

**Written Testimony *in opposition to* SJR 4 Application for an Article V Convention
For the Ohio Senate General Government Budget Committee
For the hearing on May 24, 2022**

By Joanna Martin, J. D., as an individual Citizen of Tennessee

To Senator Peterson, Chair; Senator Cirino, Vice-Chair; Senator Craig, Ranking Member; and Honorable Members of the Committee:

I am a retired litigation attorney, trial and appellate; and have spent the last many years as an unaffiliated volunteer writing and speaking on the genuine meaning of our federal Constitution and all issues surrounding an Article V convention. Before Law School, I got a Degree in Philosophy where I specialized in political philosophy.

1.

What the Framers really said about the purpose of amendments to our Constitution

One of the silliest of the many unsupported claims made by those lobbying for an Article V convention is that our Framers said that when the federal government *violates* the Constitution, the remedy is to *amend* the Constitution.¹

It shouldn't be necessary to point out that their claim makes as much sense as saying that since people *violate* the Ten Commandments, God should *amend* the Ten Commandments.

Amendments can't "rein in" the federal government when it "violate[s] its constitutional limitations" because when it does so, **it is ignoring the existing limitations on its powers.**

And since none of our Framers said such a silly thing, the convention lobby can't produce a quote where it was said.

Even so, some have believed it and repeated it to others. *Americans!* We must demand that people ***prove*** their claims before we believe what they tell us.

So I will show you **original source documents**, and you can see for yourself what our Framers really said about the purpose of amendments to our Constitution.

¹ [Michael Farris claimed:](#)

“George Mason demanded that this provision [the convention method of proposing amendments] be included in Article V because he correctly forecast the situation we face today. He predicted that Washington, D.C. would violate its constitutional limitations and the States would need to make adjustments to the constitutional text in order to rein in the abuse of power by the federal government.”

Madison's Journal of the Federal Convention of 1787

James Madison, Father of our Constitution, was a delegate to the federal convention of 1787 where our present Constitution was drafted. He kept a daily Journal. Madison's Journal shows what our Framers actually said at the convention about the purpose of amendments to our Constitution:

◆ Elbridge Gerry said on [June 5, 1787](#): the “novelty & difficulty of the experiment requires periodical revision.”

◆ George Mason said on [June 11, 1787](#): **The Constitution now being formed “will certainly be defective,”** as the Articles of Confederation have been found to be. **“Amendments therefore will be necessary,** and it will be better to provide for them, in an easy, regular and Constitutional way than to trust to chance and violence. It would be improper to require the consent of the Natl. Legislature, because they may abuse their power, and refuse their consent...The opportunity for such an abuse, may be **the fault of the Constitution** [i.e., a defect] **calling for amendmt.**” [boldface mine]²

◆ Alexander Hamilton said on [Sep. 10, 1787](#): amendments remedy *defects* in the Constitution.³

The Federalist Papers

In [Federalist No. 43](#) at 8, Madison said the purpose of amendments to the Constitution is to repair “discovered faults” and “amendment of errors”; and “amendment of errors” and “useful alterations” would be suggested by experience.

In [Federalist No. 85](#) (13th para), Hamilton said useful amendments would address the “organization of the government, not...the mass of its powers”.⁴

Throughout [Federalist No. 49](#), Madison warned *against* a convention for proposing amendments, and showed that a convention is neither proper nor effective to restrain government when it encroaches.

² Mason's concern was that the new fed. gov't wouldn't agree to amendments needed to correct *defects* in the new Constitution.

³ Here's an illustration of what States soon saw as a defect in our Constitution: Art. III, §2, cl. 1 delegated to federal courts the power to hear cases “between a State and Citizens of another State”. But when a citizen of South Carolina sued the State of Georgia, the States were outraged! See [Chisholm v. Georgia, 2 U.S. 419](#) (1793). So the 11th Amendment was ratified to take away from federal courts the power to hear such cases.

⁴ The Constitution drafted at the federal convention of 1787 delegates only a tiny handful of powers to the fed. gov't. [See this chart.](#)

[Madison's letter of August 28, 1830 to Edward Everett \(p. 383-403\)](#)

Madison says:

“Should the provisions of the Constitution as here reviewed be found not to secure the Govt. & rights of the States agst. usurpations & abuses on the part of the U.S...” (p. 398)

So he is talking about **provisions – defects – in the Constitution which permit the federal government to abuse the States**. He goes on to say:

“...the final resort within the purview of the Constn. lies in an amendment of the Constn...”⁵

So he's saying that **when a defect in the Constitution** exposes the States to abuses by the federal government, the remedy is to amend the Constitution.

