TONY KURTZ
STATE REPRESENTATIVE • 50th ASSEMBLY DISTRICT

Assembly Joint Resolution 77
Thursday, October 21, 2021
Assembly Committee on Constitution and Ethics

Thank you Chairman Wichgers and committee members for hearing Assembly Joint Resolution 77 today.

Assembly Joint Resolution 77 calls for a constitutional convention under Article V of the Constitution of the United States to propose an amendment stating that the Supreme Court of the United States shall be composed of nine Supreme Court justices.

The composition of the Supreme Court has received a great deal of attention in recent years, and many prominent voices have expressed interest in increasing the number of justices. Those individuals believe that by increasing the number of justices, they will receive more favorable Court opinions, this is referred to as "court packing". I believe this is wrong, and that it is important to maintain the legacy of the Court by keeping nine justices.

The United States Constitution states that the judicial power of the United States shall be vested in a Supreme Court. The composition of the Supreme Court, however, was not established until the passage of the Judiciary Act of 1789. Initially, the Supreme Court was composed of a Chief Justice, and five associate justices. For the first 101 years of the Supreme Court's life, the Justices were also required to hold circuit court twice a year in each judicial district.

The number of justices on the Supreme Court has been changed six times throughout history. In 1837, the size was increased from seven to nine, so that the eighth and ninth circuit courts could be established in the western United States. The number was briefly increased under President Lincoln, but brought back down to nine in 1869, where it has stayed ever since.

Having nine Supreme Court Justices is a precedent that is over 150 years old. It is essential to have integrity in the court, and have it remain an independent body, working to keep the system of checks and balances in place to protect our freedoms. The Supreme Court is deeply tied to its traditions, of the federal government's three branches, the court has the closest resemblance of its original form – a 225 year old legacy. To alter it because of disagreements of political, and judicial philosophy would be a terrible mistake.

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Rep.Kurtz@legis.wi.gov

JULIAN BRADLEY
WISCONSIN STATE SENATOR

Assembly Committee on Constitution and Ethics
Thursday, October 21, 2021

Assembly Joint Resolution 77

Chairman Wichgers and committee members,

Since 1869, the U.S. Supreme Court has been comprised of nine justices. At a time when the most divisive and challenging issues routinely come before the Supreme Court, keeping the number of justices the same has provided much needed stability.

Unfortunately, it appears some politicians in Washington believe they can change future rulings by first changing the number of justices on the Supreme Court. Currently, the number of justices is set by state law. This proposal calls for a Constitutional Convention to set the number of Supreme Court justices at nine.

By setting the number of justices through an amendment to the Constitution rather than through federal law we can provide an important safeguard against any future effort by politicians to change composition of the court for political gain.

If some future event requires more Supreme Court Justices, that change should require a supermajority in Washington, to ensure broad support for the change.

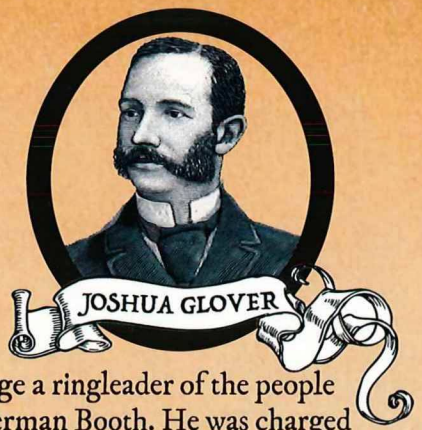
The Wisconsin Legislature has considered other proposals for an Article V Convention or Constitutional Convention in the past and we believe this issue is crucial enough to merit similar consideration.

Thank you for your time. I appreciate your consideration of this bill.

WISCONSIN STATE CAPITOL
PHONE: (608) 266-5400
P.O. Box 7882, Madison, WI 53707
EMAIL: Sen.Bradley@legis.wi.gov

On March 11, 1854,

a runaway slave, Joshua Glover, was arrested by federal marshals in Racine Wisconsin. He was taken to the Milwaukee County jail. A crowd of about 5000 people who had learned of the arrest gathered – and they broke him out of jail! Glover made it out of Wisconsin and to Canada where he lived free until his natural death.



The federal government decided to charge a ringleader of the people who broke Glover out- a man named Sherman Booth. He was charged under the federal Fugitive Slave law. In a historic act, the Wisconsin Legislature and the Wisconsin Supreme Court defied the federal government and the U.S. Supreme Court by interposing for Booth and declaring the federal Fugitive Slave law to be void and of no force!

RESOLVED:

That this assumption of jurisdiction by the federal judiciary, in the said case, and without process, is an act of undelegated power, and therefore without authority, void, and of no force.

- THE WISCONSIN LEGISLATURE, MARCH 14, 1859

Wisconsin's Legislature and all state officials – including the governor, mayors, city councils, and judges – need to interpose once again and defend the preborn from murder. They are duty bound to uphold Wisconsin statute 940.04 and arrest abortionists.

THE IDEA that lawless federal courts, including the U.S. Supreme Court, must be obeyed– even when they write opinions that uphold murder and injustice – *is a fiction.*

The Supremacy Clause – Article 6, Clause 2 of the U.S. Constitution – nowhere declares that federal courts or the U. S. Supreme Court has supremacy over the constitutions or laws of the states or the judges of states. Rather, it states that the U.S. Constitution has supremacy and laws or treaties made in accordance with the Constitution.

When the Supreme Court acts outside the limits of the Constitution, it is incumbent on the lesser magistrates, within their spheres of authority, to maintain allegiance to the U. S. Constitution and not blithely obey federal lawlessness. Nowhere are states compelled to a suicide pact with a lawless federal government.

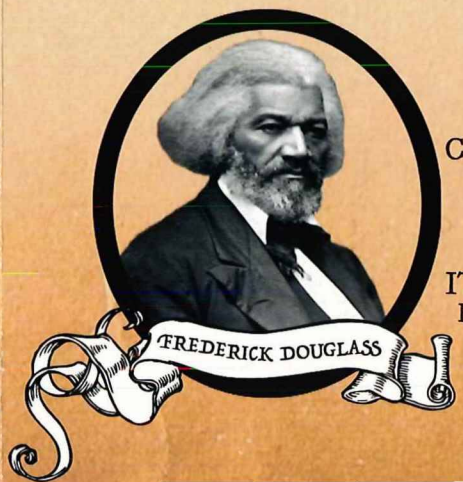
WHEN THE FEDERAL GOVERNMENT MAKES UNJUST OR IMMORAL LAWS OR COURT OPINIONS . . .

"...the states who are parties thereto [parties to the U.S. Constitution], have the right, and are in duty bound, to interpose for arresting the progress of evil."

-JAMES MADISON, ARCHITECT OF THE U.S. CONSTITUTION

WISCONSIN'S CIVIL AUTHORITIES HAVE THE DUTY TO:

DEFY LAWLESS FEDERAL JUDGES!
UPHOLD WISCONSIN LAW!
DEFEND THE PREBORN!
END THIS FEDERAL INJUSTICE!



POWER

CONCEDES NOTHING WITHOUT A

DEMAND.

IT NEVER HAS AND IT NEVER WILL.

Find out just what any people will quietly submit to and you have found the exact measure of injustice and wrong which will be imposed upon them."

-Frederick Douglass, abolitionist of slavery

THE LESSER MAGISTRATE DOCTRINE:

The doctrine of the lesser magistrates declares that when the higher-ranking civil authority makes unjust or immoral laws, policies, or court opinions – the lower or lesser-ranking civil authority has a God-given right and duty to refuse obedience to the higher authority. If necessary, the lesser authority may even actively resist the higher authority.

A QUOTE WHICH SUCCINCTLY SUMS UP THE DOCTRINE was made by Roman Emperor Trajan. Once, while appointing a subordinate authority, Trajan handed him a sword and said,

"Use this sword against my enemies, if I give righteous commands; but if I give unrighteous commands, use it against me."

Well-known Christian leader from the Reformation – John Knox – wrote his Appellation to the Nobles of Scotland in 1558. This is a treatise on the lesser magistrate doctrine wherein Knox cites over 70 passages of Scripture to establish the doctrine.

The standard upon which Christian men built this doctrine is "DIVINE LAW TRUMPS HUMAN LAWS."

This was understood by Western Man for nearly 1500 years – God's law is the objective standard to which all men and all governments of men are accountable.

For example, William Blackstone (1723-1780) is the most cited legal scholar in the writings of America's founding fathers. His Commentaries on the Laws of England are the bedrock of American jurisprudence. Blackstone referred to God's law as "those superior laws," and stated that "upon these two foundations, the law of nature and the law of revelation [God's written law], depend all human laws; that is to say, *no human laws should be suffered to contradict these.*"

Hence, when the higher authority makes unjust or immoral decrees – those which clearly contradict the law of God - the lesser authority should not blithely obey, rather, they have the duty to interpose against their actions in order to rein in their tyranny.

