



## Citizens Against an Article V Convention

[judicaler@hotmail.com](mailto:judicaler@hotmail.com)

### Points in Opposition to Wolf PAC's Article V Convention Resolution

Wolf-PAC's application to Congress for an Article V convention seeks to circumvent or repeal the United States Supreme Court's opinion in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010). It would permit the federal government to restrict political speech and campaign contributions by corporations; and some applications would delegate to Congress the power to make laws to "limit" money.

When Congress determines they have received applications from 34 states, they are to call a convention.

We object both to the premise of the Wolf-PAC amendment, and to having a constitutional convention.

#### **I. A Wolf-PAC Amendment would curtail political speech, "limit" money, and increase the powers of the federal government**

The federal government does not now have the constitutional authority over the country at large to restrict *any* form of speech, to restrict campaign contributions, or to limit the spending of money. These are not enumerated powers delegated to the federal government. Furthermore, the exercise of such powers is expressly forbidden by the First Amendment.<sup>1</sup>

The effect of the amendments suggested by Wolf PAC would be to increase the powers of the federal government over The People by delegating to the federal government the power to **prevent** or **restrict** certain groups and combinations of people from speaking in the public square on the critically important area of political speech. And we won't find out, until the amendments are drafted, which groups or combinations of people will be allowed to speak out on political issues and donate money to the causes or candidates they support; and which groups or combinations of people will be prohibited from doing the same.

---

<sup>1</sup> To the extent that Congress and the federal courts have in the past restricted such speech and contributions, their acts have been unconstitutional as outside the scope of powers delegated by our Constitution, and as in violation of the First Amendment.

And precisely *how* is money to be “legislatively limited” by Congress?

These are ominous, dangerous and destructive proposals. The proposals are a major step in eliminating free speech and private use of money in this country. **The ramifications of Amendments which permit the federal government to control political speech and to “legislatively limit” money are nightmarish.**

Our problem isn't that corporations donate money to political campaigns - our problem is that everyone ignores the Constitution. How many of us know the enumerated powers delegated to the federal government? How many know that our Constitution created a federal government of enumerated powers only? If “We the People” had demanded that Congress restrict itself to the enumerated powers, no one would want to spend large sums to influence federal legislation. Who would pay large sums of money to influence Congress’s laws respecting the Bankruptcy Code (Art. I, §8, cl. 4); the patent and copyright office (Art. I, §8, cl. 8); and the standard of Weights and Measures (Art. I, § 8, cl. 5)?!

Our federal government is corrupt because it exercises thousands of usurped powers – and special interest groups pay large sums to get unconstitutional legislation favorable to them passed; and unconstitutional legislation unfavorable to them killed.

## **II. So what’s the problem with Congress’s calling an Article V convention?**

### **A. State Legislatures cannot restrict delegates to predetermined amendments**

State Legislatures cannot control the Delegates to an Article V convention. The only power State Legislatures have under the Article V convention process is to apply to Congress to “call” a convention. Despite what convention proponents allege, the Constitution authorizes **only Congress** to set up and organize the convention. Furthermore, Delegates to an Article V convention are the Sovereign Representatives of The People and thus have the *plenipotentiary powers* to throw off our existing Constitution and impose a new Constitution with its own new mode of ratification.

In an effort to induce State Legislators to vote **for** their various Article V applications, convention advocates routinely engage in wishful thinking and guesswork. They assure Legislators that the States will determine the convention rules, choose the delegates, control the delegates, and limit the subject matter of the convention.

So let us examine **the text of Article V**. It says:

***“The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states [mode #1], or by conventions in three fourths thereof [mode #2], as the one or the other mode of ratification may be proposed by the Congress...” [boldface added].***

**So! WHO has the power to do WHAT?**

**The Constitution grants only the following powers to four different bodies regarding an Article V convention:**

<b>Body</b>	<b>Power (s)</b>
State Legislatures	<ul style="list-style-type: none"> <li>a. Apply to Congress for a convention</li> <li>b. Ratify proposed Amendments, <b>if Congress chooses mode #1</b></li> </ul>
Congress	<ul style="list-style-type: none"> <li>a. Calls the convention</li> <li>b. Makes all laws necessary and proper for calling a convention (per Article I, §8, last clause)</li> <li>c. Selects Ratification mode #1 or #2</li> </ul>
Delegates to Article V Convention	Propose Amendments [assuming they don’t exercise their plenipotentiary powers and write a new Constitution.
State Ratifying Conventions	Ratify proposed Amendments, <b>if Congress chooses mode #2</b>

