

The Heart Of The Attacker

What's Really Behind The Anti-Convention Movement?

By Bill Walker

What lies in the heart of an attacker? A recent Phyllis Schlafly Reports column entitled "[Beware of Attacks on the Constitution](#)" Phyllis Schlafly, founder of the Eagle Forum, discusses attacks on the Constitution. As reported in her [bio page](#), Mrs. Schlafly's column is authored by her.

Mrs. Schlafly begins, "Americans are fortunate to have a written Constitution that has withstood the slings and arrows of outrageous fortune for more than two centuries, and we certainly don't need a new constitution. *There is nothing wrong with the one we have except that politicians do not obey it and liberal judges pretend it is a 'living' document that they can re-interpret according to their own social and economic preferences.*" (Emphasis added). In sum, Phyllis Schlafly's complaint is that the only thing wrong with the Constitution is that the government does not obey it. Quite true. The fact Congress refuses to obey Article V and call an Article V Convention when it is required to do so irrefutably proves Mrs. Schlafly's point.

Mrs. Schlafly then discusses an Article V Convention, a legal constitutional process within the Constitution intended to allow proposal of amendments to the Constitution. By the specifics of complaints Mrs. Schlafly enounces in her column obviously, Mrs. Schlafly considers the use of this part of the Constitution as an "attack" on the Constitution. As her charges and allegations have, long since been refuted by use of public record and other irrefutable sources, no employment of space this time will dwell on disproving them again. Instead, what is noteworthy is that Mrs. Schlafly believes to obey the Constitution is to attack that Constitution. Logically therefore, Mrs. Schlafly should believe that *not* to obey the Constitution is *not* an attack on the Constitution.

However, this is not the case. She then describes what in her opinion are three other "attacks" on the Constitution. In each instance she complains about groups that want to "change our form of government without amending the Constitution" or "amend it by unconstitutional means." Thus, Phyllis Schlafly opposes amending the Constitution by unconstitutional means as well as opposing amending the Constitution by constitutional means. Obviously, Mrs. Schlafly wants to leave the Constitution exactly as it is for all time while ignoring how thin she is on consistency.

After urging bypassing the Constitution regarding Article V, she discusses the Electoral College. She urges the Constitution be obeyed stating that [the Electoral College] "serves this nation well." She condemns groups that have attempted to go around the Constitution "by getting rid of the Electoral College without amending the Constitution." Given that public record shows one amendment issue the states have requested for convention consideration is altering the Electoral College and that if such an amendment were

proposed and ratified, this would be “amending the Constitution in the proper way” which she vehemently opposes, her criticism is at best, ludicrous.

Mrs. Schlafly then discusses “the devious plan to subvert the District Clause.” In this instance, she opposes efforts in Congress to give the population living in Washington DC congressional representation. She states in her summation paragraph, “We urgently need Americans and American leaders to study the U.S. Constitution in order to learn what it says, why it has survived for more than two centuries, and why Americans should defeat all mischievous attempts to bypass it in unconstitutional ways.”

Clearly by these comments Mrs. Schlafly sees no double standard with her position--the Constitution should be bypassed when the issue is Article V but the Constitution should not be bypassed when the issue is not Article V. Perhaps Mrs. Schlafly should take her own advice and “study the U.S. Constitution” in order to learn the most fundamental point of all. The Constitution is a single document. It contains no provision that permits selective enforcement or obedience of its provisions. Obviously in the mind of Mrs. Schlafly, however, in spite of her advice, is what is okay for her to urge, bypassing the Constitution, is not okay for someone else to urge, bypassing the Constitution.

In her final example of “attacks on the Constitution” Mrs. Schlafly discusses the treaty provision of the Constitution. She states, “They [“globalist and world-government types”] look upon the two thirds requirement [a vote by the Senate to approve any treaty] as impeding their goal of putting the United States into various global organizations subject to foreign law, and so there is an ongoing effort to bypass the treaty requirement.” She laments the effort to enact by statute rather than by treaty, agreements between nations. This practice of doing exactly that has been going on since the founding of this country. Without going into deep discussion, clearly, if Congress enacts a statute, even if other nations enact the exact same legislation, the authority for its enforcement in the United States (and thus the ability to repeal the statute should a future administration be so motivated) remains with and is based on the Constitution and United States law not any foreign law. Where a treaty may grant foreign authority over the United States in some manner, a federal statute cannot do this. However, the focus of this column is not to debate the individual examples presented by Mrs. Schlafly but instead discuss her overall theme of “attacks on the Constitution.”

