

The Solution Is the Constitution, **NOT ARTICLE V**

With a surge of pressure being put on state legislators this year to apply for an Article V convention, here are three reasons to oppose all such constitutional convention applications.



by Larry Greenley

The federal government ... can do most anything in this country.

— Representative Fortney Hillman “Pete” Stark (D-Calif.), July 24, 2010

Back in the tumultuous days of ObamaCare town hall meetings in the summer of 2010, a constitutionally astute attendee at a Hayward, California, town hall asked her congressman, Pete Stark, a very pointed question: “If this [ObamaCare] legislation is constitutional, what limitations are there on the federal government’s ability to tell us how to run our private lives?”

After a long pause, the congressman haltingly answered, “I think that there are

very few constitutional limits that would prevent the federal government from rules that could affect your private life.”

His questioner interrupted, saying, “The Constitution specifically enumerates certain powers to the federal government and leaves all other authority to the states or the people.... So my question is, how can this law be constitutional? But more importantly than that, if they can do this, what can’t they?”

At this point, the audience burst into enthusiastic applause.

After the applause died down, Stark answered her with this now-famous response: “The federal government, yes, can do most anything in this country.”

Then, speaking over the numerous disapproving catcalls of the audience, the

intrepid questioner summed up: “You sir, and people who think like you, are destroying this nation!”

Once more, the audience burst into vigorous applause.

A four-minute video of this exchange was posted on YouTube where it quickly went viral.*

Limiting the Government With Enumerated Powers

Stark’s questioner deftly summed up an important aspect of how the Constitution limits government: “The Constitution specifically enumerates certain powers to the federal government and leaves all other authority to the states or the people.”

Thomas Jefferson clearly stated this principle in a letter to Albert Gallatin, June 16, 1817: “Congress [has] not unlimited powers to provide for the general welfare, but [is] restrained to those specifically enumerated.”

Or, as James Madison put it in *The Federalist*, No. 45:

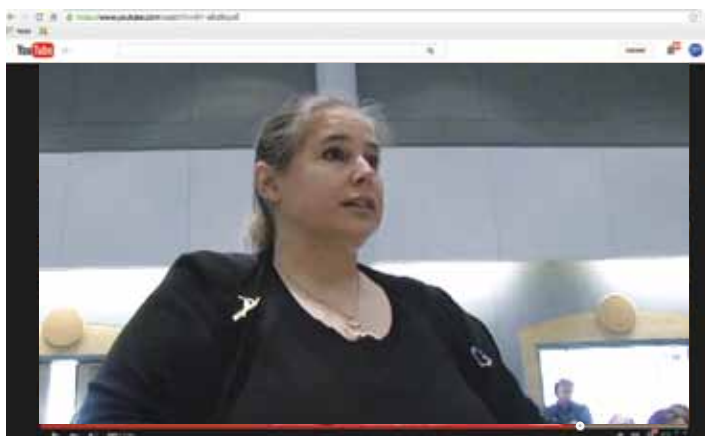
The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.

Although powers are delegated to the several branches of the federal government throughout the Constitution, when we speak of the enumerated powers of the government, we’re usually thinking of Article I, Section 8, where most of the powers delegated to Congress are listed one by one in 18 clauses. Some examples of these powers are: “To lay and collect taxes ... To regulate commerce with foreign nations ... To establish a uniform rule of naturalization ... To coin money, regulate the value thereof ... To constitute tribunals inferior to the Supreme Court ... To declare war ... To raise and support armies ... To provide and maintain a navy.”

What’s more interesting than what’s in the list of enumerated powers is what’s not in the list. For example, Congress is not granted the power to set up a quasi-governmental agency, such as the Federal Reserve (established by Congress

*See this video on YouTube at <http://youtu.be/W1-eBz8hyoE>





Wondering why the Constitution was ignored: Back in 2010, a constituent (left) challenged congressman Pete Stark (right): “The Constitution specifically enumerates certain powers to the federal government.... So my question is, how can [ObamaCare] be constitutional?” Stark’s now-infamous answer: “The federal government, yes, can do most anything in this country.”

in 1913), that prints paper money. The Founders were very familiar with the evils of paper money from the disastrous experiences of the various independent American states (ex-colonies) and the Continental Congress with issuing paper money. The expression “not worth a Continental” dates from those days and refers to paper money issued by the Continental Congress during the War for Independence. Congress is only given the power to “coin money, regulate the value thereof,” not print unbacked paper money; therefore, the Federal Reserve should be abolished on the grounds that Congress had no constitutional authority to create such an institution.

Examples of other government agencies and programs created by Congress without being authorized by the Constitution are ObamaCare, the U.S. Department of Education, the U.S. Environmental Protection Agency, the U.S. Department of Energy, foreign aid, membership in the United Nations, etc. Eliminating all such unconstitutional agencies and programs would go a long way toward reining in the federal government.

Clearly, the Founders gave us a Constitution that limited the federal government by only delegating specific enumerated powers to it and reserving all powers not so del-

egated to the states or the people, as stated so emphatically in 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.

Therefore, the Constitution provided for very strict limitations on the federal government by only granting it specific, enumerated powers, and reserving all other powers to the states or the people. It’s even been estimated that 80 percent of federal spending has no constitutional basis.

