

The Ten Point Mythology Of A Runaway Convention; Separating Fact From Fiction

By Bill Walker

Recently the Goldwater Institute, which, as of late, has been active in the Article V Convention movement, [published a paper](#) intended to rebut the myths expounded by the sole political opposition to an Article V Convention—The John Birch Society. As expected, the ubiquitous John Birch Society [published a rebuttal](#) to the Goldwater Institute. The author of the JBS “rebuttal” is Bliss Tew, Regional Field Director of the JBS. Presumably, Mr. Tew speaks for all of JBS. Therefore, he consulted with the society’s leaders as to the contents of the “10 Points.” Nothing in his rebuttal leads to any other conclusion.

According to the Goldwater Institute, its “10 Facts” were “prepared by Nick Dranias, Director, Center for Constitutional Government at the Goldwater Institute.” Mr. Tew’s qualifications [are described](#) on the JBS website as “In 1991, I joined The John Birch Society after hearing George H.W. Bush constantly promote a ‘new world order.’ My desire to see the USA stay independent and free drove me into the JBS. First, I was trained to be a volunteer leader. Since 1998, I’ve been a JBS Coordinator in Utah, and the past two years a Regional Field Director for The JBS for 9 western States. My work and hope is to see the JBS grow quickly to change the course of our country and restore Constitutionally sound and limited government.” Mr. Tew lists his residence as Orem, Utah.

There are problems with both rebuttals. For example, in neither case, do the authors even attempt to use references of any description to buttress or prove their “Ten Points” or “Ten Facts.” In the case of the Goldwater Institute, it may be the “Ten Facts” were intended as talking points rather than detailed exposition on the subject. Nevertheless, my experience with correcting the record of the JBS which, to be charitable, is nothing but a pack of political lies, has led me to realize if you intend to prove these lies you must do precisely that—prove the JBS statement to be a lie. Factual references presenting irrefutable, documented evidence such as public record or applicable court rulings accomplish this. Had I written the “10 Facts” by the Goldwater Institute, therefore, I would have footnoted the statements with such needed references in order to prevent or forestall a rebuttal by Mr. Tew or anyone else from the JBS. The Institute’s lack of references to buttress its “facts” leaves it wide open to rebuttal.

The lack of reference on both sides of the political argument is the reason for this article. While this author will correct some of the statements and counter-statements made in these two rebuttals in this article, the principle reason for my writing this article is point out that rarely in the discussion are documented, irrefutable facts actually presented to the public. Instead, both opponents and proponents seem content to engage in a series of unsupported public statements that do nothing to clarify the truth surrounding an Article V Convention.

The sole exception to this constant parade of unsupported material is FOAVC. We pride ourselves are presenting documented, irrefutable facts which can be independently verified by any member of the public any time they wish. Thus, when we state as a matter of fact, there are over 700 applications from 49 states in the public record for an Article V Convention, it is because we have on our website [photographic evidence](#) of the Congressional Record pages showing such applications. When we state that as a matter of public record the United States government conceded that as a matter of fact and law an Article V Convention call is preemptory and based on a simple numeric count of applying states with no terms or conditions, it is because we have the [public record](#) available to prove this. Likewise, when we state the government also conceded sufficient applications exist to cause a convention call and that for Congress to refuse to obey the Constitution and issue such call is a criminal violation of federal law, it is because we have the public record to back us on these statements. In short, FOAVC always uses factual, documented materials to back up statements it makes.

A fully detailed, referenced examination of each of the “Ten Facts” by Mr. Dranias and corresponding “Ten Points” by Mr. Tew is too lengthy for an article such as this. Nevertheless it must be underscored both sides have made factual mistakes in their presentations. Some are minor excusable because of brevity (which could have been explained by short additional sentences citing references) while others border on outright intentional error. Many of the so-called “facts” are not facts at all but opinions of the authors.

According to Webster’s Third New International Dictionary Unabridged (2002) p. 813 a fact (as it relates to this discussion) is defined as “[S]omething that has actual existence; a verified statement or proposition; also: something that makes a statement or a proposition true or false. [P]hysical actuality or practical experience as distinguished from imagination, speculation, or theory. An assertion, statement, or information containing or purporting to contain something having objective reality.”

