

Robert Natelson's Latest ALEC Report; a Study in Contradiction

By Bill Walker

When someone is trying to persuade other people to their political point of view, the worse mistake they can make is contradiction. It is bad enough to be contradictory in speech; it approaches a mortal political sin when the contradiction can be demonstrated in print.

This is the situation Robert Natelson, ("[widely acknowledged to be the country's leading scholar on the Constitution's amendment procedure](#)") faces. Several years ago Robert Natelson [authored a report for ALEC](#), the American Legislative Exchange Council. I wrote an article about the report. In sum I blasted the report primarily because it advocated cutting the American people entirely out of the Article V Convention process. In simple terms this means denying the people their right to vote on selection of convention delegates. Natelson's report instead proposed delegate selection (and thus control of the convention agenda) be left entirely in the control of the state legislatures, or more specifically, a select few state legislators.

Recently, ALEC released an "[updated](#)" [version of its report](#) also written by Robert Natelson. The report has a new cover and very slick graphics. Otherwise it is the same report Natelson wrote before. So far, no problem. Natelson still clings to his "eliminate the people" philosophy and maintains that a "deliberative assembly" (i.e. the convention) is a body controlled by the state legislatures. (See page 5 of the newest report: "The convention is a deliberative body whose members answer to the state legislatures they represent." Thus the states (or more specifically a few select legislators) control the convention according to Natelson. So far no problem, at least in regards to contradiction. Natelson has not changed his point of view between the two ALEC reports.

So what's the problem? Where's the contradiction? It can be found in a recent law article (the [second of two](#)) Natelson wrote regarding the constitutionality of Compact for America (CFA) which fundamentally holds the same position of denial of participation of the American people in an election process for convention delegates. The problem is CFA is a competitor for control of the convention with Convention of States (COS), a group closely associated with Natelson. When only one shark can swim in the tank obviously one shark is going to have to eliminate the other.

In that article, [like the first law article](#) Natelson wrote on the constitutionality of CFA (which I pointed out in my article means COS is also equally unconstitutional) Natelson unquestionably asserts (1) the convention is federal, not state and (2) quotes Supreme Court ruling *Dillon v Gloss* which emphatically states a convention must be a "deliberative assembly" which in other decisions the court has made clear means election by the people. Natelson extensively quotes that Court ruling, *Hawke v Smith*. (In second article see pages 7, 8, 14 for Natelson's statements).

So what is revealed is a blatant and undeniable contradiction by Robert Natelson. On the one hand when writing for ALEC, Natelson holds a convention is state controlled and regulated by a

few select state legislators. On the other hand when writing a legal paper for another organization he blasts a competitive Article V group by asserting the convention is federal and that the people elect the convention delegates.

Please Bob, make up your mind. As [reported recently](#) a convention call could come as quickly as mid-September given the collection speed of the government at creating what amounts to an official list of applications. Accuracy matters Bob and that starts with holding a consistent position even if it is the wrong one.