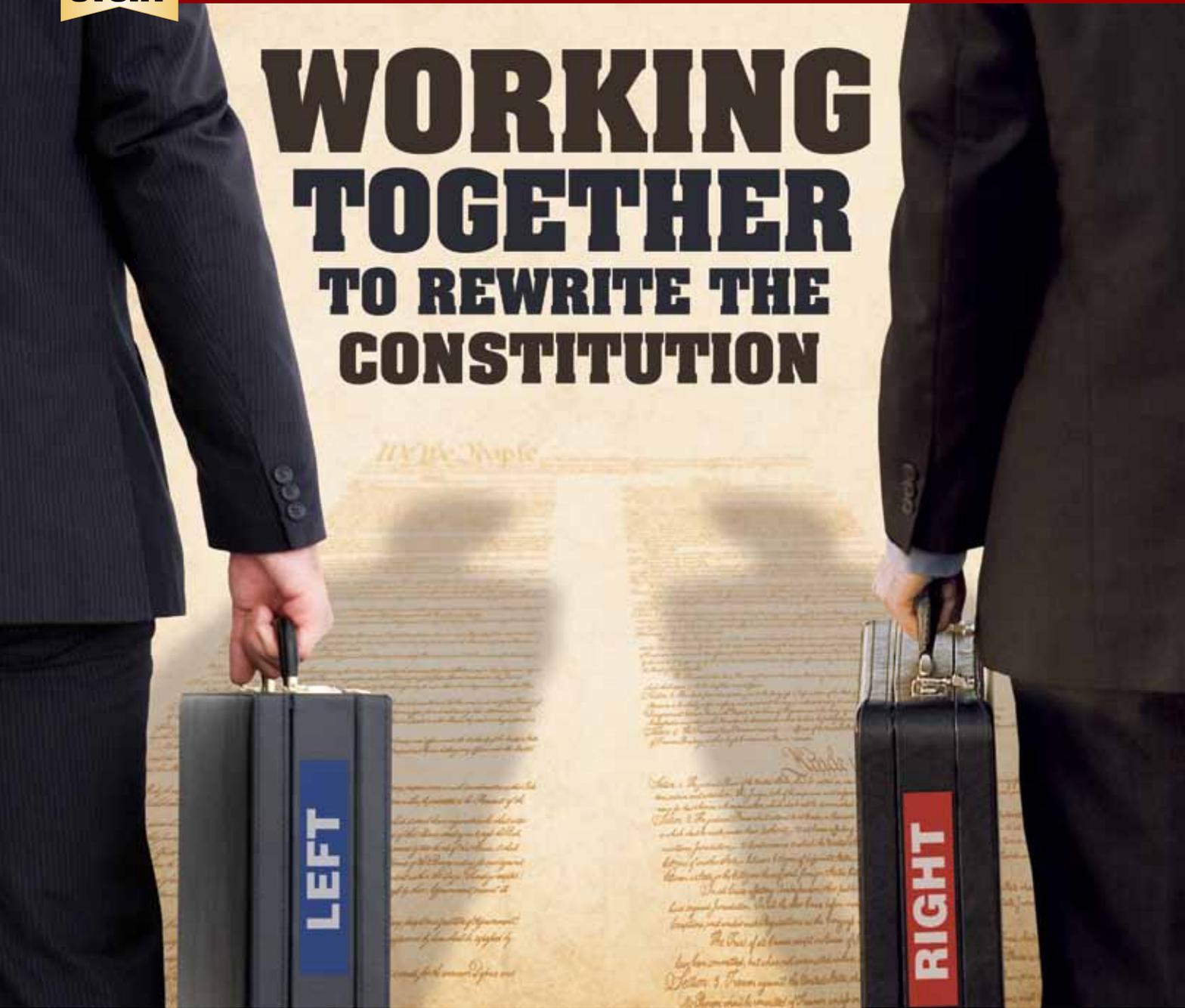


# WORKING TOGETHER TO REWRITE THE CONSTITUTION



The deceptive Left-Right coalition to rewrite the Constitution by means of an Article V convention threatens our personal rights and freedoms.