WWW.DEFYTYRANTS.COM
WWW.MISSIONARIESTOTHEPREBORN.COM

IN 1859 THE WISCONSIN LEGISLATURE DEFIED THE FEDERAL GOVERNMENT.

IS IT TIME FOR THEM TO DO IT AGAIN?

...Could Abolish the U.S. Constitution?

James Madison Recommended Against It
Since 1787, America has chosen to avoid the risk of a new constitutional convention (Con-Con) that could destroy the security of our rights.

Yet, Groups are Pushing for a Convention
Over two-dozen state legislatures have already applied. The Constitution's Article V says that if two-thirds of the states apply (34 states), Congress "shall call a convention."

Even Though Congress Would Call the Shots
Congress would determine the time and location, how delegates would be selected/elected, paid, and whether states would each get one vote or get the same number of votes as they have congressmen. But once a convention convenes, Congress loses control.

And Special Interests Would Influence Delegates
The special interests would likely control a majority of the delegates and thereby determine the convention rules and agenda, and propose amendments or rewrite the Constitution in their favor, including changing the ratification process.

Still Think a New Convention is a Good Idea?

Flip Over for Important Questions!

The John Birch Society

(800) JBS-USA1 • www.jbs.org

- Will a Con-Con change corrupt?
- Why don't more legislatures stop federal overreach into their state by simply not participating in unconstitutional programs?
- If we're electing very few constitutionalists now, how likely would it be to have constitutionalists sent to a Con-Con from our state?
- After decades claiming a Con-Con would be limited to one amendment, why are some advocates now saying the whole Constitution can be revised?
- Advocates claim the ratification process will stop any bad amendments since it requires three-fourths of the states, so why didn't that stop previous bad amendments from being ratified?
- Did you know Congress can bypass state legislators and use state conventions for ratification of proposed amendments?
- Considering the vicious political climate, is this the time to have a new constitutional convention?

Learn More & Take Action

to Save the Constitution at JBS.org

STOP
A CON-CON
Constitutional Convention

(800) JBS-USA1 • JBS.org

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Article V of our Constitution says,

> "The Congress...on the application of the legislatures of two-thirds of the several states shall call a convention…"
> "The Congress...shall call a convention."

This proves the only power that the state legislators have is to **apply** to Congress to call a Convention.

Article 1 Section 8, it gives Congress the power:

> "To make all laws which shall be necessary and proper for carrying into execution the forgoing powers, and all other powers vested by this Constitution in the government of the Untied States, or in any department or officer thereof."

So in both sections I just read, Congress has all the power. Now to put this simply, in a way probably no one has done before, lets say 34 states have asked Congress to call the Convention. Now its time for Congress's big Constitution makeover party. Congress sends out invitations to all their friends (and even themselves) to come to their own makeover party. So they all get together and rewrite the Constitution. But someone is going to decide if their makeover Constitution is *approved.* So lets see what Article V says about that:

> "...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**."

So since you, the state legislature - who wants to make Congress behave - weren't invited to their party in the first place, I think Congress isn't likely to choose YOU to approve their makeover Constitution. I think they will choose themselves and their friends in the conventions to ratify, and it IS Congress's choice. There is no safety net and you cannot stop them.

For those of you who believe the lobbyists when they tell you, the State legislators, that you'll be in complete control over the Convention, they're lying to you.

Have you ever considered looking into where the lobbyists are getting their big money from? Who is paying them to lie to you?

I am asking you, before it is too late, that you will realize how dangerous any Convention is and that you will stop it now by voting against AJR 77 AND withdrawing all WI Convention applications to Congress.

Christy Uhl, 11 yrs. old
In opposition to AJR 77

This summer I was privileged to attend a patriotic LEAD camp which was a legislative simulation program in which I learned a lot. Thank you for all those who helped that week, acted as chairmen for our mock public hearings, came down to meet us in the Assembly Parlor, and a special thank you to Rep Thiesfeldt for chairing our Assembly Session on the Assembly Floor.

Besides the two bills that were mine, I was thrilled to give a 30 second open debate speech on the Assembly Floor against Convention and more thrilled when SJR 8 Convention of States was voted down in a group of around eighty conservative teens - I only wish our vote had **really** counted that day.

I hope that the next time I testify before this Committee about a convention topic, it isn't against yet one more convention resolution, but rather to rescind ALL the ones we already have, because none of them will EVER work.

Your solution actually is not a solution, notice what I mean:

Term limits will never work because the bureaucracy who is never voted in, never voted out will always be there controlling the politicians.

A balanced budget amendment will never work because there will always be budget emergency clauses the government can and *will* use. Until you abolish the Federal Reserve that manipulates inflation, your budget amounts will never be enough.

A convention will never limit the power and jurisdiction of the Federal Government, because the Constitution already does limit the power and jurisdiction of the Federal Government. The Constitution has never been the problem, it is those who refuse to obey it.

As for stacking the Supreme Court, a convention will never finish in time to stop it. And I don't think we'd even be in this position right now if the 2020 election was a fair and free election.

Indeed, the **Founding Fathers' solution** to ALL of your convention resolutions is a fair election. It is not deifying the Founding Fathers to realize that They. Were. Brilliant.

And it is **wisdom** to follow the system they set up instead of placing it in jeopardy.

I have sworn to defend the US Constitution against all enemies both foreign and domestic, and that is why I oppose ANY resolutions for a Convention, a call to burn our Constitution.

Elayna Uhl
In opposition of AJR 77

I was told by a member of this committee in a private conversation that it was arrogant of me to think that my opinion mattered or would make a difference. Apparently agreeing with the "Father of the Constitution", James Madison, on the **dangers** of another Convention could be construed by some as arrogant?

You may or may not agree, but I think we can all agree that its obvious from the numerous Article V convention resolutions that WI & this Committee have adopted to apply for, that their quote-un-quote "Limited" convention is anything BUT limited!!

For instance, WI alone has resolutions for conventions on subjects brought by COS such as limiting the power and jurisdiction of the federal government, BBA, and Term Limits. Then WI has a ***separate*** resolution on Term Limits, an approved BBA application to Congress, and even an Unlimited Convention from the early 1900's, already sent to Congress. And now today's Supreme Court Convention.

To top that off, the multiple WI applications would be pooling with other states who've applied to Congress for a Convention. For example, from the *Constitutional Principles,* quote,

> "Later, in 2017 **COS** supporters worked to convince the heavily Democratic-controlled Massachusetts legislature to approve the COS model application for an Article V convention by agreeing to **delete** the Term Limits provision from its model application. They also led the Democratic state legislators to believe that some of their cherished goals **could be accomplished through an Article V convention**, such as repeal of the Electoral College, overturning of *Citizens United*, and revising of the Second Amendment." unquote

Obviously the Convention proponents don't care HOW they deceive State legislators to apply to Congress to call a convention, so long as they **do** convince them to apply. We are not talking about a limited convention no matter how many times "limited" appears in these multiple resolutions. The lobbyists are not to be trusted.

The Scriptures warn us,

> *The simple believeth every word: but the prudent man looketh well to his going." Prov. 14:15*
>
> *The prudent man forseeth the evil and hideth himself, but the simple pass on and are punished. Prov 22:3*

Please don't believe the lies of the lobbyists. Save our Constitution. Vote against AJR 77 and immediately work to rescind **ALL** Convention applications to Congress.

Curtis Uhl
In opposition to AJR 77

As our daughter pointed out, none of these convention solutions will work, all your doing is risking ***everything***.

No doubt we have huge issues with Biden stacking the Supreme Court, but a Convention is NOT the answer. **What good does securing 9 Supreme Court Justices do, if in the process, we lose the very Constitution they ruled from?**

We are not in this dilemma because of a corrupt Constitution. We are in this dilemma because of corrupt politicians who gained entrance through a corrupt voting system on these electronic machines.

We must prioritize fixing the 2020 election and never using Dominion/Smartmatic/ES&S or any system like them ever again. Paper ballots. We were all glad to see Representative Ramthun at the Cyber Symposium (via livestream) and would love to help out with boots on the ground, so please let us know how we can help.

This is how our time should be spent - instead of dreaming up unlimited reasons to have another Convention.

The Founders answer to all of this was was the ballot box AND states nullifying unconstitutional federal overreach in Article VI as well as the 9th and 10th Amendments.

I know, I know, we don't have super majority, you can't override Governor Ever's vetos, but that again goes right back to corrupt politicians gaining entrance through a corrupt voting system. This tampering with the machines and domestic traitors assisting on the ground has been going on for years - on both sides of the aisle - and it has to stop.

I appreciate that you (Democrats) vote against these Convention bills and I thank you. And Rep Murphy as well. But as for the rest of you,

How can I fight shoulder to shoulder with you for election integrity and for the right to not be forced to have a medical procedure done to my body against my will, but when it comes to fighting to protect our Constitution from THIS Congress calling & running a Convention, you turn into a dark knight and stab me in the back and stab other fellow patriots, destroying the Constitution you took an oath to defend. How can you? Our family also took an oath to defend our Constitution from all enemies, both foreign and domestic. Don't BE that domestic enemy.

