

An Article V Convention: Exposing The Really Bad Alternative Ideas

By Bill Walker

Many who knowingly support the government's on-going veto of the Constitution by opposing an Article V Convention call give different reasons for opposing an Article V Convention. Most say they have better ideas such as the Tenth Amendment movement or the continental congress 2009.

In fact, the Tenth Amendment movement and the continental congress 2009 pose more danger to our nation than an Article V Convention ever could. Fortunately, none of these ideas has really taken hold as political solutions to the legitimate problems of this nation. All these movements claim constitutional language supporting their particular movement. The fact is none of these half-baked ideas is contained within the Constitution—not as their supporters envision them anyway. In reality, these movements are nothing more than ill conceived ideas formulated by those who choose to read what they want to see into the Constitution instead of reading what it actually states.

There is no question the national government threatens us. The word “federal” no longer applies to the government. Federal is defined as, “of or relating to a state formed by the consolidation of several states which retain limited residuary powers of government under the common sovereignty of the new state.” As the national government is sucking political power of all descriptions from the people and the states, obviously no “limited residuary powers” remains for either. However this fact does not justify the outlandish and bluntly, dangerous ideas advanced by the above named movements as “solutions” to this problem. Supposedly these ideas are intended to “return the Constitution” to the people. In fact, if these ideas were in place, they would *not* return the Constitution to the people; they will cause the nation to collapse.

The Tenth Amendment movement advocates say the national government threat can be solved by exclusive use of the Tenth Amendment. The solution, they say, is having the states assert themselves under the “authority” of the Tenth Amendment. The movement does not support using any other part of the Constitution to achieve its goals, including an Article V Convention. In short, our way or the highway. Despite the fact the Tenth Amendment in no way so states, Tenth Amendment advocates maintain the amendment gives the states the right to nullify federal laws, court rulings and federal regulations. In short, the “right” to decide which parts of the Constitution the state will choose to obey. Advocates have convinced many conservative state legislatures to pass non-binding resolutions in support of state nullification of federal laws thus giving the illusion of state support to this idea. Of course, these supporters ignore the fact “non-binding” resolutions has no force of law for either for national or state government meaning the state officials involved don't have to worry about violating federal criminal law for actions they *know* are illegal. Thus, despite assertions by the movement to the contrary, the movement has effectively accomplished nothing.

The Tenth Amendment movement seeks only to nullify federal gun control laws and other select pieces of federal legislation this ultra right movement finds politically repugnant. However, once a weed takes root there is no way to ensure how it will grow. Hence, once the states actually *believe they have such authority* there is no telling what constitutional or legal mischief that seed will sprout, or in what direction its weed will grow. While those in the Tenth Amendment movement may have certain limited political goals in mind, once the states accept they can nullify federal laws the political disasters are endless.

The Tenth Amendment contains no such procedural limits or guarantees as are found in Article V to effect change in the Constitution. Indeed the Tenth Amendment contains no procedure whatsoever. As such, the federal courts have repeatedly stated the Tenth Amendment is a statement of constitutional principle rather than binding law, which, of course, Tenth Amendment supporters reject. Instead, they advocate the states' "right" to [nullify federal laws](#). There are no federal or state court rulings that support this position. For these reasons, if the Tenth Amendment movement gains enough support to implement its agenda, its supporters would be free to write whatever "procedures" they want *without any legal basis whatsoever*. We will have a runaway Tenth Amendment. This runaway amendment will be lead by non-elected leaders who believe the states can nullify whatever federal laws they want. They will act believing the Tenth Amendment empowers them to make whatever changes they want in the Constitution *without bothering with any other part of the Constitution such as the amendment procedure that might stand in the way*. These unelected leaders will maintain control of their movement by forbidding any election of the people.

