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The Constitutional Convention Trap

By John C. Wohlstetter, *The American Spectator*, 6/11/15

A dangerous idea has been circulating over the past few years: that it is time to call a new Constitutional convention, to remedy the vast overreach of federal power. But therein lies a treacherous trap: such a body's powers cannot be limited. The end result easily could prove the polar opposite of what those seeking revision intended.

Conventions are by their nature extraordinary bodies whose powers are

inherently plenary. The 1787 convocation in Philadelphia was a runaway convention. Tasked with merely revising the Articles of Confederation's "firm league of friendship" among sovereign states, it created a supreme federal government whose sovereignty trumped that of the states. The feeble federal government created by the Articles could not even levy taxes; we should be so lucky today.

It was the cause of preserving the federal Union thus established, and not that of

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Progress Through Preservation of Traditional Values

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abolishing slavery, that triggered our ruinous Civil War 83 years after the Constitution was ratified. Thus, Abraham Lincoln said during America's epic fratricidal conflict that he must have Kentucky, a slave state he successfully wooed to join the North.

Thomas Jefferson called the delegates who comprised the Framers of the 1787 Grand Convention "an assembly of demigods." Now, imagine Framers 2.0 including the likes of Barack Obama, Hillary, Eric Holder, Al Sharpton, and Barbara Boxer. They would make what Mr. Jefferson surely would have called an assembly of demagogues.

The Framers, as Alexander Hamilton penned in Federalist 85, saw in "a headless government... an awful spectacle." Today's hydra-headed federal giant squid extending its tentacles into every nook and cranny of American life is the converse case, a tyrannical "awful spectacle" that the Anti-Federalists warned would come to pass. (Those so dubbed then were in fact the true federalists; those who called themselves "Federalists" were, in fact, nationalists. But they could not openly have triumphed as such, so they disingenuously defined themselves and their opponents, following a time-honored maxim of political strategy to define your opponent before he defines you.)

Factor in that this time dominant leftist media would transform the conclave into the greatest political circus of all, tilting towards the most progressive Democrats on every issue. Their cheerleaders in the media would amplify their shrill, pro-Big Government voices. Voices of restraint would be swept aside by intense passions of the moment—passions of the very kind that Madison and Hamilton warned about, and sought to manage by creating a Senate whose members are elected to terms whose length can cool the populist ardor of those serving terms one-third as long in the House.

Expect that the hyper-statists also would expediently repair to conservative icon Ronald Reagan's oft-used Thomas Paine quote: "We have it in our power to begin the world all over again." Though Paine incited popular resentment against encroachments by the British upon the freedoms cherished by their stubbornly recalcitrant American subjects, he championed first and foremost the French Revolution, whose utopian aims and unchecked reign of terror were the early precursors of the totalitarian mega-tyrannies of Nazism and Communism. The Framers of 1787, in stark contrast to the French revolutionaries of 1789, understood that we could not entirely remake the world. Instead they carefully surveyed historical lessons from the past, preserving things deemed useful, discarding the rest.

Think also of those legends of 1787, not here now to help us revise the Constitution: no magisterial George Washington, the sole delegate whom everyone trusted totally, whose presence

"Such a misbegotten work product could well spawn a new, enduring 'Disunited States of America.'"

reassured everyone that the proceedings would be conducted honorably; no witty sage Ben Franklin to play the role of gray eminence; no studious James Madison to be its leading-light, prime architect of the federal Constitution—its separation of legislative, executive, and judicial powers, and the Bill of Rights that semi-checked federal power.

Likely a new charter would combine the worst parts of the UN's economic rights mandating massive government intervention; California's populist monstrosity with referenda galore; and Valery Giscard D'Estaing's bloated, super-state European Union straitjacket. Expect that the results of Convention 2.0 would include ending the Electoral College protection for small states; myriad P.C. limits on formerly free speech (secular or religious)—already under intense fire; and an even more gargantuan federal government Godzilla.

Stir in an increasingly historically-challenged public, whose grasp of the current federal Constitution, let alone of the grave risks attendant to revising what has stood for 237 years since it was ratified by the States, is increasingly sketchy. Such a misbegotten work product could well spawn a new, enduring "Disunited States of America."

