

**Testimony in support of SCR 4012 to Rescind Applications for Congress to call
an Article V Convention
before the North Dakota Senate State and Local Government Committee
for the Hearing on February 16, 2023 @ 10:00 AM Central Time**

By Joanna Martin, J. D.

To Chairman Roers, Vice-Chairman Barta and Honorable Members:

I am a retired litigation attorney, trial and appellate, and have spent the last 13 or more years as a volunteer writing and speaking on our federal Constitution and all issues surrounding an Article V convention. I live in Tennessee; and testify on my own behalf.

I. Constitutional Provisions respecting an Article V Convention

Article V, US Constitution, says:

*“The Congress, whenever two thirds of both Houses shall deem 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...”* [emphasis added]

Article I, §8, last clause, US Constitution, says Congress shall have the Power...

“To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.” [italics added]

Accordingly, State Legislatures have no powers respecting the convention other than *applying to Congress for Congress to call the convention*. Congress calls the convention and makes the laws necessary and proper to organize the convention. As shown in more detail on the following pages:

- That includes **determining the number and selection process for Delegates**. *We don't know* what Laws Congress will make determining the number & selection process for Delegates.
- It also includes **judging and counting the applications for a convention**. Congress has recently indicated that it is going to count *all* of the non-rescinded applications filed with them (including non-rescinded applications filed in 1789, 1861, and 1901 along with later filed applications) to get to 34 States.

So please - don't buy a pig in a poke! Rescind North Dakota's existing applications for Congress to call an Article V convention.

II. How did we get in the mess we are in?

With our Constitution of 1787, we created a federal government to which we delegated only a handful of enumerated powers. [This Chart](#) lists the powers delegated to the federal government – *it's a short list*.

But through the years, Americans stopped reading the Constitution, and they forgot what it said. And they elected to office people who didn't know what it said. What we see around us today is the result of everybody *ignoring* our Constitution for over 100 years.

III. So how can we blame *the Constitution* for our problems?

Those pushing for a convention say, “We’re in this mess because *our Constitution is defective* – we need to *amend the Constitution* to rein in the federal government.”

But our Constitution *already limits* the federal government to a handful of enumerated powers.

Furthermore, there is no amendment on the face of this Earth which can control those who already *disregard the existing constitutional limits on the federal government*.

I have read the amendments proposed by [Mark Levin](#), by “COS” at their [simulated convention](#), and [other](#) proposed Amendments. None of them limit the power of the federal government - instead, they legalize powers already usurped, grant new powers to the federal government, or strip the States and The People of their existing powers.

There's another agenda behind the push for an Article V Convention.

IV. “COS” False Claims and Assurances

1. "COS's" entire case is based on their *false and absurd claim* that the convention method of getting Amendments was added to Article V so that when the federal government *violates the limits in the Constitution*, we could rein them in by *amending the Constitution*. [This Flyer](#) proves what was actually said at the federal convention of 1787 – and it is not what COS claims. To the contrary, our Framers agreed that [the purpose of Amendments is to correct defects in the Constitution](#).

George Mason's concern was that Congress might refuse to consent to Amendments which were needed to correct *defects* in the Constitution. So he wanted a convention added to Article V so that the People could propose Amendments to fix the defects! His actual words are in the Flyer.

That same Flyer also shows (at endnote 3) that James Madison *warned* that those who secretly wish to get a new Constitution would push for a convention *under the pretext* of getting Amendments. An Article V convention has *always* been about getting a new Constitution – this was seen from the beginning and is

why, as early as April 1788, John Jay (who became our first Chief Justice), Alexander Hamilton, and James Madison began warning against an Article V Convention. ¹

That's what it's about today – and that is the certain result of an Article V Convention. **Four US Supreme Court Justices (two Conservatives and two Liberals)**, and other legal scholars and jurists, warn against an Article V Convention. They understand that our Constitution is likely to be lost if Congress calls an Article V Convention.

New Constitutions are already prepared – several of them are online [see items 1 & 12 on the Exhibit List below]. **Robert P. George, a member of Mark Meckler's "COS" Legal Advisory Board, has already co-authored a new Constitution which creates a new federal government and imposes gun controls and red flag confiscations.** ²

2. "COS" gives State Legislators a great many assurances as to what Congress *will do, must do, and can't do* respecting an Article V Convention. But **the Constitution** doesn't support any of COS's claims - nor has **Congress** passed any law which supports any of the assurances COS makes to State Legislators.

To the contrary - what Congress has done *directly contradicts* the assurances COS gives to State Legislators. For example:

- COS assures State Legislators that *they* will select and control the Delegates to the Convention. But **what Congress has done in the past** suggests that Congress intends to provide *for the popular election of Delegates, with each State having that number of Delegates equal to its electoral votes*. Under that method of selecting Delegates, California would have 55 Delegates; North Dakota would have 3.
- COS assures State Legislators that Congress "can't" call a convention until they get applications from 34 States asking for the same Amendment; and that delegates to the convention "can't" consider anything other than Amendments requested by 34 State Legislatures. But their claim is contradicted by legislation filed in Congress last July which directs the Archivist of the United States *to count all non-rescinded applications together* to get to 34 States - **here's the proof**.