The reason the courts have stated the Tenth Amendment is a principle of the Constitution rather than binding law is because the principle enshrined in the Tenth Amendment is enforced as binding law elsewhere in the Constitution. Examples of binding law include Article V as well as the compact clause. With these powers, the states can easily regain balance to make the national government a federal government once more. But Tenth Amendments advocates oppose using these already constitutionally in-place state powers saying all that is required is the Tenth Amendment and "obey the Constitution as is" which, of course, means using Article V and compact clause. They ignore the fact the Tenth Amendment also limits the states in assumption of federal powers, one of which is the assignment by the Constitution to the federal government through the courts and the president, to determine what is constitutional and thus have the power of nullification of federal as well as state laws. Therefore if followed as it is written, the Tenth Amendment by itself cannot do the job its advocates say they desire.

Unlike Article V, the Tenth Amendment prescribes no limits nor outlines no separation of powers as Article V does. It does express a principle of separation of powers between the national government, the states and the people. However it does not itemize out what these powers are nor, more importantly, describe who or by what mechanism, determination of which powers shall be assigned to which political group. In short, the Tenth Amendment lacks an enforcement mechanism as well as an execution procedure to

carry out the terms of the amendment. The dangers of such a wide-open amendment are obvious. Given there are 50 states, it follows each state will choose which federal laws to nullify in 50 different ways as well as assigning which powers go to its particular group of citizens. No citizen will know which federal laws, or more importantly, which rights, apply to him at any given time in any given state. Likewise, the federal government will be helpless to ensure that any laws it passes, however legitimate under the authority of the Constitution will be obeyed by the entire nation. Thus civil disobedience will be rampant ultimately leading to an entire breakdown of our civil and criminal legal system; in short anarchy.

In contrast to an unrestricted Tenth Amendment, Article V describes precisely what a convention is as well as its purpose. It describes a review process of the convention's actions meaning any proposed amendment must be reviewed and approved before that amendment proposal takes effect. Article V describes exactly who may propose amendments, who causes a convention call, what the relationship of any proposed amendment is to the Constitution and ensures the Constitution remains supreme to the proposed amendment rather than the reverse. Article V describes what amount of support a proposed amendment must have in order to be proposed as well as describing how much support must exist in order for the proposed amendment to become part of the Constitution. In short, Article V provides an orderly, legal and constitutional means to effect permanent change in the Constitution while allowing for full review of the issue or issues proposed before doing so. Moreover, at any time during the process should the proposal fail to get the necessary support, it dies, meaning if it is rejected by the American people that ends the matter. Article V also allows for alternatives as to proposal and review and finally permits other proposals to be made at a later date that have the power to completely remove the original proposal should it prove over time unsound. In short, the process provides safeguards designed to ensure it does not get out of control; the Tenth Amendment has no such safeguards.

In answer to this lack of procedure Tenth Amendment, supporters maintain they have a "duty" under the Tenth Amendment to overthrow what they view as unconstitutional actions by the federal government. The words "duty to nullify" do not exist in the Tenth Amendment. As such, if such power does exist, it must come from a judicial interpretation of the amendment and as noted already, no court, federal or state, has ever made such interpretation. Hence, without a court ruling stating such implied duty or power, it cannot legally exist. Tenth Amendment advocates get around this massive obstacle by simply ignoring it.

Tenth Amendment advocates say an Article V Convention would become a "runaway" convention, removing our present Constitution and our rights. They ignore the safeguards noted above in order to levy such ridiculous charges. However, when compared to the idea of 50 runaway states each deciding on its own which parts of the Constitution will apply to them an if such a threat existed all, Article V Convention pales to nothing.

What really is behind this Tenth Amendment movement are a bunch of right wing extremists with a very short political agenda ---guns, federal gun regulations and taxes

they disagree with. Their agenda amounts to a sliver of the legitimate set of constitutional laws and regulations the states and federal provide to help keep our nation safe and operating, as responsible governments are obligated to do. As such, when pressed, Tenth Amendment advocates cannot even cite a single example by the federal government that is unconstitutional. True, they may THINK or SAY something is unconstitutional, but that is very different from PROVING something IS unconstitutional. If something truly IS unconstitutional, it is highly likely the courts have already declared it so thus redressing the issue. When confronted to bring proof therefore, indisputable, irrefutable, documented proof that what federal actions they say is are in fact unconstitutional, these advocates always avoid doing so. Conclusion? What these Tenth Amendment advocates say is unconstitutional is almost certainly constitutional. Political agendas and unproven opinions may be great for debates but are hardly a firm basis on which to decide to overthrow our constitutional form of government.

