



Why States Can't Prevent a Runaway Convention

By **Publius Huldah**

The danger of an Article V convention (which made James Madison “[tremble](#)”, caused Alexander Hamilton “[dread](#)”, and Chief Justice John Jay to say that another convention would impose an “[extravagant risque](#)”) is this: the delegates to the convention can *run away*: instead of proposing amendments to our existing Constitution, they can write a completely new Constitution with a new – and easier – mode of ratification.¹

The convention lobby implicitly acknowledges this danger when they say State Legislatures should pass “unfaithful delegate” laws to control delegates.²

Accordingly, [Wyoming passed a delegate law](#) earlier this year which purports to empower the WY Legislature to “immediately recall” any delegate who makes an “unauthorized vote” at the convention, and to charge with a *felony* any delegate who fails to follow the WY Legislature’s instructions on what he may do at the convention. [The Texas delegate law](#) purports to make “invalid” any “unauthorized vote” at the convention, and to empower the TX Legislature to recall any delegate who violates his instructions. But [Tennessee takes the cake with its delegate law](#): Not only does the TN law purport to “void” votes cast at the convention by TN delegates which are outside the instructions or limits placed on the delegates by the TN Legislature – and then to prosecute such delegates for a *felony*; the TN law also asserts that if all TN delegates vote or “attempt to vote” outside the scope of the instructions or limits, TN’s previously filed applications for an

Article V convention are to be treated as “having no effect at all”. Other States have passed similar laws.

Such laws are contrary to our Founding Principles and are based on false assumptions. Accordingly, they are unenforceable and ineffective.

1. Self-evident Rights and the Declaration of Independence

The Declaration of Independence is the Fundamental Act of our Founding.³ It declares that all men are created equal; our rights are bestowed by God; our rights are unalienable; and the purpose of government is to secure the rights *God* gave us.

The Declaration is not “law” – it is *higher* than law, for it sets forth The Divine Standard, which a Constitution – and the laws made pursuant to the Constitution – must meet.

It also declares that **a People have the self-evident right to throw off their government and set up a new one.** With that Principle firmly in mind, let’s look at our first amendments convention; and then, at State unfaithful delegate laws.

2. The federal convention of 1787

After our Revolution, we operated under our first Constitution, the Articles of Confederation. But there were defects in the Articles, so on Feb. 21, 1787, the Continental Congress called a convention to be held in Philadelphia “*for the sole and express purpose of revising the Articles of Confederation*”. The States also drafted instructions, which purported to restrict delegates to proposing amendments.

But the delegates ignored their instructions and wrote a new Constitution [the one we now have]. In Federalist No. 40 (15th para), Madison invoked the **Declaration of Independence** and claimed, as justification for what they did,

“...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,’...”

Yet State unfaithful delegate laws claim a power *to divest* The Representatives of the People – and *to criminally prosecute them for exercising* – what the Fundamental Act of our Founding declares is a “self-evident right”!

3. And what if the delegates make their proceedings *secret*?

The State Legislators who vote for unfaithful delegate laws assume they will be able to know what is going on every minute of every day of the convention.

But Madison’s Journal of the Federal Convention of 1787 (where our present Constitution was drafted) shows that on May 29, 1787, the delegates voted to make their proceedings secret.

If delegates to a convention today vote to make the proceedings secret, the States won’t know what is going on – and can’t stop it. And if delegates vote by secret ballot, the States would NEVER know who did what.

You might think that with cell phones & cameras, it’s impossible to have a secret meeting. **But the American Legislative Exchange Council (ALEC)**, which “induces” State Legislators to push the COS application for an Article V convention, **is experienced in conducting secret meetings with State Legislators. WATCH this 6.5-minute video of a Georgia TV crew**, which attempted to get into a meeting held at a Georgia hotel of ALEC and Georgia Legislators. <https://www.youtube.com/watch?v=6MHYOB5uptc>

[ALEC, which supports the COS application for an Article V convention](#), is funded by the [Koch Brothers and other mega-corporations](#). The Koch Brothers spend vast sums on State politicians (e.g., [Texas](#)), to get their support for the COS

application. Do the Kochs want an Article V convention so they can get a new Constitution, which transforms us *from* a sovereign nation *to* a member state of the [North American Union](#)? And if there is a convention, will armed guards keep the press out? If delegates have been bought by the Kochs, will they tweet & text to the world what they are up to behind closed doors?

4. State Legislatures are “creatures” of their State Constitutions, and have no “competent authority” to control The Representatives of *The People* at an Article V convention

Americans have forgotten a Principle, which is the basis of free government: That political power originates with The People.⁴ The People *create* governments by means of constitutions. Since a government is the “creature” of its constitution, it can’t be superior to its Creator, The People.

This is why at the federal convention of 1787, where our present federal Constitution was drafted, our Framers understood that only The People were competent to ratify the new Constitution. [George Mason said on July 23, 1787,](#)

“...The [State] Legislatures have no power to ratify it. They are the mere creatures of the State Constitutions, and cannot be greater than their creators...”

Keeping that Principle firmly in mind, let’s look at Article V, US Constitution.

It provides that when two thirds of the State Legislatures (“mere creatures”) apply for it, Congress is to call a convention. At that point, it is out of the State Legislatures’ hands – the bell has tolled, and State Legislatures can’t un-ring it. Congress “calls” the convention (sets it up); but when it assembles, the delegates, as Sovereign Representatives *of the People*, are not answerable to State Legislatures (which are “mere creatures” of the State Constitution) or to Congress (which is a “mere creature” of the

federal Constitution). ***The delegates actually have the power to eliminate the federal and state governments – and that is precisely what the proposed Constitution for the Newstates of America does.***

Delegates to a *federal* convention called by the *federal* Congress, to perform the *federal* function of altering or replacing our *federal* Constitution, are performing a *federal function*, not a State function. The delegates don't represent any government, federal or state.⁵ They are supposed to represent The People; but in our corrupt time, they are more likely to represent the Koch Brothers (because *they* have the cash).

Dust off your copy of the federal Constitution we already have, read it and defend it. It filled all Europe with “wonder and veneration”. If we don't do this, we will lose it.

Endnotes:

¹ The proposed **Constitution for the Newstates of America** creates a totalitarian dictatorship. The States are dissolved and replaced by regional governments answerable to the new national government. *It is ratified by a national referendum* [national popular vote] (Art. XII, §1). Other proposed Constitutions are also waiting in the wings for a convention.

² The American Legislative Exchange Council (ALEC) claims their model delegate bill “will eliminate the possibility of a ‘runaway convention’ the reason most often cited by scholars for their opposition to an Article V Convention.”

³ Dr. Alan Keyes spoke of this on the radio some years ago; and I knew he had just handed me the Key to understanding our Constitution.

⁴ See Federalist No. 22, last para (Hamilton).

⁵ The term, “convention of states”, is a *misnomer*, which gives the false impression that *States* control the convention. In Rob Natelson's speech on Sep. 16, 2010 [now removed from free access] he said he will no longer call it a “constitutional convention”, but will henceforth say, “convention of states” (pg.1-2).

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