



Written by [Joe Wolverton, II, J.D.](#) on December 11, 2013

Mt. Vernon Assembly Adjourns: Plan for Con-con Carries On

The Mount Vernon Assembly has adjourned and the 97 state legislators who attended report that the meeting was a success.

On [her Facebook page](#), attendee and Arizona State Representative Kelly Townsend reported that the lawmakers gathered “to discuss a potential amendment to the US Constitution,” but that they did not discuss “what that amendment would be.”



There's little question about that. The money behind the Mount Vernon Assembly comes from the [Compact for America group](#), whose pockets are very deep.

The Compact for America organization is pushing for a “convention of the states” to consider a balanced budget amendment.

Somehow, the scholars, attorneys, and “constitutional authorities” at the Compact for America and the Goldwater Institute (the home of Compact for America co-founder Nick Dranias) believe that the budget-balancing goal it supports could be accomplished without opening the Constitution up to serious threats lurking in a potential Article V convention.

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The fact is that determined citizens and state legislators could rescue the United States from its financial peril without resorting to opening up the Constitution to tinkering by delegates to a constitutional convention, many of whom would be bought and paid for by special interests and corporations.

Thomas Jefferson wrote: “If a nation expects to be ignorant and free ... it expects what never was and never will be.” A fundamental requirement of vigilance is holding elected representatives’ feet to the fire by compelling them to honor their oath of office and not exceed the limits of their power as set forth in the Constitution.

Furthermore, there is no historical proof that a balanced budget amendment would bring the budget back into the black. Even the most conservative estimates indicate that about 80 percent of expenditures approved by Congress violate the U.S. Constitution. That fact wouldn't change by adding an amendment to the Constitution.

Whether these bills spend our national treasure on unconstitutional and undeclared foreign wars, billions sent overseas in the form of foreign aid, expanding the so-called entitlement programs, or redistributing wealth via corporate and individual welfare schemes, none of these outlays is authorized by the Constitution.

And don't forget, a committed, concerned, and constitutionally aware citizenry can balance our budget more quickly than any balanced budget amendment and without the danger of letting the wolves of special interests and their political puppets into the constitutional hen house.



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State Representative Townsend also claims in her recap of the pre-convention convention, “There were a few dominating issues, and the room was filled with brilliant and careful minds. Most important seemed to be preventing rogue delegates from causing a runaway convention.”

Good luck with that.

Promoters and organizers of the Mount Vernon Assembly (as well as the larger call for an Article V convention) point to the historical record of the constitutional convention of 1787 as proof that such a meeting is possible without seeing it devolve into a “runaway convention.” They also claim that the record of that convention demonstrates that a modern-day version could be carried out without exceeding a very limited purpose.

Unfortunately for these convention coordinators, their account of those seminal events is not completely accurate. One of the core premises relied on for the Mount Vernon Assembly’s conclusion in this regard is that the delegates to the Constitutional Convention of Philadelphia did not exceed their mandate. In an earlier report on the subject published by the Goldwater Institute, the claim was made that “48 of the 55 delegates [to the Philadelphia Convention] had instructions which allowed them to go beyond amending the Articles of Confederation.”

To assert, then, that the Constitutional Convention was not “runaway” with regard to those 48 delegates is arguably true. However, what of the seven delegates whose commissions expressly forbade them from ratifying, or even participating in, any proposal calling for the dismantling of the government created by the Articles of Confederation? What of the states represented by those delegates? Yet after ratification of the Constitution crafted in Philadelphia, the citizens and governments in those states were considered to be equally bound to abide by the terms of that contract.

Furthermore, regardless of any state or congressional legislation requiring them to consider only a balanced budget amendment, the assembled delegates to some future convention of the states would possess unlimited, though not unprecedented, power to propose revisions to the existing Constitution, based on the inherent right of the People in convention to alter or revise their government.

Some irrefutable historical and legal facts must be understood about the type of convention being proposed by the Article V advocates.

First, the members of a Constitutional Convention are the direct representatives of the people.

Second, as such, they may exercise all sovereign powers that are vested in the people of the state.

