

Bob Schulz and an Article V Convention

The Continental Congress 2009—A Rose By Any Other
Name Would Smell As Sweet

By Bill Walker

“What's in a name? that which we call a rose By any other name would smell as sweet”

Shakespeare's *Romeo and Juliet*, 1594

I was reminded of that Shakespearean line this past Wednesday, April 8, 2009, when I attended a meeting in Seattle sponsored by the group “We The People Foundation” promoting its latest project, “The Continental Congress 2009.”

“We The People Foundation” and “We The People Congress, Inc.” is the brainchild of Bob Schulz of New York state. Schulz, best known for his efforts in promoting [income tax avoidance schemes](#), now has turned his attention to promoting “Continental Congress 2009.” For the past several months, Schulz has traveled the country drumming up public support for his plan. In sum, the plan is to gather citizens (three from every state elected by Internet vote on a site provided by Schulz) in a yet to be determined location later this year in the “Continental Congress 2009.” The “congress” will discuss and propose solutions to national problems brought about by the government vetoing the Constitution. Schulz has made it quite clear this “Congress” is not a constitutional convention and has publicly opposed Congress obeying Article V and calling an Article V Convention. Instead, according to Schulz, national politicians can be “educated” by the use of the First Amendment’s petition for redress of grievances clause and if they fail to respond to these petitions then the Continental Congress will discuss other alternatives to their “failure” to respond.

While Schulz repeatedly stated in his three hour meeting held before some 40 to 50 people on the University of Washington campus that this “Continental Congress 2009” would be free to make whatever proposals it felt necessary, a simple reading the material Schulz handed out to the audience actually shows Schulz has a pre-set plan for this “Congress” of his. He is not shy about telling people that plan. Schulz advocates members of the public “withhold their support” for acts he and his followers believe violate the Constitution, in short people not pay their federal income taxes and take other measures (such as hunger strikes in Washington D.C.) in protest of government actions. Schulz stated that he assumes that if enough people (15 to 20 million) protest as he asks, “it will get the attention of the government.”

Apparently, Schulz has yet to hear of federal conspiracy laws, which allow the federal government to arrest leaders who incite fraud against the United States even if they do not participate themselves. Then there are federal seizure laws that permit the government to seize assets in lieu of tax payments and other obligations if citizens owing

such obligations refuse to pay those obligations. Given that Schulz stated he has filed numerous federal and state lawsuits regarding federal income tax law over the years, one wonders how he missed that part of federal income tax law. Even if Schulz is able to persuade 15 to 20 million people to refuse to pay what they legally owe the government, all may be for naught. Given the electronic age, it is possible to enter the names of the violators into a single database. A single IRS agent at a single desktop computer, with a single mouse click, can seize the assets of those people electronically (after obtaining the proper court orders of course). Thus, the government can legally force citizens to pay debts they legally owe. The only thing the government would notice in all of this would be the extra income from more than expected tax penalties.

Given the state of the economy it is reasonable to ask how many people really will be interested in Schulz's plan such that they are willing to sacrifice their assets at the behest of Schulz with no guarantee of success. Schulz has never fared well using his plan, why would we expect anyone else's luck to be any better. In short, how many people are willing to become criminals for Bob Schulz? Will they do so if they are aware there is a constitutional alternative Schulz tries to avoid in his presentation that would bring about the changes in the action of the government obviously desired by those in attendance at the meeting (and I'm sure by millions of others) *without* anyone committing a criminal act?

Schulz, who [violated federal income tax law](#) in "promoting a tax scheme that helped employers and employees improperly stop tax withholding from wages," described as a "Tax Termination Package" detailed at great length numerous "petitions" submitted to the government in the past decade demanding "answers" to "questions" in his petitions. Most of these "petitions" dealt with Schulz's position regarding not having to pay federal income tax. According to Schulz, the federal government is obligated to answer the petitions he submitted and is in violation of the Constitution if they fail to answer. Schulz stated he has argued his position many times before the federal courts which, except for a single appeals court judge, have outright rejected his arguments either for lack of standing or lack of grounds. Simply put, the courts have never accepted Schulz's argument that the right to petition includes a mandatory obligation on the part of the government to respond to that petition. Contrast this with the fact that on at least four occasions the Supreme Court has stated unanimously Congress must call an Article V Convention.

