Chairperson and Committee Members on Financial Liability Reform.

Recently, a House Joint Resolution was introduced into the " Committee on Financial Liability Reform " that calls for the states to call a Constitutional Convention to propose amendments to the Constitution of the United States to inter alia require a Balanced Federal Budget (Balanced Budget Amendment). This Amendment is being promoted by the American Legislative Executive Committee and others. It is my understanding there will be a hearing to discuss this matter at 9:00 A.M., on Thursday, February 6, in Room 519, of the House Office Building in Lansing, Michigan. I would like to submit the following for your consideration and, if possible reading, by the Chairperson at the meeting and included in the record of testimony for such meeting.
Thank you for your consideration.

James Fuscaldo
4249 S. Whitehill Road
Cedar, Mi 49621
231 256 2237

Amending the U.S. Constitution Under Article V

Article 5 of the Constitution empowers the citizens through their respective state legislatures to propose changes to the Federal Constitution and specifies the process by which the changes may be introduced and adopted.

Article 5 states, "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, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress...".

There are two methods for proposing amendments:
1. Congress may propose them directly, or
2. Application of the Legislatures of two-thirds of the several States by calling a convention of the States.

Why did the Founders provide for two separate methods? They authorized the States to initiate the process to propose Constitutional amendments because the Founders recognized that Congress either couldn't or wouldn't deal with the issues or problems requiring a Constitutional amendment. Dr. Milton Friedman, an iconic economist, said, " It is not in the interest of a legislator to vote against a particular appropriation bill if that vote would create strong enemies while a vote in its favor would alienate few supporters. That is why simply electing the right people is not a solution".

In short, the state application and convention process is a method to bypass Congress, but Article 5 gives Congress the authority to determine the Mode of Ratification of any proposed amendments be it by ratification by the Legislatures or by Convention of three-fourths of the states (United States v. Sprague, 282 U.S. 716 (1931).

Since 1789, over 5000 bills proposing to amend the Constitution have been introduced in Congress; thirty-three amendments have been sent to the states for ratification. No attempt by the states to call a convention proposing amendments to the Constitution has ever succeeded, although some have come within one or two state votes to meet the requisite two-third votes. A call to amend the Constitution on the application of the Legislatures of two-thirds of the several states has never

succeeded. Therefore whether a convention to amend the Constitution can be limited in scope either to a single amendment, a particular purpose or within a particular subject is questionable (The Heritage Guide to the Constitution, Edwin Meese III, Chairman of the Editorial Advisory Board, 2005).

A convention for proposing amendments to the U.S. Constitution is a convention of the states (Smith v. Union Bank of Georgetown, 30 U.S. 518 (1831). Therefore, the delegates are agents of the state legislatures and are subject to the instruction of the state legislatures. The state legislatures have the power to determine how the delegates are selected. They can choose the delegates themselves or leave it to the election by the people. Regardless of the number of delegates each state only gets one vote.

A convention for proposing amendments to the U.S. Constitution is a "federal convention" because it is a creature of the states specifically authorized by the Federal Constitution under Article 5. As such, it is a limited purpose convention and cannot be used to set up an entirely new constitution or a new form of government.

Legal scholars are divided whether a "Convention for proposing Amendments" may be limited to specific and narrowly defined subject matter, scope and purpose (Budget Amendment). In short a single amendment with specific language requiring only a yes or no vote without debate, discussion, deliberation or change may be challenged by those states who do not support passage of the proposed amendment?

Implicit in the word proposing in the Article 5 phrase a "Convention for proposing Amendments" is the need to resolve an identifiable problem with a solution that usually anticipates collective deliberation, compromise and conciliation among all the states. Limiting the convention to merely a vote for or against a proposed Constitutional Amendment is inconsistent with the deliberative freedom possessed by all the participating states as sovereigns within the Constitutional framework. (The State Application and Convention Method of Amending the Constitution, Robert G. Natelson, Adaptation of Remarks, Thomas M. Cooley Law Review Article V Symposium, September 16, 2010)

The call for a "Convention for proposing Amendments" may encourage other states to add to the agenda of proposed constitutional changes as a condition precedent to their willingness to participate in the convention. This may lead to a "basket" of proposed Constitutional Amendments requiring trade offs and significant erosion of Constitutional rights granted elsewhere.