As you can see, Representative Stark’s persistent questioner was very faithful to the Constitution and its enumerated powers’ limitations on the government. On the other hand, Stark represented the current state of mind of most of our elected officials that “the federal government ... can do most anything in this country.”

After a century or more of increasing disregard for the Constitution’s limitations on government, this is where we are. The majority of public officials, and very regrettably, the majority of voters, now act as though the government’s power is essentially unlimited. Stark is actually mainstream, but ever so untactful in express-

ing himself. Yes, there are some notable exceptions, such as the widespread support for the right to keep and bear arms; however, these exceptions serve to prove the rule.

The Article V Convention Movement

There’s a very important issue that is becoming more and more prominent in state legislatures in recent years. It goes by several names, such as an Article V convention, a constitutional convention (often abbreviated as a Con-Con), a convention of the states, or a convention for proposing amendments. All of these terms refer to a provision in Article V of the U.S. Constitution whereby if two-thirds of the states apply to Congress for a national convention for proposing amendments, then Congress shall call such a convention.

The stakes are very high with this Article V convention issue! Will we preserve and restore the Constitution that has secured our rights for over two centuries? Or, will we subject it to the Article V convention process and risk harmful changes that very well could end our heritage of freedom and prosperity?

An Article V convention is the second method provided in the Constitution for proposing amendments. The first method is for both houses of Congress to approve a proposed amendment by at least a two-thirds majority vote. Once an amendment is proposed by either method, Article V prescribes that such a proposed amendment be sent to the states for ratification, with Congress having the option to mandate ratification by either the state legislatures or by special state conventions. In

What’s more interesting than what’s in the list of enumerated powers is what’s not in the list. For example, Congress is not granted the power to set up a quasi-governmental agency, such as the Federal Reserve, that prints paper money.

either case, three-fourths of the states must ratify a proposed amendment before it can be added to the Constitution.

Twenty-seven amendments have been added to the Constitution since 1787. All of them have been added via the first method (congressional proposal), and none have been added by the second method (convention proposal).

Although there have been sporadic applications from states for an Article V constitutional convention ever since the early days of our constitutional Republic, there was a real flurry of applications to hold a convention for proposing a balanced budget amendment (BBA) in the 1970s and early 1980s. By the time that there were 32 state BBA convention applications (two short of the required two-thirds), a reaction occurred in the 1980s that first stalled the BBA convention movement at 32 states, then began influencing states to rescind (take back) their BBA convention applications, based on a well-founded fear that such a convention could become a “runaway convention” that could lead to harmful changes in the Constitution.

By 2011, 16 states had rescinded their BBA convention applications, leaving only 16 states with “live” BBA convention applications. However, in recent years some states that had rescinded their applications have reapplied for a BBA convention, and some new states have approved BBA convention applications, giving us a

current total of 25 states with “live” BBA convention applications.

There are also other initiatives to apply for an Article V convention, such as for proposing amendments to limit the power and jurisdiction of the federal government, or to limit the terms of congressmen, or to reverse the Supreme Court’s *Citizens United* decision concerning corporate campaign donations, etc.

One, Two, Three

Although any specific initiative (BBA, term limits, limiting corporate political donations, etc.) should be subjected to great deliberation and scrutiny, our focus in this article will be on three reasons why we believe we must oppose all Article V convention applications at this time in our nation’s history.

1. *The Constitution Is Not the Problem.*

Constitutional convention proponents appear to be very concerned about upholding the Constitution. They emphasize how they want to preserve the Constitution by utilizing one of its articles to amend the Constitution. Nonetheless, it’s revealing that they utter barely a peep about restoring the limitations on government provided by the Constitution’s enumerated powers. They imagine that we can continue to allow the great bulk of unconstitutional government programs to continue on pretty much as before.

For example, the BBA Article V convention proponents only want to tweak the system by adding a balanced budget amendment to the Constitution. They think they can fix the present state of constitutional anarchy by imposing fiscal responsibility without restoring the enumerated powers. This notion is akin to expecting to see water run uphill. How can you “rein in” the government when you’re unwilling to make it follow the rules (i.e., the Constitution)?

We must correct all those Article V convention proponents who constantly refer to the need to rein in our “out-of-control” government without addressing the root cause. What we are actually facing is an “out-of-compliance-with-the-Constitution” government. Therefore, the Constitution is not the problem, and changing the Constitution with an Article V convention is not the solution.

The only true solution, as daunting as it may appear, is a large-scale, grassroots, constitutional education program that would inform the electorate sufficiently to demand adherence to the Constitution from their representatives. Without such an informed electorate, no form of constitution, whether our current Constitution, a revised constitution, or a completely rewritten constitution, will work.

As James Madison stated in a speech at the Virginia Ratifying Convention on June 20, 1788:

But I go on this great republican principle, that the people will have virtue and intelligence to select men of virtue and wisdom. Is there no virtue among us? If there be not, we are in a wretched situation. No theoretical checks — no form of government can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people, is a chimerical idea.

Or, as Thomas Jefferson said in a similar vein in a letter to Colonel Charles Yancey on January 6, 1816: “If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be.”

What Madison and Jefferson are emphasizing in these quotes is that an informed electorate is essential for preserving our freedom under any form of government with elected officials.