Besides the already quoted lead sentences, this column will examine two other key sentences; “A call for a Constitutional Convention is a terrible idea and should be defeated in every state legislature where it rears its ugly head.” The states have already applied in sufficient number to cause a convention call. Article V provides no method to rescind applications by the states or permits Congress any choice once the states have applied. Thus a convention call is obligatory. By her opposition to this obligatory constitutional provision, Mrs. Schlafly urges constitutional amendment “by unconstitutional means” or bypassing the Constitution altogether by the states and/or Congress committing an act they are not constitutionally authorized to do. In the final sentences of her column, Mrs. Schlafly states, “Americans must constantly be on guard against all attempts to violate or bypass our Constitution or amend it by unconstitutional

means. Our freedom depends on it.” Apparently Mrs. Schlafly does not refer to herself in urging “Americans be on guard against all attempts to violate or bypass our Constitution” as her attempt to violate Article V and bypass its provisions clearly can be described as an “attempt to violate or bypass our Constitution.”

In her effort to bypass the Constitution, Phyllis Schlafly as well as others such as the John Birch Society has engineered a campaign of fear and misinformation rarely seen in this world. History will very likely look back on this fear campaign and credit it as the single reason for the downfall of the United States. With this fear campaign, Mrs. Schlafly has effectively paralyzed the Constitution. In doing this, she has eliminated the sole reason why the Constitution “has withstood the slings and arrows of outrageous fortune for more than two centuries.” She has denied this country the ability to change its form of government and without this ability we cannot survive. A simple examination of history proves this point. If the Constitution existed today as written in 1787, there would be no Bill of Rights. There would be no right of women to vote. This country would have slavery. There would no equal protection under the law. There would be no freedom of the press or speech. The right to bear arms would not exist. These are but a few examples of alterations achieved through amendment that our Constitution has undergone since 1787 all of which have served to increase our liberties and freedoms.

Would the 1787 Constitution serve us in 2009? Would it be adequate to the needs of our citizens that it would require no alterations in order for it to survive as a system of government? Obviously, if our 1787 Constitution would not serve us now, there is no reason to support that our 2009 version would be or is up to the task today. While our 1787 Constitution would have remained stagnant to this day, the rest of the world would have evolved. Women’s right to vote, obtained in nearly every other nation on earth, would present enormous political pressures in this country, pressures we could not address because of the inability to change our form of government to respond to that pressure. Slavery, having ended in virtually every country in the world while we remained the last slave holding nation would certainly bring as much or more condemnation and political pressure that even South Africa has experienced. Again, our inability to change would bring tremendous pressure to bear on our society. Obviously, the Internet and its associated freedoms not guaranteed under our 1787 form of government and thus in all likelihood regulated by the government would bring tremendous pressure for freedom with our government unable to respond. These few examples prove the point that it is doubtful our 1787 Constitution would be adequate for 2009.

Yet, the 1787 Constitution contains all aspects of our form of government. The 1787 version describes all three branches of government as well as their powers. The relationship of federal power and state power is detailed. Save for the limitation and correction of two or three amendments in fact, the operational structure of the government has remained the same since 1787. Should it therefore not be adequate to the needs of our society in 2009? Is Mrs. Schlafly correct that no amendments ever be permitted?

Has our 1787 Constitution survived the “slings and arrows of outrageous fortune” as Mrs. Schlafly says? The answer is no. Our Constitution, *amended* in order to respond to the needs of our people, has survived 200 years and it is in its *amended* form that it has survived “the slings and arrows of outrageous fortune” Mrs. Schlafly writes about. Without amendment, our form of government likely would have failed even before the Civil War. Indeed, given the fact the states refused to discuss the slavery issue in a convention before the Civil War, it can be stated by not using Article V to resolve problems of this nation, such failure can and will lead to civil war. The failure in 1860 to use a convention to amend the Constitution cost this nation 600,000 American lives. Only through amendment to resolve and address the needs of our people has our American Constitution survived and it only by the fact our ancestors had the good and common sense to realize the power of amendment and its value that we today have a Constitution which they, not us, can take credit for. We, having rejected their wisdom and experience as to the need for legal constitutional change, can take credit for nothing.