In summary, if a proposed amendment to the Constitution is sought by the State Legislatures the Constitution is clear. It will occur when and "... on the Application of the Legislatures of two-thirds of the several States shall call a Convention for proposing Amendments..." Therefore it seems to me all the State Legislatures have the right to propose an Amendment as a condition precedent to agreeing to a Convention. This may be a reason why all attempts by the states to call a convention have never succeeded.

A Balanced Budget amendment is but one side of a two headed coin. There are two ways to balance a budget. One is to reduce spending, the other is to raise taxes.

A Balanced Budget amendment without a Constitutional Amendment to limit the taxing power of the Federal Government will create the unintended consequence of enabling Congress to balance the budget by raising taxes. To prevent Congress from using the taxing power authorized by the Sixteenth Amendment to meet a Balanced Budget, the Sixteenth Amendment of the Constitution must be repealed. In its place a Constitutional amendment that authorizes a flat tax of not more than 15% of a person's annual income, from whatever source derived should be considered. In addition the amendment MUST include provisions prohibiting Congress from instituting a national sales tax, a

value added tax or any other tax, and it must also eliminate all taxes on a decedent's estate. The 15% flat tax must be applicable to all persons (individuals and corporations).

Congress should have the power in times of a war declared by Congress to institute a war tax. The war tax shall not exceed an additional 15% of a person's annual income. The war tax must be renewed every year as part of the approval of the annual budget, and a separate War Budget must be proposed and approved by Congress. In addition a Constitutional provision must be considered to limit the total expenditures of the Federal Government (not including duly authorized expenditures included in an approved War Budget) to not more than 18% of the Nation's Gross Domestic Product for the previous calendar year.

The Anti-Federalists were prescient when they asserted, "that the taxing power (of the Federal Government) has amounted to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare".

Regrettably, the arguments of James Madison, Thomas Jefferson and their fellow Federalists that the power of Congress to lay taxes was limited to the enumerated powers set forth in the Constitution have been eroded by the courts notwithstanding Supreme Court's Justice Joseph Story's opinion in 1830 that Congress's power to "lay and collect taxes, duties, imposts, and excises, to pay debts and provide for the common defense, and general welfare of the United States was indeed limiting".

A Constitutional Convention must have a definitive purpose to solve the reality of the Federal Government's insatiable appetite for spending and its inability to reform itself. It must have demonstrative goals and avoid becoming merely populist demagoguery for the sole purpose of developing campaign fodder in an election year for the incumbents.

***About the Author:** The author is a retired attorney with degrees in law and science. The author has a Bachelor of Science in Pharmacy from Drake University in Des Moines, Iowa, and a Juris Doctorate in Law from John Marshall Law School in Chicago, Illinois.

The author was employed by Broadlawns Polk County Hospital in Des Moines, Iowa; Eli Lilly and Company, Indianapolis, Indiana; Northwestern University Medical School, Chicago, Illinois, and The Dow Chemical Company, Midland, Michigan before retirement.

The author has been actively engaged in the following areas of the law during his 30-year legal career with The Dow Chemical Company.

- International Law. (European Economic Community and Latin America)
- Intellectual Property Law.
- Commercial Business Law, including compliance with Federal Antitrust and Unfair Competition Laws.
- Federal Bankruptcy, Mergers and Acquisitions.
- Federal, Food, Drug and Cosmetic Law and compliance with Federal Trade Commission Regulations.
- Product liability litigation pertaining to prescription and nonprescription drugs.

The author served as International Counsel for Merrill Dow Pharmaceuticals, General Counsel for Dow Chemical Latin America and General Trademark and Copyright Counsel for The Dow Chemical Company and was part of Dow's corporate legal management and supervisory team before retirement.