Those calling for a new convention had best keep in mind the ancient Chinese admonition: Be careful what you wish for, lest you get it.

NOTE: Gov. Greg Abbott recently unveiled a 9-step Texas Plan to rein in the the federal government and restore the balance of power between the States. To achieve this, he is asking the 2017 Texas legislature to pass a bill calling for a constitutional convention or an Article V Convention of the States. Eagle Forum CEO Phyllis Schlafly has written on this subject for years (see eagleforum.org) and says, "A new national constitutional convention is a terrible idea and it should be opposed and defeated in every state legislature." A better way is to elect Godly conservative men and women to office who promise to uphold the Constitution and our Republican form of government. Your vote in the March 1 primary will start that process.

Obama's Latest Executive Order Erodes 2nd Amendment

Last month, the president announced a series of gun control actions in the form of “executive actions” during a lengthy press conference at the White House. Throughout, the president made it abundantly clear that restricting the rights of America’s law-abiding gun owners will remain his focus in the last year of his tenure.

We saw something very similar in January 2013, when Obama said he would not wait for Congress to act on gun control and unilaterally imposed 23 executive actions on guns, insisting they would help save lives. **Then, as now, what was missing from Obama’s statements was any substantiation—or even any convincing explanation—of how his restrictions on the right to keep and bear arms would save lives, or impact public safety in a meaningful way.**

Once again, we were asked to accept as an article of faith that diminishing the rights of the law-abiding will somehow influence the actions of violent criminals or others intent on harm.

Anti-gun elites and groups had been proclaiming for weeks that Obama was going to “close the private sale loophole” with one of his executive actions. What the president did, however, was something entirely different. He essentially warned gun owners that lawful behavior might not be, in fact, lawful.

Thanks to a carefully drafted statute enacted in 1986, the president had relatively little room to maneuver in this regard. Those reforms were part of the NRA-supported Firearm Owners’ Protection Act. They were enacted specifically in response to abusive practices by the ATF, which included treating occasional sales of personal firearms as unlicensed “dealing” or seizing private firearm collections, on the pretext that they were the “inventory” of illegal “dealers.”

At the end of the day, the administration’s big move on background checks was, instead, a 15-page brochure or “guidance” which explains the relevant federal statutes and regulations concerning firearms dealing and summarizing its view of the controlling case law. **Even though the president cannot unilaterally expand the law, he can still instill fear in gun owners and intimidate them into believing that private transfers are now illegal.** The ATF can take his directive and push the envelope with marginal cases that would be ignored in a less agenda-driven administration. They may well be looking to “make an example” of somebody, especially in the realm of sales advertised online.

Obviously, chilling otherwise lawful firearms transfers could be just as effective as restricting such activity with passage of a new law or regulation. There can be little doubt the president knows this and why he and administration officials have repeatedly said, “even 1 or 2 sales” can make one a dealer.

Based on evidence from past practices, the administration will likely try to have it both ways—revoke licenses for “dealers” who don’t sell a “sufficient” number of firearms, but prosecute those who sell a small number of firearms without a license.

On another front, one of Obama’s other announcements was that the Social Security Administration (SSA) continues to work on combing the rolls of its beneficiaries to find pretexts to report

them to NICS as “mental defectives.” To date, the SSA has not released details of its plan, but it appears that its rollout will at least be a formal and public rule-making process.

Obama also pledged to use the leverage of the U.S. government as the nation’s leading arms procurer to develop and promote the use of so-called “smart-gun” technology. During his press conference, he repeatedly referred to features of his iPhone and iPad and suggested that they could be incorporated into firearms. The White House press release seems to suggest that the plan is to phase in the technology through its adoption first by government agents, with the private sector presumably following suit after that.

Whatever the benefits of tracking features and fingerprint recognition might be in the public sector, however, individuals in the private market have shown little interest in trusting their safety and freedom to such technology. Time will tell what, if anything, will come of this. Although the NRA is not opposed to the development of new firearms technology, we do not believe the government should be picking winners and losers in the marketplace. As with all advancements, the market itself should be the driver, with consumers the ultimate arbiter of which product developments will succeed.