Many people in this country fear a convention. However, this is not true in the rest of the world. One only need Google “constitutional convention” to find out that movements to hold constitutional conventions, amendment conventions and so forth are alive and well all over the globe not to mention in several states in the Union. References in articles on the Internet repeatedly refer to the success of the convention. However, these Internet articles do not refer to our 1787 convention. These articles instead heap praise on the recently held convention in Scotland. Even now, discussion to hold a convention in Britain to write a constitution based not on the American Constitution and its events but on the events in Scotland fills the Internet. Why? Because of the frustration British people have with both political parties in Britain and their inability to address the needs of the people they represent—the same problem we have in this nation. This is one example of many conventions held in recent times. Results have been identical. The condition of the country has improved. The form of government has aligned with the current needs of the people rather than remaining trapped in the past due to fear of change or fears created by opponents over the convention itself.

The fact is America has fallen behind as the beacon of democracy because by our denying ourselves our right to evolve our form of government through legal amendment, we no longer represent what is best in a representative republic; the ability to change our form of government to best effect to our lives, our liberty and our pursuit of happiness. Others not afraid of a convention have removed that beacon from us. They are unlikely to give it back.

There is, so far as can be determined, not one instance where a convention has removed any right of its people. Indeed the trend shows that the people emerge from a convention with even more rights than they had before the convention. This was true with our 1787 convention. It is true today. Now, we trail behind the world in modifying our form of government to bring it into the 21st Century. Nations that have had conventions have modern governments and modern economic systems and the benefits of this to them as well as the detriments to the United States are becoming increasingly obvious each

passing day. However there is a more insidious effect the fear campaign of Mrs. Schlafly has had on the nation that Mrs. Schlafly does address in her column.

This insidious effect is ever more frequently that those within government and those outside the government, conditioned like Pavlov's dog to fear a convention reject change by use of legal amendment. Still they are required resolve the pressures of needed change. Thus, they have turned to other methods outside the Constitution in order to address these needed changes. In short, an ever-increasing series of "attacks" on the Constitution have occurred. By her own admission as a result of these "attacks" which she spawned in her political womb by leading the charge to veto and bypass Article V, the Constitution is unraveling. Mrs. Schlafly and her cohorts admonish those who use short cuts regarding the Constitution to achieve their political ends. Yet, it is clear Mrs. Schlafly, as one of the original opponents to an Article V Convention, is the mother of this constitutional destruction. Mrs. Schlafly, having denied people the right to alter their form of government as is intended by her campaign of fear, has failed to provide a solution to replace that which she has denied. The responsibility for these "attacks" is hers to bear alone as she has left everyone in this nation no other choice if they are to effect needed change but to "attack" the Constitution.

It is ironic that Mrs. Schlafly chose to quote Hamlet (Act 3, Scene 1) in her opening remark of her column. The substance of that quote bears directly on the issue of her fear campaign. In his famous [soliloquy](#), Hamlet debates whether to take action to resolve his problems or silently live with them and do nothing.

The full speech reads: "To be, or not to be: that is the question:

Whether 'tis nobler in the mind to suffer
The slings and arrows of outrageous fortune,
Or to take arms against a sea of troubles,
And by opposing end them? To die: to sleep;
No more; and by a sleep to say we end
The heart-ache and the thousand natural shocks
That flesh is heir to, 'tis a consummation
Devoutly to be wish'd. To die, to sleep;
To sleep: perchance to dream: ay, there's the rub;
For in that sleep of death what dreams may come
When we have shuffled off this mortal coil,
Must give us pause: there's the respect
That makes calamity of so long life;
For who would bear the whips and scorns of time,
The oppressor's wrong, the proud man's contumely,
The pangs of despised love, the law's delay,
The insolence of office and the spurns
That patient merit of the unworthy takes,
When he himself might his quietus make
With a bare bodkin? who would fardels bear,
To grunt and sweat under a weary life,

But that the dread of something after death,
The undiscover'd country from whose bourn
No traveller returns, puzzles the will
And makes us rather bear those ills we have
Than fly to others that we know not of?
Thus conscience does make cowards of us all;
And thus the native hue of resolution
Is sicklied o'er with the pale cast of thought,
And enterprises of great pith and moment
With this regard their currents turn awry,
And lose the name of action.