Printing hundred-dollar bills: Congress is only given the power to “coin money, regulate the value thereof,” not print unbacked paper money; therefore, the Federal Reserve should be abolished on the grounds that Congress had no constitutional authority to create such an institution.

2. All Article V Conventions Would Have the Inherent Power to Be Runaway Conventions.

To their great credit, most state legislators have voted down most Article V convention applications over the past 30 years, based on their belief that such a convention could easily become a “runaway convention” that could make harmful changes to the Constitution. In truth, all Article V conventions would have the inherent power to be “runaway conventions” that could propose harmful revisions to the Constitution, as well as provide for new methods for ratification (based on the precedent of the 1787 Convention) that would increase the likelihood that the harmful revisions would be adopted.

As an example of providing for new methods of ratification to increase the chances of success, Article V of the Constitution of 1787 stipulates that three-fourths of the states are required to ratify a proposed amendment before it can be added to the Constitution. This replaced the much higher bar of requiring unanimous agreement of the states for amending the Articles of Confederation. However, the Founders departed from the three-fourths requirement with the Constitution itself, requiring only nine states out of 13 for ratification, which is even less than the three-fourths requirement of Article V. A new Article V constitutional convention could change the ratification requirement from three-fourths of the states to a simple majority of the states, or even to a simple majority in a national referendum of U.S. citizens. Moreover, even if the current ratification requirements were not changed, Congress could still opt for special state ratifying conventions for the purpose of doing an end-run around the state legislatures.

Such constitutional conventions would consolidate the inherent powers of a free people, whose right “to alter or abolish” our government is enshrined in the Preamble of the Declaration of Independence:



That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

The Founders acted on the basis of this right when they declared independence from England in 1776 and went on to establish a new government under the Articles of Confederation, and again at the Constitutional Convention of 1787 (and subsequent state ratifying conventions) when they established a new government under the Constitution. Based on the right of the people to “alter or abolish” our government and the precedents of 1776 and 1787, an Article V convention would therefore be empowered to rewrite the Constitution without any limit on its action. In this sense such a convention would be superior to Congress, the executive branch, and Supreme Court, or any state legislature as well.

In *The Federalist*, No. 78, Madison justified the legitimacy of the 1787 Constitutional Convention by referring to the “fundamental principle of republican government, which admits the right of the people to alter or abolish the established Con-

stitution, *whenever they find it inconsistent with their happiness.*” (Emphasis added.)

Therefore, on the one hand, we acknowledge the transcendent blessings we’ve received from the “altering and abolishing” of previous forms of government represented by the Declaration of Independence of 1776 and the Constitution of 1787. However, on the other hand, we must warn against the great dangers to our freedoms and rights that would be posed by an inherently unlimited Article V convention at this time in our nation’s history when there is insufficient support among the people for enforcing even our present Constitution. In short, we’ve got no business creating an open-ended constitutional convention process when we have way too many Pete Starks among our federal and state legislators and way too few constitutionally astute voters like Stark’s questioner!

3. An Article V Convention Would Enable Powerful Special Interests to Revise the Constitution in Their Favor.

In 1996, the Institute for Advanced Studies in Culture at the University of Virginia published “The State of Disunion — 1996,” a survey of the American public’s attitudes toward government, politics, morality, etc., based on 2,000 face-to-face, in-depth interviews. One striking finding from this survey was that 81 percent of Americans agree with the statement: “Our country is run by a close network of special interests, public officials, and the media.” This attitude was up from just 60 percent of the population in 1976. It is likely that the percent would be even higher today.

So it would be pretty safe to say that 80 percent or so of Americans today believe that our government is run by powerful spe-

Examples of other government agencies and programs created by Congress without being authorized by the Constitution are ObamaCare, the U.S. Department of Education, the U.S. Environmental Protection Agency, the U.S. Department of Energy, etc.

cial interest groups. This intuitive belief by a large majority of Americans faithfully reflects the underlying reality, as documented in the pages of this magazine over the years, that our government is extensively influenced by powerful special interest groups such as Big Business, Big Labor, Big News Media, the Education Establishment, Foundations, Internationalist Foreign Policy Organizations, Big Political Donors, etc. As just one example, the article, “Council on Foreign Relations” (available online at TheNewAmerican.com), published in the August 3, 2009 issue of this magazine, characterized the amazing degree of influence exercised by just this one internationalist foreign policy organization over our government as follows:

Chief among these groups is the Council on Foreign Relations (CFR), the most visible manifestation of what some have called the American establishment. Members of the council have dominated the administrations of every president since Franklin D. Roosevelt, at the cabinet and sub-cabinet level. It does not matter whether the president is a Democrat or Republican.

It is these special interest groups that over the last century or so have influenced public officials to usurp powers not granted in the Constitution, and simultaneously have influenced huge numbers of voters to accept those usurpations.

Proponents of an Article V convention assure us that delegates appointed by state

legislatures can propose amendments, the amendments can be ratified by the states, and the resulting amendments will miraculously rein in our “out-of-control” federal government. This starry-eyed scenario is a major fairy tale — a fairy tale that could destroy our Constitution. Not only do special interests have extensive control over the federal government, they also have powerful influence over state legislatures. The power elites mentioned above learned how to elect and influence large numbers of federal and state legislators a very long time ago. You don’t believe it? Just try working with other grassroots activists to stop the special interests’ Common Core education standards juggernaut in your state, and see how far you get!

