

Open Letter to the San Antonio Tea Party and the Texas Campaign For Liberty:

I wanted to respond to an email I got from Allen Tharp written by Tom Dowdy, Coordinator of the Texas Coalition for a Convention of States. The email was contradictory in some ways as I will illustrate below and said some incorrect things regarding the US Constitution and the nature of all social contracts and or constitutions in general. First I will start by quoting the entire email below:

"Follow the Eagle Forums lead and continue to increase our huge debt?"

If you are follower of the Eagle Forum you would know that Phyllis Schlafly joined in with the John Birch Society and Chief Justice Warren Berger, who happens to be the largest activist and Liberal Judge to ever sit on the Supreme Court. They all called for stopping an Article V Convention of States by using Lies and innuendoes and scare tactics. They were successful in stopping an Article V calling for a balanced budget amendment in 1983 when the Combined US Debt was just under 1 trillion dollars, now look at it. I blame the Eagle Forum and other groups like them for a huge portion of this debt.

Now for the Eagle Forum to say they are lovers of the Constitution and say that it should be followed, all except the Fifth Article, is to say the least, Hypocritical. They cannot be for the Constitution and tell Congress to follow it and not be 100% behind all of it. They loose all creditability when they do that.

Now the fear mongering is no different than when the Constitution was Written. The Anti-Federalist were saying the same things in 1788 to try and stop the ratification of the proposed Constitution. The only difference in what was said then and what is said now is the bad guys names have changed, then it was the Torres then and now it is the liberals and George Soros.

What seems to be forgotten is the Constitution cannot be re-written, it can only be amended. Now if some are afraid the liberals will do damage to the Constitution, I will remind them the Liberals had their best opportunity during the years of 2008 to 2010 when they had full control of both houses. And knowing that, I ask then; why didn't the Liberals make changes to the Constitution or re-write it then? You know the answer as well as I-they knew there was no way they could get it ratified. Remember: it only takes 13 States to stop ratification of any bad amendment or change to the Constitution. As well; no where in the Constitution does it give anyone the right to re-write the whole constitution, you can only propose Amendments. The founding fathers knew this day would come; when the government would become so drunk on their own power that they would become tyrannical and want to rule over the people. That is the very reason they put the second part in the Fifth Article in the constitution giving the states the right to make changes to the Constitution that would stop the abusive power of this run a way government.

Now you are either a lover of the U.S. Constitution and want everyone to follow the whole document or you are not. You cannot pick and choose what part you like and what parts you do not like."¹

Incorrect Assertions:

Mr. Dowdy makes his main assertion in the next to the last paragraph where he says; **"What seems to be forgotten is the Constitution cannot be re-written, it can only be**

¹ Tom Dowdy
Texas Coalitions Director
972-839-6157
TDowdy.TXCOS@live.com

amended. * no where in the Constitution does it give anyone the right to re-write the whole constitution, you can only propose Amendments.**" There is nothing written anywhere in the US Constitution or anywhere else that says a New Constitution for a New Union of States cannot be written. The US Constitution does say if the states want to alter the "Constitution for the united States of America" the Constitutional Convention produced and was ratified in 1789, that they can only do so by amendment. Nothing in the said constitution prevents or makes writing a new constitution unlawful. And that is for good reason as such a provision would not be lawful or binding on anyone anywhere. What the Article V amendment provisions do for the Constitution of 1789 is provide a means for the government it created to maintain its authority over the people and at the same time give a means for the people through their states to alter the constitution. But it does not prevent the cause of dissolution of the same constitution of 1789 nor does it prevent the constitution of a new union by another social contract or constitution. And such a prohibition cannot be made lawful by any person or group of persons or all the people on earth.

On the other hand, what Mr. Dowdy says would be correct *if* the form of government the subject constitution created was in conformity to that constitution and amendments were passed for any changes in it. As long as the government is conformed to its constitution no other constitution can be written. But that is not the case we have before us today. We have a government that has been altered by law beyond its constitutional recognition without amendments or permission by the people. The so-called "federal government" in Washington D.C. today is not the government we agreed to or permitted by amendment. It is an unauthorized tyranny that exists only by illusion of elections. But in fact it does not have authority to even call for an election much less conduct them and fill offices with new people which become instant tyrants.