by *Christian Gomez*

*“Perhaps ... it is time to rewrite our Constitution.”*

— Lawrence Lessig, 1993

**D**espite war, social upheaval, demographic shifts, and economic ups and downs, the U.S. Constitution has endured for more than two centuries, securing the blessings of liberty for

Americans. Now, however, a new threat emerges that seeks to radically alter the Constitution under the guise of amending it. Those seeking radical change to the Constitution look to co-opt it by invoking an Article V “convention for proposing amendments,” otherwise known as a constitutional convention.

Given out-of-control spending by Congress and a national debt of \$17.5 trillion — and another estimated \$129 trillion in

unfunded liabilities — many Americans, especially conservatives, believe that adding a balanced budget amendment to the Constitution would restrain federal spending. Having little confidence in the ability of Congress to correct these financial woes, advocates for a balanced budget amendment (BBA) have once more turned their efforts to what the states can do, specifically the Article V process.

However, conservatives seeking a con-

stitutional convention to propose a BBA would be surprised to learn that others, including extreme leftists, also want a convention to advance their own agendas, proposing radical changes with which conservatives would vigorously disagree. Leading convention advocates from both the Left and Right are actually working *together* to bring about a constitutional convention, even as key advocates on the Left publicly call for a “runaway” convention in order to make multiple and far-reaching changes to the Constitution.

### Amending the Constitution

Article V is a one-paragraph article in the Constitution that includes two methods for proposing amendments. The first and only method used so far empowers Congress to propose an amendment “whenever two thirds of the both houses shall deem it necessary.”

The second method for proposing amendments, which has never been employed since the original Constitutional Convention of 1787, is through a constitutional convention called by Congress “on the application of the legislatures of two thirds of the several states.” Once the applications from 34 states are received, Congress is constitutionally bound to “call a convention for proposing amendments.”

Article V also outlines two modes of ratification. The amendments proposed, either by Congress or at a constitutional convention, can only become part of the Constitution once they have been “ratified

Another of Stevens’ proposals in *Six Amendments* is to change the Second Amendment to read: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms *when serving in the militia* shall not be infringed.” (Emphasis added.)

by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.”

### Back to the Future

Well-meaning conservatives who advocate for a constitutional convention fail to recognize that once Congress convenes a convention it cannot be undone and no predetermined rules or limitations, adopted by either Congress or the states, will have any bearing on what the convention delegates may choose to do or propose. As the representatives of the sovereign will of the people-at-large in each state, convention delegates would have free latitude to propose any changes they see fit, including the writing of an entirely new constitution, along with changes to the mode of ratification, so as to guarantee the adoption of their amendments. This scenario is known as a “runaway” convention, and it is not without historical precedent.

The Continental Congress originally tasked the delegates assembled at the

Philadelphia Constitutional Convention of 1787 with “the sole and express purpose of revising the Articles of Confederation.” At the time, the Articles of Confederation (AOC) was the law of the land. Article XIII of the Articles of Confederation specifically stipulated that “any alterations” made to them must be unanimously “confirmed by the legislatures of *every State*.” (Emphasis added.)

Both of these mandates were clearly exceeded. The delegates chose to replace the Articles with an entirely new federal constitution. They also altered the mode of ratification from being “confirmed by the legislatures of every State,” in Article XIII of the AOC, to “the legislatures of *three fourths* of the several states, or by conventions in *three fourths* thereof,” in Article V of the new Constitution. (Emphasis added.)

On September 13, 1788, with only 11 of the 13 states having ratified the new Constitution, the Continental Congress passed a resolution declaring that it “had been ratified.” North Carolina and Rhode Island had not yet ratified and would not do so until nearly a year and a half later. On May 29, 1790, Rhode Island became the 13th and final state to ratify the Constitution. The new Constitution replacing the AOC was adopted before being “confirmed by the legislatures of every State,” as Article XIII required. With such precedent, who can say it will not happen again?