So it doesn't matter what Amendment is described in the application for a Convention. Congress apparently intends to count them all together to get to 34 States.

¹ The Antifederalists (Patrick Henry, George Mason, and others) opposed our Constitution of 1787 *and pushed for another Convention so they could get rid of it*. **So Jay, Madison and Hamilton warned against it**.

² Mr. Meckler may now claim that Robert P. George doesn't have that much to do with his "COS" organization; but at a hearing before a Pennsylvania Senate Committee on Nov. 8, 2021, Mr. Meckler, who presented himself as a "Second Amendment guy", bragged about having Princeton Law Professor "Robbie George" on his Legal Advisory Board **[link]**.

3. “COS” assures State Legislators that anything which comes out of a Convention can’t take effect unless it is ratified by $\frac{3}{4}$ of the States; and that a Convention “can’t” propose a new Constitution with its own mode of ratification.

But in Federalist Paper No. 40 (15th para), James Madison specifically invoked that “transcendent and precious right” set forth in our Declaration of Independence of a People to throw off one government and set up a new one, as justification for ignoring their instructions to propose amendments to the Articles of Confederation, and writing a new Constitution with an easier mode of ratification. [Here](#) is the Proof.

And new Constitutions are already prepared [see items 1 & 12 of the following Exhibit List]. **The proposed Constitution for the Newstates of America provides at Article XII that it is to be ratified by a national referendum called by the President.**

V.

Our Constitution doesn’t need fixing. *We have a moral problem* – like Esau, we sold our Heritage for handouts and subsidies from the federal government. With federal money comes federal control.

Exhibit List

1. [HERE](#) is the proposed **Constitution for the Newstates of America**. Article XII, §1 thereof provides for ratification by *a referendum initiated by the President*. The States are dissolved and replaced by regional governments answerable to the new national government.³ This Constitution sets up a totalitarian dictatorship. Pursuant to Article I, Part B, §8, *we are to be disarmed*.
2. The Chart which illustrates our Declaration of Independence, Constitution, & federal structure, and lists the enumerated powers is [HERE](#).
3. To see how six of Mark Levin’s “liberty amendments” do the opposite of what he claims, go [HERE](#). [His other amendments are just as bad.]
4. The Nightmare Amendments from “Convention of States Project’s” (COS) simulated convention are [HERE](#).
5. The Flyer which shows that our Framers said the purpose of *amendments* is to correct defects in the Constitution; and knew that the purpose of a *convention* is to get a new Constitution, is [HERE](#). **“COS” has been misrepresenting what the Delegates to the Convention said.**

³ US Supreme Court Chief Justice Warren Burger described this proposed Constitution in his letter of April 8, 1986 to Phyllis Schlafly [LINK](#). Note that in his last paragraph, Justice Burger refers to the professors who “would like to abolish the states, and reorganize the federal structure along the lines of the division of circuits for the Federal Judicial system, or even on a more rigid regional basis.”

6. [HERE](#) is the April 11, 2014 Report of the Congressional Research Service which shows that Congress recognizes that it has *exclusive authority* over “calling” - organizing - the convention provided for at Article V, US Constitution. A Summary is on page 4.

7. [States have no Power to Control Delegates to an Article V Convention](#) shows that those who promise that State Legislators will select and control the Delegates are making stuff up! Furthermore, Delegates have the self-evident Right "to alter or to abolish" the existing state & federal governments. Thus no one has power over Delegates.

8. [HERE](#) are the **Articles of Confederation**, our first Federal Constitution. **Article XIII required approval of amendments by the Continental Congress and by every State Legislature.**

9. [HERE](#) is the Resolution of the Continental Congress dated Feb. 21, 1787, to call a convention to be held at Philadelphia,

“...for the sole and express purpose of revising the Articles of Confederation...”

10. [HERE](#) are the Credentials of the Delegates to the Federal Convention of 1787 and instructions from the States. The *operative words* of the instructions encompassed:

- “alterations to the Federal Constitution which, **when agreed to by Congress and the several States, would become effective**”: Virginia, Pennsylvania, Delaware, Georgia, S. Carolina, Maryland, & New Hampshire.
- “**for the purpose of revising the Federal Constitution**”: Virginia, Pennsylvania, North Carolina, Delaware, and Georgia.
- “**for the sole and express purpose of revising the Articles of Confederation**”: New York, Massachusetts, and Connecticut.
- “provisions to make the Constitution of the federal Government adequate”: New Jersey.

[Rhode Island did not send Delegates to the convention.]

11. In Federalist Paper No. 40 (15th para), James Madison, Father of our Constitution, invoked that “transcendent and precious right” set forth in our Declaration of Independence of a People to throw off one government and set up a new one, as justification for ignoring their instructions and writing a new Constitution. [HERE](#) is the Flyer.

