the outcome of that convention, and the near-500-page monstrosity presented in May of this year is set for a ratification vote in September. Ratification will only need a simple majority of a national popular vote.

Revolution is no small word and no small concept. Revolution has massive consequences, and we must be careful with it. Is it possible that the next convention in America would turn out as solicitous as the last? Perhaps. But also possible is a river of blood as the Deep State oligarchs ravage what little remains of middle-class America. ■

BY WILLIAM S. HAHN

If Not a Convention, What?

The battle to save the American Republic, and consequently the God-given rights of its citizens, has always included well-meaning patriots who introduce "new" ideas. Unfortunately, these are usually found to be new variations of old ideas that will never be effective and end up sowing frustration and disappointment among patriots, who then bow out of the fight. At The John Birch Society, we classify these ideas as "tangents."

These ideas tend to be ineffective for a number of reasons. Mostly, they are short-term band-aids that don't take into consideration the entire scope of the battle. Think of it this way: While we're battling the enemy on one front, he can win the war on other fronts that were never considered. Plus, some of these ideas carry a certain amount of risk and could make things much worse. Enter the idea of a Constitutional Convention.

In 1967, staff from our West Coast Regional Office addressed the issue of holding a Constitutional Convention to correct the 16th and 17th Amendments. In a letter to a member, staff wrote, "But with conditions as they are today, do you believe that a Constitutional Convention — even if it could be organized — would produce the desired corrections? Frankly, we don't.… What good will a Constitutional Convention do if this conspiracy is not stopped?"

An excellent question. Unfortunately, it's not one that gets answered by proponents. Their leaders deny any conspiracy exists, labeling their opposition as kooks, crazy, and fringe, but they have no qualms about mentioning a Deep State that needs to be overcome.

The enemy has proven that it wants to make changes to the Constitution — drafts have circulated for years. Once it's changed, possibly even including the ratification procedure or altering the Bill of Rights, what recourse do citizens have? A gentleman sitting on an advisory board for Convention of States has already prepared drafts for a new Second Amendment. Yet, COS claims the Second Amendment is in no danger at a convention.

Anyone being honest will have to admit the conditions of the country have certainly not improved since 1967 to make it safer to hold a convention. If we're not able to hold secure elections, then how can we hold a secure convention, free from the techniques and wiles of radical leftists and scheming globalists?

William S. Hahn is chief executive officer of The John Birch Society.

So, proponents will ask, "If not a convention, what?"

Those leading the charge for a convention will tell you that doing nothing is not an option, and we wholeheartedly agree! Patriotism is not a spectator sport. The Founding Fathers devised the American system of government with your participation in mind. Without your participation, government at all levels will eventually work outside of its limitations, leading to more unconstitutional control over the population. For example, does the federal government exert more control over the people now than it did a mere 10 years, five years, or even two years ago?

An active electorate acts as a check on the balance of powers, including, but definitely not limited to, voting. The elected bodies of government are a direct reflection of the electorate. A vigilant electorate should be countering any overreaches of government by interposing with nullification. For example, state legislatures should nullify any unconstitutional act from the federal government, as suggested by Alexander Hamilton, Thomas Jefferson, and James Madison.

Another check is We the People. Recall it's We the People who hold the governing powers and who have delegated some of these powers through the states to the federal government.

To do all of this, Americans need to be informed of their responsibilities of where and when they need to act. Unfortunately, this isn't taught in most schools. Learning the basics of how our Republic functions has now given way to hearing lectures on how to preserve our "democracy." (In case you're not aware, there is a huge difference between the two systems; see our *Overview of America* video to learn more.) The success of the Republic hinges on an informed electorate willing to act.

Thomas Jefferson suggested, "I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is ... to inform their discretion by education. This is the true corrective of abuses of constitutional power."

