

Walter Williams, Tea Parties and Article V

Sunrise, Sunset

By Bill Walker

On April 15, 2009, the same day of the national Tea Parties, Professor Walter E Williams published an Internet column entitled, "[Democracy and Majority Rule](#)." Both relate to an Article V Convention. The Williams' column shows signs of being the sunset of convention opposition; the Tea Parties show signs of being the sunrise of wide political support for a convention.

I have listened to Professor Williams on the Rush Limbaugh program for years. He is articulate, thoughtful and I would even say brilliant. His columns are well written and concise and never go off subject. Each word in his column relates specifically to the subject of his column. Or so I thought. Imagine my surprise when I read this latest column.

The theme of "[Democracy and Majority Rule](#)" is discussing the dangers of "majoritarian tyranny." This is an oxymoron given the definition of majoritarian is "one that believes the many more likely to be in possession of reason and truth than the few." Tyranny is defined as "rigorous, cruel, oppressive, and unjustly severe government whether by a single absolute ruler or other controlling power." Hence, as Professor Williams feels "majoritarian tyranny" is a danger it is clear he holds those more likely to be in possession of reason and truths are most likely to be "cruel, oppressive and unjustly severe." However, history repeatedly demonstrates a minority (those least likely in possession of reason and truth) is more prone to inflict tyranny on a majority than the reverse. At best, Professor Williams premise requires a grain of historic salt if it is to be accepted.

Besides quoting some of the founders of our nation to bolster his argument he also included examples of where "the Constitution's framers inserted several anti-majority rules" to deal with "the dangers of majoritarian tyranny." He cited the Electoral College as preventing "majoritarian tyranny" in that "nine states could determine the presidency...but can't because they have only 225 Electoral College votes when 270 of the 538 total are needed." He discussed the bi-cameral Congress noting, "Fifty-one senators can block the designs of 435 representatives and 49 senators." Professor Williams discussed the fact the president is given "a veto to weaken the power of 535 members of the houses of Congress" and that "it takes two-thirds of both houses of Congress to override a presidential veto." He mentioned "phraseology used throughout the Constitution, particularly our Bill of Rights, containing phrases such as Congress shall not: abridge, infringe, deny, disparage or violate."

The professor concludes, "Americans think Congress has the constitutional authority to do anything upon which they can get a majority vote. We think whether a particular

measure is a good idea or bad idea should determine passage as opposed to whether that measure lies within the enumerated powers granted Congress by the Constitution. Unfortunately, for the future of our nation, Congress has successfully exploited American constitutional ignorance or contempt.”

As the Supreme Court of the United States approved in 2006 a [federal district court ruling](#) stating under the political question doctrine Congress may veto provisions of the Constitution, is it any wonder “Americans think Congress has the constitutional authority to do anything upon which they can get a majority vote.” Professor Williams is incorrect in his conclusion only to the extent that he fails to note Congress takes such actions he condemns based on a federal court order. This fact alone defeats Professor Williams’ premise of “majoritarian tyranny.” While certainly the majority of Americans disagree with this court order, it was imposed not by a “majoritarian tyranny” but a single federal district court judge, as small a tyrannical minority as is possible.

One example Professor Williams uses in his argument is the amendatory procedure of Article V of the Constitution. He writes, “To change the constitution requires not a majority but a two-thirds vote of both Houses to propose an amendment, and to be enacted requires ratification by three-fourths of state legislatures. The Constitution's Article V empowers two-thirds of state legislatures to call for a constitutional convention to propose amendments that become law when ratified by three-fourths of state legislatures. I used to be for this option as a means of enacting a spending limitation amendment to the Constitution but have since reconsidered. Unlike the 1787 convention attended by men of high stature such as James Madison, Thomas Jefferson, George Washington and John Adams, today's attendees would be moral midgets: the likes of Barney Frank, Chris Dodd, Olympia Snowe and Nancy Pelosi.”

It is in this example Professor Williams commits an editorial faux pas of going off subject to discuss the morality of office holders as it relates to an Article V Convention. Professor Williams does not discuss the morality of those involved in any other example. He does not mention any member of the Electoral College being “moral midgets.” He does not discuss presidential morality of Clinton, Nixon or Harding when discussing presidential vetoes many of which have been controversial to say the least. As to his example of 51 senators able to stymie the will of Congress, what of those senators, for example, numbering much less than that who nearly defeated the [Civil Rights Act of 1964](#)? Professor Williams cites none of these political figures as “moral midgets.”

Only with the Article V Convention, does he discuss morality. Of course, he fails to mention the Constitution (Article I, Section 6, Clause 2 “...no person holding any Office under the United States, shall be a member of either house during his continuance in Office.”) prohibits any of the persons he describes as “moral midgets” from holding the federal office of convention delegate. He moves further off subject to discuss a “spending limitation amendment to the Constitution” the support of which he has “reconsidered.” Professor Williams [is credited with helping to write](#) only one amendment issue, a balanced budget amendment, which the states have applied for in their applications. As far as can be determined, he has never publicly commented on the numerous other

spending limitation amendment issues submitted by the states in their applications. In combination with other public statements such as, "[A balanced budget is no panacea](#)" it appears the professor is repudiating his own proposal. While it is interesting, such repudiation of his personal support for an amendment proposal he helped to write has nothing to do with "majoritarian tyranny." In short, he went out of his editorial way to link a convention with the morality of people he clearly knew would have nothing to do with a convention.

