



Written by [Joe Wolverton, II, J.D.](#) on January 24, 2014

Repair vs. Restore: Why Constitution Doesn't Need Article V Fix

Too many self-described “conservatives” want to *repair* the Constitution. Constitutionalists, on the other hand, recognize the danger of such a project and prefer to *restore* our founding document to its former glory, retaining all that is good in the charter.

In fairness, there are several proposals being offered by those in the “convention of the states” camp that are good and that constitutionalists should get behind as restorations of the original.



For example, in his book *The Liberty Amendments*, talk-show host Mark Levin calls for the repeal of the 17th Amendment.

As this author [has written](#) on many occasions, when the tether connecting the states to the Senate was severed by the 17th Amendment, the ability of the legislative and executive branches to collude in the usurpation of power and the destruction of liberty increased exponentially. Indeed, the “combination” of demagogues in the executive and legislative branches has thrived in the post-17th Amendment electoral environment.

Repealing the 17th Amendment, then, is an example of a proposal of the pro-Article V convention coalition that all constitutionalists should support. It is an example of restoring rather than repairing the Constitution.

On that note, there is a big difference between those two concepts. As I explained in a [related article](#):

Ask any antiques dealer and he'll tell you that there is a big difference between restoration and repair. Restoration is done in a way that will preserve the value and function of the original piece, while repair simply attempts to “fix” what is broken or poorly functioning on the aged item. Someone repairing an invaluable antique will introduce external material, believing that such will strengthen the broken parts.

A restorer, however, knows that only original pieces, no matter how difficult to preserve or attain, must be used to return the treasure to its prior glory.

In the hands of experts, in fact, the antique can be restored in such a careful manner that it will not only retain the value of the original, but it will increase it.

Perhaps the worst part of dealing in antiques restoration is trying to undo someone's unskilled repair. What could and should have been done delicately and according to tried and true techniques is scrapped by a hasty repair job, making a proper, lasting restoration much more difficult.

Unfortunately, much of what the con-con group is clamoring for are unidentified (and unelected,



Written by [Joe Wolverton, II, J.D.](#) on January 24, 2014

unaccountable) delegates to a “convention of the states” to repair the Constitution with materials more abundant but not as sound as those used by our Founding Fathers when they built the federal government.

[Term limits](#), for example. Levin and others demand that any convention must consider an amendment limiting the terms of members of Congress. While such a response might seem tempting at first glance given the extent of the abuses of power by the legislative branch, closer inspection reveals otherwise. After all, term limits would limit the franchise of voters, would throw out good (constitutionalist) congressmen along with the bad, would make a substantial part of the legislative branch a lame-duck Congress much less inclined to pay attention to the people, and would in no way address the lack of understanding on the part of the people themselves, who are ultimately responsible for the kind of representation we get. In fact, term limits are anathema to the American scheme of government established by the Founders at the Constitutional Convention in 1787.

The Constitution already provides for imposition of term limits — *in the proper sense*. They’re called frequent elections. James Madison explained the Founders’ idea of term limits in *The Federalist*, No. 52:

As it is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration should have an immediate dependence on, and an intimate sympathy with, the people. Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectually secured.

Madison even makes the case that the preservation of liberty is dependent on the coexistence of frequent elections and the exercise by state legislatures as a check on Congress:

The federal legislature will not only be restrained by its dependence on its people, as other legislative bodies are, but ... it will be, moreover, watched and controlled by the several collateral legislatures, which other legislative bodies are not.

Curiously, Levin casts aspersions on nullification, claiming that it is unconstitutional and not an effective weapon in the war against federal overreach. James Madison disagrees.

Besides, the Founders did, after all, impose term limits, by defining the length of terms of office for the various federal officers. No member of the House of Representatives can serve more than two years unless the people of his district let him. That’s the type of term limit that our Founders established and that is a proper restoration of those original principles, rather than a potentially devaluing repair using similar, but shoddy, substitutes.

Next, with regard to term limits on federal judges, the Constitution already provides for those, as well. It’s called good behavior.

Article III, Section 1 states:

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Article I divides the power of removing bad judges between the House and the Senate.