Third, these delegates, regardless of how they are chosen, derive their powers, not from the various state legislatures, but from the people. In fact, in her synopsis of the Mount Vernon Assembly, Townsend admits that the convention being planned by the group is “an effort by the people, and needs to remain as such.”

Next, as a corollary of this fact, the convention delegates’ power could not in any legal manner be restricted or restrained by the legislature, despite the Article V supporters’ reassurances to the contrary.

Finally, in light of the foregoing, a convention of the states, once convened, would possess ultimate power and would be authorized to not only propose some as yet unidentified amendment, but could propose and promulgate a new constitution for the United States.

The prospect of a convention endowed with power of this magnitude, populated by politicians (many of whom would likely be bought and paid for by powerful lobbyists and special interest groups)



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determined to tinker with the precision gears that give movement to works of our mighty Republic, is frightening and should give pause to everyone considering supporting the crescendo of calls for a “convention of the states.”

While an anxiety for the salvation of our Constitution and our constitutional Republic is laudable and never to be dismissed, the author of that last warning fails to take into account other remedies for the cancer afflicting our body politic.

To begin with, rather than expose the Constitution to the whims of special interest groups, political action committees, corporations, and the politicians they pay for, why not enforce the Constitution as written?

For example, there is not a single syllable in the Constitution providing for foreign aid (\$74 billion spent from 2010-2011), undeclared wars in Afghanistan and Iraq (nearly \$4 trillion spent since 2001), or the 185 federal welfare programs (nearly \$2 trillion spent from 2010-2011). In the past decade, based on just those three examples alone, Congress has authorized the spending of over \$6 trillion for unconstitutional purposes!

Wouldn't the country's economic outlook be improved by forcing our federal representatives to obey the limits on their power as provided by the Constitution, rather than allowing the delegates to a con-con (and the powerful interests many of them would be financially beholden to) to hold a new constitutional convention that not only would do nothing to restrain the federal government, but could potentially rewrite our Constitution?

The certain risks associated with a con-con far outweigh the promised benefits.

Constitutionalists recognize that there is another way for states to exercise their collective authority on the federal government without resorting to a constitutional convention. It is the concept [described by Thomas Jefferson as the “rightful remedy”](#) for any and all unconstitutional acts of the federal government: nullification.

Simply stated, nullification is a concept of legal statutory construction that endows each state with the right to nullify, or invalidate, any federal measure that a state deems unconstitutional. Nullification is founded on the assertion that the sovereign states formed the union, and as creators of the compact, they hold ultimate authority as to the limits of the power of the central government to enact laws that are applicable to the states and the citizens thereof.

In the [Virginia Resolution of 1798](#), Madison reaffirms this fundamental principle of constitutional construction:

Encroachments springing from a government, whose organization cannot be maintained without the co-operation of the states, furnish the strongest excitements upon the state legislatures to watchfulness, and impose upon them the strongest obligation, to preserve unimpaired the line of partition.

With these facts in mind, it would seem that our nation's fiscal and political well-being is better served by governors jealous of their states' sovereignty and their rightful role as “shelters against the abuse of power,” signing into law state bills nullifying unconstitutional federal measures (including those that have propelled our national indebtedness into the stratosphere) than by elected delegates uniting at a constitutional convention with unchecked power to amend our Constitution out of existence in the name of balancing the budget or some other otherwise noble purpose.



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What's more, by seeking out and electing federal representatives committed to never voting for a single spending bill that violates the enumerated powers of the Constitution and refusing to reelect those members of Congress that do vote for such measures, the federal budget would be balanced — by following the Constitution, not “fixing” it.

According to a tweet sent out by state representative Brett Hildabrand of Kansas, the Mount Vernon Assembly was recorded and the entirety of the meeting will be uploaded to YouTube.

Finally, remember the words of Charles Pinckney of South Carolina, delegate to the Constitutional Convention of 1787. “Conventions are serious things,” he warned, “and ought not to be repeated.” “Nothing but confusion and contrariety could spring from the experiment,” he continued.

The experiment being proposed by the promoters of the Mount Vernon Assembly is one that could blow up in all our faces and destroy our Constitution.

Photo of Mount Vernon, George Washington's home

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