I am submitting this email in an effort to express my support for a balanced budget amendment as sought through amending article five of the constitution. Thank you for your consideration of my position on this earnestly important matter.

James Grover

Sent from my iPhone

From: Michael Callahan

To: House Financial Liability Reform Committee

Regarding: Joint resolutions HJR CC and SJR V

To The Great State of Michigan, "The Great Lake State", home of the Wolverines,

"Si quaeris peninsulam amoenam circumspice."

(If you seek a pleasant peninsula, look about you.)

We support your effort regarding two joint resolutions (HJR CC and SJR V) that would apply to Congress to convene an Article V convention for the purpose of proposing a Balanced Budget Amendment (BBA) to the Constitution.

We offer all information on our site as PRO ARTICLE V support information.

...."Americans are increasingly questioning-and resisting - the endless growth of the federal government. Part of this resistance finds voice in efforts to enforce state sovereignty....while litigation and legislative measures continue....the growing discontent has also reignited interest in an even more direct route for The People and The States to regain control over the federal government-the Article V constitutional amendment process...." The Goldwater Institute.

This is the TOOL LEFT TO US IN THE CONSTITUTION by the Framers, intended for use by the States and the People therein, for such a time as these; where the federal/executive / and judicial branches of our government have usurped their power and/or have placed the financial -political and future security of our Nation in peril. Our government no longer conducts itself in accordance to the will of the People, nor does it work within the confines of The United States Constitution.

We have built our website, complete with research and extensive libraries, dedicated to the Article V Process.

http://articlevprojecttorestoreliberty.com/index.html

http://articlevprojecttorestoreliberty.com/understanding-article-v.html

http://articlevprojecttorestoreliberty.com/not-a-constitutional-convention.html

http://articlevprojecttorestoreliberty.com/the-basic-library.html

We share with you our own approach to the Article V process. We have patterned our process after the proven process of amendment - the 21st Repealing the 18th Amendment-accomplished in very short order.

WE THE PEOPLE BELIEVE THAT DC- CANNOT, AND WILL NOT CHANGE.

1- We are working to build this movement in Our Country.

2-We seek to educate and inform; to grow support in the public venue for the advocacy of Article V (5).

3-We seek to carry the movement forward in the required - 38 states, to call for an Article V proposed amendment process, considering ONE amendment only.

It will gut D.C., which sounds simplistic, it is not-it is however; simply and completely effective.

It takes an amendment to repeal an amendment.

We are not about Amend and Add-we are about Repeal to Restore.

Our Repeal option -does not open up the Convention option to entertain multiple amendment proposals. That is what makes us unique...and lethal.

OUR PROPOSAL

The Twenty-eighth (28th) Amendment*

The fourteenth, the sixteenth, and the seventeenth articles of amendment to the Constitution of the United States are hereby repealed.

The articles shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the conventions in several states, as provided in the Constitution, within seven years from the date of submission hereof, to the States by the Congress.

So simple -and in that simplicity, is the key to success.

4-We offer overviews of the Constitution's Article V, the 14th, 16th and 17th Amendments, Conclusions, Insight; as well as extensive Libraries, Resources, and References for review and study.

When the 14th, 16th and 17th amendments are repealed, the original Constitution will be restored. This is the safety-measure to prevent re-write of the entire document. The guarantee.

We have in-depth research of the history of the amendments, their impact, and the necessity of repeal. With them removed from the Constitution the people and the States lose nothing....the federal government and courts lose all power they have usurped.

Repeal of the 14th restores the power of the tenth amendment.

IMAGINE HOW POWERFUL WOULD BE THE RESTORATION OF THE 10th AMENDMENT?

THE REPEAL OF FEDERAL TAXING AUTHORITY?

