

Publius-Huldah's Blog

Understanding the Constitution

What the Framers really said about the purpose of amendments to our Constitution

By Publius Huldah

One of the silliest of the many unsupported claims made by those lobbying for an Article V convention is that our Framers said that when the federal government *violates* the Constitution, the remedy is to *amend* the Constitution.¹

It shouldn't be necessary to point out that their claim makes as much sense as saying that since people *violate* the Ten Commandments, God should *amend* the Ten Commandments.²

And since none of our Framers said such a silly thing, the convention lobby can't produce a quote where it was said.

Even so, some have believed it and repeated it to others. *Americans!* We must demand that people *prove* their claims before we believe what they tell us.

I will show you **original source documents**, and you can see for yourself what our Framers really said about the purpose of amendments to our Constitution.

Madison's Journal of the Federal Convention of 1787

James Madison was a delegate to the federal convention of 1787 where our present Constitution was drafted. He kept a daily Journal. I went through it, collected every reference to what became Article V, and wrote it up – **here it is** (<https://publiushuldah.wordpress.com/article-v/>).

Madison's Journal shows what our Framers said at the convention about the purpose of amendments to our Constitution:

♦ Elbridge Gerry said on **June 5, 1787** (<http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=001/llfr001.db&recNum=151&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28fr0012%29%29%23001>) the "novelty & difficulty of the experiment requires periodical revision."

♦ George Mason said on **June 11, 1787** (<http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=001/llfr001.db&recNum=231&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28fr0012%29%29%230010003>) **The Constitution now being formed "will certainly be defective,"** as the Articles of Confederation have been found to be. **"Amendments therefore will be necessary,** and it will be better to provide for them, in an easy, regular and Constitutional way than to trust to chance and violence. It would be improper to require the consent of the Natl. Legislature, because they may abuse their power, and refuse their consent...The opportunity for such an abuse, may be **the fault of the Constitution** [i.e., a defect] **calling for amendmt."** [boldface mine]³

♦ Alexander Hamilton said on **Sep. 10, 1787** (<http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=002/llfr002.db&recNum=563&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28fr0022%29%29%230020003>) amendments remedy *defects* in the Constitution.⁴

The Federalist Papers

In **Federalist No. 43** (<http://www.foundingfathers.info/federalistpapers/fed43.htm>) at 8, Madison said the purpose of amendments to the Constitution is to repair "discovered faults" and "amendment of errors"; and "amendment of errors" and "useful alterations" would be suggested by experience.

In **Federalist No. 85** (<http://www.foundingfathers.info/federalistpapers/fed85.htm>). (13th para), Hamilton said useful amendments would address the "organization of the government, not...the mass of its powers"⁵

Throughout **Federalist No. 49** (<http://www.foundingfathers.info/federalistpapers/fed49.htm>), Madison warned *against* a convention for proposing amendments, and showed that a convention is neither proper nor effective to restrain government when it encroaches.

Madison's letter of August 28, 1830 to Edward Everett (http://oll-resources.s3.amazonaws.com/titles/1940/1356.09_Bk.pdf) (p. 383-403)

Madison says:

"Should the provisions of the Constitution as here reviewed be found not to secure the Govt. & rights of the States agst. usurpations & abuses on the part of the U.S..." (p. 398)

So he is talking about **provisions – defects – in the Constitution which permit the federal government to abuse the States**. He goes on to say:

“...the final resort within the purview of the Constn. lies in an amendment of the Constn...”⁶

So he's saying that **when a defect in the Constitution** exposes the States to abuses by the federal government, the remedy is to amend the Constitution.

To fully grasp Madison's point, we must look at his letter in its historical context of the Tariff Act of 1828: The southern states bought manufactured goods from England. England bought southern cotton. But infant industries in the Northeast couldn't compete with the English imports. So during 1828, Congress passed a Tariff Act which imposed such high tariffs on English imports that the southern states could no longer buy them. England stopped buying southern cotton. This devastated the southern economy. So South Carolina wanted to nullify the Tariff Act (the “Tariff of Abominations”); and developed a theory that a State had a “constitutional right” to nullify *any* federal law, and the nullification would be presumed valid, unless three-fourths of the States said it wasn't valid.

