

Constitutional Traitors

By [Joel S. Hirschhorn](#)

Global Research, September 19, 2010

19 September 2010

Region: [USA](#)

Theme: [Law and Justice](#)

In recent days the idea of using the Article V convention option in the Constitution received support in an article by Texas US Senator John Cornyn published on the [Fox News website](#). He noted “Recent polling suggests that a plurality of Americans support a convention to propose a Balanced Budget Amendment to the Constitution if Congress will not do so.” He made a good case for using the convention option by saying it “would be part of a national conversation that could last well beyond one or two election cycles. The very length of the convention and ratification process would allow the American people ample opportunity to judge proposed reforms, and ensure that they would strengthen the checks and balances that have served our nation well.”

A few days later, on the pages of the [Wall Street Journal](#) a strong case was made for a “repeal amendment” that would give state legislatures the power to veto federal laws, something worth proposing. Though the oped by a professor and the *Speaker of the Virginia House of Delegates* did not say so, obviously Congress would never propose such an amendment. That means using an Article V convention whereby state delegates could propose new amendments just as Congress has done, which the Speaker has acknowledged elsewhere.

At the same time a [policy report from the Goldwater Institute](#) recommended that “states seriously consider” using the convention option “to restrain the federal government.”

So the issue of using this convention option that Congress has refused to convene despite [hundreds of state applications](#) and that establishment powers on the political left and right have long opposed merits serious examination. Start with this: Americans overwhelmingly say they love and respect the Constitution and usually specific amendments, though often different ones on the political left and right. Three frameworks help understanding why most Americans oppose using the Article V convention option. Two explain why convention proponents have not been able to impact most opponents that fit these two frameworks. I offer a third framework or plan of attack which I believe will work.

First, consider the *craziness framework*. Many Americans have been taught to fear using the convention option, even though it has never been used. They are irrational. This is like being afraid to eat the fruit of the constitutional tree first planted by the Founders even though no one has ever tasted or been harmed by the fruit. Such people stubbornly think they are acting rationally; I think they are crazy and irrational. This delusional thinking based on what is imagined to might happen is not easily changed, because such people have been purposefully and successfully brainwashed. They have an emotional block. Rather than fear a runaway convention, people should fear our runaway politicians and government.

Second, consider the *analytic framework*. Many Americans use what they think are rational, substantive arguments. Convention proponents use facts based on the exact language in Article V or other historical facts to objectively contradict wrong-headed thinking. But correcting the record has not worked sufficiently, largely because opponents invent their own facts, ignore correct ones, and consume disinformation disseminated by convention opponents. They have an intellectual block. Cognitive dissonance works to prevent the pain of accepting new information incompatible with their negative views about a convention.

We should not invite, respect or participate in arguments by opponents that fit these two frameworks. We should, in particular, recognize and condemn *morally offensive fear mongering used intentionally by convention opponents*. Convention opponents seeking protection of their ability to influence the political system and selling fear and disinformation must face their constitutional guilt.

Converting convention opponents to proponents requires a paradigm change, which is very difficult. However, the current justified high level of dissatisfaction with government, politicians and both major political parties and the strong desire for reform of government justify use of a new approach.

The *patriotic framework* better gets to the root of the problem from a rule of law perspective. Rather than condemn convention opponents as irrational or ignorant, we *condemn unpatriotic constitutional hypocrites*. When they openly oppose the convention option they are *constitutional traitors*.

With the patriotic framework we take advantage of frequent strong public support for constitutional amendments not proposed by Congress, including these: In 1996, 74 percent of Americans favored a constitutional amendment to limit the number of terms that members of Congress and the US Senate could serve. In 2005, 76 percent favored an amendment to allow voluntary prayer in public schools, and in 1983 81 percent favored it. In both 2000 and 2004 61 percent favored amending the Constitution so that the presidential candidate receiving the most popular votes would win, replacing the Electoral College. In 1995, a balanced budget amendment passed the House but failed to meet the two-thirds requirement in the Senate by a single vote; this year there is a [strong national movement](#) to get it and a number of other amendments that would surely earn broad public support.

The basis for the new framework is this: *Virtually everyone professes respect and admiration for the US Constitution and knows that it includes a process for amending it. But if someone opposes using the Article V convention option, then he or she is an unpatriotic constitutional hypocrite. When they openly oppose a convention they are a constitutional traitor replacing the Founders thinking with theirs, putting themselves above the law.*

Moreover, it is impermissible to pick and choose what parts of the Constitution are supported and obeyed. Similarly, elected public officials who swear obedience to the Constitution cannot pick and choose which parts to obey. Such behavior makes a mockery of the supreme law of the land, the rule of law, and our constitutional republic. Silence by public officials on the issue is cowardly opposition to using the convention option.

No one can accurately forecast *exactly* what a convention would propose, but we do know

that continuation of the status quo will not eliminate the corruption and dysfunction sustained by the two-party plutocracy. The two major parties are rejected by [58 percent of the public](#) for not effectively representing them, but a convention is far more attractive than forming a competitive third party. Many reforms can only be achieved through constitutional amendments that Congress will never propose; this is inarguable. Voting in elections to get reforms is passé. A hard truth to take.

Amending the Constitution in our modern world should compete with ordinary elections. With Internet news, blogging, email, tweeting, texting and myriad other forms of instant communication, holding a convention is a new way to satisfy public thirst for true reforms, not promises. Amending the Constitution can be done relatively quickly. Of the 27 amendments to the Constitution, seven took one year or less to become the law of the land because of public engagement. The 26th amendment (giving the right to vote to 18 year-olds) took only 3 months and 8 days to be ratified in 1971! Public pressure works. It will work for and against specific amendments. Americans deserve the constitutional opportunity that Congress has deprived them of.

Americans must be taught this: *Just by being in the Constitution the convention option demands public support. Citizens are obliged to support it.* People cannot be allowed to have it both ways and be two-faced and hypocritical. Embrace the convention option or be openly and aggressively condemned for unpatriotic hypocrisy and behavior that undermines the sanctity of the Constitution and the rule of law, both crucial for maintaining the integrity of our republic.

Trust is the crucial issue. So many Americans have lost trust in their government and politicians but far less so in their Constitution. Trusting the Constitution means trusting the Founders' wisdom in providing the Article V convention option. They anticipated the day when citizens would lose trust in the federal government, which has surely arrived. The convention option bypasses Congress, the President and the Supreme Court; it gives power to the states and citizens. Wisely, ratification by the states is required for any proposed amendments from a convention, providing a hedge against dangerous amendments. When it comes to reform and making government work for we the people, the greatest risk for the nation is *not* using the convention option.

What political powers on the left and right fear and oppose we the people must demand. They are guilty constitutional traitors. We must be courageous patriots. There is no room for compromise with convention opponents. We must shame and embarrass them; they are lousy citizens. The time to argue about specific amendments is when the convention is in session and delegates must contend with public sentiments and later when proposed amendments are considered for ratification by states.

We cannot know with certainty whether holding a convention would revitalize the nation. But refusing to use the convention option as a constitutional path to reform disrespects and undermines our constitutional republic. The sorry state of the nation demands that we do more than just talk about it. This year every candidate for the House and Senate should be compelled to publicly support using the convention option. Lack of support for it should be grounds for defeating them.

This article was presented at the Thomas M. Cooley Law School Article V symposium in Lansing, Michigan on September 16, 2010; contact Joel S. Hirschhorn, a co-founder of [Friends of the Article V Convention](#), through [delusionaldemocracy.com](#).

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Articles by: [Joel S. Hirschhorn](#)

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