Obviously, Schulz sees more in the First Amendment than is actually there. While he cites several historic documents to buttress his case, and while these citations may be of historical interest, they do not, in fact, apply to the First Amendment because only the language and intent of that amendment is what must be considered. The fact is the actual language of the First Amendment states citizens have a right to petition the government for redress, not that the government shall answer. Notably, Schulz provided no example of any government official outright refusing to accept any petition he attempted to submit to them. While he did provide a litany of confusion on the part of the government in some instances, in the end government officials did accept the petitions. Thus, the government did observe the right of Schulz "to petition the government for redress of grievances." He

cited no example, for instance, of a member of the government affecting an arrest on him when he attempted to serve his petitions on public officials. Moreover, Schulz failed to note that each time he went to court, he exercised his right of petition for redress in the form of court lawsuits. He also failed to note the government did respond to his petition of grievance in the form of a court ruling. Perhaps he did not get the answer he wanted, but the court did answer. Frankly, given the poor record of accomplishment of response from the government to his First Amendment petitions, if Schulz desires an answer in the form of some action by the government, he is using the wrong part of the Constitution and the wrong kind of petition to achieve that result.

Schulz began his meeting by asking what parts of the Constitution had been violated. Several people in the room cited various violations, which Schulz did not challenge. However, when I mentioned to him that Congress refusing to obey the applications from the states and call a convention had violated Article V, he misstated the Constitution noting that Congress “may” call a convention (the word used in the Constitution is “shall”) and that he hoped Congress would never call a “constitutional convention.” Later, to his credit Schulz, after informing Article V only authorized a convention to propose amendments and not a “constitutional convention” which can write a new constitution acknowledged his error and referred to the convention the rest of the evening as “an Article V Convention.”

Despite this, Schulz believes all the Constitution should be enforced and stated he opposes the government not obeying any part of the Constitution.

Except Article V and the convention call in which he supports the government not obeying the Constitution.

Thus, Schulz actually believes the government does have a right to veto the Constitution. This position begs the question; once Schulz has conceded the government has a right of selective, constitutional enforcement (which is simply another way of saying selective government veto) is not Schulz’s and the government’s position identical? Does his position vary, not by an actual difference over whether the government can veto the Constitution, but instead is only separated by which each politically believes should be vetoed? What is the difference between the government vetoing the First Amendment (assuming for the moment Schulz’s interpretation of the right to petition clause is correct) and Schulz supporting the government vetoing the convention clause of Article V? Obviously none. Both are equally wrong vetoes.

However, in the case of the petition clause, unlike the convention clause, Schulz provides no evidence the government actually has violated it, only that it has violated his interpretation of it. In the case of the convention clause, not only is there ample evidence of veto demonstrated by the over 750 applications from all 50 states when the Constitution only requires 34 applications from 34 states, but unlike the language of the First Amendment, Article V commands Congress “shall” call a convention to propose amendments. Thus, there is a direct instruction in the Constitution directing Congress to act when the states apply in sufficient number to compel that action. In sum, a mandated

redress in response to the petitions (or applications) submitted by the states, unlike the First Amendment, exists in Article V.

During the presentation Schulz referred to a [famous exchange](#) between Congressman Ron Paul and the late Henry Hyde (R-IL) during the hearing on H.J. Res. 114, "Authorization For Use of Military Force Against Iraq." Hyde was discussing Ron Paul's motion, based on the Constitution, to issue a Congressional declaration of war before launching the invasion of Iraq. Schulz paraphrased Hyde's comment which in full was, ""There are things in the Constitution that have been overtaken by events, by time. Declaration of war is one of them. There are things no longer relevant to a modern society. Why declare war if you don't have to? We are saying to the President, use your judgment. So, to demand that we declare war is to strengthen something to death. You have got a hammerlock on this situation, and it is not called for. Inappropriate, anachronistic, it isn't done anymore."

Schulz used this example to condemn the government for attempting to justify its actions instead of following the Constitution as written. Yet, when presented with a constitutional alternative of using an Article V Convention to achieve the changes sought by Schulz to resolve the "constitutional issues" one of his supporters stated "there wasn't time" for an Article V Convention because the situation was an "emergency." Schulz agreed with his supporter. Thus, Schulz who apparently believes, like Hyde, that if there is an "emergency" by whoever defines that term, this justifies vetoing the Constitution, echoed the principle expressed by Hyde in his comment that "events have overtaken the Constitution".

Finally, nearing the end of the three-hour meeting, Schulz opened the meeting to questions. I directly asked him why he opposed Article V given that all 50 states had submitted over 750 applications for an Article V Convention call and amendment issue proposals from the states addressed many of the constitutional issues he raised. In short, why did not he want to use Article V to solve constitutional problems instead of the First Amendment?