Moreover, the professor fails to note if these "moral midgets" wished to propose amendments to advance their political agenda they do not need to become convention delegates. Instead, they simply use the same amendment proposal power the Constitution already grants them to propose amendments. In short, these "moral midgets" have no need of a convention, but have everything to lose, given they would have no say whatsoever in the events transpiring in a convention. Given the content of the amendment issues the states have advanced, it is safe to say these "moral midgets" will suffer major setbacks both political and constitutionally when an Article V Convention is called.

The most egregious slander of Professor Williams in his "moral midget" comment lies not in his condemnation of members of Congress of a particular political persuasion and moral character, but in the implication the American people are incapable of choosing anyone but "moral midgets" to represent them in public office. He obviously has no faith in the American people or their ability to select individuals of good moral character to represent them. His comments show a belief all America can elect is people of low moral character and this simply is not true. Professor Williams knows better. He should publicly apologize for such an implication.

What the professor fails to mention in his comments about an Article V Convention is a convention will be entirely different from the usual political election. Unlike those campaigns, there will be no re-election for any delegate/candidate; hence no re-election slush funds. The office is non-partisan. It will exist only until the convention finishes proposing amendments. The delegate only has authority to propose amendments (assuming two-thirds of the convention agrees with him or her).

A separate group of individuals also elected by the people will have the final say on these proposals. Given this group consists of all the members of the state legislatures, or state conventions, does the professor mean to imply these people are also "moral midgets" as they would sanction by ratification the original proposals of his "moral midgets" mentioned in his article?

The professor fails to acknowledge another important political fact of the convention. The convention has no other constitutional duties but amendment proposal. Therefore, unlike the usual political campaign, the issues of this campaign are set ahead of time, before the election. The amendment issues are public knowledge. The only issue of the campaign will be determining the delegate/candidate's position on those amendment proposals. Hence the electorate will have a vetting power unavailable in other elections

because there is no way a candidate can avoid directly addressing the issues as they are prone to do during most political campaigns. Politically, a convention is nothing but issues and therefore there is nothing else to discuss when it comes to electing delegates.

True, the large number of issues before a convention that Congress, by its refusal to obey Article V and call a convention, has caused means some problems for the voter. No delegate will be able to favor or oppose all of the issues. However, the general theme of the applications, that of major reduction of federal power and more control of the federal government by the people and the states should allow for the election of delegates either favoring this overall theme or opposing it. The applications may differ over what methods should be employed to lessen the power of the federal government and bring it back in compliance with the Constitution as written, but there is no dispute nearly all the applications hold that this compliance should occur. Thus, the voter will have a clear-cut question before them: shall there be more permanent control of the federal government and its actions by the states and the people or not?

These omissions of fact by Professor Williams in his comments together with his editorial faux pas of going off subject to assert, without proof or reference, the low morality of members of Congress as potential convention delegates, raise a legitimate question: why do this? Obviously, he intended to discredit the Article V Convention as a method to resolve problems facing this nation. Nevertheless, why present such a lame excuse not worthy of the level of brilliant argument Professor Williams usually presents? Maybe it is because he realizes the jig is up. Perhaps Professor Williams is aware of the more than 750 applications from all 50 states and realizes Congress is obligated to call a convention. Perhaps he knows that on at least two occasions the government has officially conceded it must call a convention. Perhaps he is aware the government has conceded that by refusing to call a convention, members of Congress have violated federal criminal law. The irony of this is this fact proves the members of Congress Professor Williams mentions are in fact “moral midgets” yet the professor uses his example not to condemn them for violating criminal law, but to support them by urging the Constitution, in this instance, not be obeyed by these “moral midgets.”

There is another possibility. Perhaps Professor Williams, like other opponents of an Article V Convention, is simply running out of legitimate arguments. As such, they resort any excuse, regardless of how feeble it may be, to prevent constitutional obedience. If so, we are witness to the sunset of these opponents. More and more Americans, ever more eager for a real solution to our problems, are turning away from the unproven, unsupported, untruths of their statements about an Article V Convention, learning the real facts, reading the applications and realizing an Article V Convention offers a real, legitimate solution to these problems which the Tea Parties only served to highlight.

The Tea Parties are the sunrise of major political support of an Article V Convention. The message repeated across the nation at the Tea Parties was “Stop the spending.” People concerned about what they feel is excessive regulation and taxing stood up to protest to the government, exercising their First Amendment right both of free speech and to redress grievances to the government. I attended a Tea Party in Olympia, Washington.