**But what are convention proponents telling State Legislators?**

<b>Myth</b>	<b>Fact</b>
States can bypass Congress in the amendment process	<ul style="list-style-type: none"> <li>a. The only powers granted to State Legislatures are to <i>ask Congress</i> to call a convention, and</li> <li>b. to ratify or reject proposed Amendments [if Congress chooses mode #1]</li> </ul>
Congress will play only a ministerial role in setting the time and place of the convention.	<ul style="list-style-type: none"> <li>a. Article I, §8, last clause, delegates to Congress the power to make the laws to organize and set up the Convention.</li> <li>b. According to the <a href="#">Congressional Research Service Report</a> dated April 11, 2014, Congress “has traditionally asserted broad and substantive authority over the full range of the Article V Convention’s procedural and institutional aspects from start to finish.” (Page 18).</li> </ul>

<p>States make the rules for a convention, by custom.</p>	<p>a. There are no customs, as there has never been an Article V convention; proponents cite regional gatherings of a few states on common topics as “custom.”</p> <p>b. The Constitution delegates to Congress the power to make the laws to organize and set up the Convention. But once the convention is convened, the Delegates are the Sovereign Representatives of the People and can make whatever rules they want. At the federal “amendments” convention of 1787, the Delegates made rules on <a href="#">May 29, 1787</a> to make their proceedings secret.</p>
<p>State voting power will be “one state, one vote.”</p>	<p>a. This will be up to Congress, and Congress has already demonstrated its intent to make those rules: In 1983 when we were 2 states away from a convention, 41 congressional bills were introduced and, although none passed, apportionment of convention delegates among the states was generally set by population like the Electoral College; not by one state, one vote.</p>
<p>A “Convention of States” is an “Amendments” convention, <b>not</b> a “Constitutional convention.” So the Constitution is not at risk.</p>	<p>a. All these terms are used interchangeably. The only convention “for proposing amendments” is one called by Congress under Art.V.</p> <p>b. Black’s Law Dictionary defines “<a href="#">constitutional convention</a>” as “a duly constituted assembly of Delegates or representatives of the people of a state or nation for the purpose of <i>framing, revising, or amending</i> its constitution.”</p>
<p>An Article V convention can be “limited” to a topic or set of topics.</p>	<p>a. Nothing in Article V or the Constitution limits a convention to a single topic(s). The convention is the deliberative body!</p> <p>b. Under the supremacy clause at Article VI, clause 2, U.S. Constitution, any State Law which contradicts the Constitution is void.</p> <p>c. Delegates to a convention have the inherent right to alter or abolish our Form of Government, as expressed in the Declaration of Independence, paragraph 2. The 1787 constitutional convention is a case in point.</p> <p>d. Pretended limits are a marketing gimmick by its promoters designed to give Legislators and their constituents a false sense of security and control over a process which will be totally out of their control.</p>
<p>State Legislatures can control their delegates.</p>	<p>a. <a href="#">State law cannot control delegates to a convention</a>. The convention is the highest authority in our Republic, since it emanates directly from “We the People.”</p> <p>b. If Delegates <a href="#">choose to meet in secret as they did in 1787</a>, State Legislatures wouldn’t know what the Delegates were doing.</p>

<p>The ratification process ensures no bad amendments will be passed.</p>	<p>a. A precedent was set in 1787 when the “amendments” convention which was called “<u>for the sole and express purpose of revising the Articles of Confederation</u>” resulted in a new Constitution with an easier mode of ratification; this could happen today. So much for the ultimate safeguard of 13 legislative bodies being able to stop a bad idea!</p> <p>b. Amendments 16 (Income Tax), 17 (Direct vote for Senate), and 18 (Prohibition) were duly ratified. Were they good ideas?</p>
---	---

**B. Delegates to a convention have the inherent right to alter or *abolish* our Constitution**

Those promoting an Article V convention assure you that Delegates to a convention can be controlled by State laws. That is not true.

The Declaration of Independence recognizes the sovereign right of a People to throw off their “Form of Government”:

*“To secure [our unalienable rights], Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive...it is the Right of the People to alter or abolish it, and to institute new Government...”* (Declaration of Independence, second paragraph).

And just 11 years later, we did throw off our “Form of Government” and create a new one: the convention of 1787 was called by the Continental Congress “for the sole and express purpose of revising the Articles of Confederation.” But the Delegates ignored these instructions from the Continental Congress *and* the instructions of their States and wrote an entirely new Constitution – the one we now have.