As another striking example of just how pervasive special interests’ influence is over state legislatures, consider the current campaign by multinational corporations and internationalist foreign policy organizations in cooperation with the Obama administration and Republican leaders in Congress to merge the United States into a trans-Pacific union and a trans-Atlantic union via the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP) agreements. Such mergers would mean the end of our national independence and personal freedoms as secured by the Constitution. See the cover story, “Trading Away Their Oaths,” in the February 16 issue of this magazine (available online at TheNewAmerican.com) for more information on this topic.

Nevertheless, the American Legislative Exchange Council (ALEC), which

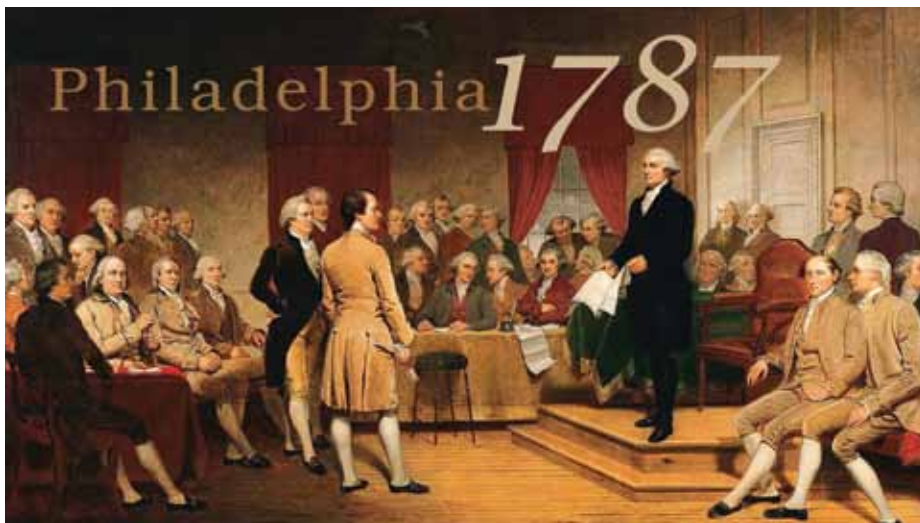
boasts of nearly 300 corporate and private foundation members (including many leading multinational corporations) and nearly 2,000 state legislator members (out of the national total of about 7,000), officially supports both the TPP and TTIP agreements on its website. Furthermore, ALEC is a major supporter of Article V conventions and has been for several decades. For further information read, “The Not-so-smart ALEC” by William F. Jasper, published in the May 5, 2014 issue of *THE NEW AMERICAN* (available online at TheNewAmerican.com). See page 8.

As another example of just how much the special interests are dedicated to changing the Constitution to suit their purposes, we have “The Bicentennial Plot” by Gary Benoit, published by *THE NEW AMERICAN*, February 10, 1986 (available online at TheNewAmerican.com). These “Powers That Be” stepped out of the shadows in the years leading up to the bicentennial of the Constitutional Convention of 1787 and revealed their aggressive plans to change the Constitution as described in this quote from the article:

The founding principles of the Republic may be cast aside because there are powerful forces at work bent on changing our form of government. For many decades these same forces have helped to move America away from constitutional limitations toward an all-powerful state. They now hope to formalize radical changes that have already been taking place by rewriting the Constitution.

These entrenched powers are planning to use the occasion of the Constitution’s bicentennial for a “reappraisal” of our nation’s governmental system. And the radical changes that they recommend, as their “tribute” to the Founders, will be portrayed as reforms needed to modernize the Constitution and make government more efficient.

This article went on to focus on a powerful establishment special interest group, the Committee on the Constitutional System (CCS), which was leading the charge to “formalize radical changes that have already been taking place by rewriting the Constitution.”



The CCS was a perfect model of an establishment special interest group, with two out of three of its co-chairs belonging to the preeminent internationalist foreign policy special interest group the Council on Foreign Relations (CFR). Fifteen of the 41 members of the CCS board of directors were also CFR members. To round out this picture of an elite special interest group, the CCS received financial support from the Ford Foundation, the Brookings Institution, and the Rockefeller Foundation.

Benoit's powerful and revealing article was distributed far and wide in the late 1980s. It played a leading role in preventing the CCS and other special interest groups from piggybacking their plans to completely rewrite the Constitution on the bicentennial celebrations.

Fast forwarding to the present time, the elite special interest groups are generally staying in the background of today's constitutional convention movement. However, the cooperation of a large number of left- and right-wing groups in an open coalition to rewrite the Constitution via an Article V convention raises the specter of a new push by the establishment special interests to rewrite the Constitution in their favor. For more information on this Left-Right coalition, see "Working Together to Rewrite the Constitution" by Christian Gomez in the June 9, 2014 issue of *THE NEW AMERICAN* (available online at TheNewAmerican.com).