If a judge exceeds the power granted to him by the Constitution, then it is the responsibility of Congress to call him on it and charge him for his offenses.



Written by [Joe Wolverton, II, J.D.](#) on January 24, 2014

Like his call for congressional term limits, Levin's similar suggestion for limiting the terms of Supreme Court justices also seems to be a way of relieving the people of their responsibility of governing themselves. Rather than the people being required to ride herd on their federal representatives to impeach poorly performing judges, Levin would take this duty off our plate.

This arrangement sounds suspiciously like the various "nanny state" programs forced on us by socialists that presume that we can't take care of ourselves.

Let's prove Levin and the social engineers wrong and resist the repair of term limits in favor of the restoration of self-government as provided by the Constitution.

Finally, there's the balanced budget amendment (BBA) that is being flogged by several "convention of the states" collaborators.

Although calls for BBA con-cons are nothing new, some of the versions being proposed recently are particularly frightening because of the ingenuity and insidious nature of the methods proposed by their creators to alter the Constitution.

Before state legislatures vote for an Article V con-con proposal that could cause real and radical damage to our Constitution, they should first consider whether a balanced budget amendment is necessary and whether it would actually steer our Republic away from the fiscal problems we are facing.

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 state-appointed delegates, many of whom would be bought and paid for by special interests and corporations that would love to get that close to the Treasury.

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.

There is no historical proof that a balanced budget amendment would drive the congressional hogs back inside the constitutional pen. 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.

Here again, the Article V agitators plan to repair rather than restore the Constitution. Inexplicably and ironically, these self-professed "conservatives" propose amendments to our Constitution that would relieve the people of our right and responsibility of governing ourselves and holding our representatives accountable. Why do the Article V advocates believe we cannot be counted on to regain control of this Republic? Why do these so-called populists have so little faith in the people? Why, in so many of their



Written by [Joe Wolverton, II, J.D.](#) on January 24, 2014

proposals, do the Article V promoters display the paternalism of progressives?

The Constitution is our most valuable heirloom, and we can't afford to expose it to the quick-fix repairs being offered in the name of "reining in the federal government."

Instead, those of us committed to preserving, protecting, and defending our Constitution should begin devoting the time and attention necessary to the restoration of the powerful term limit control mechanisms included in the original design of the Constitution.

We must let Levin and the Article V advocates know that we can take care of ourselves and we can control the federal government and we don't need a constitutional convention to fix what we already have the power to restore.

Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels frequently nationwide speaking on topics of nullification, the NDAA, the Second Amendment, and the surveillance state. He is the co-founder of Liberty Rising, an educational endeavor aimed at promoting and preserving the Constitution. Follow him on Twitter @TNAJoeWolverton and he can be reached at jwolverton@thenewamerican.com.

Related articles:

[Article V: Con-Con or Nothing Is the Cry of This Cause Célèbre](#)

[Article V Group Ignores States' Complicity in Federal Power Grab](#)

[Article V Convention: Dangerous Precedent, Dangerous Loyalties](#)

[Convention of States and Article V: Tearing Up the Talking Points](#)

[Compact for America Proposal Could Increase Federal Power](#)

[Convention of the States: Wrong on History, Nullification](#)

[Convention of the States: Scholars Ignore History](#)

[In Defense of Con-Con, Meckler Chooses Ridicule Over Rebuttal](#)

[Socialists and Soros Fight for Article V Convention](#)



Subscribe to the New American

Get exclusive digital access to the most informative,
non-partisan truthful news source for patriotic Americans!

Discover a refreshing blend of time-honored values, principles and insightful perspectives within the pages of "The New American" magazine. Delve into a world where tradition is the foundation, and exploration knows no bounds.

From politics and finance to foreign affairs, environment, culture, and technology, we bring you an unparalleled array of topics that matter most.



Subscribe

What's Included?

- 24 Issues Per Year
- Optional Print Edition
- Digital Edition Access
- Exclusive Subscriber Content
- Audio provided for all articles
- Unlimited access to past issues
- Coming Soon! Ad FREE
- 60-Day money back guarantee!
- Cancel anytime.