12. **Here are additional Constitutions which can be imposed at a Convention called by Congress pursuant to Article V, US Constitution:**

- Read [HERE](#) about the proposed **Constitution for the New Socialist Republic in North America**. It was prepared by the **Revolutionary Communist Party, USA**. [HERE](#) is the text of their Constitution.
- Read [HERE](#) of The Constitution 2020 movement funded by George Soros & supported by Marxist law professors, Cass Sunstein, Eric Holder, etc. See also [THIS](#) article. They want a Marxist Constitution.

- Read [HERE](#) the globalist Council on Foreign Relations’ Task Force Report on the North American Union (NAU). Under this scheme, Canada, the US, and Mexico are to be integrated politically and *a Parliament & a militarized and unified police force* are to be set up over the three countries. [This is the “New World Order” which the Bush family & others have been planning. Heidi Cruz was on the Task Force which wrote the Report.]
- The National Constitution Center’s Constitution Drafting Project has released three proposed new Constitutions. You can read the proposed new Constitutions [HERE](#). These proposed Constitutions would transfer massive new powers to a new federal gov’t, and (among other horrors) would legalize the unconstitutional acts which have been going on for 100 years. *The National Constitution Center is a quasi-official branch of the federal gov’t – its website address is <https://www.usa.gov/federal-agencies/national-constitution-center>*

One of these Constitutions, the so-called “Conservative” Constitution, was co-authored by Robert P. George, who is a member of Mark Meckler’s COS Legal Advisory Board. This proposed Constitution creates a new federal government & imposes gun control & red flag confiscations (among other horrors): See [THIS](#) & [THIS](#).

13. Warnings of Brilliant Men (Madison, Hamilton, 4 US Supreme Court Justices, and other jurists and legal scholars) against an Article V convention are [HERE](#).

14. [HERE](#) is the Pew Report: Click on your State to find out what percentage of your *State government’s* revenue was from federal funds. And that’s a pittance compared to the additional federal funds poured into your State to local gov’ts, NGOs, research grants, price supports, welfare programs, social security, Medicare, etc., etc., etc. And all that spending is unconstitutional as outside the scope of the enumerated powers.

15. [HERE](#) is the archived edition of an unofficial source which listed applications for an Article V convention already submitted to Congress by the various State legislatures.

16. [HERE](#) is where James Madison said our Constitution depends on the people having the “virtue and intelligence to select men of virtue and wisdom” to office [scroll down to text at 223].

17. Thomas Jefferson, James Madison, and Alexander Hamilton always said that because the States *created* the federal government [when they ratified the Constitution], the States are the final authority on whether their “creature” has violated the constitutional compact the States made with each other; and that when the fed gov’t usurps powers not delegated, each State has *the natural right* to nullify *of their own authority* all such acts of the fed gov’t. **The refusal to go along with unconstitutional acts is the remedy our Framers advised when the fed gov’t violates the Constitution.**

This is not a mere “constitutional right” created by our Constitution of 1787 – this is the GOD-GIVEN NATURAL RIGHT OF SELF-DEFENSE which pre-dates and pre-exists the Constitution! See [THIS](#).

18. Who is behind the push for an Article V convention? It is the BIG MONEY globalists, primarily the Koch Foundations and George Soros, who are funding the push for an Article V convention. See, e.g.,

- [Kochs Bankroll Move to Rewrite the Constitution](#)
- [George Soros assault on U.S. Constitution](#)
- [Soros in Vermont: Leftist billionaire behind state's call to keep money out of politics](#)
- [Citizens for Self-Governance](#) This goes into detail about the funding and expenditures for one of Mark Meckler's organizations, "Citizens for Self-Governance"
- [Koch brothers from Conservapedia](#)

19. Mark Meckler tells State Legislators that his organizations are funded by grandmas sending him \$5.00 checks out of their paltry monthly incomes. But this paper, [Dark Money—Not the Grassroots—Is Behind the Convention of States Organizations \(COS\)](#), proves that almost 2/3 of the money driving Meckler's effort to get State Legislatures to apply to Congress for a convention under Article V of the US Constitution is coming from major donors *annually* giving Meckler's organizations \$5,000 to \$2,000,000 *each* over the latest 3 years of reporting available. **Why are multi-billionaires trying to get their hands on our Constitution?**

20. [HERE](#) is a Chart from *letusvoteforbba.org* where, by aggregating applications from 1789, 1861 to avert the Civil War, and 1901 for popular election of US Senators *with* later applications for a balanced budget amendment, they claim to have 33 States with active Applications for an Article V convention.

21. [Con-Con legislation filed in Congress is a wake-up call to convention supporters](#) explains & links to [H.C.R. 101](#) and [H.R. 8419](#) (filed July 19, 2022) re calling an Art. V Convention & how the States' applications will be counted. *It's not what the convention pushers have been telling State Legislators.*

22. **States better rescind ASAP their existing applications.** See: [Bluffing their way to an Article V Convention; Part 1: Validation schemes](#) and [Part 2: The best PR money can buy.](#)

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