In his article, Gomez shines a spotlight on Professor Lawrence Lessig of Harvard Law School, the unofficial godfather of the present-day Left-Right coalition to bring about an Article V constitutional convention. Lessig has leveraged his professorship at an academically elite law school to promote the movement for a constitutional convention in many ways, such as his co-hosting of the Harvard Conference on the Constitutional Convention (Harvard Con-Con-Con) in 2011 along with Mark Meckler, currently heading up the Citizens for Self-Governance group with its Convention of States Project that is working for an Article V convention. Lessig and Meckler's Harvard Con-Con-Con did much to promote the development of the present-day Left-Right coalition to work for an Article V convention.

In "Working Together to Rewrite the Constitution," Lessig is quoted from an

article he wrote in the May 1993 *Texas Law Review*: "Perhaps, that is, it is time to rewrite our Constitution." This is just one of many pieces of evidence that indicates just how dedicated Lessig is to extensively changing the Constitution.

However, since powerful special interest groups have such extensive influence over the federal and state levels of government, the most likely result of one or more Article V convention rewrites of the Constitution would be changes that legitimize the myriad usurpations of power that have already taken place in the service of the special interests. This would make it all the harder for We the People to ever regain control of the government from the special interests and restore the security of our God-given rights.

The Solution to Our Out-of-compliance-with-the-Constitution Government

What is absolutely necessary to turn this situation around is a large-scale, grass-

roots education campaign on the practical aspects of how the Constitution already limits the power of the federal government. In order to restore our freedom, an informed electorate must be created that will roll back the power of the special interests by electing federal and state representatives who will enforce the Constitution as originally intended.

Although this sounds incredibly hard to achieve, there is no easy way. When the basic problem stems from widespread lack of understanding about the Constitution (and corresponding lack of determination to enforce it) among the voters, there is no Article V convention silver bullet that will solve the problem.

We need many more voters who fully understand what Representative Stark's questioner understood: "The Constitution specifically enumerates certain powers to the federal government and leaves all other authority to the states or the people."

The solution is the Constitution, not Article V. ■

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The Not-so-smart ALEC

The American Legislative Exchange Council (ALEC) falls short on constitutional, sovereignty issues.

by William F. Jasper

“Limited Government • Free Markets • Federalism.” That is the motto of the American Legislative Exchange Council (ALEC), which appears on their literature and on the banner of every page of the organization’s website. ALEC’s “about” page expands on that theme, explaining:

The American Legislative Exchange Council works to advance limited government, free markets, and federalism at the state level through a nonpartisan public-private partner-

ship of America’s state legislators, members of the private sector and the general public.

ALEC’s stated philosophy and goals resonate with liberty-minded Americans, which, undoubtedly, is why many politically conservative state legislators and activist citizens look to it for leadership in rolling back the oppressive hand of Big Government. However, the well-funded and well-connected organization is alienating many of its erstwhile supporters by its support for dangerous trade pacts that threaten the sovereignty of the United States, as well as its efforts to promote

President George W. Bush is introduced by Rep. Kenny Marchant (R-Texas) at an ALEC convention in Philadelphia in July 2007.

a constitutional convention, which could result in the complete destruction of our already tattered and battered U.S. Constitution. That could spell the end of any hope to return to limited government, free markets, and responsible federalism.

Founded in 1973, ALEC has just celebrated its 40th anniversary and is experiencing both the joys of prominent national influence and the pains of harsh criticism. The organization can boast a membership that includes more than 2,000 state legislators and hundreds of corporations, as well as dozens of think tanks, foundations, and non-profit organizations.

For the past several years ALEC has been under attack from a gaggle of left-wing organizations — Color of Change, Common Cause, People for the American Way, Progress Now, the Center for Media and Democracy, the Sierra Club — that claim the organization’s corporate ties and corporate funding have put it in the pocket of big business. These and similar groups have lambasted ALEC for its model legislation opposing federal EPA regulations, gun control laws, “green” energy mandates, and “climate change” carbon taxes, and its support for laws supporting voter identification, “Stand

Your Ground” protection, school choice, and privatization of public services. Major media outlets, such as the *New York Times*, Huffington Post, MSNBC, and CNN joined *The Nation*, Media Matters, and other radical-left detractors in attacking ALEC for these sins against the progressive gospel. The highly politicized shooting death of Trayvon Martin in Florida in 2012 provided the key event that ALEC’s critics could leverage to crack the organization’s growing impact. Utilizing the media-created furor over the shooting, the left-wing activist groups launched a petition-pressure campaign that spotlighted ALEC’s support for “Stand Your Ground” laws. The result was an exodus, as major corporations and legislators fled ALEC to avoid the controversy.

For many of ALEC’s staunchest supporters, the attacks on the organization — and the liberal-left/progressive sources from which they usually emanate — only prove its *bona fides* as a defender of free enterprise and constitutional government. They should know better by now. The same alliance of left-wing activists and the liberal establishment media regularly confer legitimacy on false conservatives, pseudo-conservatives, and business lobbies that promote Big Government by attacking them for not being “progressive” enough. Examples abound: Richard Nixon, Gerald Ford, Bob Dole, John Boehner, Mitch McConnell, the U.S. Chamber of Commerce, the National Manufacturing Association, the American Medical Association — to

name but a very small cohort. These politicians and organizations have excelled at co-opting the rhetoric of free markets and limited government, but often go in exactly the opposite direction. In the remainder of this article, we will examine several of the areas where we contend ALEC is following a similarly deceptive path.