How do you prove something is irrefutably unconstitutional and that the government has acted in an unconstitutional manner as alleged? An official admission by a public official officially representing the political body of the national government in question would obviously be the best answer. For example, FOAVC received an official admission by the Solicitor General of the United States in his official capacity also acting as attorney of record for the Congress of the United States as a matter of public record. The Solicitor General admitted before the Supreme Court that the government was in criminal violation of federal law for refusing to obey the Constitution. The Solicitor General admitted for the public record that all member of Congress had violated his or her oath of office, a federal offense. He admitted a sufficient number of states had applied for a convention call to satisfy Article V. He admitted that such a call was peremptory. He admitted a convention call was based on a simple numeric count of applying states with no other terms or conditions. Such terms or conditions would be applying for the same amendment issue or having the same identical words in each application or submitting the applications within a given period. Thus, when FOAVC says Congress has acted unconstitutionally as well as violating federal criminal law, it bases its claim on verifiable public record proving the government has already admitted what is alleged. None of these movements in question can refer to any similar public records or admissions to prove their assertions.

The Tenth Amendment movement with its half-baked idea of nullification wants to throw all federal laws, regulations and court rulings into the air and let them fall to earth while the states individually take pot shots at them. Remember, these are the same people who have stated for years that if a state Article V Convention is held, the STATES will scrap our present Constitution, remove all our rights and impose a new Constitution. So, if they believe the states will do this with a convention, what do you think they believe the states will do with the power of nullification they advocate? Of course, just like their nullification argument, these Tenth Amendment advocates have no proof to support their arguments. This nation deserves better than to place its faith in a movement that can't even provide evidence to support its claims and suggests a course of action that is so obviously dangerous only a fool would assume it will not end in disaster for this nation.

If there any doubt as to the hypocrisy of the Tenth Amendment movement, recent events expose it. Because of Tenth Amendment lobbying efforts, the Montana state legislature [passed a law](#) nullifying federal gun laws in 2009. Recently [supporters of this state legislation](#) and the [Tenth Amendment movement](#) announced that a *federal* lawsuit has been filed defend the state law. Query. How can these nullification supporters say the states have the right of nullification, that is the ultimate right of deciding what is and what is not constitutional and then use FEDERAL court decisions as the basis of their argument or plead their nullification case before a FEDERAL court? Should not state courts that make such a decision and are the basis of legal argument? Have not nullification advocates completely nullified their own position by acknowledging with submission of a FEDERAL lawsuit on the validity of a state nullification law to a FEDERAL court that the federal government ultimately is supreme? Are they not acknowledging the federal government has the right to make such a decision by submission of the lawsuit to that court? If nullification is a state right and these people actually believe in the principle of the Tenth Amendment as they interpret it, then it follows state nullification laws cannot, under the terms of the Tenth Amendment, be reviewed by the federal courts as the Tenth Amendment assigns nullification to the states alone. Doesn't the act of submitting the state law to federal review and decision imply, if not outright state, that a state's power of nullification will be governed by federal decision ultimately meaning it is the federal government, not the states, which determines what federal laws can be nullified, not the states?

However hypocritical the Tenth Amendment movement may be, it is not the most dangerous movement in this country. The most dangerous movement to this nation clearly is the "continental congress 2009" which was held in Illinois in 2009 but continues on to this day. This "idea", which in reality is nothing more than an elaborate income tax evasion scheme agenda by convicted income tax evasion scammer, Bob Schulz. It is presented under the guise of patriotism and attempting to "bring the nation back to the people." In fact, this "congress" is as far from patriotism and loyalty to this country as one can get.