What Mr. Dowdy asserts is what most people believe, erroneously, about the nature of the US Constitution and all social contracts. They simply think constitutions are eternal no matter how perverted they become or how unsuccessful the people are at protecting them or altering it for their protection. If constitutions and social contracts were eternal no matter how perverted it would certainly be the perfection of tyranny and damnation upon earth. But, thanks be to God, that is not true and cannot be made to be true.

The US Constitution of 1789 does not address the conditions of dissolution but they are known and they were published by John Locke a full 100 years before the ratification of the 1789 Constitution in his *Second Treatise of Government* 1689.² Now this is the same John Locke upon which all our federal and state constitutions are based according to Thomas Jefferson who said all the American ideals of human freedom come from Algernon Sidney and John Locke. Locke actually wrote a good portion of the Carolina Constitution in 1669.³

Thomas Jefferson also shows in his Declaration of Independence that eternal constitutions and magistrates do not exist and that it is always the right of the people to alter or abolish their forms of government and make new ones that will better protect

² <http://www.constitution.org/jl/2ndtr19.htm>

³ http://avalon.law.yale.edu/17th_century/nc05.asp

their property as they see fit. It is obvious that Jefferson got almost all his ideas from John Locke's *Second Treatise of Government*.

How are we to understand the amendment process of the US Constitution of 1789? The process was to allow alterations and at the same time maintain authority for the government and its officers and officials and employees, etc. But what happens when alterations of the form of government are made by law without the required amendments or the permission of the people? This too is not addressed in the US Constitution of 1789 but we know from Locke what that does. Alterations of the form of government by law without amendments dissolves the Constitution and with it the authority of its officers, officials and employees. It also frees the people and their states from any obligations to conform to, or perform any of its provisions. The people, after dissolution occurs, are free to make new government for the better protection of their property consisting of their life, liberty and possessions. So what does it mean to "protect the constitution?" It means to prevent any changes by law without amendment as that dissolves or kills the constitution or social contract.

Hence, it is not possible to protect a dissolved constitution as no one can make it lawful at that point and authorize its officers, officials and employees or demand that anyone conform to or perform any of its provisions. No one in a dissolved office can make the constitution lawful, or the government it created lawful, nor can they create the authority for their own office. Those in dissolved offices in a dissolved government can do nothing lawful for those they were to represent and immediately become tyrants if they do anything for or against those they were to represent, as the definition of tyranny is the exercise of power without authority. It is simply too late to protect the Constitution of 1789 as it is dissolved.

Now this is the economy and elegance of God's laws that tyrants in their zeal to destroy the society of a people, destroy their own authority in the process. That leaves the people innocent of the crimes of tyrants and excludes all moral and lawful defense of tyrants.

In the clear light of our real condition we can see that any attempt to hold a Convention of States with the intentions of altering a dissolved government is wholly and completely unlawful. The Article V amendment provisions are only lawful and effective when the government is conformed to its constitution and amendments are passed for any change. But an Article V Convention of States application or a Congressional "deeming" cannot redeem, alter or authorize a dissolved government by amendments. First, the Application for a convention of states must be made to a dissolved government without authority which would be meaningless and unlawful. Second, both houses of congress of a dissolved government cannot correct an abuse or make itself lawful or bestow authority upon itself by amendment.

Contradictions of Mr. Dowdy:

We have reviewed the incorrect assertions of Mr. Dowdy and now we can see more clearly the contradictions that spring from it as he applies them to others. He says;

"Now for the Eagle Forum to say they are lovers of the Constitution and say that it should be followed, all except the Fifth Article, is to say the least, Hypocritical. They cannot be for the Constitution and tell Congress to follow it and not be 100% behind all of it. They loose all

credibility when they do that *** Now you are either a lover of the U.S. Constitution and want everyone to follow the whole document or you are not. You cannot pick and choose what part you like and what parts you do not like "

This logic sounds like that expressed by Christians in defense of the Bible. I agree with the Christians on that point but it cannot be made as correctly with regard to the US Constitution of 1789. If one says they love the Constitution today, the US Supreme Court will take notice and say, "yes we agree with you so pay your federal income tax on your wages," which we know is unlawful. One cannot be a lover of the US Constitution of 1789 and not plan on being in jail soon. No matter how much you love the original idea of the federal constitution of 1789 you cannot love it now the way it has been interpreted and forced upon the necks of the people. It is hard to find people who love the 14th and 16th amendments the way they are interpreted today. To say that we love the Constitution and should love every provision of it and how it is interpreted is the closing of the cell door and the locking of the shackles upon our ankles.