Trading Away Sovereignty

At its Model Policies Annual Meeting 2013, ALEC members adopted a “Resolution Supporting the Successful Negotiation of a Comprehensive and Commercially Meaningful Transatlantic Trade and Investment Partnership (TTIP).” The summary of the resolution, provided on ALEC’s website, states:

The Transatlantic Trade and Investment Partnership (TTIP) Agreement has the potential to be the largest trade framework ever negotiated underscoring the importance of ensuring that it is a high standard, comprehensive agreement with strong intellectual property provisions. In keeping with the American Legislative Exchange Council’s (ALEC’s) support of the Jeffersonian principle of free markets and ALEC’s past support of a wide variety of trade frameworks, this resolution supports the negotiation and final ratification of such an agreement.

Similarly, the organization has adopted a “Resolution Urging Congress to Pass

the Trans-Pacific Partnership Agreement (TPP).” The resolution summary states:

Drawing on ALEC’s guiding free market principles, this resolution calls on Congress to support negotiations for a high standard, comprehensive Trans-Pacific Partnership (TPP).... The TPP has the potential to become the benchmark against which future trade frameworks will be measured for years to come.

The TTIP’s promoters portray it as a “trade” agreement between the United States and the 28 member states of the European Union, while the TPP advocates similarly claim they are merely working to expand trade between the United States and 11 Pacific partners: Canada, Mexico, Peru, Chile, New Zealand, Australia, Malaysia, Brunei, Singapore, Vietnam, and Japan. The trade engendered by these agreements, say the promoters, will bring prosperity to all, including millions of promised good-paying jobs. Regular readers of *THE NEW AMERICAN* are already well aware of the many dangers posed by the TTIP and the TPP, which are being pushed aggressively by the Obama administration and the usual globalist elites at the *New York Times*, the Council on Foreign Relations, the Brookings Institution, and the U.S. Chamber of Commerce. Among the many articles we have published, in our print edition and online, are the comprehensive “Secretly Trading Away Our Independence,” from our May 20, 2013 print edition, and the entire special issue of our September 2, 2013 magazine devoted to the topic, “How the Free Trade Agenda Is Knocking Down America” (available as a free pdf download at <http://www.thenewamerican.com/files/TNA2917.pdf>).

One of the most important facts, if not *the* most important, to know about both the TTIP and TPP is that they would, if adopted, steadily strip away our national sovereignty, allowing the World Trade Organization (WTO) and the United Nations, as well as regional tribunals and regulatory bodies created by these agreements, to

Fighting against fighting back: Leftist activists exploited the media-created furor over the Trayvon Martin shooting to attack ALEC for promoting “Stand Your Ground” legislation.



THE SECRECY OF THE TTIP/TPP PROCESS IS, IN AND OF ITSELF, A HUGE RED FLAG ALERTING ALL EXCEPT THE WILLFULLY BLIND THAT SOMETHING IS AMISS.

override our local, state, and federal laws. This feature alone makes them very subversive, revolutionary proposals that should be opposed by every elected or appointed official who has taken an oath to “support and defend the Constitution of the United States.” This is no longer a matter of theoretical speculation; as THE NEW AMERICAN has reported previously, the North American Free Trade Agreement (NAFTA) and the WTO agreement have amply proved this. As a result of adopting both of those agreements, NAFTA and WTO rules and rulings increasingly trump our laws.

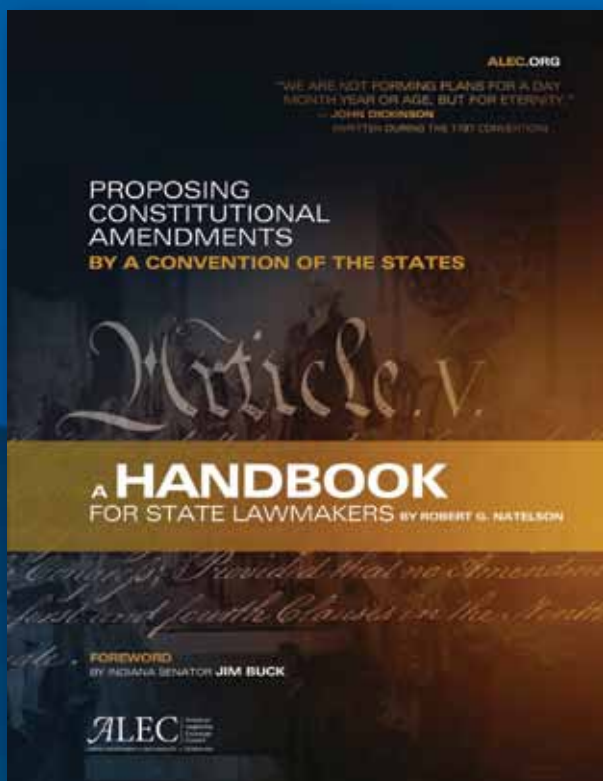
Liberty-minded Americans who truly believe in the rule of law and the form of limited government envisioned by our Founders should be working to remove our country from these freedom-destroying organizations, not subjecting us to even more of the same. Even if the agreements dealt

only with “trade” issues, the structures and procedures they set in place would be pregnant with dangers because they initiate a developing, ongoing process that is a guarantee of “mission creep,” with an ever-expanding transnational bureaucracy claiming ever more power over our personal, local, state, and national affairs. Obama administration officials acknowledge that the TTIP/TPP agreements deal with agriculture, environment, labor, telecommunications, financial services, and much more. And documents that have been leaked thus far have revealed additional dangers, such as TPP draft proposals that would dramatically curtail free speech on the Internet.