The legal definition of the word “fact” given by Webster’s is, “any of the circumstances of a case at law as it exists or is alleged to exist in reality: something proved by the evidence to be or alleged to be of actual occurrence. [T]he reality of events or things the actual occurrence or existence of which is to be determined by evidence.”

Neither JBS nor the Goldwater Institute rise to the level of presenting legal evidence to buttress their claims and thus, present no facts—unlike FOAVC, which routinely presents such references of evidence. Given the subject of discussion is law the fact neither the JBS nor Goldwater Institute present legal arguments to support their positions is, at best, illogical. Article V is part of the Constitution, which is “supreme law of the land.” Therefore, when discussing an Article V Convention, you are discussing law. Hence, discussion of legal opinions, rulings and interpretations (if applicable) are the only viable and legitimate sources to understand the law together with such historic record as may lend enlightenment. Usually the courts take the trouble to examine this historic record so that is included in such rulings. Any legal presentation demands the presentation of evidence, or reference, to support it as fact. If such evidence is lacking, while the statements may be

described as “fact” the truth of the matter is they are not. Thus, while both sides in this may describe their presentations as “fact” when in reality neither has risen to that level. In short, unless the presenter presents legal arguments buttressed by evidence presentable in a court of law, they have not presented any “facts” because the discussion in question concerns law. The standard of “fact” in law is much higher than the usual political discussion, which typically is scant on facts at any level and therefore falls far short of the legal standard of “factual” presentation. As neither side presents any referenced evidence to support their claims, it is legitimate to state neither side has presented any “facts” at all.

For example, the first “point” made in the “10 Facts” is that “Article V does not authorize a constitutional convention; it authorizes a convention for proposing specific amendments.” Mr. Tew responds that “It’s easy to agree that Article V authorized Congress to call a convention of the states for “proposing amendments” to the constitution; however what name that convention may be known or how such a convention may behave is a matter where we have some disagreement.” He goes on to suggest that as “the word “amendments” in Article V is plural” some [convention] “delegates may well suggest a plurality of amendments.” Then, Mr. Tew, acknowledging that any such amendments require ratification by 38 states says, “Could sweeping changes result from such proposed amendments? ... The changes emanating from proposed amendments ... are indeed changes to the Constitution, so calling a convention a “Constitutional Convention” is not improper.” He then cites a proposed application (H.J.R. 2) written in Utah, which uses the term “constitutional convention” as “evidence” to support his position.

Let us deal with the “10 Facts” version first. Article V does not authorize a convention for proposing “specific” amendments.” It simply authorizes a “convention for proposing amendments.” The word “specific” implies a “limited” convention, that is, one that can be “regulated” by the states by use of wordage found in various state applications.

In *United States v. Sprague*, 282 U.S. 716, 731 (1931) the Supreme Court stated, “The Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning; where the intention is clear there is no room for construction and no excuse for interpolation or addition.” In legal language, the court was stated Article V is read as it states, not as someone wants to read something into it. In sum, the convention cannot be limited to “specific” amendments because the word “specific” (or any similar synonym) does not appear in Article V.

Page 8 [of a report](#) published by the Goldwater Institute, written by Professor Robert Natelson, asserts that “incidental powers” are attached to an Article V Convention. This is impossible. The Sprague principle mandates there shall be “no addition” to Article V. To allow for “incidental powers” demands words be inserted in Article V even if done by implication rather than expressed action. The report asserts the Sprague principle only addressed the ratification procedure of Article V and therefore does not apply to the proposal process. The report ignores a simple grammatical fact. Article V is one sentence. As such, it is impossible to add any words to the sentence and still comply with the terms

and conditions expressed in Sprague. Any addition of any description is still an addition to the single sentence comprising Article V. No means or contrivance can get around this grammatical fact despite what the Goldwater Institute would have everyone believe.