**The miracle at Philadelphia**, which produced one of the greatest documents in human history, restraining the power of the federal government by granting it only a certain few and well-defined powers, would not happen today, given the modern age of mass media and popular democracy. A new federal constitutional convention would include delegates from both the Left and the Right, many of whom would propose far-reaching changes to the Constitution, thereby threatening our constitutionally secured rights.



**Call a Convention**

Founded in 2013, Call a Convention is an organization whose stated purpose is to reform Washington, “striking at the root of increasingly troubling issues which have plagued our federal government for decades” by way of an “Article V Amendments Convention.” Call a Convention devotes its efforts to getting groups on both the Right and Left to work together in order to convince state legislatures to petition Congress to *call a convention*.

Point one of Call a Convention’s strategy calls for the creation of a “non-partisan collaboration with other Article V and Amendments groups.” Under the “About” menu item on the Call a Convention website, there is an “Article V Advocates” webpage with the headline “The Article V Movement — Right and Left Working Together for Real Reform” (see graphic on this page). Under the headline we are told: “We are organizations and individuals from both the right and the left who recognize that Washington is broken and will not reform itself.... [We] must call a Convention, and move forward on our common ground for the good of the nation.”

Below this explanation is a list of various conservative “Article V Movement” groups, such as Mark Meckler and Michael Farris’ Convention of States (COS), Article V Caucus (of state legislators), American Legislative Exchange Council (ALEC), Balanced Budget Amendment Task Force, and Compact for America. Listed along with these conservative groups are progressive liberal organizations, such as Convention USA, Amend America, ArticleV.org (“the Inter-Occupy Article V Work Group”), Call a Convention, and Wolf-PAC. Although most of these groups claim to favor only a “limited” convention to propose one



**The Article V Movement page (above)** on the “Call a Convention” website boasts the names of various pro-Article V convention groups and individuals from both the Right and Left that are “Working Together for Real Reform.”

amendment or a few limited amendments, they are nevertheless listed on the Call a Convention website as members of a movement whose goal is “a truly open and constructive” Article V convention.

The faces behind Call a Convention are Lawrence Lessig, its founder; Jeff McLean, the executive director; and Shelby Williams, who serves as the director. Before becoming executive director of Call a Convention, Jeff McLean served as vice-president of Americans United to Rebuild Democracy, which

is a nonprofit organization that describes itself as “an alliance between Conservatives and Progressives for fundamental election reforms including a clean elections system, congressional term limits and a ban on the practice of Gerrymandering.”

Leading the pack is Lawrence Lessig, who founded Call a Convention in August 2013. Lessig holds the title of Roy L. Furman Professor of Law and Leadership at Harvard Law School, and has previously taught law at the University of Chicago and Stanford Law School. Lessig served as an advisor on Barack Obama’s 2008 presidential campaign, and his name was even rumored as a possible Supreme Court justice nominee should Obama win the election. Lessig’s name also appeared on the 2013 guest list for the Bilderberg Conference, where establishment bigwigs from Europe and North America met to discuss various topics, including U.S. foreign policy, the EU, the promises and impacts of online education, and nationalism and populism.

Lessig emerged on the national scene following the Supreme Court’s 2010 ruling in *Citizens United v. Federal Election Commission*, which allowed corporations, specifically incorporated 501(c)(4) public advocacy groups, and trade associations to make financial contributions to electoral races. Since then, Lessig and left-wing Article V groups, such as Move to Amend and Wolf-PAC, have taken the lead in seeking to overturn the court’s decision by pushing for a campaign finance amendment to the Constitution that would bar all private money from political races and require elections to be publicly financed.

Another page on Call a Convention’s website lists the various “Amendments” they support: a Balanced Budget Amendment, a Campaign Finance Amendment, a National Debt Relief Amendment, Term Limits for Congress, and Term Limits for Supreme Court Justices. However, since Call a Convention’s goal is “a truly open and constructive” convention, the listing of

Levinson contends that “the Constitution is both insufficiently democratic, ... and significantly dysfunctional.” Levinson writes, “We should no longer express our blind devotion to it.”

these amendments is likely only a means toward their ultimate objective of proposing radical rewrites to the Constitution.