I will assure you that I do not love any part of the US Constitution of 1789 as it is dissolved and anyone that demands that I conform to any provision of it does so without authority as even those in the offices of it have lost that authority to ask of me the same. No one has authority to demand that anyone conform to the dissolved constitution of 1789. This does not mean that I don't comply with the whims and perversions of the federal government as that would only mean the destruction of me and all my property. But that is not called lawful obligation and allegiance but rather survival under tyranny.

The only lawful use of the 1789 Constitution today is to show how the present "government" in Washington D.C. is dissolved, unlawful and tyrannical. So the constitution has two main purposes: In the beginning, it acts to check and prevent tyranny, but when it fails, it acts to show how the rebels that destroyed it have dissolved their own authority in the process.

Mr. Dowdy is mistaken about the original purpose of Article V:

"The founding fathers knew this day would come; when the government would become so drunk on their own power that they would become tyrannical and want to rule over the people. That is the very reason they put the second part in the Fifth Article in the constitution giving the states the right to make changes to the Constitution that would stop the abusive power of this run a way government."

Mr. Dowdy has got the correct vision but not the correct words to really describe what he is feeling and ends up with the wrong solution and understanding of the constitution and its provisions. His statement that "government would become so drunk on their own power that they become tyrannical and want to rule over the people" really means government dissolves its authority. The US Constitution gave them authority to "rule over the people" but only on the condition that it remain conformed to the Constitution of 1789 or a changed form of same only with permission by amendment. So what does it really mean to "become drunk on their own power," becoming "tyrannical?" The only way they can become tyrannical is by losing their authority to exercise power. Therefore the conditions that give rise to tyranny or the exercise of power without authority is either a mere violation of the constitution which can be corrected or an alteration by law of the constitution without permission by amendment unto death or permanent dissolution. In the first case no alteration of the constitution is necessary and can be cured by the courts.

In the second case an amendment is not obtainable that would bestow authority on a dissolved government and even all three branches of government lose their authority for correction of anything. The first case produces a limited curable tyranny while the second case produces total tyranny and an irreparably dissolved government. Under the conditions of the first case the people are still bound to the constitution. But in the second case it frees the people to seek new government to defend their property.

Therefore, the Fifth Article only provides a way to alter a form of government in conformity to the Constitution not a power to create lawful government from a dissolved one. How in the world would an amendment to a dissolved constitution create lawful government from a dissolved one? This cannot be done lawfully. Article V only applies to a lawfully conformed government for the alteration of that lawful form not the creation of lawful government from a dissolved one.

Mr. Dowdy asserts the wrong purpose of Article V:

"the Fifth Article in the constitution giving the states the right to make changes to the Constitution that would stop the abusive power of this run a way government."

What is "abusive power" of a "run away government?" Without a clear definition of what we are viewing we cannot deduce the correct solution. A lawful power cannot be "abusive." A conformed government cannot be a "run-away government." A "run-away government" is one that has been altered without permission making it rebellious and dissolved and the power it exercises is therefore abusive as it is without authority and is tyrannical by definition. But Article V is no prevention of such a thing and it is not a solution to such a thing either. Article V does not address what to do with a dissolved unlawful tyrannical government. It only addresses how to lawfully alter the form of a government conformed to its constitution. People and communities can discover better and more efficient ways to do things and may want to change the process to improve its performance and economy. That is what Article V is there for. But Article V was never there to generate lawful government from a dissolved unlawful government.

Even the initiation of an Article V process presumes the existence of a lawfully existing federal government the same as does a secession process. One need not secede from a dissolved union, neither can one alter a dissolved union, because dissolved governments do not exist in law. Where there is a dissolved union, the states are automatically free to form a new union with a new constitution of its powers and limitations. Any attempts to secede or exercise a provision of a dissolved government implies that it is not dissolved and has true lawful authority. Therefore the question before us is, do we have a lawful federal government that has maintained its authority by remaining conformed to its constitution and all alterations were made by amendment? If it is lawfully conformed then it may be improved by an Article V process. If it is not lawfully conformed, Article V is also unlawful and useless.