Another disturbing feature of both the TTIP and TPP is the secrecy and intrigue that have become their hallmarks. The American people and their elected representatives in Congress have not been al-

lowed access to the TTIP/TPP negotiation process, nor have they been allowed to see the draft text of the agreements. However, the Obama administration has given representatives of major corporations, labor unions, environmental organizations, and other NGO activist “stakeholders” official access to both the negotiation proceedings and the texts. Thus the TTIP and TPP have become a joint project of Big Government, Big Business, Big Labor, and Big Green (although the Big Labor/Big Green contingents pretend to oppose at least some features of the agreements). The secrecy of the TTIP/TPP process is, in and of itself, a huge red flag alerting all except the willfully blind that something is amiss. ALEC should find this aspect of TTIP/TPP thoroughly objectionable, since it has made a pointed commitment to transparency in government. A perusal of ALEC literature and the organization’s “model policies” web page reveals numerous bills sponsored by ALEC devoted to transparency and criticizing officialdom for withholding information from citizens. The Transparency and Government Accountability Act, Local Government Transparency Act, and the Taxpayer Transparency Act are but three of many model bills crafted by ALEC demanding openness and access for citizens.

Pro-con-con, TPP/TTIP: ALEC has published a handbook for calling a constitutional convention and supports sovereignty-destroying “trade” pacts, such as the TPP and TTIP.



ALEC



Sen. Jason Rapert

The Mt. Vernon Assembly, led by ALEC members at George Washington's historic estate in 2013, brought together state legislators to promote the call for a constitutional convention.

Yet still another strike against the TTIP and TPP is the explicit admissions by the top promoters that they intend these agreements to initiate an “integration” process that will continually “widen” (adding more nations) and “deepen” (adding more economic, political, and social issues) with time. This is the same widening-deepening integration process that has gradually transformed the Common Market “trade” bloc into the increasingly tyrannical EU leviathan ruled by central authorities in Brussels. And TTIP/TPP champions have repeatedly expressed their hopes of following the EU path toward centralized power. As of yet, ALEC has not explained how it can square its “Limited Government, Free Markets, and Federalism” philosophy with these TTIP/TPP flaws that are completely at variance with it.

Constitutional Malpractice

For many years ALEC has been a leading promoter of the idea that the U.S. Constitution must be amended to require a balanced budget. This, of course, appeals to conservatively minded legislators who recognize that continued liberal spendthrift policies are immoral and unsustainable, and lead our nation toward financial Armageddon. ALEC has used the Balanced Budget Amendment (BBA) attraction to argue for an Article V Convention of the States, which constitutionalists (including the editors and writers of this magazine) contend is a dangerous gamble that risks the entire Constitution for an amendment that could not be relied on to rein in Washington, D.C.'s ravenous appetite for spending —

even if the convention could be restricted to that one issue. The problem is that, ALEC's assurances to the contrary, once a constitutional convention is called, it becomes a power unto itself and there is no way to limit its power to amend, revise, or toss out and completely rewrite the Constitution. ALEC claims that fears of a “runaway convention” of this sort are misplaced, and they have published *Article V: A Handbook for State Lawmakers* to make their case for a constitutional convention (aka Article V convention). They have also produced a “Resolution for Limitations on Authority of Delegates to a ‘Convention for Proposing Amendments’ (Article V, United States of America Constitution).” This resolution, says ALEC, “will eliminate the possibility of a ‘runaway convention,’ the reason most often cited by scholars for their opposition to an Article V Convention. The resolution restricts delegates to work only on those amendments authorized in their legislative instructions and calls for the immediate recall of any delegate that works on an unauthorized amendment.”

But in making this claim, ALEC is on very shaky ground. This is clear, first of all, from our nation's own history. Our first — and so far, only — constitutional convention, which took place in Philadelphia in 1787, was a “runaway convention,” despite restrictions on delegates similar to those advocated by ALEC. That gathering, in violation of its mandate, threw out the Articles of Confederation that it had been convened to amend, and drew up a completely new governing document. The fact that the product of that breach of trust turned out to be as

sound and salutary as it has proved to be should not incite hope that a repeat of the same process would end so well.

James Madison, often referred to as the “father” of the Constitution, said the contemplation of another constitutional convention caused him to “tremble” due to the violent partisanship and “insidious views” so prevalent in his day. Have things so improved that we should be less concerned in our own day? Who but a fool or a knave would say so? Madison warned:

If a General Convention were to take place for the avowed and sole purpose of revising the Constitution, it would naturally consider itself as having a greater latitude than the Congress appointed to administer and support as well as to amend the system; it would consequently give greater agitation to the public mind; an election into it would be courted by the most violent partizans [sic] on both sides [and] would no doubt contain individuals of insidious views, who under the mask of seeking alterations popular in some parts but inadmissible in other parts of the Union might have a dangerous opportunity of sapping the very foundations of the fabric.