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Indeed, the onerous effects of Obama’s executive actions in 2013 are not fully realized. Similarly, it will take time for the impact of his latest actions to be fully felt and understood. **In the meantime, Obama continues his kingly reign, criminals and terrorists continue to blithely ignore the law, and the rest of us are left to parse through vague and confusing federal proclamations and “guidance” materials to hold onto what’s left of our rights.**

SOURCE: National Rifle Association of America, Institute for Legislative Action, 1/6/16



Eagle Cliff Notes

Fewer Self-ID As Democrats Than Ever

According to a recent Gallup poll, 29 percent of Americans self-identify as Democrats, which is the lowest figure ever recorded. Republican self-identification is also near historic lows at 26%. Further, the fact that Independent self-identification has been on a steady rise masks the fact that those Independents have come to vote overwhelmingly Republican. Beyond their self-identified voting base, the Democrats need committed Democrats to stand a chance to win. Here in 2016, we are probably seeing the all-time post-Reconstruction high-water mark for the GOP, with Republicans claiming over 60 percent of state legislatures, over 60 percent of state governorships, and both houses of Congress. The only office the Democrats have left is the Presidency and they look prepared to throw that away by nominating an unlikeable harpy who may well be under indictment for a portion of the electoral contest. The end result is a world in which both Republican and Democrat self-identification continues to plummet.

SOURCE: Leon Wolf, redstate.com, 1/11/16

Good-Bye Al Jazeera America

Here's one casualty of low oil prices: Al Jazeera America is shutting down. It seems Qatar's government has run out of cash to support its propaganda news organization here in the U.S. Nobody is really going to notice because nobody really watched it anyway. The channel struggled from the beginning to garner meaningful viewership and stand out in the crowded American media market. It averaged an abysmal 30,000 viewers in prime-time spots and sometimes a zero rating in the key 25-54 demographic. The winner here? Believe it or not, Al Gore, who received a half billion dollars for the network in August 2013.

SOURCE: Steve Berman, theresurgent.com, 1/13/16

Conservative Professors Outnumbered 5-to-1

America's professors—who largely preach the value of diversity—have become much less politically diverse. Liberal professors now outnumber conservatives 5-to-1. Sixty percent of professors now identify as “liberal” or “far-left” according to a survey from the Higher Education Research Institute (HERI) at UCLA. In 1990, that percentage was 42 percent, and in that 25 year span the amount of professors identifying as conservative dropped six percent. In 2009, HERI found that the number of students who identified as liberal increased 9.2 percent from their freshman year to their senior year. The slight good news is that, despite the overwhelming liberalism of their professors, the students surveyed in 2009 were still significantly less liberal than their teachers. Parents and taxpayers should be concerned that their money is going to a university system with professors more motivated by political ideology than by trying to help their students' future employment prospects.

SOURCE: redalertpolitics.com, 1/12/16

Friends Of Faith

The fight to defend religious liberty against burdensome Obamacare mandates did not end with the Hobby Lobby case. Previous administrations likely would have gotten the court's message from that case, which granted certain for-profit businesses a religious exemption from the government's coercive contraception mandate. But not this one. The Obama Administration is still trying to force religious organizations, including the Little Sisters of the Poor, to comply. For an administration that talks so much about a “war on women,” it continues to bring the full weight of federal power down on the heads of nuns. Two hundred seven members of Congress recently filed a “friend of the court” brief (amicus brief) in support of the Little Sisters of the Poor. While a legal brief may not make headlines, it is significant. These members of Congress are going on the record telling the court that the First Amendment right of religious freedom is more important than the left's agenda of promoting abortion-inducing drugs. You would think that virtually every member of Congress could agree to that.

SOURCE: Gary Bauer, American Values, 1/12/16

Quote of the Month

“If politicians can ignore the language of one Constitution, then they can ignore the language of another. People who break rules don't start obeying them just because you write some new ones.”

A. Barton Hinkle, “The Case Against Convening A new Constitutional Convention,” Reason.com

Famous American Quote

“Whenever the pillars of Christianity shall be overthrown, our present republican forms of government, and all the blessings which flow from them, must fall with them.”

Dr. Jedediah Morse, clergyman and “The Father of American Geography,” 1799

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