To fully grasp Madison's point, we must look at his letter in its historical context of the Tariff Act of 1828: The southern states bought manufactured goods from England. England bought southern cotton. But infant industries in the Northeast couldn't compete with the English imports. So during 1828, Congress passed a Tariff Act which imposed such high tariffs on English imports that the southern states could no longer buy them. England stopped buying southern cotton. This devastated the southern economy. So South Carolina wanted to nullify the Tariff Act (the “Tariff of Abominations”); and developed a theory that a State had a “constitutional right” to nullify *any* federal law, and the nullification would be presumed valid, unless three-fourths of the States said it wasn't valid.

Madison opposed South Carolina's theory *because the Tariff Act was constitutional* – it was authorized by Art. I, §8, cl. 1, US Constitution. States can't nullify a constitutional law!⁶

But while the Tariff Act was *constitutional*, it was *abusive*: Article I, §8, cl. 1 was being used to benefit infant industries in the Northeast at the expense of the southern states.⁷

So what's the remedy “within the purview of the Constitution” for the Tariff Act of 1828? Madison doesn't spell it out – but obviously Art. I, §8, cl. 1 could be amended to say that Congress may impose tariffs only to

⁵ Madison continues, “... according to a process applicable by the States.” Madison always said that when States want amendments, they should ask their congressional delegation to propose them. E.g., Madison's letter of Nov. 2, 1788 to Turberville (p. 299 at 2.). [[Link](#) at page 297].

⁶ See Madison's Notes on Nullification (1835) [HERE](#) (p. 573-607).

⁷ The Tariff Act of 1828 violated our Founding Principle (2nd para of the Declaration of Independence) that the purpose of government is to secure the rights God gave us. *God never gave us the right to be free of competition in business.*

raise revenue to carry out the enumerated powers; and may not impose tariffs in order to benefit domestic industries, or to benefit one section of the Country at the expense of other sections.⁸

Washington's Farewell Address

In his Address, Washington warns that we must require people in the federal government to confine themselves within their constitutional powers; and we must not permit one department [branch] of the federal government to encroach on the powers of the other departments (p. 15-19). He then says,

“If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.” (p.19)

So Washington is talking about what the people may come to see as *defects* in the Constitution:

◆ If we want one branch of the federal government to have a power which the Constitution delegates to another branch, we should amend the Constitution to *redistribute* that power.⁹

◆ If we want the federal government to have a power the Constitution doesn't grant, we should amend the Constitution to delegate the additional power. No matter how desirable it is for the federal government to have the additional power, we must not permit it to exercise the power by usurpation.¹⁰

And this is what Alexander Hamilton, who along with James Madison assisted Washington in drafting his Farewell Address,¹¹ had previously said in [Federalist No. 78](#): The representatives of the people [Congress] may not violate the Constitution even if a majority of their constituents want them to:

⁸ In the very next paragraph, Madison says that when there is a pattern of usurpations and abuses, we must step outside of the Constitution and resort to the original right of self-defense: resistance, i.e., nullification or revolution (p. 398).

⁹ E.g., Art. I, §8, cl. 11 delegates *to Congress* the power to declare war. But if we want the President to have that power, we should amend the Constitution to delegate that power to the President. *We must not permit the President to exercise that power by usurpation!*

¹⁰ If we wanted the fed. gov't to exercise power over labor unions, wages & hours, safety standards, food & drugs, manufacturing standards, agriculture, energy, housing, transportation, education, medical care, the environment, etc., etc., etc., **we should have amended the Constitution to delegate those powers to the fed. gov't.** *But we ignored Washington's advice, and permitted the fed. gov't to exercise those powers by usurpation.*

¹¹ The Introduction to the Farewell Address (p. 3) says that George Washington composed it with the assistance of Alexander Hamilton and James Madison.

“...Until the people have, by some solemn and authoritative act, annulled or changed the established form, it is binding upon themselves collectively, as well as individually; and no presumption, or even knowledge, of their sentiments, can warrant their representatives in a departure from it, prior to such an act...” (5th para from the end)

Our Constitution isn't defective, it's ignored!

Our Constitution is a miracle. Our problem is everyone ignores it. The States, local governments, and the people sold their retained powers to the federal government. They did it for the money! The solution is to dust the Constitution off, read it, learn it, and enforce it. Downsize the federal government to its enumerated powers. And stop taking the money! With federal funds come federal strings and massive debt.