Does the 2020 election, the Border Crisis, Afghanistan, Covid lockdowns, vaccine mandates/passports, leave you in any doubt of how THIS CONGRESS would run a Constitutional Convention? Its clearly delineated in the Constitution that THIS CONGRESS will be in charge. The globalists must be rubbing their hands together in glee with anticipation of the day the conservative legislators hand them OUR CONSTITUTION on a silver platter.

Democrat Historian James MacGregor Burns said of the Framers of our Constitution,

> "Let us face reality. The Framers have simply been too shrewd for us. They have outwitted us. They designed separate institutions that cannot be unified by mechanical linkages and frail bridge tinkering. If we are to turn the Founders upside down we must directly confront the Constitutional structure they erected."

Every American citizen pushing back, every court battle raging right now, and those that will launch in the future, to protect us from forced medical experimentation on our bodies, the loss of our jobs, the loss of our liberties, EVERY ONE is banking on the fact that in the end, **our Constitution WILL WIN**!

Not if it's been re-written.

Dominique Uhl, In opposition of AJR 77

PLEASE VOTE AGAINST AJR 77

WHY??

1. Justices say you CANNOT limit a Constitutional Convention (CON-CON) to one or more subjects, thus a "Runaway Convention " will occur

Federal Judge Bruce M. Van Sickle wrote that "A state does not have the power to limit a constitutional convention to particular topics"

Former US Supreme Court Justice Warren Burger issued a letter in 1988 stating that states had no way to "limit or muzzle the actions of a constitutional convention."

Former US Supreme Court Justice Arthur Goldburg wrote there is no way to prevent a convention from "reporting out wholesale changes to our Constitution"

2. Congress – NOT YOU (the states) will choose delegates to a CON-CON.

The Congressional Research Division concludes that CONGRESS and NOT the States would choose the delegates for the Convention

3. AMAZINGLY The A5C group pushing for a CON-CON are so desperate the want to include states asking for a CON-CON with applications going from 1789 – 1901.

- New York (1789) for a Bill of Rights;
- New Jersey (1861) to prevent the Civil War;
- Kentucky (1861) to prevent the Civil War;
- Illinois (1861) to prevent the Civil War;
- Oregon (1901) for the direct election of U.S. senators; and
- Washington (1901) for no stated purpose other than Congress simply "call a convention for proposing, amendments to the constitution of the United States of America as authorized by article v."

REALLY ????

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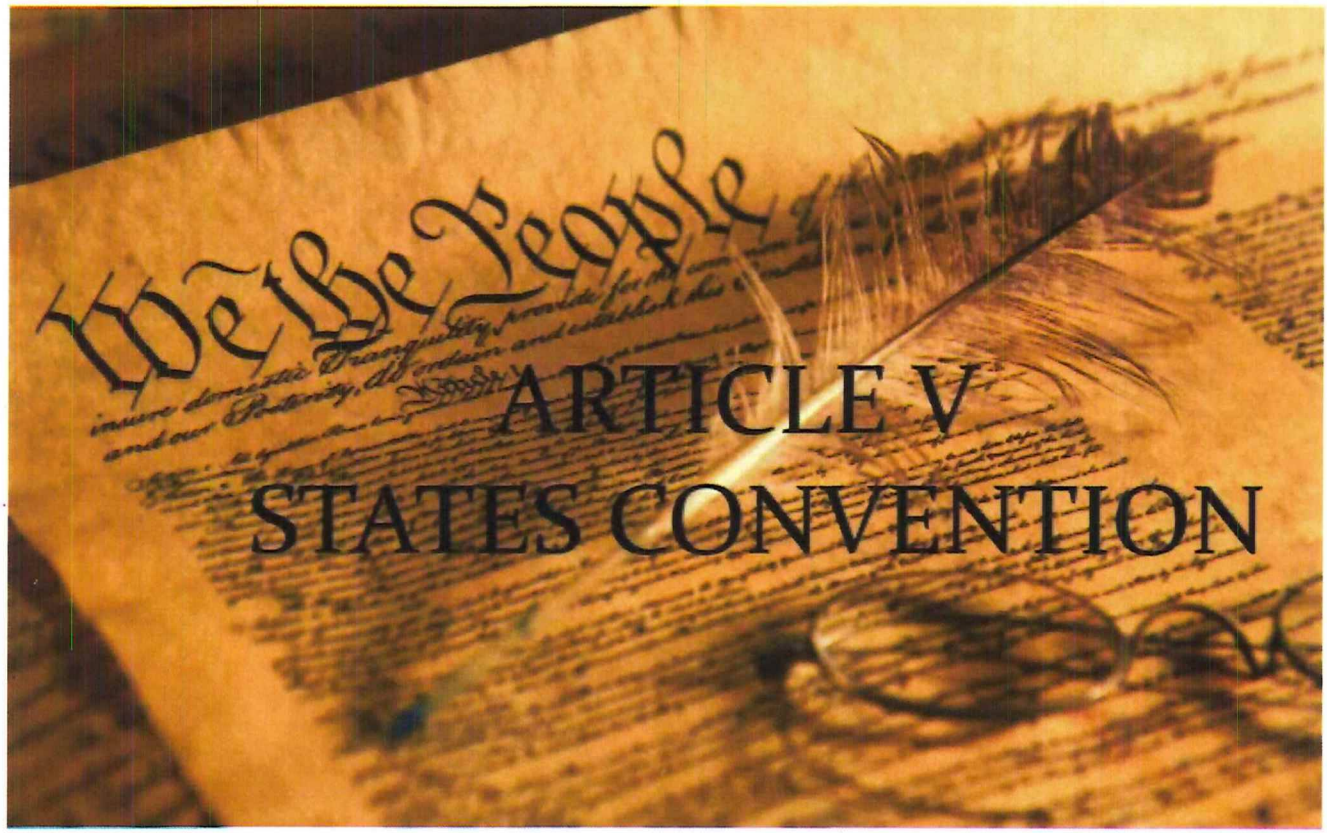
Please contact me if you would like to do more about our political situation than just complain.

Leftists Are Pushing to Amend the Constitution With a Convention of States

independentsentinel.com/leftists-are-pushing-to-amend-the-constitution/

January 23, 2016



Radio talk show host Mark Levin and others are pushing for a constitutional convention (a convention of the states) to bring us back to our constitutional roots. Levin's book on the subject suggests the situation is desperate. Thirty-four states have signed on to the movement. Progressives also want a Convention of States and there are fears they could hijack this one.

American Center for Law and Justice Executive Director Jordan Sekulow believes religious liberty is adequately protected by the present Constitution though he hasn't commented on the Convention itself.

"The wisdom of our Founding Fathers is still very apparent today. The U.S. Constitution clearly protects the religious freedom of our citizens. In this country, we are free to believe and worship as we chose. In our view, there's no reason to amend the Constitution," Sekulow said.

Conservatives want to hold a Con-Con on select issues which they say will protect from a runaway Convention.

At least three Obama administration advisers and officials, including regulatory czar Cass Sunstein, want a "progressive constitution" by the year 2020. Leftists have been pushing for this since FDR. They would look at a Convention of States as a means to an opportunity if they can hijack it.

Soros, Holder, Podesta, Sunstein, Obama have looked for ways to rewrite the Constitution and the Bill of Rights.

A 2005 conference sponsored by Soros' *Open Society* and Podesta's *Center for American Progress* at Yale Law School kick-started the movement. Also involved in the development of the conference was the ACS, an anti-Federalist group.

Jeffrey Rosen, a law professor at George Washington University, wrote in a 2009 New York Times Magazine piece about so-called liberal justice: "If this new understanding of legal liberalism can be traced back to a single moment, it was in April 2005, when the American Constitution Society and other progressive groups sponsored a conference at Yale Law School called 'The Constitution in 2020.'"

The purpose of the conference was to reformulate the constitution and Bill of Rights in accordance with the Progressive (Marxist – Socialist) vision.

Former Czar Sunstein explained what a Progressive (Socialist-Marxist) Bill of Rights would look like. People would have a constitutional right to "useful jobs" in farms and industries. [This would require nationalization of farms and industries.] The government would prevent "unfair competition." Their idea of unfair competition is any competition except that which is granted by the government.

In Sunstein's book of 2004, *"The Second Bill of Rights: FDR'S Unfinished Revolution and Why We Need It More than Ever,"* he saw his imperatives as constitutive commitments. It mimics the UN's Socialist Declaration of Human Rights.

Another reason to be concerned about the movement started by Mark Levin is that it has been infiltrated by Progressive ideas even before it began.

Some of the groups pushing for their own Con-Con (Convention of States) are George Soros groups. Could they usurp a convention through the delegates? Proponents say no.