In his 2011 book, *Republic, Lost: How Money Corrupts Congress — and a Plan to Stop It*, Lessig discussed the adverse implications to “democracy” from the Supreme Court’s ruling in the *Citizens United* case. Unsurprisingly, Chapter 20 of the book outlined a constitutional convention as the necessary solution. On page 293, Lessig stressed the need for a convention on the basis of the fundamentally transformative changes that only a constitutional convention could bring about: “Even though it has never happened, however, a constitutional convention is the one final plausible strategy for forcing fundamental reform onto our Congress.” (Emphasis added.) On the same page, Lessig continued to make his desire for a broad constitutional convention clear when he explained that going through Congress to propose amendments would fall short of resulting in the type of “fundamental reform” only achievable through a convention:

It’s going to be easier to organize movements within the states to demand *fundamental reform* than it will be to organize Congress to vote for any particular amendment to the

Constitution to effect that reform. And more important, it’s going to be much easier to get a conversation about *fundamental reform* going in the context of a call for a convention than it will be through any other plausible political means. The reason is an *important strategic opportunity that a call for a convention would offer* and that a demand for an amendment would not: *different souls with different objectives could agree on the need for a convention without agreeing on the particular proposals that a convention should recommend*. Some might want term limits. Some might want to abolish the Electoral College, or ban political gerrymandering. And some might want to demand a system for funding elections that restores integrity and independence to Congress (me!).

All of these different souls could agree at least on the need to *create the platform upon which their different ideas could be debated. The platform is the convention*. [Emphasis added.]

Call a Convention’s founder places greater emphasis and importance on the “platform” than on any particular amendments.

The five amendments listed on Call a Convention’s website are merely a catalyst of the “different ideas” necessary to convince both the Right and the Left to come together in support of a convention, whose true purpose is to debate and propose fundamental changes to the Constitution.

### Co-opting the Right

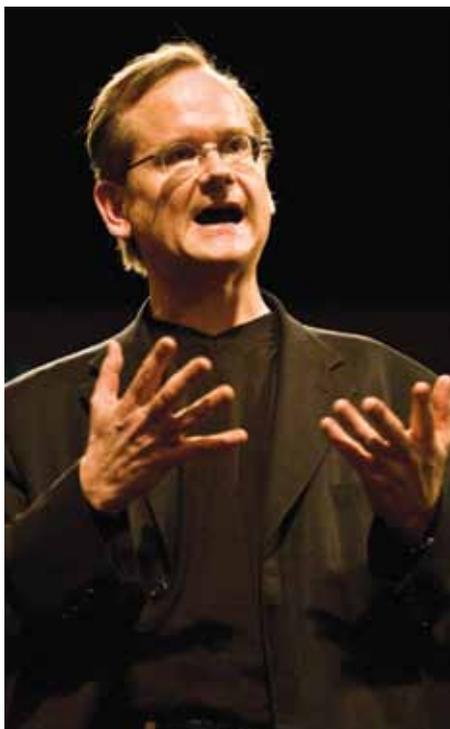
Since the mid 1970s, conservative attempts at a constitutional convention have been primarily focused on adding a balanced budget amendment to the Constitution. One of the groups pushing hard for a BBA via an Article V convention today is Compact for America. The Compact for America (CFA) is a 501(c)(3) nonprofit organization with an ambitious plan that calls for the creation of an interstate compact, made up of 38 states (the minimum required number of states to ratify an amendment to the Constitution), to petition Congress to call an Article V convention for proposing a balanced budget amendment, which would also be “pre-drafted” and “pre-ratified” within the 38 states’ initial applications.

CFA’s plan calls for designating the governor of each state to serve as his or her state’s official delegate to the convention. The CFA is the brainchild of Nick Dranias, the director of policy and constitutional government for the Goldwater Institute. Among those on CFA’s advisory council is Lawrence Lessig.