Members of The John Birch Society work toward building educated electorates in their local communities, and have been doing so since 1958. We do this through coordinated planning and local action. Care to learn more and get involved? Visit JBS.org. ■

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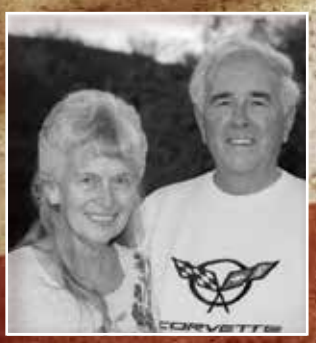

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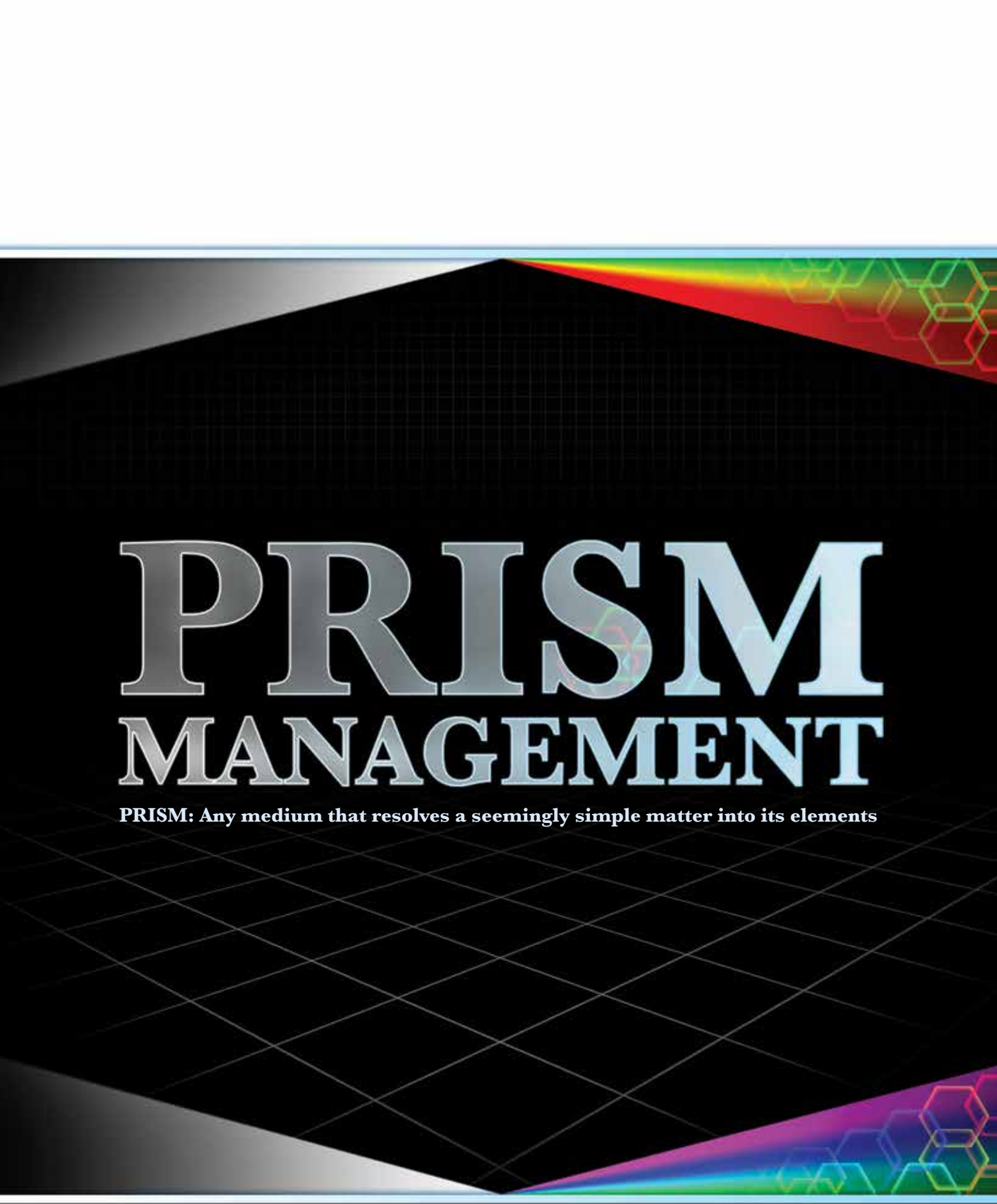

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