



Written by [Joe Wolverton, II, J.D.](#) on December 6, 2013

Mt. Vernon Assembly Plans to Adopt Rules for Future Con-Con

On December 7 (“a date which will live in infamy?”), a “bipartisan meeting of the states” will convene at George Washington’s beloved Mt. Vernon estate (shown). Despite their denials, this group of state legislators seem determined to tinker with the Constitution and remake the document that has kept us free for over two centuries.



Of course, they explain their purposes a little differently.

First, the organizers of the convention claim the meeting is designed to “to foster communication and interaction between the states.”

This increased interaction will, the group insists, improve the ability of the states to “influence Congress and the direction of the country.”

Ironically, though, it is the failure of Congress to control spending and the growth of government that prompted the Mt. Vernon proposal in the first place.

The organizers of the Mt. Vernon Assembly insist that this is not a call for a constitutional convention, but rather a meeting “to discuss and consider a Convention of the States in 2014 that is solely focused on the task of writing the rules for an Article V Convention.”

In explaining why they chose George Washington’s Virginia home as the venue for their assembly, the organizers point to Washington’s “key role in pulling together the Philadelphia Convention of 1787.” What they do not reveal, however, is another more direct connection between the first president’s estate and a wholesale constitutional convention.

In March 1785, a meeting of delegates from several states was held in Mt. Vernon. This conference, though nominally very narrow in scope, eventually led to the scrapping of the constitution then in force, the Articles of Confederation.

The announced goal of the gathering was to resolve border and trading disputes between Virginia and Maryland. While resulting in no substantial agreement between representatives of the neighboring states, there was a sense that a larger convention — one where more states would be invited — might have enough clout to solve the pressing issues of common concern, principally that of self-preservation.

This led to a subsequent meeting the next year in Annapolis, Maryland, that itself resulted in the Constitutional Convention of 1787 in Philadelphia.

In fact, [in 1908, the Inland Waterways Commission made a direct connection](#) between George Washington’s Mt. Vernon Conference and the eventual convening of the 1787 Constitutional Convention:

The earliest movement toward developing the inland waterways of the country began when, under the influence of George Washington, Virginia and Maryland appointed commissioners primarily to



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consider the navigation and improvement of the Potomac; they met in 1785 in Alexandria and adjourned to Mount Vernon, where they planned for extension, pursuant to which they reassembled with representatives of other States in Annapolis in 1786; again finding the task a growing one, a further conference was arranged in Philadelphia in 1787, with delegates from all the States. There the deliberations resulted in the framing of the Constitution, whereby the thirteen original States were united primarily on a commercial basis — the commerce of the times being chiefly by water.

Couldn't that same thing happen in the 2013 Mt. Vernon Assembly that will occur Saturday? Is it improbable to think that a couple of years after the meeting there would be enough momentum to call a proper convention of the states (an Article V convention), one fully empowered to "revise" the Constitution — an event that would actually end up repealing our revered charter?

Think also of those who might attend any subsequent conference to consider an Article V constitutional convention.

The prospect of a convention endowed with power of this magnitude, populated by politicians (many of whom would likely be bought and paid for by powerful lobbyists and special interest groups) determined to recalibrate the precision gears that give movement to works of our mighty Republic, is frightening and should give pause to everyone considering supporting the Mt. Vernon Assembly 2013 or any subsequent call for an Article V convention.

In a "Frequently Asked Questions (FAQ)" document produced by the promoters of the Mt. Vernon Assembly, readers are assured that the overarching goal of the meeting is to enable states to become "proper stewards of [their] constitutional responsibilities."

Can states not do this without running the risk of exposing our Constitution to special interests, lobbyists, and designing politicians?

To begin with, rather than expose the Constitution to the whims of special interest groups, political action committees, corporations, and the politicians they pay for, why not enforce the Constitution as written?

For example, there is not a single syllable in the Constitution providing for foreign aid (\$74 billion spent from 2010-2011), undeclared wars in Afghanistan and Iraq (nearly \$4 trillion spent since 2001), or the 185 federal welfare programs (nearly \$2 trillion spent from 2010-2011). In the past decade, based on just those three examples alone, Congress has authorized the spending of over \$6 trillion for unconstitutional purposes!

Wouldn't the country's economic outlook be improved by forcing our federal representatives to obey the limits on their power as provided by the Constitution, rather than allowing the delegates to the Mt. Vernon Assembly (and the powerful interests many of them would be financially beholden to) to call for a new constitutional convention that not only would do nothing to restrain the federal government, but could potentially rewrite our Constitution? The certain risks associated with such a proposal far outweigh the purported benefits.