The American Constitution Society (ACS) is the main organization behind the Con-Con movement to ensure a more "progressive" constitution, having received more than $2,201,500 from Soros' Open Society since 2002. The funders for ACS are the Barbra

Steisand Foundation, the Sandler Foundation, and George Soros' Open Society Foundations. Eric H Holder Jr. is a board member, Janet Reno is a Board of Advisor member.

The Soros-backed Wolf PAC is pushing for a convention, claiming the goal is to take big money out of politics. Other Soros groups pushing for the Con-Con are Alliance for Democracy, Center for Media and Democracy, Code Pink, Independent Progressive Politics Network, Progressive Democrats of America, Sierra Club, Occupy Wall Street, The Young Turks, and Vermont for Single Payer, WND reported in 2014.

They would try to usurp any Convention of States and demand compromise.

State legislators cannot choose the delegates and once underway, a Con-Con cannot control them. Another problem is delegates control the outcome. In 2012, there were more Muslim delegates at the Democratic National Convention than Montana, Utah, and Oklahoma put together though they are 1% of the population. Their sponsors are the terror-tied organization CAIR.

Two-thirds of the states have to approve Amendments to the Constitution and that is the fail-safe but in 1787 that was changed from 100% of the states for approval to two-thirds by Article V of the Constitution. What is to stop our Congress from using this as precedent?

Chief Justice Warren Burger said, "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. Congress might try to limit the convention to one amendment or to one issue, but there is no way to assure that the convention would obey. After a convention is convened, it will be too late to stop the convention if we don't like its agenda. The meeting in 1787 ignored the limit placed by the confederation Congress "for the sole and express purpose."

While there are many reasons to believe the Con-Con can be controlled, there are as many or more to believe it can't be. The most overriding one is that the Progressives want a Con-Con also and have the ability to hijack it because they act lawlessly and covertly. A Con-Con could be a new weakness to exploit. Do we really need to amend the Constitution or protect it better? Nullification might be a safer route.

What do you think?

The New American

Socialists and Soros Fight for Article V Convention

by Joe Wolverton, II, J.D. January 15, 2014

Recently, *The New American* has reported on the efforts by radio talk show host Mark Levin and others to push for a constitutional convention (a convention of the states, in the parlance of the proponents).

In his new book, Levin argues that such a convention is the last hope "to reform the federal government from its degenerate, bloated, imperial structure back to its (smaller) republican roots."

Unfortunately, many otherwise well-educated and well-meaning conservatives have succumbed to Levin's siren song and they have gone so far as to deny the constitutionality of nullification and to insist that an Article V convention is the only way to restore the balance of federalism in our Republic.

Fighting for the Constitution as given to us by our Founders is a noble goal and the anxiety of the conservative con-con collaborators is understandable. We at *The New American* and The John Birch Society welcome the help of all those courageous enough to enlist in the battle to defeat the forces of federal absolutism. We part company with those pushing for an Article V convention, however, and we believe that a constitutional convention is not the right way to stop the federal assault on our Constitution and the freedoms it protects.

The New American and many other liberty-minded organizations promote nullification as the "rightful remedy" for curing the constant federal overreaching. We believe that as the agent of the states, the federal government has exceeded its contractual authority and the states as principals have the right to refuse to ratify any such usurpation.

Since the publication of Levin's admittedly popular book, the battle between those promoting nullification and those advocating for an Article V constitutional convention is a topic getting plenty of coverage in the alternative media.

There is another uncomfortable aspect of the Article V movement that is not being discussed, however, but needs to be, particularly in light of the good people who have associated themselves with it.

Within the ranks of those clamoring for an Article V convention are found numerous extremely radical, progressive, and socialist organizations that otherwise would have little in common with the conservatives fighting on the same side.

Wolf-Pac is one of the groups that this reporter suspects many Levin listeners would be surprised to know is their compatriot in a call for a con-con.

On its website, Wolf-Pac pushes for an Article V "convention of the states" as the best way to accomplish its "ultimate goal:"

> To restore true democracy in the United States by pressuring our State Representatives to pass a much needed 28th Amendment to our Constitution which would end corporate personhood and publicly finance all elections in our country.

In order to persuade Americans to join its cause, Wolf-Pac will:

> inform the public by running television commercials, radio ads, social media, internet ads, and using the media platform of the largest online news show in the world, The Young Turks.

The Young Turks? Most constitutionalists (and I imagine most fans of Mark Levin) don't spend much time during the day watching the Young Turks, the YouTube-based news and entertainment channel that dubs itself the "world's largest online news network."

As unfamiliar as they may be with the Young Turks, it seems certain conservatives pushing for a con-con are even more unfamiliar with who pays the bills at this online purveyor of progressive ideology: George Soros (shown). Dan Gainor reports:

> In fact, Soros funds nearly every major left-wing media source in the United States. Forty-five of those are financed through his support of the Media Consortium. That organization 'is a network of the country's leading, progressive, independent media outlets.' The list is predictable — everything from Alternet to the Young Turks.

That's right. George Soros — the financier of global fascism — is pumping millions of dollars into the same Article V campaign that is being promoted by Mark Levin, Rush Limbaugh, Sean Hannity, Glenn Beck, and other popular conservative spokesmen.

What will those in Wolf-Pac do if they are able to get "their amendment" proposed and accepted by an Article V convention?

> "Celebrate the fact that we had the courage and persistance [sic] to accomplish something truly amazing and historic together."

Anything a group with this anti-constitutional agenda would do to our Constitution would certainly be historic — in the worst way.

This should be enough to convince all true conservatives, constitutionalists, and friends of liberty to run headlong away from the ranks of the Article V con-con army, regardless of how popular and persuasive their generals may be.

It will likely surprise these devoted, but deluded, Article V advocates that Wolf-Pac is just the tip of the iceberg. These good people would be wise to take a look at this heavily abbreviated roster of their radical fellow travelers in the con-con movement, each of which is a registered "founding member" of the "Move to Amend" coalition.

Alliance for Democracy

Center for Media and Democracy

Code Pink

Independent Progressive Politics Network

Progressive Democrats of America

Sierra Club

Vermont for Single Payer

Mind you, hundreds more groups "committed to social and economic justice, ending corporate rule, and building a vibrant democracy" are gathered under this umbrella.

This hardly seems to be a corps that most Levin listeners would be happy to stand shoulder to shoulder with in the fight for a "convention of the states." In fairness, these allies likely don't share their conservative cohorts' love and loyalty to the Constitution.

It's time these right-minded men and women know with whom they are associating.

Its doubtful that Mark Levin's legion of listeners would be as eager to get behind his Article V con-con agenda if they knew whom they were fighting beside and how radically their new allies want to change our beloved Constitution.

And that's the problem. Regardless of the soothing words of Levin or others in the con-con camp, they cannot guarantee the outcome of such a convention. In fact, in light of the lists of leftist groups provided above, the results of the convention could be an outright scrapping of the Constitution written by the Founders in favor of one more in line with the progressive ideologies of Wolf-Pac, the Sierra Club, Code Pink, and others.

Remember, according to the history of Article V-style conventions, regardless of any state or congressional legislation requiring them to consider only one amendment (a balanced budget amendment, for example), the delegates elected to the convention would possess unlimited, though not unprecedented, power to propose revisions to the existing Constitution, based on the inherent right of the People in convention to alter or revise their government.

The mind boggles at the potential proposals that could come out of a convention composed of such radical representatives.

Don't forget, George Soros's billions are funding these fringe groups and politicians aren't known for their ability to resist hefty campaign contributions.

Conservatives should shudder at the specter of a convention endowed with power of this magnitude, populated by activists who have a Soros credit card in their pocket and a commitment to "social justice" as their purpose. All the good intentions of the conservatives in the Article V camp would not be enough to force all these devastating changes to the Constitution back inside the progressive Pandora's Box.

Readers are encouraged to click the links provided in this article and to investigate for themselves the agenda of the various Article V advocates and to determine if it's worth the risk to our Constitution that would be posed by the presence of these groups in the "convention of the states."

Legal Precedent: Conventions represent the ultimate sovereign power of the people

Notably, court decisions have continued to follow the 1787 precedent, declaring conventions empowered to draft or amend constitutions represent the **people**, not the states, and cannot have their power limited by the state legislatures.

Corpus Jurus Secundum (a legal summary of 5 court decisions)

"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."