Another organization listed on Call a Convention’s “Article V Movement” page is Convention of States (COS), which is a project of Mark Meckler’s Citizens for Self-Governance (CSG). Convention of States encourages state legislatures to introduce and pass resolutions applying to Congress to call a convention of the states in order to propose “amendments that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials.”

### Left and Right working together to rewrite the Constitution:

On September 24-25, 2011, Lawrence Lessig (left) and Mark Meckler cohosted the Harvard Conference on the Constitutional Convention, which was intended to bring both the Left and Right together to work toward a constitutional convention.



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Before establishing Citizens for Self-Governance in 2012, Mark Meckler was the co-founder and national coordinator for Tea Party Patriots. In 2011, both Meckler and Lessig attended the Conference on the Constitutional Convention (ConConCon), held at Harvard University September 24-25, 2011. Meckler cohosted the event with Lessig, which, like Call a Convention, intended to bring both the Right and Left together to work toward a new constitutional convention. Also in attendance at the Harvard ConConCon was Nick Dranias of CFA.

As recently as March 21, 2014, both Lessig and Meckler spoke at the same event, this time at the Citizen University's (motto: "Let's Do Democracy") Annual National Conference in Seattle; Lessig's topic was "How to Start a Rebellion," featuring "bottom up change and passionate cross-partisan political rejuvenation." Lessig's connection with CFA and Mark Meckler is not so much an endorsement for a BBA or limited government as it is an opportunity for Lessig to work alongside conservatives toward the common goal of a constitutional convention. The Right is being used to help facilitate the aspiration of Lessig and others for a convention to make far-reaching changes to the Constitution.

### Working With the Left

Following the Supreme Court's decision in the *Citizens United* case, the Left made campaign finance reform the rallying cry for their efforts to amend the Constitution. Cenk Uygur, the host and producer of *The Young Turks*, has been a strong supporter for campaign finance reform following the court's ruling. Uygur also attended the Harvard ConConCon, where he became convinced that the only recourse for campaign finance reform is an Article V constitutional convention.

In November 2011, Uygur founded Wolf-PAC with the stated aim to "restore true, representative democracy in the United States by pressuring our State Representatives to pass a much needed 28th Amendment to our Constitution which would end corporate personhood and publicly finance all elections in our country." The text of Wolf-PAC's proposed "28th Amendment" reads:

Corporations are not people. They have none of the Constitutional rights of human beings. Corporations are not allowed to give money to any politician directly or indirectly. No politician can raise over \$100 from any person or entity. All elections must be publicly financed.

Since Wolf-PAC's creation, both Uygur and Lessig have toured the country making appearances together encouraging people and state legislators to support and pass Article V applications for a convention to propose this "28th Amendment." Lessig and Uygur are not the only notable personalities on the Left who would welcome an Article V convention to overturn the Supreme Court's *Citizens United* ruling.

In his newest book, *Six Amendments: How and Why We Should Change the Constitution* (2014), former Supreme Court Associate Justice John Paul Stevens, who wrote the dissenting opinion in the Supreme Court's *Citizens United* case, proposes adding the following 43 words to amend the First Amendment of the Constitution:

Neither the First Amendment nor any other provision of this Constitution shall be construed to prohibit the Congress or any state from imposing reasonable limits on the amount of money that candidates for public office, or their supporters, may spend in election campaigns.

Another of Stevens' proposals in *Six Amendments* is to change the Second Amendment to read: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms *when serving in the militia* shall not be infringed." (Emphasis added.) The addition of these five words essentially allows for the criminalization and disarming of homeowners and law-abiding citizens.

Justice Stevens is not alone in seeking to alter the Second Amendment. Also in attendance at the Harvard ConConCon was then-Texas Wesleyan Law School Professor Mary Penrose, who currently teaches at Texas A&M University School of Law. Speaking at the 2013 UConn School of Law Second Amendment Symposium, Penrose said gun violence required "drastic measures" and affirmed that "there is not a single amendment that is absolute ... no constitutional right is sacred." She continued, "It's time today, in our drastic measures, to repeal and replace that Second Amendment." Halfway through her talk she stated, "I'm in favor of redrafting the entire Constitution."