Schulz's answer seems to reflect the latest argument of those opposed to using a convention to amend the Constitution in order to redress the excesses of the government. Schulz stated that since the government was disobeying the Constitution now there was no reason to believe it would obey an amended Constitution. Of course the short answer to that objection is to write amendments designed to prevent such disobedience such as the 1910 application by Wisconsin calling for a national initiative, referendum and recall amendment. Simply put, under the terms of that amendment proposal, if any government official did disobey the Constitution, the voters would simply recall him from office or as an alternative pass an initiative or referendum to change the action the official was pursuing. Beyond this, such an amendment allows citizens to use a form of petition (the initiative) to enact laws independent of the government to redress grievances. The amendment certainly would require such initiatives/referendums to have legal effect. Thus, it would actually resolve the grievance rather than relegating a response relying on the good offices of the federal government as the First Amendment does. In short, write proactive rather than reactive amendments to deal with government abuses. This is single example of many solutions the states advanced in their convention call applications to

deal with government excesses. As early as 1832, the texts of the applications demonstrate the states obviously recognized the problem a bit ahead of the curve of Schulz's "Continental Congress 2009." More importantly, the states used the correct part of the Constitution to resolve the problem.

In the ultimate analysis, a state convention application is no more than a different form of petition of redress. There is, however, one important difference: the First Amendment does not require an action of the government if a citizen petitions it to redress a grievance. Article V does require an action; a convention call for an Article V Convention provided the terms of the article are satisfied. Further Article V specifies a specific redress, to propose amendments to the current Constitution with the obvious aim of resolving grievances associated with the government and the Constitution. Thus, both clauses are identical in purpose except that an application carries with it the obligation of the government to take action or answer the application. The First Amendment attaches no such obligation to a petition. Hence, if one desires actual action on the part of the government in order to actually redress a grievance rather than just be content to bring the issue to the attention of the government, it is through Article V rather than the First Amendment that this must take place.

It was clear by Schulz's expression during the meeting that he did not appreciate anyone proposing any alternative solution to his First Amendment answer in dealing with the government. At one point during our five to ten minute exchanges, he asked the members of the audience how many wanted to hear more about the Article V Convention. The vote was dead even and thus the discussion was allowed to continue. Schulz had the [meeting](#) was recorded including my discussion with him.

Perhaps Schulz assumed that by my asking questions and presenting Article V as a solution for the "Continental Congress 2009" to consider (given that I believed his statement that the "congress" was free to consider all alternatives rather than just being a rubberstamp for his own plan) I somehow believed it is a bad idea. Quite the contrary. It is a good idea but maybe not for the reasons Schulz thinks. During his presentation, Schulz spoke of the leaders of the "Freedom Movement" (i.e., mostly the political right) getting together to plan the logistics of the "Continental Congress 2009" in May, 2009 at Jekyll Island, a small island located in Georgia. According to Schulz and [Wikipedia](#), Jekyll Island was the location where political leaders met in November 1910 to "discuss monetary policy and the banking system, an event which some say was the impetus for the creation of the Federal Reserve."

The purpose of this gathering of these political leaders will be, to paraphrase Schulz, to gather them together, as in a rocket blast, and direct all their political energies in a single purpose direction. A good idea so long as the rocket is pointed in the right direction. Schulz stated all of the unnamed leaders he has contacted have agreed to meet in May at Jekyll Island. To the best of my knowledge, no one invited any leader advocating an Article V Convention as a solution to the issues this broad political group concerns itself with to the meeting. Most likely this is because many of these leaders oppose an Article

V Convention. Therefore they agree with Schulz's and the government's point of view about selectively supporting the Constitution; not all of it, just those portions they like.

Nevertheless, the "Continental Congress 2009" is a good idea. Let us review Schulz's plan. Delegates from all 50 states will be elected by the people, assemble in a single location to discuss and propose solutions to problems facing America. What does this plan bring to mind? Answer: An Article V Convention. A convention will consist of delegates from all 50 states elected by the people, who will assemble in a single location to discuss and propose amendments to the Constitution in order to solve problems facing America. In short, whether Bob Schulz realizes it or not, he has proposed and is advocating a dry run of an Article V Convention. Is it any wonder Schulz repeatedly states his "Continental Congress 2009" is not a "constitutional convention." The only difference is he has a pre-set agenda for this convention which, in an actual convention would be nearly impossible to transpire given that in a real convention opponents as well as proponents would be elected as delegates unlike Schulz's "Continental Congress 2009" where the delegates will certainly all be proponents of Schulz's plan.

Schulz's "Continental Congress 2009" will prove not only the idea of gathering people in a convention to discuss and propose solutions to national problems is acceptable to a large number of people including those opposed to an Article V Convention, but it will also prove such a convention is a feasible proposition. In short, Bob Schulz will prove finally, especially to those opposed to an Article V Convention but who are backing Schulz's "Continental Congress 2009," that a convention works.

The "Continental Congress 2009" probably will not come up with any solutions given that Schulz will likely hijack the convention to rubberstamp his own agenda. However, the "Continental Congress 2009" will be a powerful tool for those of us favoring an Article V Convention. It will prove a convention is as safe as a method to resolve national issues. Given that those who will support this "Congress" are the very people who say a convention is a threat, it will be even harder for them to prove their point as they will have helped successfully stage a dry run of the very event they say is a threat.

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