- Corpus Jurus Secundum 16 C.J.S 9, Cases cited: Mississippi (1892) Sproule v. Fredericks; 11 So. 472, Iowa (1883) Koehler v. Hill; 14 N.W. 738, West Virginia (1873) Loomis v. Jackson; 6 W. Va. 613, Oklahoma (1907) Frantz v. Autry; 91 p. 193, Texas (1912) Cox v. Robison; 150 S.W. 1149

Additionally, numerous state conventions have also declared they represent the power of the **people**, not the legislature, and cannot have any limits placed upon their power:

"We have been told by the honorable gentleman from Albany (Mr. Van Vechten) that we were not sent here to deprive any portion of the community of their vested rights. Sir, the people are here themselves. They are present by their delegates. **No restriction limits our proceedings.** What are these vested rights? Sir, we are standing upon the foundations of society. The elements of government are scattered around us. All rights are buried; and from the shoots that spring from their grave we are to weave a bower that shall overshadow and protect our liberties." - Mr. Livingston, New York Convention of 1821

"When the people, therefore, have elected delegates, ... and they have assembled and organized, then a peaceable revolution of the State government, so far as the same may be effected by amendments of the Constitution, has been entered upon, limited only by the Federal Constitution. **All power incident to the great object of the Convention belongs to it.** It is a virtual assemblage of the people of the State, sovereign within its boundaries, as to all matters connected with the happiness, prosperity and freedom of the citizens, and supreme in the exercise of all power necessary to the establishment of a free constitutional government, except as restrained by the Constitution of the United States." - Report, The Committee on Printing of the Illinois Convention of 1862

"He had and would continue to vote against any and every proposition which would recognize any restriction of the powers of this Convention. We are... the sovereignty of the State. We are what the people of the State would be, if they were congregated here in one mass meeting. We are what Louis XIV said he was, 'We are the State.' **We can trample the Constitution under our feet as waste paper, and no one can call us to account save the people.**" - Onslow Peters, Illinois Convention of 1847

"**It is far more important that a constitutional convention should possess these safeguards of its independence** than it is for an ordinary legislature; because the convention acts are of a more momentous and lasting consequence and because it has to pass upon the power, emoluments and the very existence of the **judicial and legislative officers who might otherwise interfere with it.** The convention furnishes the only way by which the people can exercise their will, in respect of these officers, and their control over the convention would be wholly incompatible with the free exercise of that will." - Elihu Root, Proceedings of the New York Constitutional Constitution, 1894, pages 79-80.

"We are told that we assume the power, and that we are merely the agents and attorneys, of the people. Sir, we are the delegates of the people, chosen to act in their stead. **We have the same power and the same right, within the scope of the business assigned to us, that they would have, were they all convened in this hall.**" - Benjamin F. Butler, Massachusetts Convention of 1853

"Sir, that **this Convention of the people is sovereign, possessed of sovereign power, is as true as any proposition can be.** If the State is sovereign the Convention is sovereign. If this Convention here does not represent the power of the people, where can you find its representative? If sovereign power does not reside in this body, there is no such thing as sovereignty." - General Singleton, speech, The Committee on Printing of the Illinois Convention of 1862.

Courts decisions and state conventions have followed the precedent set by the 1787 constitutional convention. As the 1787 convention did, a convention today can ignore limits of power imposed by the states, and appeal to the ultimate power of the people themselves. State legislatures have no reason to expect they can control the convention.

Thus, a "limited" convention is a myth.

Historical Precedent: Was the 1787 Convention a "runaway" convention?

#1. Some said, "We don't have the power and should not proceed."

Patrick Henry

*"**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."*[1]

Robert Whitehill

*"Can it then 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 that 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."*[2]

William Paterson (New Jersey delegate)

*"We ought to keep within its limits, or we should be charged by our constituents with usurpation . . . let us **return to our States, and obtain larger powers, not assume them of ourselves**."*[3]

Charles Pinckney (South Carolina delegate) & Elbridge Gerry (Massachusetts delegate)

*"General PINCKNEY expressed **a doubt whether** the act of Congress recommending the Convention, or the **commissions of the Deputies** to it, **would authorize a discussion** of a system founded on different principles from the Federal Constitution. Mr. GERRY seemed to entertain the same doubt."*[4]

John Lansing (New York delegate)

*"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. "*[5]

Luther Martin (Maryland delegate)

*"...we apprehended but one reason to prevent the states meeting again in convention; that, when they discovered the part this Convention had acted, and how much **its members were abusing the trust** reposed in them, **the states would never trust another convention**."*[6]

#2. Others said, "We don't have the power but should proceed anyway."

Edmund Randolph (Virginia delegate)

*"**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."*[7]

Alexander Hamilton (New York delegate)

*"The States sent us here to provide for the exigencies of the Union. To rely on and propose any plan not adequate to these exigencies, merely because it was **not clearly within our powers**, would be to sacrifice the means to the end."*[8]

James Madison (Virginia delegate)

*"...it is therefore essential that such changes be instituted by some informal and **unauthorized propositions**...."*[9]

George Mason (Virginia delegate)

In answering John Lansing's concern of "the want of competent powers in the Convention" to make the changes they were proposing, George Mason justified exceeding their powers, "there were besides certain crisises, in which all the **ordinary cautions yielded to public necessity**."[10]

James Wilson (Pennsylvania delegate)

"**The Federal Convention did not act at all upon the powers given to them by the states**, but they proceeded upon original principles, and having framed a Constitution which they thought would promote the happiness of their country, they have submitted it to their consideration, who may either adopt or reject it, as they please."[11]

#3a. NONE said, "The 1787 convention acted well within their state delegated power."

No such citations exist from the Founding era.

Claims of this nature originated with modern convention promoters, and are pure historical revisionism.

In fact, Judge Caleb Wallace, a supporter of the new constitution, was so concerned about the precedent the "runaway" convention had set, he advocated re-doing the entire convention, with full authority granted first! Said he:

*"I think the calling another continental Convention should not be delayed . . . for [the] single reason, if no other, that **it was done by men who exceeded their Commission**, and whatever may be pleaded in excuse from the necessity of the case, something certainly can be done to **disclaim the dangerous president** [i.e., precedent] which will otherwise be established."*[12]

Rather, to justify the actions of the 1787 convention having *"departed from the tenor of their commission"* issued by the states,[13] **they pointed to a higher power as the source for their authority: THE PEOPLE THEMSELVES.**

#3b. They appealed to the ultimate, sovereign power of the PEOPLE (not the state commissions) for their authority

*"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**."*[14]

*"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'"*[15]

*"The plan to be framed and proposed was to be submitted **to the people themselves**, the disapprobation of this supreme authority would destroy it forever. . . "*[16]

*"Col. Mason: **The Legislatures have no power to ratify it**. They are the mere creatures of the State Constitutions, and cannot be greater than their creators . . . Whither then must we resort? To **the people with whom all power remains** that has not been given up in the Constitutions derived from them."*[17]

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[1] Virginia Ratifying Convention, June 4, 1788
[2] Pennsylvania Ratifying Convention, 28 Nov. 1787
[3] Madison's notes of the 1787 convention, 16 June 1787
[4] Madison's notes of the 1787 convention, 30 May 1787
[5] Madison's notes of the 1787 convention, 16 June, 1787, comments of Delegate John Lansing, Jr. from New York, who LEFT the Convention July 10th after realizing they exceeded their authority.
[6] Letter by Luther Martin, opposing ratification of the 1787 Constitution, http://oll.libertyfund.org/titles/1905#Elliot_1314-01_3767
[7] Madison's notes of the 1787 convention, 16 June 1787
[8] Madison's notes of the 1787 convention, 18 June 1787
[9] Madison, Federalist 40
[10] Madison's notes of the 1787 convention, 20 June 1787
[11] Pennsylvania Ratifying Convention, 26 Nov. 1787
[12] Judge Caleb Wallace to William Fleming, 3 May 1788
[13] Madison, Federalist 40
[14] Madison, Madison's notes of the 1787 convention, 31 Aug 1787
[15] Madison, Federalist 40
[16] Madison, Federalist 40
[17] George Mason, Madison's notes of the 1787 convention, 23 Jul 1787

The New American

The Left Wants a Con-Con Too

by Christian Gomez January 23, 2018

Twenty-eight states have "live" applications to Congress to call a convention to propose a Balanced Budget Amendment (BBA) to the U.S. Constitution, as of January 2018. Although such a convention has never before been convened to propose any of the existing amendments to the Constitution, Article V of the Constitution states that it can be done "on the application of the legislatures of two thirds of the several states" (that is, 34 states). And when that threshold is reached, Article V stipulates that Congress "shall call a convention for proposing amendments."

The most recent of these 28 applications for a BBA constitutional convention (Con-Con) to pass was from the legislature of Wisconsin. The Wisconsin BBA Con-Con application — Assembly Joint Resolution 21 — passed along strongly partisan lines without a single vote from a Democratic legislator. In fact, the Article V convention movement is primarily regarded as a conservative Republican initiative by both its supporters, who promise it is the solution to curb liberal big government, and by detractors on the Left, who fear a Republican rewrite of the Constitution.

In some cases the mostly liberal opposition from left-wing groups such as Common Cause have incidentally helped convince Republican legislators that a Con-Con or convention of states is a good idea. However, most conservative and even self-proclaimed constitutionalist supporters of a convention may be surprised to learn that there are also liberal and progressive Democrats gunning for an opportunity to get their hands on the Constitution and make their own changes to it at a convention — even one initiated by Republicans with ostensibly "conservative" objectives. Regardless if one believes it or not, the Left wants a Con-Con too!