If the Supreme Court had desired or believed otherwise, it certainly would have differentiated this in its ruling but it did not. Indeed, its explicit words make no other conclusion possible as the court expressly discussed the proposal portion of Article V: “The United States asserts that article 5 is clear in statement and in meaning, contains no ambiguity, and calls for no resort to rules of construction. A mere reading demonstrates that this is true. It provides for two methods for proposing amendments. Congress may propose them by a vote of two-thirds of both houses, or, on the application of the legislatures of two-thirds of the States, must call a convention to propose them.” (U.S. v Sprague, 282 U.S. 716, 730 (1931). Had the court intended anything other than a carte-blanche effect regarding its “no rules of construction, interpolation or addition” ruling, it would have no alternative but to have stated this in its ruling. The court did not do so. It specifically mentioned the proposal, rather than the ratification process, when declaring its statement regarding no rules of construction. The association of “no rules of construction, interpolation or addition” is obvious and irrefutable. This unquestionably resolves the matter.

The Sprague principle of no “construction, interpolation or addition” also refutes Mr. Tew’s mistake. First, Article V does not authorize a “constitutional convention.” As there is no “construction, interpolation or addition” the term cannot be added to Article V simply because Mr. Tew wants it to be. Therefore the term Article V Convention or amendments convention are correct terms. The Constitution excludes the term “constitutional convention” and therefore any attempt to label the convention with this term is factually incorrect. Mr. Tew also describes multiple amendments “changing” the Constitution therefore justifying the term “constitutional convention.” He ignores the clear language of Article V, which plainly states any amendment “shall be part of this Constitution.” This phrase prevents the writing of a new Constitution. No matter how extensive amendments are the Constitution mandates that all amendments must become “part” of the already existing Constitution. In this way, as demonstrated by the repeal of the 18th Amendment, reversal of any effect of any amendment is possible at any time.

In sum, both Mr. Tew and Mr. Dranias made factual misstatements in their presentation regarding the intent of Article V vis-à-vis authorizing a convention. A single reference to a single Supreme Court case and the proper reading of the words within that decision would have caused a correct reading of Article V but as noted, neither took the time to do so.

In point 2 of the “10 Facts” Mr. Dranias states the Founders “specifically rejected language for Article V that would have allowed the states to later call for an open convention. Mr. Tew accepts Mr. Dranias’ statement but with the comment “that does not prevent the states from doing so, nor does it strip them of such a power. Under the Tenth amendment the states retain powers not delegated to the federal government nor prohibited to the states, so calling an “open convention” is a retained power because it is not specifically prohibited by the Constitution.”

Again, both men are factually incorrect. Mr. Dranias erroneously attributes an action of the Founders to Article V when in fact, the action related to Article VII. As noted in Max Farrand's "Records of the Federal Convention, Volume II, p. 634, "Mr. Randolph moved that it be recommended to appoint a second convention with plenary powers to consider objections to the system and to conclude one binding upon the States. Rejected unanimously." The "system" referred to by Mr. Randolph, as proven by other quotes in Farrand, had to do with the proposed Constitution and the proposed ratification procedure specified in Article VII. As noted in Farrand, Volume II, p. 631, "Upon this proposal, see above August 31 and September 10, and Appendix A, CXXXI, CLXIV, CCXXXV." An examination of these texts, too long to quote here, conclusively demonstrates the assertion above. As to Mr. Tew, his presumptions are equally incorrect. Article V expressly designates what kind and type of a convention Congress can call upon the application of the states—"a convention for proposing amendments ... as part of this Constitution..." Therefore, under the terms of the Tenth Amendment, as described by Mr. Tew, prohibit the states from calling such a convention. Further, and Mr. Tew should know this as he already has acknowledged this in his own article, "Article V authorizes Congress to call a convention..." not the states as he contends. Again, a simple reading of the text of Article V and reference to a universally recognized authority provides accurate information. These references were obviously ignored.

