



A Look at Continental Congress 2009

During the final quarter of the 18th century, as tensions grew between England and her colonies here in America, the legislatures of 12 of the 13 colonies called the First Continental Congress and appointed delegates to attend the Congress. Initially, Georgia refrained from participation. The First Continental Congress met in Philadelphia in September 1774. The Second Continental Congress met in May 1775, in the shadow of the actions that occurred the previous month at Lexington and Concord. This Congress ultimately brought forth the Declaration of Independence and led the country through the Revolutionary War for Independence.



Most Americans would be shocked to hear that from November 11-22 another Continental Congress was held. Continental Congress 2009 (CC2009) promoted itself as an effort to “Defend, Not Amend the Constitution.” Unlike the Continental Congresses of the 18th century, the delegates were not appointed by the legislatures of the states. Those interested in being delegates to the Continental Congress were self-nominated or were nominated by other like-minded individuals. After a list of potential delegates was composed, elections were held in each state, but the election process involved a very small number of electors. The election was not widely publicized, and the organizers only set up walk-in polling locations in a few states. Most states did not even have walk-in balloting, but employed a complicated process of mail-in ballots. Even where polling locations were established, few voted since few even knew about the election. The entire process begs the question: “Why would this approach give the CC2009 any more legal authority than any other private group of individuals?”

I knew nothing of the CC2009 until I was contacted by a person outside my state who was unknown to me who told me that I had been nominated by her to be a delegate to represent my state. After being assured that the event was definitely not an effort to call a constitutional convention, and because I am an ardent supporter of the Constitution, I decided to go ahead and attend to find out if this was an effort worth supporting. But to this date I have no idea of the particulars of my “election,” including how many voted for me.

Did you hear about CC2009 elections prior to their taking place? In fact, have you even heard about CC2009 until now? You are not alone. While the number of voters nationwide is not being made available by the CC2009 organization, most of the states that held elections, and have reported numbers, reflect votes in the low hundreds. Some states had zero votes.

Certainly, CC2009 convened without the amount of name recognition, public support, or stature possessed by the Continental Congress that approved the Declaration of Independence.

When the Congress met in St. Charles, Illinois, last month, strenuous efforts were made to organize and carry out the proceedings in a manner that would arguably give credence of legal standing to the entire



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event. Upon arrival at the Continental Congress, delegates were required to verify their identity to have their credentials as a delegate certified. In the beginning days, the delegates were required to sign in again if they left the hall where deliberations were being held. Daily calls to verify that a quorum was present were carried out, and a great many of the votes were recorded as delegates were required to show their credential voting card and be counted.

For the past 14 years, the organizer of the event, Robert Schulz of the “We The People Foundation for Constitutional Education,” has made numerous filings to government entities in which he seeks rulings about various constitutional matters that many concerned Americans would agree need to be corrected. All of these filings have either been ignored or otherwise rejected. The CC2009 was organized for the stated purpose of forcing government officials to respond to filings pertaining to these and related subjects. But how would officials be “forced” to respond? And what if they did respond, but did not respond favorably?

Early in the proceedings of the CC2009 event, the predetermined agenda was outlined, and the format for “grievances” against certain government actions that were to be created and filed in the form of “reports” were adopted. Each topic was to have three components: demands to officers within the United States government; demands to the governments of each state; and advice for citizen action to bring about compliance with the instructions. Deadlines for compliance with the instructions were to be created, and follow-on “penalties” for noncompliance were to be implicit in the instructions. There was much single-minded discussion within CC2009 that this proposed approach is a last-ditch effort to save the nation by using the only peaceful constitutional tool that is still available to the citizens of the nation.

The event’s organizers promoted the concept that they have “exhausted their administrative and judicial remedies” and now intend to “exhaust their constitutional remedies, as guaranteed by the Declaration of Independence and the Accountability Clause of the First Amendment.”

Accordingly, the First Amendment to the United States Constitution was cited as the basis of authority to make these demands upon the government. The First Amendment reads: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.” Those familiar with the Bill of Rights clearly understand that the first 10 Amendments to the Constitution, the Bill of Rights, do not create rights, but (as was noted in the Preamble to the Bill of Rights) were simply “further declaratory and restrictive clauses” to prevent misconstruction and abuse of federal power. The fundamental premise of the proceedings of the CC2009 was based upon the interpretation that “the right of the people ... to petition the government for a redress of grievances” requires the national government to not only hear grievances, but also respond in some manner that corrects the complaints outlined in the grievances. That premise, which is at the core of every resolution produced by CC2009, is fundamentally flawed.

A careful reading of the plain English words of the First Amendment reveals that there is not a penalty or enforcement or “Accountability” clause in the Amendment that requires the government to respond to petitions from the people. The people may petition, but there is no “final solution” implied if the government does respond to the petition. Not only do the plain English words testify of this, but from the days of the founding of this nation, this understanding has been the practice. In the entire history of the nation, the courts have never contradicted this understanding. As guaranteed by the First Amendment, the people may not be prevented from assembly and petition to express their concerns to



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those who govern, but no response is assured. Of course, those who hold office are bound by oath to keep their actions within the bounds and constraints established by the Constitution, so any actions outside those bounds are prohibited.