**Left-wing Article V convention proponent:** Cenk Uygur (left), the host and producer of *The Young Turks*, founded Wolf-PAC to overturn the 2010 Supreme Court's *Citizens United* decision by way of an Article V constitutional convention. So far this year, 14 state legislatures have introduced Wolf-PAC resolutions. Vermont became the first state to approve a Wolf-PAC resolution in March.

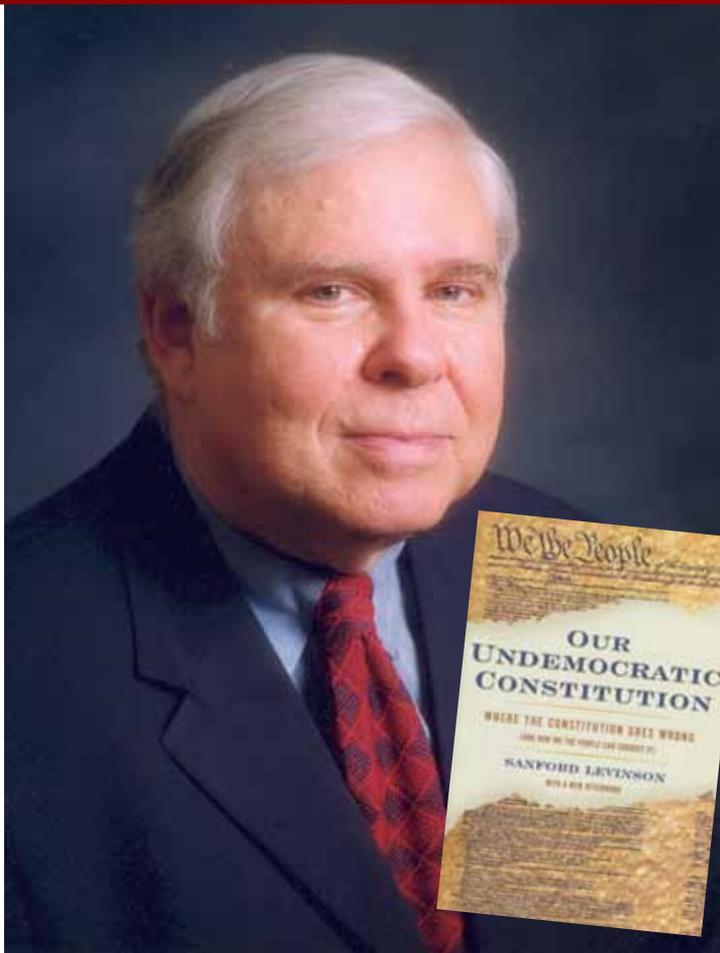
Before leaving the podium Penrose concluded, “My solution goes through the Article V process ... through the states model.”

Also listed on Call a Convention’s “Article V Movement” page is Convention USA. Convention USA is a nonprofit corporation that was founded by Chief Justice of the Michigan Supreme Court Thomas E. Brennan and several of his close associates. Convention USA describes itself as an “interactive, virtual convention being conducted on the Internet for the purpose of proposing amendments to the Constitution of the United States in the manner provided for in Article V of the federal constitution.” Anyone can sign up on its website as a “delegate” to participate in the online “convention” to propose and debate amendments desired to be proposed and debated at a real constitutional convention. This virtual convention will “adjourn *sine die* when the United States Congress calls a convention pursuant to Article V,” Convention USA’s website states. Their goal is to “generate a groundswell of public support for an Article V convention, and force Congress to call the convention.”

Convention USA’s advisory board includes Lawrence Lessig. Other members of the advisory board have proposed their own amendments, which would fundamentally transform the Constitution.