Attendance was between 5,000 to 7,000 people. The two-hour assembly was peaceful and polite despite the concerns of the sponsors who repeatedly cautioned the crowd not to engage in confrontation with counter protesters who, in the case of the Olympia meeting, was one Obama supporter in a sea of obviously anti-liberal advocates. It reminded me of a single Mets fan showing up in Yankee Stadium.

Obviously members of all state legislatures as well as members of Congress got the message that many people in this country are fed up with the outlandish spending as well as other abuses of power by the government. The Tea Parties reminded me of the start of a football game. The crowd cheering their team on as they come out of the locker room with banners waving, cheerleaders dancing, fireworks going off and bands playing. Then the whistle blows and the real game begins. The crowd mood changes. They support their team, but now they want touchdowns. They want results. They want a victory for their side. Simply cheering for the team no longer suffices. They want to win and if the team does not win, eventually the crowd will find a team to support that does.

This standard of performance holds true with the Tea Parties as with all political movements. The event is a great sendoff for a political movement and as leaders, speaking at the rally said repeatedly; it is just the beginning of a long, tough road. The success of this movement is determined by one thing: can it produce results after the excitement dies away? Can it score touchdowns? If not, its supporters will go elsewhere to find a political movement team that can win.

How does this relate to an Article V Convention? On April 15, the leaders of the Tea Parties *asked* the legislatures to “Stop the Spending.” Obviously, the legislatures will not do this. If all that was required to change government policy were a protest rally, we would see them in droves every day. Actually stopping spending is a political nightmare for those liberals that have groomed the populace for the past 40 years to become dependant on government for their every need. When baby does not get his bottle, he gets grumpy and in politics that means baby looks for someone else to feed him the bottle. Baby does not stop taking the bottle. The only solution is for mom to hold onto the bottle and let until baby gets the message that he is only going to get so much milk and no more.

At some point, the crowd and the leaders of the Tea Party and other groups such as the “Freedom Movement” will realize that either they get results or they will be finished as a viable political force. Like mom, they are going to have to withhold the bottle. This means doing more than just polite requests to political leaders to stop spending. They will have to enforce their goals. Most people already know the usual political alternatives tried in the past simply do not work. Obviously, something new is required. This rules out just electing a different set of politicians to political office. It rules out First Amendment protests as a permanent solution and well as state initiatives and referendums as they do not address the federal level and it is at the federal level that most of this government excess resides. Having proved to be slow and unreliable as to result, the courts both federal and state are not an alternative; indeed, in many cases, judicial activism is the heart of the problem, not a solution.

So, what is the solution? An Article V Convention. As demonstrated by reading the more than 750 applications from all 50 states for an Article V Convention, the states recognized the problem of government excess long before anyone behind the Tea Party movement was even born. The first mention of government excess is in an 1832 application. At that time, possibly some writing that application could recall the original Tea Party as a living memory.

Since 1832 the states have proposed numerous amendment issues designed to solve government excesses including repeal federal income tax, balanced budget, an initiative, referendum, recall amendment, revenue sharing, repeal of unfunded federal mandates, congressional term limits, state review of Supreme Court rulings to name but a few. The states have done their constitutional duty to present a solution to the problems by submitting sufficient applications with these amendment issues contained in them to compel Congress to call an Article V Convention.

These proposed amendment issues solve the issues raised by the Tea Parties. In fact, had Congress obeyed the Constitution, the problems now facing us would not be problems because they would be solved. Eventually the followers of the Tea Parties as well as many other Americans are going to realize this fact, as they demand results. They will no longer ask the government not to spend more, they will demand it not spend more and seek ways to compel that to happen.

They will look for a solution other than what does not work. They will look for something that has a proven history of being able to work to solve problems facing America. Constitutional amendments work. They solve problems that have faced this nation. Whether that problem is civil rights, the Electoral College, election of federal officials, presidential succession, pay raises to members of Congress, or allowing mass protests in front of government buildings, to name a few, they work.

The drive for an actual permanent solution will result in an Article V Convention because those wanting a permanent solution will realize a convention offers the only permanent result. If people truly want a real solution to their complaints, the only answer the Constitution offers is to pass amendments intended to remove from the control of the federal government those actions which have allowed it to act in an excessive manner.

Elections can be overturned by another election. Judicial rulings may be reversed. This truth of reversal applies to the other political alternatives mentioned above as well. However, for all practical purposes constitutional amendments are, more or less, permanent which is why they are so difficult to impose. Everyone realizes the government will never reform itself. These problems demand resolution. The only peaceful, legal, constitutional solution is an Article V Convention. Shortly, those demanding resolution will become a “majoritarian tyranny” but this “tyranny” will demand the Constitution be obeyed not disobeyed as Professor Williams urges. This “majoritarian tyranny” will stem, not from low moral character as Professor Williams suggests, but instead from the highest level of moral character the American people

possess—a deep and abiding respect for their form of government. This “majoritarian tyranny” will demand a permanent return of their form of government to its roots. This “majoritarian tyranny” will ensure this return by the use of Article V Convention amendments. And there is no tyranny in this--only reason and truth.