Furthermore, the Delegates changed the mode of ratification! Whereas Article XIII of The Articles of Confederation required **all** of the then 13 States **and** the Continental Congress to approve Amendments before they became effective; the new Constitution provided at Article VII thereof that it would require only **nine** States for ratification.

**There is *nothing* that can stop Delegates to a convention today from doing the same thing!**

Convention proponents assure us that State laws which impose criminal penalties on Delegates who exceed State instructions will control Delegates.

*Nonsense!* As any criminal defense lawyer can confirm, it is child's play to circumvent States' pretended "unfaithful delegate" laws. This is how to do it:

- Delegates to an Article V convention can vote to make the proceedings secret – that's what the Delegates did on [May 29, 1787](#) at the "amendments" convention where our present Constitution was drafted.
- If the proceedings are secret, the States won't know what is going on – and won't be able to stop it. And if the Delegates decide to vote by secret ballot – the States would *never* know who did what. So, it would be impossible for States to prosecute Delegates who ignore State instructions.

Pretended limits are a marketing gimmick by its promoters designed to give Legislators and their constituents a false sense of security and control over a process which will be **totally out of their control**.

**C. New constitutions are already drafted or are being prepared; but they can't replace our current Constitution *unless* proponents get a convention!**

- The [Constitution for the Newstates of America](#) imposes a totalitarian dictatorship. **Article XII, § 1 thereof provides for ratification by a Referendum called by the President.** The States are dissolved and replaced by regional governments answerable to the new national government.
- The [Revolutionary Communist Party USA](#) has a [Constitution for The New Socialist Republic in North America](#).
- George Soros, Marxist law professors all over the Country, Cass Sunstein and Eric Holder want [a Marxist Constitution in place by the year 2020](#).
- The "Convention of States" project (COS) wants [a "re-written" Constitution](#) which [legalizes powers the federal government has already usurped](#), and delegates new powers to the federal government. One proposed amendment, written by COS principal Michael Farris, delegates [total power over children!](#) Yet they are telling conservatives that they want a convention so they can get amendments "to *limit* the power and jurisdiction of the federal government!"
- Some plan to transform the United States *from* a sovereign nation *to* a member state of the North American Union: Canada, the United States, and Mexico are to merge and

surrender their sovereignty to a Parliament which is to be set up over the three countries. The United States will need a new Constitution to bring about this transformation. This is being imposed on us by stealth. Read the Task Force Report of the Council on Foreign Relations [HERE](#).

### **III. Wise Voices have warned against an Article V Convention**

Wise voices have warned of the deadly perils of an Article V convention: Here are three:

**James Madison, Father of our Constitution**, said in his November 2, 1788 [letter to Turberville](#) that he “trembled” at the prospect of a second convention; and that if there were an Article V Convention:

*“...the most violent partizans,” and “individuals of insidious views” would strive to be delegates and would have “a dangerous opportunity of sapping the very foundations of the fabric” of our Country.*

Throughout [Federalist Paper No. 49](#), Madison warns against an Article V convention to correct breaches of the federal Constitution. He said, among other things, that the legislators who caused the problem would get themselves seats at the convention and would be in a position to control the outcome of a convention.

**Former US Supreme Court Justice Arthur Goldberg** reminds us in his [Sept. 14, 1986 editorial in The Miami Herald](#) that at the convention of 1787, the delegates *ignored their instructions* from the Continental Congress and instead of proposing amendments to the Articles of Confederation, wrote a new Constitution; and **warns us that “...any attempt at limiting the agenda would almost certainly be unenforceable.”**

**Former US Supreme Court Chief Justice Warren Burger** said in his [June 1988 letter to Phyllis Schlafly](#):

“...there is no effective way to limit or muzzle the actions of a Constitutional Convention...”

“After a Convention is convened, it will be too late to stop the Convention if we don’t like its agenda...”

“...A new Convention could plunge our Nation into constitutional confusion and confrontation at every turn...”

#### IV. Conclusion

We oppose Wolf PAC's Amendment because it would be a major step in eliminating free speech and private use of money in this country

We further oppose Wolf PAC's application for an Article V convention because, despite its pretended limitation to proposing an amendment to grant power over political speech and spending to the federal government, any Article V convention has the inherent power to propose whatever changes to our Constitution the Delegates want, **including abolishing our form of government and rewriting or replacing our Constitution *and* changing the ratification process.**

Is that really what your Legislature wants to apply for?

Judi Caler, President  
Citizens Against an Article V Convention  
judicaler@caavc.net