In a November 19, 2009 email, for example, Schulz said this "congress" decided to recommend that, "The Civic Actions recommended by the Congress for the People to end the Income Tax fraud include for the People to contact their local sheriff and demand cooperation with the citizenry to provide protection from (unlawful) federal and state tax enforcement actions (including fraudulent, non-judicial "administrative" IRS liens and levys [sic]), that citizens prepare to replace or otherwise recall or impeach any sheriff who refuses to protect their local citizens from 'rogue federal agents acting under color of law,' and for citizens to prepare themselves to withhold their monies as a means to secure Redress."

Obviously having people "withhold their monies" means having people violate federal income tax law by not paying federal income tax. By holding the "continental congress 2009" under the guise of a patriotic event supposedly intended to "bring the nation back to the people," Bob Schulz got a lot of people who went as delegates to believe this was the real purpose of the congress. Many spoke out publicly about this purpose. In fact, it

was all part of the fraud. The real purpose was to engage in criminal activity by urging citizens not pay federal income tax as well as urging citizens unlawfully remove elected or appointed county officials who refuse to arrest income tax agents. In doing this, Schulz managed to have a great many patriotic, if not misguided individuals, put their name to a criminal act in the form of a conspiracy to interfere with or violate federal income tax laws by “voting” for so-called resolutions and instructions supposedly written by the “congress.”

Some may suggest this was a “congress” and therefore immune from such criminal charges under the speech and debate clause of the Constitution. That clause only applies to legally elected members of the Congress, not private individuals meeting at a resort. Just because this group met in a resort in Illinois, called itself a “congress” and “voted” on these proposals and does not mean they are immune from any applicable state or federal criminal laws. Indeed, if they took the time to actually *read* the Constitution, they will find the speech and debate clause does not make members of Congress immune from such laws either. Finally, despite the arrogance of this “congress” to the contrary, this group has no right to “instruct” federal or state officials how they shall conduct their lawful official business. That job is assigned to the courts by federal and state constitutions.

The “continental congress 2009” was not content with a single dangerous idea. In the same email, another resolution dealing with the Second Amendment states, “The arms resolution calls for the citizenry to coordinate with their local county Sheriff in establishing a Constitutional Militia inherently separate from the state National Guard. Such militia would be a constitutional defense force, ‘comprising all citizenry capable of bearing arms and under proper authority, in defense of themselves and the states.’”

In short, Bob Schulz urged creation an army separate of either federal or state control to carry out the resolutions of his “continental congress 2009.” Is it any wonder many of the “delegates” of this sham walked out during the convention? Again, unlike the Article V Convention, there are no rules governing this “inherently separate Militia” i.e., Schulz’s private army. Obviously, the purpose of this illegal army would be first to remove those county sheriffs who would not go along with Schulz in his plan to conquer (and make no doubt of this word) conquer the United States. For what other purposes would you create an armed militia with orders to overthrow elements of the current, legally elected or appointed, state governments?

Had these “ideas” remained in the proposal stage and been ultimately rejected by the delegates to this “congress” then perhaps it could be argued that some good did come out of this “congress” allowing for the free, if obviously politically biased, discussion on many issues of this nation. Instead, these “ideas” of [armed military revolt](#) against our legitimate governments and the supporting criminal [income tax avoidance schemes](#) became official statements on the “congress” website. As such, there can be no doubt those delegates “voting” for these pre-arranged “ideas” did so knowingly. Not counting state laws for attempting to remove sheriffs from office (which vary from state to state) these “delegates” to can face the following: [insurrection and rebellion](#), (10 years);

[advocating the overthrow of our government](#), (20 years); [seditious conspiracy](#), (20 years); [conspiracy](#), (5 years); [solicitation to commit a crime](#), (20 years) and [impeding a federal officer](#), (6 years) for a total of 60 years in federal prison if the federal government so chooses to press charges.

For the most obvious of reasons that armed revolt and criminal acts never have been proven to be a solution to any problem, this very, very bad idea of the “continental congress 2009” should be *emphatically* rejected and anything even remotely connected by Bob Schulz utterly ignored any time in the future.

While it is blatantly obvious, the following needs to be said: unlike Article V, there are no regulations or rules governing whatever Bob Schulz and his followers might do with their militia. There is no guarantee they will respect the rights of citizens guaranteed in the Constitution. There is nothing to prove the Bob Schulz Militia and Anti-tax movement will not take away our rights, all led by Bob Schulz.