It is wise on the part of the people to avoid all action that implies the possession of authority by an entity that has lost all authority. The rebels who have overthrown a government by dissolving it will use those implications against you as *admissions* that you think they are lawful, at which time they will conclude that you must comply with all their tyrannical whims or lose all you have. I commend those who do not want to see the institution of an Article V process. I further commend all those who do not want to see a

secession. It is time we apply ourselves to the construction of new lawful government in which no one in the offices of a dissolved government can participate. We can no longer mess around with the rebels who have overthrown our nation and ask their permission to do anything! They cannot help us as they are in the very form that the rebels wanted to start with and they will protect that form and impose it upon us.

Article V "balanced budget amendment" does not address the root problem:

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Mr. Dowdy asserts that an amendment that requires a balanced budget would prevent the massive debt we now have and blames those who were against it for the high debt. But he is not considering the condition of dissolution of lawful government. What really made the dissolved US government spend more then it had requiring the borrowing of billions and trillions of dollars in the first place?

First, the real cause of insurmountable national debt is the institution of the federal reserve system creating a private banking cartel with power to print unconstitutional paper debt notes and regulate the value and amount of that unlawful currency and make the people pay interest to them to obtain and use it. Every bit of that is unconstitutional and instituted by law without any amendments. The entire "national debt" should be repudiated as unlawful and can be shown to be so.

Second, a "global war on terror" and war against the Middle East and all Muslim nations for the protection of Israel is not a lawful war. The unlawful war is the result of a dissolved federal government that would not and will not investigate 9/11 to prove who really did it. None of 9/11/01 happened like the dissolved government said and they prevented a true investigation of any of 9/11 and destroyed most all the evidence before any law enforcement body could study it for clues. Had we had a lawful government, 9/11 would not have happened and if we had one now it would be investigated. Our astronomical debt has come from the institution of unconstitutional debt currency without amendment and the large sums are the result of false emergency wars our dissolved government creates for the very purpose of enslaving the nation under false debt and using those slaves to further their personal unlawful global agenda.

Therefore, under our dissolved government, a balanced budget amendment would not have prevented 9/11 nor would it have prevented the very expensive unlawful wars and occupations of Iraq and Afghanistan as the amendment would not have forbidden the borrowing of credit from the global bankers and the federal reserve to pay for emergencies like the wars in the Middle East as the dissolved government would surely claim. Our problem is not the want of the ability to make amendments but the want of a lawful government to defend the property of the people. What makes anyone think that a dissolved unlawful tyrannical government will follow a new balanced budget amendment

any better than any other provision of the US Constitution, especially while the unlawful system is still in place? If the so-called federal government was conformed to the US Constitution there would be no perception of the need to stop massive debt. But as it is now, no amount of amendments will restore lawful authority to the dissolved US government and union it created or correct the root problems.

I had the pleasure of live-streaming the speech made by Dr. Lawrence Gelman at the San Antonio Tea Party general meeting and he agreed with me that the federal government is "unconstitutional and illegal." That is simply another way of saying unlawful, meaning dissolved. But his solution was incorrect. He said the constitution must be "enforced" and that it was "pristine." This approach to a dissolved government only sustains an unlawful tyranny as it is simply impossible to make lawful government from a dissolved one no matter how good the original constitution was. Constitutional attorneys, Thomas E. Woods Jr. and Kevin R. C. Gutzman also say the constitution is dead or dissolved in their book *Who Killed the Constitution?* But few people are coming up with the correct response to the condition they clearly describe. But our forefathers knew what to do and their forefathers also from Locke and we will figure it out as well.

Unfortunately, Article V is no solution to a dead, illegal, dissolved unlawful tyrannical government. What we should do is not blame others for what others have done to us and get together and really address reality and design our response to fit reality. You can read a draft of a Declaration of the Observation of the Dissolution of the united States of America at www.LawfulGovernment.com/declaration-of-dissolution.pdf

Sincerely,

Ronald F. Avery