### Endgame: Constitutional Rewrite

Among the names listed on Convention USA’s advisory board is University of Texas Law School Professor Sanford Levinson. On page nine of Levinson’s book *Our Undemocratic Constitution: Where the Constitution Goes Wrong (And How We the People Can Correct It)* (2006), he contends that “the Constitution is both insufficiently democratic, ... and significantly dysfunctional.” Levin-



**University of Texas Law School Professor Sanford Levinson** asked in his book *Our Undemocratic Constitution*: “Shall Congress call a constitutional convention empowered to consider the adequacy of the Constitution and, if thought necessary, to draft a new constitution that, upon completion, *will be submitted to the electorate for its approval or disapproval by majority vote?*” (Emphasis added.)

son writes, “We should no longer express our blind devotion to it.” He invites the reader to answer five questions in order to “scrutinize the adequacy of today’s Constitution.” The first question Levinson asks is:

Even if you support having a Senate in addition to the House of Representatives, do you support as well giving Wyoming the same number of votes as California, which has roughly seventy times the population?

Levinson’s final question hints at wanting to lower the threshold of the required number of states to ratify an amendment:

Do you support the ability of thirteen legislative houses in as many states to block constitutional amendments de-

sired by the overwhelming majority of Americans as well as, possibly, eighty-six out of the ninety-nine legislative houses in the American states?

On page 11, Levinson makes the following proposal to address these questions:

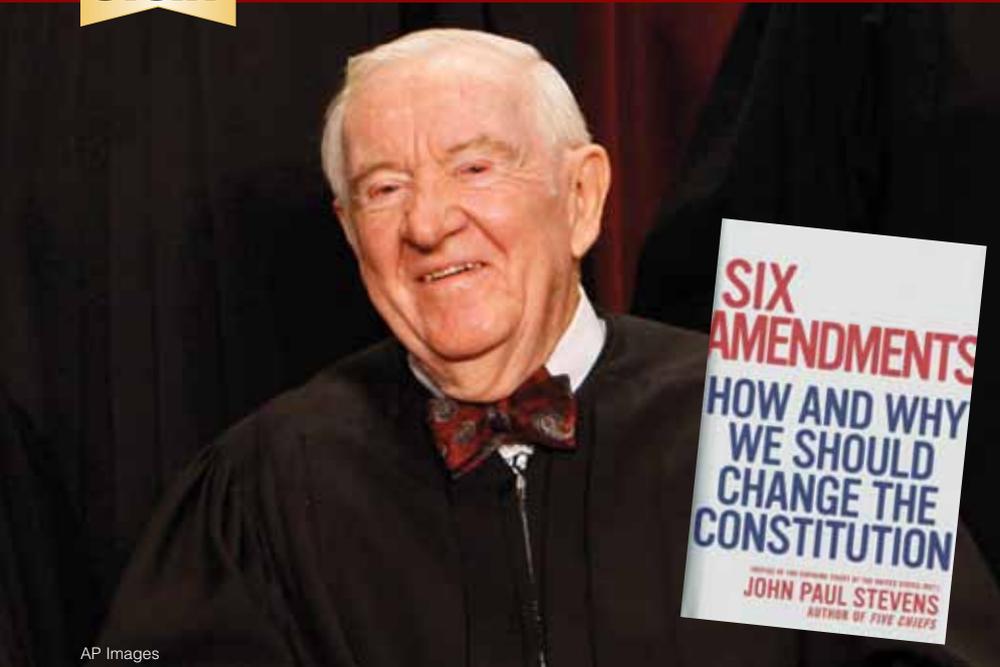
Shall Congress call a constitutional convention empowered to consider the adequacy of the Constitution and, if thought necessary, to *draft a new constitution* that, upon completion, will be submitted to the electorate for its approval or disapproval by majority vote? *Unless and until a new constitution gains popular approval, the current Constitution will continue in place.* [Emphasis added.]