Same Old Lies

Liberal Democratic opposition to a BBA should not be conflated with opposition to a Con-Con. While it is true that the George Soros-backed Common Cause opposes a BBA Con-Con and rightfully even warns how such a convention could be analogous to opening Pandora's Box — putting the entire Constitution and Bill of Rights on the table — they were supporters of a Con-Con just a few years ago. Prior to 2015, Common Cause supported resolutions in state legislatures, such as Maryland's Democracy Amendment in 2014, which included provisions calling on Congress to call a constitutional convention to propose the amendment. Instead of being for the BBA, Common Cause supported a Con-Con to reverse the Supreme Court's 2010 decision in *Citizens United v. FEC* in order to "get money out of politics" and instead have public-financed elections.

In fact, some left-wing organizations remain committed to a Con-Con for the very same reason that Common Cause was. Among these left-wing organizations are Get Money Out-Maryland, Move to Amend, Wolf-PAC, and Wyoming Promise. The most prominent of the four is Wolf-PAC, founded by producer and host of The *Young Turks* Cenk Uygur.

Like groups on the Right pushing for a convention, Wolf-PAC makes a pitch that their convention would be limited to a single-subject amendment. Likewise, Wolf-PAC brushes aside the real concerns of a "runaway convention," going so far as to deny the historical fact that the delegates to the original 1787 Philadelphia Convention exceeded their mandates to revise the then-governing Articles of Confederation (which fortunately turned out well for us, giving birth to the present Constitution). They also perpetuate the false-assurance narrative that any amendments produced at the convention would require the ratification of three-fourths of the several states.

Facts are stubborn, especially those cemented in history. The truth is that the same "safeguards" used to assuage the concerns of legislators today about a "runaway convention" also existed in Article XIII of the Articles of Confederation (AoC) during the Philadelphia Convention. Like today's ratification requirements in Article V of the Constitution, stipulating that proposed amendments only become part of the Constitution when "ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof," Article XIII of the AoC specifically stated that "any alterations" had to "be agreed to in a Congress of the United States, and be afterwards confirmed by the *legislatures* of *every state*." (Emphasis added.)

The AoC had an even higher standard for safeguarding itself from alteration than the Constitution does today. However, even with that safeguard in place, the delegates to the Philadelphia Convention did more than simply make alterations or revise the AoC. Not only did they scrap this mode of ratification, in favor of a lower threshold, they also ratified the Constitution under it. In other words, the Constitution was ratified by its own mode of ratification *prior* to the ratification of that mode. On September 13, 1788, with only 11 of the 13 states having ratified the new Constitution, the Continental Congress passed a resolution declaring that it "had been ratified."

Ever since the 1787 convention, historical precedent has been on the side of a runaway convention, rather than a totally safeguarded one, meaning that a modern-day convention could propose bad amendments or even a totally new constitution and force it on the American people by way of creating and utilizing a new mode of ratification. There goes the three-fourths ratification requirement and safeguard.

Nevertheless, Wolf-PAC, just like the Convention of States Project (COS) on the Right, says that can't happen, despite the fact that it already did. In fact, Cenk Uygur often belittles those who suggest that this could happen again. However, in 2011 while attending the Harvard University Constitutional Convention Conference (ConConCon), in which both the Left and Right were invited to discuss how they could use a constitutional convention to their own benefits, Uygur briefly interviewed Harvard Law Professor Lawrence Lessig, one of the leftist Con-Con enthusiasts who spearheaded the gathering. When Uygur noted that the original convention was a "runaway convention" and that it produced the current Constitution, Lessig gleefully responded, "Let's get some more runaway conventions going." To which, Uygur cheerfully replied, "exactly."

A video of this exchange is presently available on *The Young Turks* YouTube channel. The video, entitled "Professor Lawrence Lessig at ConConCon," runs for a total of three minutes and 24 seconds.

On the one hand, Uygur says that a "runaway convention" can't happen, but on the other hand, he agrees with someone who says that more are needed. So which is it? Well, if reversing *Citizens United* to have publicly funded elections was all that the Left wanted to change in the Constitution, they might have a leg of credibility to stand on.

Getting money out of politics, reversing *Citizens United*, and having publicly funded elections is just the *beginning* of what the Left wants to change in the Constitution.

The Nation's Progressive Angle

To see a litany of proposed amendments the Left would like to see added to the Constitution, one need look no further than the weekly archliberal *The Nation* magazine. The über-leftist publication for progressive and Marxian ideas recently came out in favor of a constitutional convention under Article V, in its September 20-27, 2017 issue.

Richard Kreitner, who is on *The Nation* magazine's editorial staff, wrote the article entitled "The US Constitution Is Over 2 Centuries Old and Showing Its Age," followed with the subtitle, "To fix our broken system, we need a new constitutional convention." The article states that because most constitutional amendments proposed by Congress don't get ratified, "A convention of states, therefore, is the best remaining option for sorely needed constitutional reforms."

Like Uygur, *The Nation* also reached out to Lessig. Not only did Lessig perpetuate the same dishonest talking point as Wolf-PAC and COS that a truly "crazy" amendment, as he put it, would not make it past three-fourths of the states for ratification, he was also quoted as saying, "I don't fear a so-called runaway convention." Later in the article, author Kreitner admitted, "The left shouldn't be afraid of a 'runaway convention.' It should welcome one."

Just how far does *The Nation* want a convention to run away? In addition to the aforementioned amendment to overturn *Citizens United*, the article advocates for an amendment to do away with the Electoral College, relying instead entirely on the national popular vote to elect the president and vice president.

"It's difficult to imagine a new convention producing a political system more skewed toward rural states than the one we have now," The Nation writes about the prospect of abolishing the Electoral College at a convention.

The anti-republican tendencies of progressives pushing for "democracy" would further make the states superfluous, adding to the 17th Amendment, which took away the power of the state legislatures to choose their state's own U.S. senators and changed the system to one where senators are elected by popular vote, meaning the states no longer had any legislators safeguarding their powers. Likewise, the direct election of the president and vice-president threatens to erode what little remaining influence the states have on the federal government. Instead of keeping the United States as a republic, it would be transformed into a united *people's* democracy.

Under a national popular vote amendment, future presidential candidates would only need to campaign in large metropolitan cities such as L.A., New York City, and Chicago, while skipping whole states such as Wyoming and Oklahoma, where votes would be irrelevant to the outcome.

"Throughout American history, there have been hundreds of attempts to abolish the Electoral College. All began in Congress, and all failed. It's time to try another way," *The Nation* writes, implying a Con-Con as that other way.

Like COS, the Left would also like to have term limits on Supreme Court justices. As for doing away with presidential life appointments of justices, *The Nation* supports the suggestion of some liberal constitutional scholars for nonrenewable 18-year terms, which would allow for every president to nominate two justices per term.

Channeling FDR and Universal Declaration of Human Rights architect Eleanor Roosevelt's "freedom from want," aka "second generation rights," *The Nation* further envisions: "Other issues now pressed by the left — the right to health care, education, housing, the vote, even a basic income — could also be raised in a convention of states."

In fact, if one thinks that *The Nation* magazine's Con-Con demands are far-fetched and not to be taken seriously, note that the overwhelmingly liberal Democratic-majority state legislature of Hawaii has already tried to implement some of these ideas.

In Hawaii's 2012 legislative session, liberal Democratic state legislators introduced House Concurrent Resolution 114, a radical leftist Con-Con application that sought to repeal the Second Amendment, declare ObamaCare to be constitutional, and abolish the Electoral College.

The key excerpts of Hawaii's H.C.R. 114 (2012) read:

Whereas, the Legislature supports the proposal and ratification of the following amendments to the United States Constitution:

(1) The repeal or modification of the Second Amendment to strengthen firearms restrictions;

(2) A declaration of the constitutionality of the federal Patient Protection and Affordable Care Act, including the individual mandate requiring the purchase of health insurance;

(3) An amendment to Article I, Section 5, to prohibit the supermajority cloture requirement under Rule 22 of the United States Senate for ending floor debates and filibusters, to facilitate a more reasonable voting standard for cloture;

(4) An amendment abolishing the electoral college established under Article II, Section 1, and providing for the direct election of the United States President and Vice President by voters; and

(5) An amendment to Article II, Section 2, Clause 2, to require that Senate confirmations of appointments of officers of the United States be made by a simple majority vote within sixty days of the nomination.

BE IT FURTHER RESOLVED that this Concurrent Resolution constitutes a continuing application in accordance with Article V of the United States Constitution until at least two-thirds of the legislatures of the several states have made application for a constitutional convention that is limited to consideration of the amendments to the United States Constitution enumerated in this Concurrent Resolution.