Consider the wisdom in this fact. Suppose a number of citizens petition the government to change this nation's form of government (a republic) into a pure democracy (majority rule, without any constitutional restraints on government or protections of individual rights), or even into a Marxist regime. Suppose that petition is ignored or rejected. Does that body of petitioners now have the implied right to take up arms or some other method to force the demands of their petition? Of course not! The right of petition in and of itself is not the "end game" move prior to revolution, or even some form of civic action with which to threaten the nation.

While the proceedings of the CC2009 were often tumultuous and rancorous, with nearly "round-the-clock" discussions and interminable dissent and debate that often resulted in poorly conceived and worded resolutions being cobbled together, the personal influence exercised by Schulz (and his closest adherents) prevailed. It would appear that the bulk of the delegates present were aware of and aligned with the ideology promoted by Schulz, and the group largely adopted the concept that the First Amendment requires a response from those petitioned, and the people are justified in invoking penalties based upon a lack of response. Consequently, a broad spectrum of grievances were constructed with associated instructions to the three entities: the federal government, the state governments, and the general citizenry. While, as of this writing, the final documents passed by CC2009 are not publicly available for review, some of the potential "penalties" brought forth and passed as part of the resolutions adopted by CC2009 were shocking.

Some of the resolutions that were passed included such things as dumping loads of gravel or boulders at state offices, advising the citizens to prepare to withhold "financial support" to the government, and other forms of civil disobedience. Such threats, if ever carried out, would of course lead to more government not less — exactly the opposite of what those who voted for this resolution claim to support — and would also give both the major media and government a convenient reason to condemn not only those who engage in such civil disobedience but all others who express concern about the Constitution. Indeed, it is not a stretch to imagine the government viewing such an approach as a terrorist threat. And it is also easy to imagine a few agents provocateurs turning such "nonviolent" acts of civil disobedience into very violent and bloody ones, no matter the intent of the organizers.

When I decided to attend CC2009, I wanted to know if the modern-day Continental Congress effort would be constructive, and unfortunately what I (and many other delegates who opposed these potentially destructive resolutions) witnessed was far worse than I could have imagined.

George Washington, the father of our country, would undoubtedly be just as appalled. In his monumental "Farewell Address," Washington wisely counseled: "The Constitution which at any time exists till changed by an explicit and authentic act of the whole people is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government presupposes the duty of every individual to obey the established government.... Resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect in the forms of the Constitution alterations which will impair the energy of the system, and thus to undermine what can not be directly overthrown." We cannot invent interpretations that suit a desired solution. By so doing, we would be no better than those whose current numerous abuses we seek to correct.

The U.S. Constitution is strong and durable. It has proven its resilience through unnumbered attacks.



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Safeguards are woven throughout this marvelous document that allow the nation to be restored without resorting to civic unrest that would ultimately result in additional draconian responses and great danger to the general welfare of the nation.

In addition, another danger exists if the approach promoted by CC2009 becomes widely accepted. If a broad spectrum of good and caring Americans becomes convinced that this approach of making demands through petitions (which surely will be ignored) truly is a “last ditch” effort and chance to save the nation by using the only final peaceful constitutional tool that is available to the citizens of the nation, and the effort fails, frustration may rise to the point that they successfully call for an Article V constitutional convention. If this ever occurs, the nation will be in grave danger of losing our marvelous Constitution. The solution to these challenges are found within the structure of the United States Constitution and do not require precipitous action!

Thomas Jefferson correctly noted: “A nation that expects to be ignorant and free ... expects what never was and never will be.” The key is a well-informed and principled electorate. A well-informed electorate will exercise their vote to elect principled representatives. The U.S. House of Representatives could be replaced every two years if Americans became fed up with Representatives who constantly violate their oath of office. Checks and balances could then be brought to bear to stop federal abuses and usurpation. In addition, the House has the sole power of impeachment. That power, and the power of the Senate to try those impeachments, could be a powerful incentive to both the judiciary and the executive to bring their actions back within the limits and bounds established within the U.S. Constitution. Education in proper principles is key to restoring this great republic.

Clarification (Dec. 15, 2009): Comments made regarding this article include assurances that the CC2009 did not pass resolutions suggesting citizens dump loads of gravel or boulders at state offices as part of their protests. Along with many other suggested actions, several iterations of a resolution titled: “Non-Violent Civic Action Milestones” were placed before the body during the proceedings of CC2009. Each version contained some form of the statement of counsel for citizens to “Bring large boulders or truckloads of gravel and dump it on government.” Other delegates besides myself believed that the resolution ultimately passed the body by majority vote. While the final document reflecting the entirety of the work of CC2009 has not yet been published, this statement is not included in the DRAFT document that has been put forward for review. Comments forwarded by participants of the CC2009 who are reviewing the DRAFT reflect observations that there are several substantive changes in the wording that do not reflect the actual wording of resolutions that were passed. According to their reviews, some statements appear to have been added to the original, and some removed. Whether the statement regarding dumping gravel and boulders was never really passed by the group in the flurry of resolutions in which the phrase was found, or if it was later expunged, I cannot determine.



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