“Under all these circumstances it seems scarcely to be presumeable [sic] that the deliberations of the body could be conducted in harmony, or terminate in the general good,” he averred. “Having witnessed the difficulties and dangers experienced by the first Convention which assembled under every propitious circumstance,” Madison concluded, “I should tremble for the result of a second meeting in the present temper of America, and under all the disadvantages I have mentioned.”

Noted constitutional scholars of our own time from across the political spectrum — from liberal Supreme Court Justices Warren Burger and Arthur Goldberg to Professors Lawrence Tribe of Harvard and Gerald Gunther of Stanford (both liberals) to Professors Charles Rice of Notre Dame and Rex Lee of Brigham Young (both conservatives) — have echoed Madison, offering their learned opinions that a constitutional convention cannot be limited in its scope, either by Congress or state legislatures. We can say for certain that regardless of the out-



Political/corporate influence: Former Utah governor, EPA administrator, and HHS Secretary Michael Leavitt addresses ALEC's 2004 convention, under a banner of ALEC corporate sponsor ExxonMobil.

come of such a convention there would be dissatisfied factions that would challenge the final product, causing a constitutional impasse and, most probably, sending the whole issue before the U.S. Supreme Court, which has hardly proven to be a staunch defender of limited government. The end result well could be that our U.S. Constitution, which ALEC claims to support, would become a dead letter if ALEC's "free trade" agenda were to come to fruition.

Government-Business Cronyism

Still another area of concern to ALEC's critics on both the Right and Left is the organization's support for "public-private partnerships." ALEC's model legislation for states promotes a "Public-Private Partnership (P3) Authority Act," the summary of which states:

This Act establishes a state Partnership Committee and an Office of Public-Private Partnerships to identify and establish public-private partnerships and approve qualified bidders, requests for proposals, and template contracts. The Act is designed to improve public operational efficiency and environmental performance, promote public safety, attract private investment in the state, and minimize governmental liabilities.

In this area, the supposedly "conservative" ALEC is perfectly in step with the "progressive" Obama administration, which has made public-private partnerships (P3) a centerpiece of its statist program. And many of ALEC's member corporations

are also partners in Obama's Fedgov/Big Business "Manufacturing Innovation" consortiums and other P3 endeavors. Those favored corporate cronies include such well-known names as Boeing, General Electric, Microsoft, Caterpillar, Dow Chemical, ALCOA, and ExxonMobil. Hillary Clinton, while Obama's secretary of state, launched the administration's P3 Global Partnership Initiative, spreading hundreds of billions of dollars in corporate welfare to the well-connected.

ALEC is in the forefront of spreading the P3 gospel at the state level, along with its progressive partner, the U.S. Chamber of Commerce (USCC), which, like ALEC, talks a good game of "free markets" while actually promoting corporate subsidies and economic fascism. "Fascism," writes Lew Rockwell, president of the genuinely free market-oriented Ludwig von Mises Institute, "is the system of government that cartelizes the private sector, centrally plans the economy to subsidize producers, exalts the police state as the source of order, denies fundamental rights and liberties to individuals, and makes the executive state the unlimited master of society." And it is precisely this kind of cartelized, centrally planned, fascist economy that the ALEC/USCC/Obama/corporate alliance is producing.

ALEC's corporate P3 members are well represented by:

Big Pharma (Abbott, AstraZeneca, Bayer, Genentech, GlaxoSmithKline, Pfizer);

Big Farm (Altria Group, Archer Daniels Midland, Kraft Food, J.R. Simplot, Monsanto);

Big Oil (Shell, BP, Peabody, Marathon, Texaco, Tenneco, Chevron, ExxonMobil);

Big Banking (Bank of America, Coldwell Banker, Wells Fargo, First Chicago NBD);

Big Gambling (Hollywood Casino Corp., Argosy Gaming Co., Boyd Gaming Corp., GTECH Corp.);

Big Media (Cox Communications, Comcast, the *Wall Street Journal*, News Corp., Thompson Reuters, Time Warner Cable);

Big Insurance (Blue Cross Blue Shield, Farmers Group, GEICO, Liberty Mutual, State Farm, Travelers);

Big Tech (Yahoo, Facebook, Google, AT&T, eBay, Hewlett-Packard, IBM, Intel, Sony);

Big Soda (Coca-Cola, Pepsi-Cola, Dr. Pepper Snapple Group);

Big Liquor (Seagram & Sons, Hiram Walker, Miller-Coors);

Big Box Stores (Best Buy, Home Depot, JC Penney, Lowe's);

Big Auto (Ford, GM, Toyota, Chrysler).

ALEC's critics on the Left erroneously cite these cozy corporate ties as evidence of the corruption inherent in "free market" capitalism. But the ALEC/Obama P3 "partnerships" are the antithesis of genuine free markets, in which entrepreneurs risk *their own* capital — not that of the captive taxpayers — to build businesses that provide goods and services consumers freely choose to purchase, not those determined for them by politicians and government planners.

ALEC may have started out well with the right intentions to promote free enterprise and limited constitutional government — and some of its proposals still do support those worthy efforts — but, as we have shown here, on some very fundamental issues the organization has drifted far from core beliefs proclaimed in its motto. ALEC members who truly adhere to constitutionalist and free market principles would do well to examine the organization more closely and either direct it back on course or cut ties with it, so as not to support harmful legislation and discredit the principles they profess to support. ■