The third point of "10 Facts" deals with the ratification of any proposed amendment by three fourths of the states. Mr. Tew concedes that it requires three fourths of the states to ratify any proposed amendment but then inquires "what if the ... delegates decide in convention that the ratification process ...should be changed?" Mr. Tew's question obviously proves he skipped U.S. history while in middle school. He argues that the Articles of Confederation mandated all states must ratify "any alteration" to the Articles of Confederation. He fails to mention that all states in the Articles of Confederation did ratify the new, proposed Constitution. He also fails to mention that the Constitution expressly states, "No state shall enter into any Treat, Alliance, or Confederation..." (U.S. Const., art I, § 10, cl. 1). He also fails to properly read the language of Article VII, which states, "The Ratification of the Conventions of nine States shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same." In short, Article VII only affected those states so consenting by ratifying the proposed Constitution. The Constitution therefore had not effect on those states that had yet to ratify the proposed Constitution. Mr. Tew obviously did not read the Constitution before making his comments or chose to ignore its clear language.

The fourth point of "10 Facts" is entirely misplaced. It attempts to suggest a convention cannot rewrite the entire Constitution because of the senate guarantee with Article V. In fact, the guarantee, as already mentioned is in the fact that any amendment must be part of the already existing Constitution. As neither man properly used the correct language of Article V to make his assertion, both points are meaningless.

Point 5 of the "10 Facts" states that the states define the convention agenda and through "the commission of delegates." Mr. Dranias states "Amendments conventions can be lim-

ited to specific topics.” Mr. Tew disagrees but instead of presenting a factual response, instead engages in unsupported, undocumented speculation. “Perhaps with Article V we are operating under new rules, rules that Congress may set when calling the convention, or that the delegates at the convention may decide upon in convention.” Mr. Tew then goes on to suggest Congress may decide an unequal form of delegate representation at a convention and suggests other dangers. His argument clearly ignores Sprague, which means Congress has no such powers unless expressed by Article V, which it does not.

Mr. Tew might attempt to use the discredited “necessary and proper” clause argument to prove his point but this would again prove his constitutional inexperience. The clause, (Art. 1, § 8, Cl. 19) reads, “To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.” [Emphasis added]. As noted, Article V does not vest any “powers” in Congress vis-à-vis a convention other than its obligation to call a convention. Thus, that portion of the clause is without effect. The remainder is nullified by the word “foregoing” which obviously means that portion expressly refers to powers listed or otherwise noted in the Constitution prior to Article 1, § 8, Clause 19. That portion of the Constitution to which the word “foregoing” refers does not mention amendment in any form whatsoever. Thus, the entire argument, as far as it relates to granting power to Congress to control a convention as Mr. Tew describes, is incorrect.

Mr. Dranias obviously bases his assumption on a recently released Goldwater Institute Policy Report written by Professor Robert Natelson entitled, “Amending the Constitution by Convention: A Complete View of the Founders’ Plan.” Obviously, Mr. Dranias did not read the report very well. In sum, the report advocates that under fiduciary law principles, the states can control convention agenda.

However, the report is extensively flawed. The flaws within the report are so extensive that this author has spent the last six months writing a rebuttal to it, which he will publish shortly. The reason for doing this is that the Goldwater Institute presents a serious discussion on the “how” of a convention, that is, “how” the convention will be conducted and under what circumstances. Its presence indicates the public discussion over a convention has sifted from the first to the second stage—from that of “why” a convention to “how” a convention. Thus, rebuttals such Mr. Tew’s are losing traction as the real facts about a convention are finally coming to public light and with that light, the lies and misstatements, the lack of real evidence of such opposition is finally being exposed. The final stage, of course—yet to come, will be the “when” of a convention. That will commence when political pressure is brought to bear, not on the states as is currently being done in the mistaken belief the states must submit more applications, but on Congress who is the real villain in this story in its refusal to obey the Constitution and call a convention.

The Goldwater Institute’s Report advocates a politically pre-determined, heavily state controlled convention with little or no participation by the people. This author believes this is the wrong approach both politically and constitutionally. He has therefore written a rebuttal in which he proposes the obvious alternative—an open, freely elected

convention where delegates can openly debate and discuss all issues facing the nation with the expectation such debate will create the necessary amendment proposals to resolve the issues facing our nation.