Fortunately, the resolution failed to pass and was left in committee, where it ultimately died; however, it reveals just how far some on the Left are willing to go for an Article V convention. Don't expect the Left, progressives, and Democrats to sit idly by at a convention as Republicans make changes to the law of the land. Both *The Nation's* Con-Con article and Hawaii's H.C.R. 114 from 2012 demonstrate the type of Con-Con the Left wants.

Gunning for the Second Amendment

In addition to Hawaii's H.C.R. 114 (2012), others on the Left also want to take aim at the Second Amendment. One of the other participants at the Harvard ConConCon was then-Texas Wesleyan Law School Professor Mary Penrose, who currently teaches at Texas A&M University School of Law. While speaking at the 2013 UConn School of Law Second Amendment Symposium, Penrose said gun violence required "drastic measures" and affirmed that "there is not a single amendment that is absolute.... No constitutional right is sacred." She continued, "It's time today, in our drastic measures, to repeal and replace that Second Amendment." As for her method of choice for repealing and replacing the Second Amendment, Penrose said, "My solution goes through the Article V process ... through the states model."

Replace it with what? In the May 2014 issue of the Connecticut Law Review, Penrose wrote an article entitled "A Return to the States' Rights Model: Amending the Constitution's Most Controversial and Misunderstood Provision," in which she calls for repealing and replacing the Second Amendment via an Article V constitutional convention.

In her article Penrose writes, "I feel compelled to put forth a modest proposal to amend the Second Amendment so as to strengthen its presumed protections." Penrose continues, "Article V permits us to amend the Second Amendment to replace it with something much more applicable to our modern times." To see just how "modest" Penrose's proposal is, read it here, as it appears in her article:

PROPOSAL: Twenty-Eighth Amendment to the United States Constitution

Sec. 1: The Second Amendment to the Constitution of the United States is hereby replaced immediately with this new Amendment.

Sec. 2: Congress shall make no law regulating or otherwise restricting the use, ownership or transfer of guns and weaponry. Congress retains, however, the sole power to regulate and restrict all weaponry intended for military use, including tanks, drones, bombs, and fully automatic guns and weaponry. No such restriction or regulation may be made on the basis of race, sex, national origin, or religious heritage.

Sec. 3: Existing federal gun control laws regulating felons in possession or persons under indictment for domestic violence are not affected by this Amendment. Such existing laws remain valid, but no new regulations may be initiated at the federal level except as provided in Section 2 of this Amendment.

Sec. 4: Each State has the power to regulate or restrict the use, ownership, and transfer of all non-military style weaponry, including all semi-automatic guns, within its borders. No such restriction or regulation may be made on the basis of race, sex, national origin, or religious heritage.

Sec. 5: This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by Congress.

Space does not permit a thorough examination of Penrose's proposed 28th Amendment; however, you can judge for yourself whether it meets your satisfaction.

In his book *Six Amendments: How and Why We Should Change the Constitution* (2014), former Supreme Court Associate Justice John Paul Stevens also took a shot at the Second Amendment, proposing that it be changed to read as follows: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms *when serving in the militia* shall not be infringed." (Emphasis added.) The addition of these five words would essentially allow for the criminalization and disarming of law-abiding citizens unless they are serving in the "militia," by which liberals such as Justice Stevens mean the National Guard rather than the historical definition simply referring to the average citizen.

The Article V-less Convention?

Another law-school professor who wants to use an Article V convention is Boston University School of Law Professor Jack Beermann, who is also a contributor for the liberal online HuffPost (formerly the Huffington Post). In a piece for HuffPost, entitled "Can We Abolish The Electoral College?" posted on December 12, 2016, Beermann uses no subtlety when expressing his disdain for the Electoral College. "The Electoral College is a by-product of slavery and a close cousin of the anti-democratic instincts of the Framers of the Constitution," the law professor writes.

Admittedly upset by how "the majority of Americans who voted for Hillary Clinton are not up in arms over the Electoral College," Beermann writes that the "Electoral College may be amenable to a legislative fix, but a constitutional amendment is the only way to ensure change."

"The real cure for the Electoral College," according to Beermann, "is a constitutional amendment abolishing it and awarding the presidency to the winner of the popular vote."

Inspired by how the Framers of the Constitution "originally set out in the late 1780s to amend the Articles [of Confederation]," but instead "quickly turned to a complete re-write and replacement," and also by how they ignored the required unanimity provisions of its Article XIII in order to ratify the new Constitution with only nine states, Beermann asks, "Why couldn't we do the same?"

To eradicate the Electoral College, Beermann prescribes that a "group of populous states could convene a constitutional convention, invite representatives of all fifty states, and adopt a new Constitution *without abiding by Article V's process.*" (Emphasis added.) In other words, never mind the arduous and tedious task of having to convince enough state legislatures to make the required applications to Congress to call a convention to propose this amendment, just convene it anyway!

And as if that wasn't enough, Beermann further suggests utilizing that illicit convention to draft an entirely new constitution, supposedly based on the current Constitution, just minus the Electoral College *and* eliminating the equal suffrage of states in the Senate! In his own words, Beermann boldly elaborates:

The twenty most populous states contain about two-thirds of the population of the United States. They could *draft a new Constitution*, based on the current Constitution but without the Electoral College *and perhaps with a revamped Senate with larger states having three Senators and smaller states having one*. And they could provide that *the new Constitution would go into effect if ratified by fifteen of those twenty states, or by states representing a specified percentage (say, sixty percent) of the population.* [Emphasis added.]

Wow, where does one even begin to unravel that? Under Beermann's "new Constitution," states such as California and New York would have *three* U.S. senators compared to states like Wyoming, Nebraska, or Kentucky's *one*. One wonders which Kentucky senator Beermann would prefer to see gone, Mitch McConnell or Rand Paul? Regardless of who, the surviving senator from the Blue Grass state would still be outnumbered by California's Kamala Harris, Dianne Feinstein, *and* perhaps Barbara Boxer *redux*. And as *The New American* has previously warned about a potential Article V convention, the threshold for the mode of ratification in Beermann's Con-Con would be further lowered from the currently required "three fourths of the several states" to as low as just 15 of the 20 most populous states, to say nothing of the other 30 lesser-populated states. And this, ladies and gentlemen, is what we mean when we say a "runaway convention."

Like both Lawrence Lessig and *The Nation* magazine, Professor Beermann wants not only a constitutional convention but a "runaway convention" too. Read Beermann's article — it truly speaks for itself.

Recap the Reality

The Left wants a Con-Con, too, so let us recap and tally what new proposed amendments we have accumulated thus far:

• Getting money out of politics/overturning *Citizens United* (Get Money Out -Maryland, Move to Amend, Wolf-PAC, and Wyoming Promise);

• Abolishing the Electoral College, providing for the direct election of the president and vice-president (*The Nation*, Hawaii's 2012 H.C.R. 114, and Professor Beermann);

• The right to healthcare, education, housing, and a basic income (*The Nation*);

• Repealing (and replacing) the Second Amendment (Hawaii's 2012 H.C.R. 114, former Justice Stevens, and Professor Penrose);

• Making ObamaCare and the individual mandate constitutional (Hawaii's 2012 H.C.R. 114);

• Prohibiting supermajority cloture in the Senate (Hawaii's 2012 H.C.R. 114);

• Simple majority vote for Senate confirmations (Hawaii's 2012 H.C.R. 114); and

• Providing more-populous states with three U.S. senators and less-populous states with only one senator (Professor Beermann).

To the conservative grassroots activist, we ask, "Do you still want that convention of states?" The ramifications of just some of these proposed amendments by the Left — let alone all of them — are far-reaching and would fundamentally alter the fabric of our Constitution and country. In his book *Republic, Lost: The Corruption of Equality and the Steps to End It* (2015), Lawrence Lessig writes, "The key is a simple compromise. We get to consider our proposals if you get to consider yours." The Left's demands may be ambitious, but they may consider a trade-off with those on the Right who are desperate for a balanced budget amendment or any other Republican-desired amendments.

Recognizing this threat to the Constitution from both the Left and the Right, The John Birch Society has been at the forefront in educating voters about the potential risks of a Con-Con. The John Birch Society has been a leader in encouraging constituents to contact their state legislators to oppose Article V convention application resolutions and to instead support the passage of resolutions rescinding past applications. Art Thompson, CEO of The John Birch Society, told *The New American*, a JBS affiliate:

If you are confused about the entire process of a Con-Con, just remember one thing: The federal government at all levels ignores the Constitution. That is why we have the problems that we do. They will continue to ignore it and any new amendments until the American people force them to obey the Constitution through the ballot box.

If lawmakers are circumventing the Constitution now, there is no reason to believe that any new amendments intended to curb out-of-control big government would be adhered to. Instead, amendments such as those proposed by the Left could reshape our government from a republic into a progressive leftist democracy.

Thompson continued, "The emphasis should be on their oath of office being upheld, not changing the Constitution — after all, it isn't the Constitution that is defective, it is they who are implementing it. They are the ones who have to be changed." Rather than Article V, The John Birch Society advocates the use of Article VI — that is the oath of office to support the Constitution and the Supremacy Clause that only recognizes those laws that are made in "pursuance thereof," i.e., in support of the Constitution as the law of the land.