THE RETURN OF OUR SENATORS TO THEIR STATES TO CONDUCT STATE NOT POLITICAL PARTY BUSINESS?

http://articlevprojecttorestoreliberty.com/14th-amendment.html

http://articlevprojecttorestoreliberty.com/14th-support-discussion.html

http://articlevprojecttorestoreliberty.com/16th-amendment.html

http://articlevprojecttorestoreliberty.com/16th-support-discussion.html

http://articlevprojecttorestoreliberty.com/17th-amendment.html

http://articlevprojecttorestoreliberty.com/17th-support-disucussion.html

We promote organized citizen initiative, taken to their state representatives the repeal amendment, presented and voted on within each State legislature. 34 (2/3) States that will vote to adopt the single amendment -cause it to be presented to Congress-the Congress must recognize and return the Amendment to All the States- it will require 38 (3/4) States to vote to Ratify. Upon this final ratification, it becomes the Law of the Land.

5- In Constitutional study, understanding context and definition of language is crucial. It will be of interest to you to note:

. . The 1828 definition of Convention is ...a meeting between two or more parties . . so there are no limits on how it is structured - it is Legislative choice of process.

[There is no such thing as a CONSTITUTIONAL CONVENTION]

The process can be 100% controlled by the 38+ State Legislatures . . no Congressional- no Presidential- and no Judicial participation is allowed or required.

We lend our voice to you in support of Article V. It is our sincere hope that all states will join in a united effort to realize and utilize the Constitutional solution designed by the Founders, Framers, and Ratifiers to correct out of control government.

Article V Project To Restore Liberty Team

Dear Members of the Financial Liability Reform Committee,

I am contacting you to inform you of my opposition to House Joint Resolution CC.

While the resolution states the purpose of the resolution is" to call a convention of the states limited to proposing an amendment to the constitution of the United States requiring....." (a balanced budget), there are no specific provisions in Article V of the U.S. Constitution to limit a Con-Con to amendments on a single issue.

We have our current constitution as a result of a convention called for the sole purpose of amending the Articles of Confederation. When the convention was convened the delegates wrote the rules governing the convention and dissolved the Articles of Confederation and propose a new Constitution. Fortunately for the Country the convention was attended by God fearing, classically educated statesmen.

Wise and thoughtful men who had endured the abuses of English rule gave us the Constitution which has given the citizens of the United States unprecedented individual liberty, freedom, and prosperity. Unfortunately today, persons of that caliber are virtually non-existent, particularly in the arena of politics. Today, there many who are hostile to the Constitution and our current form of government (a constitutionally limited, democratically elected, representative republic).

A Con-Con held today would most likely be hijacked by those who love power, want to control every aspect of our daily lives, and despise our current system of government. President Obama complains that the constitution "constrains him" from taking action he deems necessary on Gun Control. The President once stated "that generally the Constitution is a charter of negative liberties. Says what the states can't do to you. Says what the federal government can't do to you, but doesn't say what the federal government or state government must do on your behalf".

While many sincere and well meaning people claim that an Article V Con-Con this is the only solution to an out of control federal government, the potential for disaster to our nation and our freedoms is incalculable. I fear we could loose our system of government and the protections afforded the citizens by the U.S. Constitution and Bill of Rights.

Please vote NO when this resolution comes before the committee.

Sincerely,

Richard E. Hogan

6197 Atlas Valley Dr.

Grand Blanc, MI 48439

You State and Federal legislators you took an oath to protect and defend this Republic, and our Constitution. There's a war going on at your door step, the sleepers in this country are slowly waking up. I think it's going to get real ugly when they wake up to find our country is in a tyrannical control government. Stop this madness, hands off our Republic.

From: davidlonier@gmail.com
To: davidlonier@gmail.com

Subject: A Constitutional Convention is Suicide
Date: Mon, 3 Feb 2014 17:02:52 -0500

Dear Liberty Activist,

Looks like the tyrants are on their continuing rampage to take our last hope of freedom away from us...Our Constitution

Call, write or fax your state rep or senator and use my letter below if you wish for talking/writing points.

If these uninformed legislators pass this monstrosity, America as we once knew it will no longer exist.