Fortunately, the American people are a lot smarter than these movements believe. None of these movements has accomplished a thing. They either have failed, are failing or will soon fail. Non-binding resolutions they have had states pass will soon expire if they have not already; lack of public support for creating of a militia will soon expose the fakery of that charlatan; the protest meetings will grow smaller and eventually die away as people come to realize they accomplish nothing.

So, what is left? The legitimate problem of an out of control, unresponsive national government requiring a permanent solution remains. Obviously, using what the Constitution does provide is the only answer. An Article V Convention, unlike these discredited, dangerous and politically useless ideas will get the job done. Currently, there is already a half dozen or more proposed amendments already submitted by the states, which obviously will permanently limit the national government.

If a convention were held right now and just these amendment proposals were put into place in the Constitution, the following would exist: No federal income tax; a balanced budget, direct election of all federal officials including the executive; state review of all federal court decisions; a national referendum, initiative, recall procedure allowing voter review of bureaucratic as well as legislative acts of Congress; term limits, elimination of unfunded federal mandates, resolution of conflicting state and federal laws, elimination of federal influence in state schools, limited judicial terms, line item veto, revision of Article V to allow amendment proposal by the states, elimination of revenue sharing, a right to life amendment, allowance of secular school funding, allowance of school prayers, an amendment regulating the selection of federal judges, elimination of taxes on debts, refunds, securities, as well as vehicles and fuel, alteration in treaty power and procedures, a review of the validity of the 14th Amendment, elimination or review of federal mandate wage/hour regulations and elimination or review of unconditional public and/or federal funds.

FOAVC does not endorse any of these amendment proposals. However, it is quite clear by a simple reading of their applications, the states have moved much further in their Article V applications and amendment issues than any of the above false ideas have even conceived. Unlike the non-binding resolutions, these applications are binding and remain in perpetuity. Based on the amendments already asked for by the states, coupled with the 200 years of proof that amendments work to solve such problems in this nation, there is clearly no question but that an Article V Convention will restore the balance between the people, the states and the national government thus reestablishing a true federal government system.

It has been said an Article V Convention “is a bad idea.” This is a lie. A convention is not an “idea.” It is a constitutional mandate. Those who say they support the Constitution and mean it must therefore support a convention because Article V is as much a part of the Constitution as the Tenth Amendment or the First Amendment on which these other warped ideas are based. The bad ideas are the Tenth Amendment movement and continental congress 2009, which are based on twisted, illegitimate interpretations of the Constitution by a few right wing extremists. How can this author say these ideas are twisted and illegitimate? Because the Constitution, which they all say they support gives the job of interpretation to the courts, not them. All of them reject the courts’ interpretations meaning they reject the Constitution they say they support and no court has ever supported their particular view of that document.

These are dangerous ideas easily can become runaway movements utterly without control or even respect for the Constitution. Moreover, there is no question that extreme radical elements of our society will take control of these movements for their own political purposes *without input, election or control of the people because they already have.*

Only an Article V Convention is regulated by the Constitution. It is the only method of change actually endorsed by the Founding Fathers as they created it in the original Constitution. It is the only method that guarantees the people will have a say by election of delegates in open, public elections as to how a convention is conducted. It is the only method whereby the ideas and proposals will be debated not only at the convention but also during the election process for delegates. Unlike the above mentioned bad ideas whose twisted logic and distorted interpretations of the Constitution were conspired in smoke filled back rooms, the convention process will be conducted in the open sunshine of public opinion as the Founders intended.

The ability of an Article V is well known. It has a proven record of accomplishment in solving our nation’s problems. Even its opponents admit that unlike these other discredited ideas, a convention can solve the problem. Now is the time to use proven solutions such as amendments to permanently solve the national government problem instead of relying on half-baked, dangerous ideas that can ultimately lead to anarchy or rebellion.

Reject these dangerous ideas. Help make 2010 the year of the Article V Convention.
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