In his rebuttal, this author reveals a political method, supported by Supreme Court decisions, allowing the states to regulate a convention's agenda, yet simultaneously allowing the convention to freely consider all issues desired by the delegates. In contrast, the Goldwater Institute's report suggests state control of the convention agenda such that a convention is no more than a political formality, devoid of any free thought or thinking other than what has already been politically pre-determined as to its outcome and proposals. The author's proposal presents a political solution to the issue of convention regulation by the states, rather than a constitutional one such that all sides are satisfied, both politically and constitutionally.

To give one example of the flaws in the [Policy Report](#), Professor Natelson concedes on page 24 of his report that, "the obligation of an agent to submit to the principal's instructions may be altered by governing law. In this instance, the Constitution is the governing law. The Constitution assigns to the convention, not the states, the task of "proposing" amendments that the convention has discretion over drafting. ... Additionally, a power to "propose" an amendment implies a power *not* to propose if the convention, upon deliberation, decides that the subject matter of the state applications requires no action." This statement alone refutes Mr. Dranias' assertion of state control of convention agenda as premised by the Policy Report. Obviously, if a convention can determine whether it will or will not propose an amendment, this means it can ignore any instructions contained within state applications. Agenda control is possible—just not by the means proposed by the Goldwater Institute report.

A full response to points 6 and 7 of the "10 Facts" requires more depth than possible in this article if it fully addresses both the assertions of Mr. Dranias and the response of Mr. Tew. Point 6 deals with the writings of the Founders; point 7 deals with the history of conventions in the United States. Compactness therefore demands summation rather than point-by-point response. First, Mr. Tew, in quoting James Madison's letter to G.L. Turberville to assert Mr. Madison opposed an Article V Convention fails to take into account the historic public record.

As noted above, the convention itself, including Madison, voted against a second convention following the conclusion of the 1787 Federal Convention. [An aside: the title "1787 Federal Convention" is the official title assigned by the United States Congress in ordering the official records of the convention published in 1819. Therefore, when Mr. Tew refers to the convention as a "constitutional convention" he is expressing a misnomer]. Mr. Tew fails to note that in his latter Madison was expressing the same position he took at the 1787 convention. At the convention, Madison opposed a second convention held for the purposes of consideration of changes to the proposed Constitution before ratification. The historic record proves Madison was against a political ploy intended to defeat the yet to be ratified Constitution, and was not speaking out against the convention provision of Article V. How could he? Until first ratified as law of the land, the convention

provision of Article V had no legal effect whatsoever. As to Mr. Tew's comment that Madison "apparently assumed [an Article V Convention] could become a "General Convention" he obviously did not take time to read the [actual applications](#) in question to which the Madison letter referred.

Second, Mr. Tew quotes the dictionary defining the word "alter" which he defines as, "...1) to make different in details but not in substance; modify..." The problem with Mr. Tew's argument is the word used in the Articles of Confederation is "alteration" not "alter." The sentence in the Articles of Confederation that uses the word "alteration" (Article XIII) states, "...nor shall any alteration at any time hereafter be made in any of them [the Articles of Confederation]; unless such alteration be agreed to in a congress of the united States, and be afterwards confirmed by the legislatures of every State."

Unlike the word "alter", "alteration" is a legal term. As previously stated, both Mr. Tew and Mr. Dranias ignore the fact an Article V Convention is law. It is part of the Constitution, which is supreme law of the land. Thus, use of a dictionary to define a word mandates that any legal definition must be the preferred definition. Further, the Founders themselves, along with those citizens comprising the state legislatures, the Congress of that day and the general citizenry made the decisions of that day. Thus, they were the ones, who by their actions, determined whether any legal definition was, or was not, satisfied.

Webster's Dictionary, p. 63 defines the word "alteration" as "a change in a legal instrument that changes its legal effect either in the obligation it imports or its force as legal evidence..." Black's Law Dictionary, 6th Edition (2002) p. 77 defines "alteration" as "A change of a thing from one form or state to another; making a thing different from what it was without destroying its identity. An act done upon an instrument by which its meaning or language is changed. Language different in legal effect, or change in rights, interests, or obligations of parties. It introduces some change into instrument's terms, meaning, language, or details. The term is not properly applied to any change which involves the substitution of a practically new document. An alteration is said to be *material* when it affects, or may possibly affect, the rights of the persons interested in the document."