Demand Proof of what people say before you believe them.

If Americans would follow the example of the Bereans (Acts 17:11) *and demand proof of the claims the convention lobby makes*, they would spot the false claims and preserve our blessed Constitution. Judges & Juries require trial lawyers to prove their claims. Demand the same from lobbyists for a convention!

How to get a new Constitution *under the pretext of getting Amendments*

Michael Farris, [co-founder](#) of “Convention of States”, [claims](#) that our Framers added the convention method of getting amendments to Art. V so that when the fed gov’t *violates the limits in the Constitution*, the States could rein them in by amending the Constitution.

The claim is *absurd* as well as *false*.

The claim is *absurd* because our Constitution *already limits* the fed gov’t to [a handful of powers](#). Our problem is that everyone ignores it.

The claim is *false* because neither George Mason nor any other Framers said it.

The Truth is that our Framers agreed that [the purpose of amendments is to correct defects in the Constitution](#). So they discussed the *procedures* for making amendments: who should approve them, & how should they be proposed.

Under our *first* Constitution (the [Articles of Confederation](#)), amendments had to be approved by Congress and all of the States [Art. 13]. Should the new Constitution they were drafting require Congress’ approval of amendments? Madison’s Journal of the Federal Convention shows that on [June 11, 1787](#), George Mason said:

The Constitution now being formed “will certainly be defective,” as the Articles of Confederation have been found to be. **“Amendments therefore will be necessary,** and it will be better to provide for them, in an easy, regular and Constitutional way ... **It would be improper to require the consent of the Natl. Legislature, because they may abuse their power, and refuse their consent... The opportunity for such an abuse, may be the fault of the Constitution [i.e., a defect] calling for amendmt.”** [emphasis added]

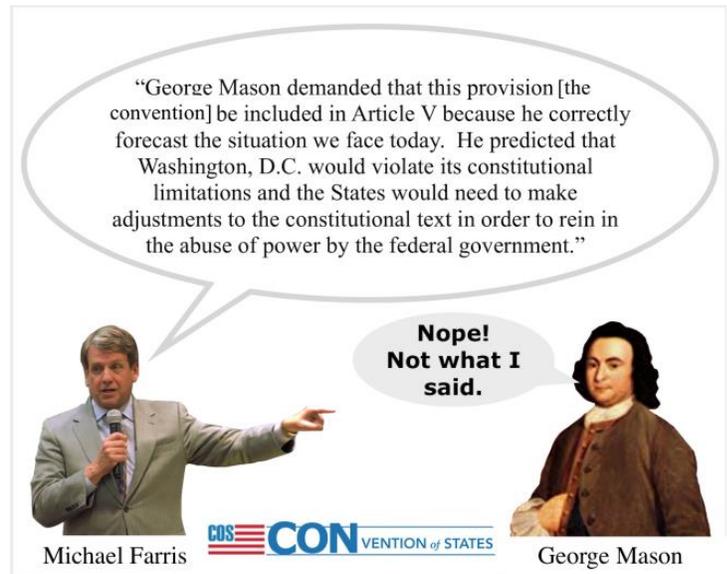
Mason’s concern was that Congress might refuse consent to amendments needed to fix *defects* in the Constitution. So he didn’t want the new Constitution to require Congress’ approval of amendments.

Several months later, the Framers discussed who should have power to propose amendments:

James Madison moved (on [Sept. 10, 1787](#)), that Congress alone have power to propose amendments; either on their own initiative, or at the request of 2/3 of the State Legislatures.

But George Mason objected (on [Sept. 15, 1787](#)) that if only Congress may propose amendments, no amendments of the proper kind would ever be obtained by the people, if the Government should become oppressive...” The footnote to that comment shows that Mason’s meaning was that **the People should be able to circumvent a Congress which refused consent to amendments needed to correct defects in the Constitution:**

“In the margin of his copy of the draft of September 12, Mason had written:



‘Article 5th – By this article Congress only have the power of proposing amendments at any future time to **this constitution** and should **it prove ever so oppressive**, the whole people of America can’t make, or even propose alterations to **it**; a doctrine utterly subversive of the fundamental principles of the rights and liberties of the people.’ ” [emphasis added]

Mason’s point was that no matter how oppressive a provision of the Constitution might prove to be, ¹ Congress might not consent to amendments the people want to fix the defects.