Without our Constitution all hope of restoring our liberty will be gone.

There will be a Committee hearing in Lansing on Thursday:

Financial Liability Reform

Thursday, 9:00 AM, Room 519, House Office Building, Lansing, MI

Committee Clerk: Malika Abdul-Basir
517-373-7256
mabdul@house.mi.gov

Poleski (C), Victory (Maj. VC), Denby, McMillin, Schmidt, Callton, Jacobsen, Cavanagh (

Dear Michigan State Senator/Representative,

It's certainly not necessary to rewrite the constitution to pass an amendment.

Another glaring flaw in the resolution is proposing "amendments" to require a balanced budget.

How many amendments does it take to balance a budget?

Whether an amendment or amendments would balance the budget or not, is irrelevant if a Con Con is implemented.

A Con Con will destroy any hope of restoring our life, freedom and prosperity, which have been on the wane since 1787.

A Con Con would give the people (power elite) who have been trashing our constitution in spirit for decades the opportunity to trash our constitution in WORD!

...and don't think for a minute that this won't happen, as this has been a dream of theirs since our founding fathers ratified it in 1787. You can be absolutely certain these power grabbers who now control government will surely control the delegates to the convention.

Our Constitution is all that stands between the people and tyranny:

There has never been a document so eloquently drafted (giving the people domain over their government) in the history of civilization.

Even if we had people of the caliber of Washington, Jefferson, Madison, Franklin, etc. , (which we don't) it is doubtful that anyone could come up with a better document than our Constitution. We must keep it, maintain it, promote it, cherish it, protect it and most importantly... abide by it in word and spirit.

I am sending this email to the members of our State Legislature, asking each of you to reject this nonsense.

Vote NO on HJR CC.

To do otherwise is to drive the last nail in the coffin of our once free and proud Republic.

HOUSE JOINT RESOLUTION CC

January 15, Introduced by Rep. Franz and referred to the Committee of Financial Liability Reform

A joint resolution to petition the congress of the United States to call a convention to propose amendments to the constitution of the United States to require a balanced federal budget.

For Liberty,

David Lonier, Precinct Delegate

1842 Commonwealth

Auburn Hills, Michigan 48326

248-373-9111

Dear Representative Poleski ,

As a veteran and voter in this great state of Michigan, I am writing to ask you to vote **NO** on a very misleading resolution you will be hearing on Thursday, February 6.

The Committee on Financial Liability Reform on which you sit will take into consideration **whether or not to pass HJR CC.** This measure calls for Michigan to join in an application to Congress

to call a constitutional convention to propose amendments to the constitution of the United States to require a balanced federal budget.

The reason this resolution is deceptive is that Michigan and the other 34 states who would apply to call for a constitutional convention (con-con) would think that the assembled delegates would be

willing and bound to limit it's amendments to just a balanced budget amendment. In reality, it could and (would) open up our U.S. Constitution to many of the congressional delegates who are responsible in the first

place for spending practices and unfunded mandates that caused our colossal debt in the first place. How do you spell STING ?

Over 30 years ago another Michigan House Committee had the same application come up before it. At that time Senator Jack Welborn (Republican Senate Leader) and Sen. Harmon Cropsey appeared

before the committee and testified against Michigan joining any such call for a con-con. The reason they gave as I recall (I was there) was that once called, the limitations on such a con-con in all likelihood

would not be followed. The reason being is that Convention Delegates are higher in authority than the constitution itself since it was the convention delegates that are the architect's, or creators of the

constitution. Remember also, Article V references proposing **Amendments.**

You will undoubtedly hear at your committee hearing those that say, "hey if we don't like the additional amendment's we (Michigan) won't vote to ratify since it needs 3/4's of the states to ratify." Wrong again. Congress/ Convention delegates do not have to send it back to the state legislatures for ratification. Read Article V please. " **Or by conventions in three-fourths thereof.**" Even the amount of states needed to ratify can be changed prior to it coming to the states. i.e., The Articles of Confederation amendment process stipulated a unanimous consent of the states. The 1787 convention changed the "unanimous

approval of the states" to Three-fourths of the several states." Con-con delegates would not be hindered in changing the ratification process.