While Mr. Tew and his supporters will be tempted to jump like a pack of hungry wolves upon the phrase, "making a thing different from what it was without destroying its identity..." as proof of their position, they do so at their peril. The Articles of Confederation allowed for "an alteration" thus allowing "changes in rights, interests or obligations of parties ... introduc[ing] some change into instrument's terms, meaning, language or details." Does this not perfectly describe what the Founders did—changing the terms, meaning, language and details of the Articles of Confederation? Many portions of the Articles of Confederation and the Constitution are nearly identical except for minor changes in language, (compare Article I § 9 U.S. Constitution to Article VI Articles of Confederation). The Founders thus left many portions of the Articles untouched. Farrand's Records show a litany of problems and issues the Founders discussed regarding failures of the Articles. As the record demonstrates, they did "alter" the language of the Articles, but the identity of it remained in place—to serve as the law of land. An extensive process of rati-

fication occurred following the proposal of the Constitution. If there is any doubt that the Founders, the states, the people and the Confederation Congress believed the proposed Constitution was “an alteration” under the terms of the Articles of Confederation and not a “practically new document” their ratification actions defeat this proposition.

Point 8 of the “10 Facts” deals with procedures of conducting an “amendments convention.” Mr. Dranias writes, “The procedures for conducting an amendments convention are similar to Congress’ long-established rulemaking powers.” Mr. Tew states, “That sounds like a good assumption, but is it a fact. Of this I admit that I haven’t read any scholarly discussions of the parallels between Congressional rulemaking powers and Article V Conventions, but I would be happy to read one and learn from it if such an essay exists.” As “rulemaking” is part of law, what Mr. Tew is stating is that he is entirely ignorant regarding the effect of the law on an Article V Convention. He states that he has not “read any scholarly discussions” regarding Article V. Such recognized resources as Max Farrand’s work and “Constitutional Brinkmanship” obviously therefore have not been read by Mr. Tew. My own [overlength brief](#) filed in the first federal lawsuit in history to directly address the obligation of Congress to call a convention extensively discusses over many pages the relationship and legal basis of rule making authority between Congress and a convention. These are but a few examples of many “scholarly discussions” about Article V available in almost any public library.

More importantly however are the numerous federal court rulings that affect an Article V Convention. Mr. Tew, like most badly educated people who attempt to substitute unsupported opinion for irrefutable fact in regards to Article V, by his own admission, have not properly studied the subject. To admit he has not read scholarly works also implies he has not studied the law concerning a convention, which also implies he lacks, the fundamental knowledge about the Constitution necessary to understand and realize his assertion is fallacious on its face. One of the most fundamental principles of constitutional law is that something is either constitutional or it is not constitutional. Between these two points, there is no middle ground. This paraphrase comes from *Marbury v Madison*, 5 U.S. 137, 177 (1803). In sum, the phrase means when examining a constitutional question, in this instance, the issue of rulemaking between the Congress and a convention, all the Constitution is considered. If the issue in question satisfies all the Constitution, it is constitutional. If the issue in question does not satisfy all the Constitution (regardless of where that objection is found in the text), it is unconstitutional. Hence, answers to questions of language support derive not just from the language of Article V but from other parts of the Constitution as well. The same principle of constitutional satisfaction, of course, applies to all questions regarding an Article V Convention.

Mr. Tew, in discussing 1787 convention “delegates initially vot[ing] as states at the conventions” asks “what language in Article V guarantees that such will be the case in an Article V Convention?” The answer to his question is: no language. The language he seeks is in the 14th Amendment—the equal protection clause. This clause, in sum, requires citizens forming a legal class be treated equally under the law. This principle cannot be ignored simply because it is not within Article V but, as with all the rest of the Constitution, must be satisfied. Hence, any action regarding a convention must satisfy the

14th Amendment and any other applicable principles expressed in the Constitution. Citizens who can propose amendments to the Constitution, members of Congress and convention delegates form a clearly defined legal class requiring equal treatment under the law. As to the state's principle of equal voting Mr. Tew raises, the answer again is the 14th Amendment equal protection clause. In sum, the people of each state will elect the delegates. The equal protection clause mandates that no citizen may be deprived of his equality vis-à-vis any other citizen. Thus, the weight of vote of each representative of the people must be equal and as the people are electing state representatives, the vote of each representative, i.e., each state, must be equal.