So when it was moved to require a convention on application of 2/3 of the States, it passed because the Framers knew that our Declaration of Independence recognizes that a People have the “self-evident right” to throw off their gov’t & set up a new one; and thus have the right to meet & draft a new Constitution whether the convention method were in Art.V or not. ²

Now let’s look at James Madison’s and others’ warnings against an Article V Convention.

George Mason (an anti-federalist), hated the Constitution then being drafted. On Aug. 31, 1787, he declared

“that he would sooner chop off his right hand than put it to the Constitution as it now stands” and if it weren’t changed, he wanted “to bring the whole subject before another general Convention.”

Even before the ink was dry on the new Constitution; anti-federalists were agitating for *another convention* to get rid of it.

This is why, during April 1788, John Jay (who became our 1st Chief Justice), Alexander Hamilton & James Madison began warning against another convention.

And James Madison expressly warned that people who secretly wish to get rid of our Constitution would push for a convention under the pretext of getting amendments. ³

An Article V Convention has *always been* about getting a new Constitution. And that’s what it’s about today. ⁴

Endnotes:

¹ E.g., the provisions in our Constitution institutionalizing slavery were “oppressive”. What if the People wanted to amend the Constitution to abolish slavery? If Congress refused to consent to an amendment to correct **such oppressive provisions of the Constitution**; Mason wanted *the People* to be able to propose the needed amendment.

² In Federalist No. 40, James Madison invoked this provision of the Declaration of Independence as justification for the delegates to the federal convention of 1787 ignoring their instructions to propose amendments to the Articles of Confederation and instead writing a new Constitution with an easier mode of ratification.

³ **George Mason’s [& Patrick Henry’s] desire for an Article V convention so they could get rid of the Constitution of 1787 was no secret.** See, among Madison’s letters:

Ap. 22, 1788 to Jefferson [link at pp. 121-122]: “Mr. H—y is supposed to aim at disunion. Col. M—n is growing every day more bitter ... I think the Constitution and the Union will be both endangered ... And if a second Convention should be formed ... [i]t will be easy also for those who have latent views of disunion, to carry them on under the mask of contending for alterations...”

Nov. 2, 1788 to Randolph [[link](#) at p. 295], recites how, on **Oct. 27, Patrick Henry introduced in the Virginia Assembly an application to the first congress “to call a second convention for proposing amendments to it...”** and that Mr. H—y’s “...enmity was levelled, as he did not *scruple* to insinuate agst the *whole system*; and the destruction of the whole system I take to be still the secret wish of his heart, and the real object of his pursuit...”

Dec. 8, 1788 to Jefferson [[link](#) at p. 312]: “... there are others who urge a second Convention with the insidious hope, of throwing all things into Confusion, and of subverting the fabric just established, if not the Union itself...”

⁴ Robert P. George, a Member of the "COS" Legal Advisory Board, *has already co-authored a new Constitution which transfers massive powers to a new federal government and imposes gun controls & red flag confiscations* [[link](#)]. For a summary, see [this](#). And that is only one of several proposed Constitutions already prepared or in the works: e.g.

- [HERE](#) is the proposed **Constitution for the Newstates of America**. Article XII, §1 thereof provides for ratification by *a referendum initiated by the President*. The States are dissolved and replaced by regional governments answerable to the new national government. This Constitution sets up a totalitarian dictatorship. Pursuant to Article I, Part B, §8, *we are to be disarmed*.
- Read [HERE](#) about the proposed **Constitution for the New Socialist Republic in North America**. It was prepared by **the Revolutionary Communist Party, USA**. [HERE](#) is the text of their proposed Constitution.
- Read [HERE](#) about The Constitution 2020 movement funded by George Soros and supported by Marxist law professors, Cass Sunstein, Eric Holder, etc. See also [THIS](#) important article. They want a “Progressive” Constitution.
- Read [HERE](#) the globalist **Council on Foreign Relations’ Task Force Report on the North American Union (NAU)**. Under this scheme, Canada, the US, and Mexico are to be integrated politically and *a Parliament & a militarized and unified police force* are to be set up over the three countries. [This is the “New World Order” which the Bush family & others have been planning. Heidi Cruz was on the Task Force which wrote the Report.]
- The **National Constitution Center’s Constitution Drafting Project** has released three proposed new Constitutions. You can read the proposed new Constitutions [HERE](#). These proposed Constitutions would transfer massive new powers to the federal gov’t, and would legalize the unconstitutional acts which have been going on for 100 years. *The National Constitution Center is a quasi-official branch of the federal gov’t – its website address is <https://www.usa.gov/federal-agencies/national-constitution-center>*