The well intentions of state legislators would hardly be an excuse for damaging the finest document on constitutional government the world has ever seen.

Please use the letter as my entry into public comments as I am unable to attend Thursdays Hearing due to prior scheduled Ultra-sound medical procedure.

Matthew F. Schoech

306 w. 9th

Traverse City, MI 49684

1231-932-1653

I am asking that my message opposing HJR CC be given to all members of the Committee for Financial Liability Reform.

Are you as a legislator willing to refuse the federal money and mandates? Unless you are, an application for a Constitutional Convention for a balanced budget is a sham.

A Con Con was recently voted down by the People in the most recent state election. The People have spoken. Nothing Earth shattering has happened since.

Those that want this I suspect are up to some sort of mischief of which needs to be quashed immediately.

Respectfully,

James McKindles

18439 Iroquois Ln

Ocqueoc, MI 49759

Republican Delegate

Campaign for Liberty Coordinator

Cheboygan TEA Party Patriot

My e-mail is about the hearing at 9 AM on Thursday, February 6, before the House Financial Liability Reform Committee, regarding two joint resolutions (HJR CC and SJR V) that would apply to Congress to convene an Article V convention for the purpose of proposing a Balanced Budget Amendment (BBA) to the Constitution. My view is:

An Article V convention should ***not*** be held. The problem with our legislators is ***not*** that we need to change the US Constitution. The problem is that our legislators ignore the Constitution. They do not abide by the limits that the Constitution places on them. If our legislators would limit their powers to those given to them by the Constitution, then our country's problems would be greatly diminish.

John Wagner

620 Vought St.

Ypsilanti, Michigan 48198

(HJR CC and SJR V) I am in support of this Amendment, and encourage you to do your part in upholding it.

Thanks

Larry McAdams

☺ May GOD's richest blessings be with you.

Subject: **Please Vote No on HJR CC (Constitutional Convention)**

Vote No on HJR CC, an application for an Article V Constitutional Convention of the States

supposedly for a Balanced Budget Amendment. Article V does not limit a convention to one subject but states, "for proposing Amendments" in the plural. There is no way to limit an Article V Convention.

Michigan gets 33.74% of its state budget from the Federal Government. If Michigan really wants the federal government to balance the federal budget then Michigan should send back all

federal money coming into Michigan. Are you as a Legislator willing to refuse the federal money and mandates?

Unless you are, an application for a Constitutional Convention for a balanced budget is a sham.

Only Congress has the power to call the Convention, to decide which applications are valid and **to make the rules**.

Any rules passed by the states regarding delegate limitation can simply be ignored by Congress just like they ignore the Constitution and the rules now.

Question: Why do we think that the Congress that ignores the Constitution now would be any more likely to abide by a new amendment to the Constitution?

Again, please vote NO.

Respectfully,

Walt and Jan Woodruff

667 W. Irish St.

Sanford, MI 48657

989-687-5736

Representatives,

I strenuously oppose HJR CC for the following reasons:

1. The federal government does not respect the constitution and will not respect any amendments.
2. The correct way to process an amendment is that it passes in the house and senate, then is ratified by the states. (US constitution Article 5) The Convention method is dangerous!
3. There is no way to control the agenda of a convention or to get the statesmen we need at such a convention. The convention would run away, the rules for ratification would be changed and could well end up with a Soviet style constitution.
4. God gave us our rights and no one can take them away. Thomas Jefferson wrote this in the

declaration of independence.
5. We need to nullify all unconstitutional laws at State level and take back the rights the founders intended for the States. This would give more power to state elected officials and the closer to home the power is the better.

Please check out the following link:
http://www.jbs.org/issues-pages/no-con-con

David Drennen
2925 West 13 mile road apt 402
Royal Oak, Michigan
48073