Hence, Mr. Dranias' assertion is fact. The 14th Amendment mandates rule making by a convention is equal to that of Congress. Had Mr. Tew taken time to study the Constitution properly he would have discovered these facts but by his own admission has not taken the time to do so. Thus, while Mr. Dranias' statement is factual, Mr. Tew's response is not.

Points 9 and 10 of the "10 Facts" are not facts whatsoever but opinions. Point 9 states, "The limited scope of an amendments convention is similar to that of state ratification conventions that are also authorized in Article V, but no one worries about a ratification convention "running away," even though such a convention does make law." Mr. Tew, to his discredit, then attempts to suggest the two conventions; ratification and amendment convention are "apples and oranges in purpose." This is incorrect. Both are simply part of one amendment process. If Congress elects to use the ratification convention as the means of ratification of a proposed amendment, then state conventions ratify a proposed amendment. Mr. Tew suggests because "officers and delegates know that" they are only charged with "ratification or nullification of already proposed amendments" it cannot possibly runaway. In short, his argument rests on the assumption ratification convention "officers and delegates" have read and understand the Constitution but that all delegates to an Article V Convention, have not. Obviously, if state convention delegates are intelligent enough to understand their limited purpose, it follows that state convention delegates are intelligent enough to understand their limited purpose. Mr. Tew ignores the fact the same electors will elect both sets of delegates. It is highly unlikely that the electors would elect in one instance a set of delegates steeped in full understanding of their purpose, limit and extent and then choose delegates completely lacking in these same attributes.

The final point of "10 Facts" suggests, "An amendments convention, because it only proposes amendments and does not make law, is not an effective vehicle for staging a government takeover." Mr. Tew agrees with this point. His only rebuttal is weak, at best, and certainly not factual in nature. He states, "But radical changes can be proposed that would indeed change our government if accepted in the ratification process." He then attempts to suggest a convention might propose repealing the Second Amendment as an example of "radical" change. Unfortunately, Mr. Tew chooses his example badly. It would be well for him to actually examine the public record at [FOAVC](#) before trying to use it in his rebuttal. This public record emphatically proves that no state in the entire history of the United States has ever submitted a single application requesting the repeal of the Second Amendment or for that matter any right currently enjoyed by an American citizen.

In summation, it is clear the “10 Points” of Mr. Dranias of the Goldwater Institute and the rebuttal of Mr. Tew of the John Birch Society, while they both profess to be “facts” are not. Unlike FOAVC, which relies upon court rulings, public record and other verifiable information already presented in a court of law (without the evidence presented being refuted by the other side) neither Mr. Dranias nor Mr. Tew present such facts. A glaring example of this lack of fact is that neither presents the fact that [49 states have submitted over 700 applications](#) for a convention call. This fact means Congress must call a convention now (as opposed to some distant time in the future). It greatly effects the presentation of other facts or even so-called facts. The fact the courts have ruled on most of the issues raised by Mr. Tew or Mr. Dranias and that neither man referred to these rulings in their presentations, speaks volumes.

A prudent person wishing to find out about the facts regarding an Article V Convention should base his decisions on facts, not statements purporting to be factual which, upon closer examination, prove not to be. The best source of facts regarding an Article V Convention is the [FOAVC](#) website where information given is based, not on presumptions, but on documented public record and Supreme Court rulings. Significantly only on this site can you read the actual applications from the states. Neither Mr. Tew nor the Goldwater Institute refers to this obvious reference source anywhere in their discussions in of their presentations. How can any reasonable person discussing the issue of an Article V Convention not refer his reader to the text of the applications, which lie at the heart of this issue?

Enough misinformation regarding what should be a simple, straightforward constitutional procedure already fills the Internet. Both Mr. Tew and Mr. Dranias could do all a great service by presentation of facts rather than suppositions and assumptions they purport to be facts. After all, there is no harm in being accurate.