Those laws that are not made in "pursuance thereof" (such as ObamaCare, for example) are therefore invalid, and elected officials have a moral obligation under their Article VI oath not to implement or abide by such legislation, but rather to interpose or nullify such actions at the state level.

Historical Precedent: Was the 1787 Convention a "runaway" convention?

#1. Some said, "We don't have the power and should not proceed."

Patrick Henry

*"**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."*[1]

Robert Whitehill

*"Can it then 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 that 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."*[2]

William Paterson (New Jersey delegate)

*"We ought to keep within its limits, or we should be charged by our constituents with usurpation . . . let us **return to our States, and obtain larger powers, not assume them of ourselves**."*[3]

Charles Pinckney (South Carolina delegate) & Elbridge Gerry (Massachusetts delegate)

*"General PINCKNEY expressed **a doubt whether** the act of Congress recommending the Convention, or the **commissions of the Deputies** to it, **would authorize a discussion** of a system founded on different principles from the Federal Constitution. Mr. GERRY seemed to entertain the same doubt."*[4]

John Lansing (New York delegate)

*"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. "*[5]

Luther Martin (Maryland delegate)

*"...we apprehended but one reason to prevent the states meeting again in convention; that, when they discovered the part this Convention had acted, and how much **its members were abusing the trust** reposed in them, **the states would never trust another convention**."*[6]

#2. Others said, "We don't have the power but should proceed anyway."

Edmund Randolph (Virginia delegate)

*"**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."*[7]

Alexander Hamilton (New York delegate)

*"The States sent us here to provide for the exigencies of the Union. To rely on and propose any plan not adequate to these exigencies, merely because it was **not clearly within our powers**, would be to sacrifice the means to the end."*[8]

James Madison (Virginia delegate)

*"...it is therefore essential that such changes be instituted by some informal and **unauthorized propositions**...."*[9]

George Mason (Virginia delegate)

In answering John Lansing's concern of "the want of competent powers in the Convention" to make the changes they were proposing, George Mason justified exceeding their powers, "there were besides certain crisises, in which all the **ordinary cautions yielded to public necessity**."[10]

James Wilson (Pennsylvania delegate)

"**The Federal Convention did not act at all upon the powers given to them by the states**, but they proceeded upon original principles, and having framed a Constitution which they thought would promote the happiness of their country, they have submitted it to their consideration, who may either adopt or reject it, as they please."[11]

#3a. NONE said, "The 1787 convention acted well within their state delegated power."

No such citations exist from the Founding era.

Claims of this nature originated with modern convention promoters, and are pure historical revisionism.

In fact, Judge Caleb Wallace, a supporter of the new constitution, was so concerned about the precedent the "runaway" convention had set, he advocated re-doing the entire convention, with full authority granted first! Said he:

*"I think the calling another continental Convention should not be delayed . . . for [the] single reason, if no other, that **it was done by men who exceeded their Commission**, and whatever may be pleaded in excuse from the necessity of the case, something certainly can be done to **disclaim the dangerous president** [i.e., precedent] which will otherwise be established."*[12]

Rather, to justify the actions of the 1787 convention having *"departed from the tenor of their commission"* issued by the states,[13] **they pointed to a higher power as the source for their authority: THE PEOPLE THEMSELVES.**

#3b. They appealed to the ultimate, sovereign power of the PEOPLE (not the state commissions) for their authority

*"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**."*[14]

*"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'"*[15]

*"The plan to be framed and proposed was to be submitted **to the people themselves**, the disapprobation of this supreme authority would destroy it forever. . . "*[16]

*"Col. Mason: **The Legislatures have no power to ratify it**. They are the mere creatures of the State Constitutions, and cannot be greater than their creators . . . Whither then must we resort? To **the people with whom all power remains** that has not been given up in the Constitutions derived from them."*[17]

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[1] Virginia Ratifying Convention, June 4, 1788
[2] Pennsylvania Ratifying Convention, 28 Nov. 1787
[3] Madison's notes of the 1787 convention, 16 June 1787
[4] Madison's notes of the 1787 convention, 30 May 1787
[5] Madison's notes of the 1787 convention, 16 June, 1787, comments of Delegate John Lansing, Jr. from New York, who LEFT the Convention July 10th after realizing they exceeded their authority.
[6] Letter by Luther Martin, opposing ratification of the 1787 Constitution, http://oll.libertyfund.org/titles/1905#Elliot_1314-01_3767
[7] Madison's notes of the 1787 convention, 16 June 1787
[8] Madison's notes of the 1787 convention, 18 June 1787
[9] Madison, Federalist 40
[10] Madison's notes of the 1787 convention, 20 June 1787
[11] Pennsylvania Ratifying Convention, 26 Nov. 1787
[12] Judge Caleb Wallace to William Fleming, 3 May 1788
[13] Madison, Federalist 40
[14] Madison, Madison's notes of the 1787 convention, 31 Aug 1787
[15] Madison, Federalist 40
[16] Madison, Federalist 40
[17] George Mason, Madison's notes of the 1787 convention, 23 Jul 1787

Legal Precedent: Conventions represent the ultimate sovereign power of the people

Notably, court decisions have continued to follow the 1787 precedent, declaring conventions empowered to draft or amend constitutions represent the **people**, not the states, and cannot have their power limited by the state legislatures.

Corpus Jurus Secundum (a legal summary of 5 court decisions)

"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."

- Corpus Jurus Secundum 16 C.J.S 9, Cases cited: Mississippi (1892) Sproule v. Fredericks; 11 So. 472, Iowa (1883) Koehler v. Hill; 14 N.W. 738, West Virginia (1873) Loomis v. Jackson; 6 W. Va. 613, Oklahoma (1907) Frantz v. Autry; 91 p. 193, Texas (1912) Cox v. Robison; 150 S.W. 1149

Additionally, numerous state conventions have also declared they represent the power of the **people**, not the legislature, and cannot have any limits placed upon their power:

"We have been told by the honorable gentleman from Albany (Mr. Van Vechten) that we were not sent here to deprive any portion of the community of their vested rights. Sir, the people are here themselves. They are present by their delegates. **No restriction limits our proceedings.** What are these vested rights? Sir, we are standing upon the foundations of society. The elements of government are scattered around us. All rights are buried; and from the shoots that spring from their grave we are to weave a bower that shall overshadow and protect our liberties." - Mr. Livingston, New York Convention of 1821

"When the people, therefore, have elected delegates, ... and they have assembled and organized, then a peaceable revolution of the State government, so far as the same may be effected by amendments of the Constitution, has been entered upon, limited only by the Federal Constitution. **All power incident to the great object of the Convention belongs to it.** It is a virtual assemblage of the people of the State, sovereign within its boundaries, as to all matters connected with the happiness, prosperity and freedom of the citizens, and supreme in the exercise of all power necessary to the establishment of a free constitutional government, except as restrained by the Constitution of the United States." - Report, The Committee on Printing of the Illinois Convention of 1862

"He had and would continue to vote against any and every proposition which would recognize any restriction of the powers of this Convention. We are... the sovereignty of the State. We are what the people of the State would be, if they were congregated here in one mass meeting. We are what Louis XIV said he was, 'We are the State.' **We can trample the Constitution under our feet as waste paper, and no one can call us to account save the people.**" - Onslow Peters, Illinois Convention of 1847

"**It is far more important that a constitutional convention should possess these safeguards of its independence** than it is for an ordinary legislature; because the convention acts are of a more momentous and lasting consequence and because it has to pass upon the power, emoluments and the very existence of the **judicial and legislative officers who might otherwise interfere with it.** The convention furnishes the only way by which the people can exercise their will, in respect of these officers, and their control over the convention would be wholly incompatible with the free exercise of that will." - Elihu Root, Proceedings of the New York Constitutional Constitution, 1894, pages 79-80.

"We are told that we assume the power, and that we are merely the agents and attorneys, of the people. Sir, we are the delegates of the people, chosen to act in their stead. **We have the same power and the same right, within the scope of the business assigned to us, that they would have, were they all convened in this hall.**" - Benjamin F. Butler, Massachusetts Convention of 1853

"Sir, that **this Convention of the people is sovereign, possessed of sovereign power, is as true as any proposition can be.** If the State is sovereign the Convention is sovereign. If this Convention here does not represent the power of the people, where can you find its representative? If sovereign power does not reside in this body, there is no such thing as sovereignty." - General Singleton, speech, The Committee on Printing of the Illinois Convention of 1862.

Courts decisions and state conventions have followed the precedent set by the 1787 constitutional convention. As the 1787 convention did, a convention today can ignore limits of power imposed by the states, and appeal to the ultimate power of the people themselves. State legislatures have no reason to expect they can control the convention.

Thus, a "limited" convention is a myth.