Fortunately, there is another way for states to exercise their collective authority on the federal government without resorting to a constitutional convention. It is the concept described by Thomas Jefferson as the "rightful remedy" for any and all unconstitutional acts of the federal government: nullification.

Simply stated, nullification is a concept of legal statutory construction that endows each state with the



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right to nullify, or invalidate, any federal measure that a state deems unconstitutional. Nullification is founded on the assertion that the sovereign states formed the union, and as creators of the compact, they hold ultimate authority as to the limits of the power of the central government to enact laws that are applicable to the states and the citizens thereof.

In [a 2010 article in *The New American*](#), Larry Greenley of The John Birch Society explained why nullification is a better choice than a constitutional convention when it comes to restoring the balance of power between states and the federal government:

To make the correct choice, we must understand the problem — namely that all three branches of the federal government routinely disregard major portions of the Constitution, despite the fact that the original 13 states created a compact, or agreement, designating as their agent, a federal government composed of executive, legislative, and judicial branches with their powers enumerated in the Constitution.

Thus, the states must reassert themselves soon as the parties to the original compact that established the federal government as their agent and enforce the Constitution, or face eventual extinction at the hands of the federal government.

In the [Virginia Resolution of 1798](#), Madison reaffirms this fundamental principle of constitutional construction:

Encroachments springing from a government, whose organization cannot be maintained without the co-operation of the states, furnish the strongest excitements upon the state legislatures to watchfulness, and impose upon them the strongest obligation, to preserve unimpaired the line of partition.

With these facts in mind, would it not seem that our nation's fiscal and political wellbeing is better served by governors jealous of their states' sovereignty and their rightful role as "shelters against the abuse of power," signing into law state bills nullifying unconstitutional federal measures (including those that have propelled our national indebtedness into the stratosphere) than by state legislators and others uniting at a constitutional convention with unchecked power to amend our Constitution out of existence in the name of balancing the budget?

And there is another discomfiting problem facing these state lawmakers-cum-constitution convention delegates. States are faced with the crushing debt of unfunded pensions. These liabilities keep the states dependent on federal largesse. Admittedly, these debts could be wiped out if the federal government were to assume responsibility for them. Of course, such an assumption would require the granting to the federal government an expanded scope of powers. Remarkably, there is a historical precedent for such an arrangement.

At the Constitutional Convention of 1787, state debts incurred in waging the War for Independence were assumed by the new federal government as part of the "bundle of compromises" that created the Constitution.

The relevant question that should be put to the organizers of the Mt. Vernon Assembly is how many of their colleagues in state legislatures and governors' mansions would happily discharge the debt they helped create by giving the federal government a little more power? It seems wiser and safer to seek out and elect federal representatives committed to never voting for a single spending bill that violates the enumerated powers of the Constitution and refusing to reelect those members of Congress that do vote for such measures.



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In short, the answer to the crisis lies in following the Constitution, not “fixing” it.

Enforcing the Constitution and demanding that states stand up to their would-be federal overlords accomplishes the same goal as the Mt. Vernon Assembly (and any subsequent “convention of the states”) without putting the parchment of the Constitution so close to the shredder that such a convention could become.

Finally, considering the fact that the Mt. Vernon collaborators are keen on justifying their confab by claiming that “These types of meetings were used often by our Founders,” it seems appropriate to report what the Father of the Constitution — James Madison — believed about the call for a second constitutional convention being made by some states. Read how timely Madison’s warnings remain:

You wish to know my sentiments on the project of another general Convention as suggested by New York. I shall give them to you with great frankness. 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; it would probably consist of the most heterogeneous characters; would be the very focus of that flame which has already too much heated men of all parties; 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. Having witnessed the difficulties and dangers experienced by the first Convention which assembled under every propitious circumstance, I should tremble for the result of a second meeting in the present temper of America, and under all the disadvantages I have mentioned.

All Americans and state legislators who stand united in their resistance to the constant unconstitutional overreaching of the federal government must also unite in their opposition to the Mt. Vernon Assembly.

The states and people must also forcefully reject the Article V constitutional convention that history shows would soon follow a Mt. Vernon Assembly-style “limited meeting.” An Article V convention would be beyond the control of the people or their representatives, and could reasonably result in the proposal by the assembled delegates of potentially fatal and irreversible alterations to our Constitution that could very well end up being ratified to our ruin.

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