Initially, Levinson sought a citizens-led campaign to individually petition Congress to call a convention. However, on page 174, he stated that if Congress resists the petitions of citizens for a convention that then “one moves

on to the procedure set out in Article V and lobbies for state legislatures to send similar petitions to Congress.” Levinson continued, “We are surely entitled to believe that Congress would adhere to the clear command of the Constitution and call a convention should two-thirds of the states agree.” Apart from serving on Convention USA’s advisory board, Levinson was one of the invited guest speakers at the Harvard ConConCon. Furthermore, Levinson is also listed on Call a Convention’s “Article V Movement” page.

As for Lawrence Lessig, the founder of Call a Convention, he wrote the following in an article entitled “Fidelity in Translation,” published in the May 1993 issue of the *Texas Law Review*:

We live in a time when almost sixty percent of the American public can-



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**Eliminating freedoms he doesn't like:** Former Associate Justice John Paul Stevens proposes six alterations to the Constitution in his new book, *Six Amendments: How and Why We Should Change the Constitution*, among which include curtailing the First Amendment through campaign finance reform and limiting the "right of the people to keep and bear arms," as provided in the Second Amendment, to only "when serving in the Militia."

not even identify the Bill of Rights. If the document has become so out of date that its meaning is no longer plain to all — if it has become impossible to imagine a world where ordinary people carry the Constitution in their pockets — then perhaps it is time to restore its meaning by, as Justice [John Paul] Stevens has recently suggested, amending the text to preserve the meaning. Perhaps, that is, *it is time to rewrite our Constitution*. [Emphasis added.]

Under the guise of trying to make the Constitution more understandable for "ordinary people," Lessig reveals his desire to rewrite the Constitution. Lessig then goes on to confirm his intention to rewrite the Constitution:

We are like the person who finds himself at the store, with a list he can no longer make out, struggling to reconstruct what it must have been that he wanted to buy; at some point it may make sense simply to decide again what he wants, to *rewrite the list, to give up the obsession that it must be the same as the old list, to move on*. [Emphasis added.]

Lessig, the godfather of the Article V movement, believes "it is time to rewrite our Constitution" and that those who adhere to the Constitution as it is should "give up the obsession that it must be the same as the old" in order "to move on." Lessig's statements invoke the same sentiment as Levinson's.

During the ConConCon, Uygur asked Lessig questions about the prospect of a new constitutional convention and the possibility that it would become a runaway convention. Lessig responded that any "crazy amendments" proposed at a convention would still need to be ratified by 38 states. Uygur joyfully continued, "I agree, and the original convention they say was ... a runaway convention. It was, and it produced the greatest document known to man." Lessig then smiled and replied, "Let's have some more runaway conventions."

A "runaway" convention does not scare Lessig; it is precisely what motivates him. Individuals such as Lessig, Levinson, Penrose, and Stevens seek to do away with the

"outdated" Constitution of 1787 and replace it with an entirely new constitution bearing little similarity to the current one. With each application petitioning Congress to call a constitutional convention, the country moves closer to enabling the Left to completely rewrite the Constitution. The Left's deceptive quest to rewrite the Constitution is nothing new and would have transpired already had it not been for the effectual and fervent work of The John Birch Society. For decades The John Birch Society and its members across the country have worked tirelessly, actively educating people and lawmakers about the dangers of a constitutional convention. Art Thompson, CEO of The John Birch Society, told THE NEW AMERICAN:

With the failure of the Equal Rights Amendment, the overt thrust of the Left to alter the nature of our Constitution segued into a stealth program to bring about a constitutional convention in the name of instituting what American conservatives valued: pro-life, against flag burning, a balanced budget — anything to gain support for an initiative to set the stage for changing the Constitution. And, all the while, the Left has been involved in the process.

Thompson continued, "More and more evidence has surfaced that this is the case. The John Birch Society has been the vanguard for 40 years in preventing a constitutional convention and we continue to be that vanguard." Unless Americans become educated and get actively involved, the names Washington, Madison, and Franklin will be effaced by the names Lessig, Levinson, and Penrose. As Lessig gleefully wrote in 2010 regarding an Article V constitutional convention, "It would be a grand circus of democracy." ■



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