Written by **Joe Wolverton, II, J.D.** on May 16, 2016

Louisiana Senate Specifically Calls for a "Constitutional Convention"

The Louisiana State Senate has passed a resolution expressly calling for a "constitutional convention."

On May 6, by a vote of 29 in favor and six against, state senators overwhelmingly approved a measure encouraging the United States Congress to call for a "constitutional convention" for the purpose of "proposing amendments to limit the power and jurisdiction of the federal government, impose fiscal restraints upon its activities, and limit the terms of office that may be served by its officials and by members of Congress."

Such resolutions are not uncommon — although they rarely amount to much more than a misguided memorial — but the version signed off on by so many Louisiana state senators is unusual in that it specifically calls for a constitutional convention. Such a statement belies the propaganda of the pro-constitutional convention movement which insists that it opposes a constitutional convention, preferring to call the proposed meeting a "convention of states" or an "amendments convention," or other similarly subtle misrepresentations.

The Louisana resolution cites the violation by the federal government of constitutional restraints on its power and its increasing usurpation of prerogatives reserved to the states by the 10th Amendment and the very fact of the history of the framing of the Constitution of 1787.

Lest there be anyone unaware of the latter, here is the statement by James Madison in *The Federalist*, No. 45 which should quiet all conflict on the issue: "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite."

So, were these likely otherwise well-intentioned legislators serious about forcing the federal beast back inside its federal cage, they would use the more potent and precise weapon against Washington D.C.'s encroachment into the sovereign territory of state authority: nullification.

The constitutional convention approach being promoted by the Louisana State Senate is based on changing the Constitution. It is risky because the changes could end up being as radical as altering the fundamental structure of our government — and could even entail an entirely new Constitution. It is not as risky as seceding from the union and starting anew, but it is risky nonetheless.

On the other hand, nullification is based not on altering the Constitution but on enforcing it. States that nullify congressional acts or presidential decrees that violate the Constitution would not only be stopping the federal juggernaut at their state borders, they would also be signaling that the Constitution is so vitally important that it must be enforced.

In the Kentucky Resolution of 1799, Thomas Jefferson called nullification the "rightful remedy" for any and all unconstitutional acts of the federal government.

The federal government may exercise only those powers that were delegated to it. This is made clear by the 10th Amendment: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Simply stated, nullification recognizes each state's reserved power to nullify, or invalidate, any federal measure that a state deems unconstitutional.

Nullification is founded on the fact that the sovereign states formed the union, and as creators of the contract, they retain ultimate authority to enforce the constitutional limits of the power of the federal government.

There are several benefits for applying this understanding via nullification: It is a far safer approach for remedying problems caused by violating the Constitution than a constitutional convention; it is based on upholding the Constitution and the founding principles of the Republic; and it can be implemented by individual states, without having to first get two-thirds of the states on board.

The animosity and anger expressed by the con-con crowd toward nullification is curious considering most of them call themselves "conservatives" or "constituitonalists." Were this true wouldn't they want to use every weapon in the arsenal of state power? Wouldn't they support any effort — particularly one with such a solid constitutional and historical foundation — aimed at accomplishing their goal of reigning in the madness of the plutocrats on the Potomac? Why do these self-described "constitutionalists" refuse to even consider nullification?

Could it be that there are some whose hands are on the levers of the so-called "Article V" convention movement who have a financial or otherwise personal interest in opening the Constitution to the tinkering of socialists, social engineers, gun grabbers, and other political and social progressives? History repeatedly chronicles the irreparable harm to liberty committed by such vested interests masquerading as moral and political causes.

These full-throated and fully-funded plans for a second constitutional convention bring to mind a prescient statement made by the anti-Federalist "Federal Farmer" during the ratification process in 1787: "While power is in the hands of the people, or democratic part of the community, more especially as at present, it is easy, according to the general course of human affairs, for the few influential men in the community, to obtain conventions, alterations in government, and to persuade the common people they may change for the better, and to get from them a part of the power."

Again, the lawmakers in the Bayou State are to be commended on their desire to defang the federal beast and force it back inside the safe boundaries of constitutional limits on its range of roaming. Unfortunately, they are straining at a reformation and swallowing a revolution.

The danger to our Constitution, the narrowly defined limits on federal authority, and the liberties protected by the Bill of Rights posed by a convention of the sort called for in the resolution recently approved by the Louisiana state senate is very clear, very present, and the damage would be irreparable.

To those lawmakers in Louisiana and elsewhere genuinely committed to restoring the republican limited government established by our Founders, I offer the following advice, first given in an article published by *The New American* on March 20, 2014:

> Nullifying unconstitutional federal laws is very achievable, if constitutionalists were to inform themselves of this approach and then pursue it. Because the understanding is better in some states than it is in the nation as a whole, it is very possible for states to win victories via nullification to stop unconstitutional federal laws that could not now realistically be repealed on the national level. Although only a relatively small number of states have so far nullified unconstitutional federal laws in the areas of gun control, ObamaCare, NSA surveillance, indefinite detention of civilians, etc., a string of state nullification victories would not only create a bandwagon effect encouraging other states to join the nullification movement, but also contribute to the overall national awakening — shortening the time it otherwise would take to create a constitutionalist U.S. Congress.

A string of nullification victories would also cause Washington to tread more carefully than it otherwise would in its response to the nullification efforts.

But enacting a string of nullification bills in states across the nation — particularly bills possessing teeth that will be enforced by state officials — will not happen without creating the necessary understanding and activism to get state legislators on board.

And improving Congress to the point where most congressmen begin abiding by their oaths of office will not happen without a national awakening — or at least an awakening in most congressional districts. But when this national understanding is created, watch out! Congress will begin terminating and phasing out all unconstitutional programs, and the resulting drop in spending will bring the budget into balance without any balanced budget amendment. In the meantime, a growing number of states will be holding the line against the federal juggernaut at their borders.

The solution outlined above is not a "quick fix." But the price of liberty is eternal vigilance, not quick fixes. Let's therefore join together to create the understanding that will force elected officials to enforce the Constitution. And let's avoid the more dangerous route of trying to restore constitutional government by "revising" the Constitution.