In the like manner that faced Hamlet, Mrs. Schlafly's campaign to deny Americans their right guaranteed in the Declaration of Independence to "alter" their form of government faces all Americans. Her fear campaign requires Americans to "lose the name of action" and not "take arms against a sea of troubles, And by opposing end them." Instead, she seeks to have America simply "suffer the slings and arrows of outrageous fortune" but do nothing about it. Nothing could present a more antithetic view of America than this, that we should fear our form of government and when faced with a problem do nothing about it. She laments the problems of this government and the bypassing of the Constitution, a condition she helped create. However Phyllis Schlafly sees no connection between the fact she lead the movement to bypass the Constitution in the first place by urging bypass of Article V and the fact others have come behind her with different political agendas and done the exact same thing as she. She condemns them for their acts but reserves to herself the right to act in exactly the same manner without condemnation.

Mrs. Schlafly should answer one question: what is the difference between her position of urging the Constitution be vetoed and bypassed by the government and others such as herself and her opposition to the government, and others, vetoing and bypassing the Constitution?

Frankly, the only difference between Mrs. Schlafly's complaints regarding vetoing and bypassing the clauses of the Constitution regarding DC, treaty powers and the Electoral College and her support of bypassing Article V is a debate over which parts of the Constitution are vetoed or bypassed. Both sides fundamentally agree of the basic principle of veto or bypass of the Constitution if someone disagrees with its provisions. In which case, there is no distinguishable difference between her position and that of the government or other groups. Only in the debate of which parts of the Constitution are vetoed or bypassed is there a difference. The details of that debate are so miniscule as to be meaningless.

I put to all those who favor the position of bypass and veto of the Constitution whether it be on Article V or elsewhere in the Constitution that once you accept the Constitution can be vetoed or bypassed you open it to more damage, more slings and arrows of outrageous fortune, more danger than any convention could ever possibly do. Not because a convention can only propose amendments and has no other authority, but because you

have created a new form of amendment, more dangerous, more uncontrolled and more unpredictable than any a convention might propose---the amendment of convenience.

“It is remarkable, that the resemblance of the plan of the convention to the act which organizes the government of this State holds, not less with regard to many of the supposed defects, than to the real excellences of the former. Among the pretended defects are the re-eligibility of the executive, the want of a council, the omission of a formal bill of rights, the omission of a provision respecting the liberty of the press. These and several others which have been noted in the course of our inquiries are as much chargeable on the existing constitution of this state, as on the one proposed for the Union; and *a man must have slender pretensions to consistency, who can rail at the latter for imperfections which he finds no difficulty in excusing in the former. Nor indeed can there be better proof the insincerity an affectation of some of the zealous adversaries of the plan of the convention among us, who profess to be the devoted admirers of the government under which they live, than the fury with which they have attacked that plan, for matters in regard to which our own constitution is equally or perhaps more vulnerable.*” Alexander Hamilton, Federalist 85.

Some things have never changed in 200 years. Some of the “slings and arrows” Mrs. Schlafly refers to were slung by those who, like Mrs. Schlafly, said they supported our form of government at the time but railed at any attempt for improvement even though that form of government permitted such alteration and required improvement. Mrs. Schlafly has presented “pretended defects” regarding a convention. She provides no proof of any convention having the issues she says will occur. Based on no evidence whatsoever she urges the Constitution be vetoed and bypassed. Like her political ancestors who fought so hard to maintain the Articles of Confederation and opposed the new Constitution, she hopes to preserve the status quo, to prevent any amendment to the present Constitution whatsoever. An Article V Convention cannot create or write a new Constitution; it may only propose amendments. But Mrs. Schlafly, who urges we all “study the U.S. Constitution in order to learn what it says” ignores the plain language of Article V. Instead she urges Article V and therefore the Constitution be bypassed. She wants the Constitution changed by unconstitutional means, the very thing she rails against her political opponents for doing. She condemns them for doing the very same thing she herself does. America must be careful in following her advice. No ship of state has ever long existed crashed on the rock of hypocrisy.