Madison opposed South Carolina's theory *because the Tariff Act was constitutional* – it was authorized by Art. I, §8, cl. 1, US Constitution. States can't nullify a constitutional law!⁷

But while the Tariff Act was *constitutional*, it was *abusive*: Article I, §8, cl. 1 was being used to benefit infant industries in the Northeast at the expense of the southern states.⁸

So what's the remedy “within the purview of the Constitution” for the Tariff Act of 1828? Madison doesn't spell it out – but obviously Art. I, §8, cl. 1 could be amended to say that Congress may impose tariffs only to raise revenue to carry out the enumerated powers; and may not impose tariffs in order to benefit domestic industries, or to benefit one section of the Country at the expense of other sections.⁹

Washington's Farewell Address (<https://www.gpo.gov/fdsys/pkg/GPO-CDOC-106sdoc21/pdf/GPO-CDOC-106sdoc21.pdf>)

In his Address, Washington warns that we must require people in the federal government to confine themselves within their constitutional powers; and we must not permit one department [branch] of the federal government to encroach on the powers of the other departments (p. 15-19). He then says,

“If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.” (p.19)

So Washington is talking about what the people may come to see as *defects* in the Constitution:

♦ If we want one branch of the federal government to have a power which the Constitution delegates to another branch, we should amend the Constitution to *redistribute* that power.¹⁰

♦ If we want the federal government to have a power the Constitution doesn't grant, we should amend the Constitution to delegate the additional power. No matter how desirable it is for the federal government to have the additional power, we must not permit it to exercise the power by usurpation.¹¹

And this is what Alexander Hamilton, who along with James Madison assisted Washington in drafting his Farewell Address,¹² had previously said in **Federalist No. 78** (<http://www.foundingfathers.info/federalistpapers/fed78.htm>): The representatives of the people [Congress] may not violate the Constitution even if a majority of their constituents want them to:

“...Until the people have, by some solemn and authoritative act, annulled or changed the established form, it is binding upon themselves collectively, as well as individually; and no presumption, or even knowledge, of their sentiments, can warrant their representatives in a departure from it, prior to such an act...” (5th para from the end)

Our Constitution isn't defective, it's ignored!

Our Constitution is a 5,000 year miracle. Our problem is everyone ignores it. The solution is to dust it off, read it, learn it, and enforce it. Downsize the federal government to its enumerated powers (<https://publiushuldah.files.wordpress.com/2013/08/chart-showing-federal-structure-3-1-part-a2.pdf>).

Demand Proof of what people say before you believe them.

If Americans would follow the example of the Bereans (Acts 17:11) *and demand proof of the claims the convention lobby makes*, they would spot the false claims and preserve our blessed Constitution. Judges & Juries require trial lawyers to prove their claims. Demand the same from lobbyists for a convention!

Endnotes:

¹ Michael Farris claimed (https://publiushuldah.files.wordpress.com/2017/05/answers-to-jbs-arguments_long-version.pdf) [but couldn't link to a quote because Mason didn't say it]:

“George Mason demanded that this provision [the convention method of proposing amendments] be included in Article V because he correctly forecast the situation we face today. He predicted that Washington, D.C. would violate its constitutional limitations and the States would need to make adjustments to the constitutional text in order to rein in the abuse of power by the federal government.”

² Amendments can't “rein in” the fed. gov't when it “violate[s] its constitutional limitations” because when it does so, **it is ignoring the existing limitations on its powers.**

³ **Mason's concern was that the new fed. gov't wouldn't agree to amendments needed to correct defects in the new Constitution.**

◆ Under the [Articles of Confederation](http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=001/llsl001.db&recNum=127) (<http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=001/llsl001.db&recNum=127>) (our 1st Constitution), amendments had to be approved by the Continental Congress and all of the States (see ART. 13 (<http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=001/llsl001.db&recNum=131>)). So Art. V of the new Constitution dispensed with the requirement that Congress approve amendments.

◆ Who should be able to *propose* amendments? [Madison wanted](http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=002/llfr002.db&recNum=564&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28fr0022%29%29%230020003) (<http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=002/llfr002.db&recNum=564&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28fr0022%29%29%230020003>) Congress to propose all amendments, either on their own initiative or at the request of 2/3 of the States. But [Mason said](http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=002/llfr002.db&recNum=634&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28fr0022%29%29%230020003) (<http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=002/llfr002.db&recNum=634&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28fr0022%29%29%230020003>) the people should be able to propose amendments without asking Congress because Congress might become oppressive and not permit the people to get the necessary amendments.

So the convention method was added. And it provided a way for the People to propose amendments. *But it also provided a convenient opportunity to get a new Constitution, since the delegates would have that transcendent right, recognized in our Declaration of Independence, to throw off one government and write a new constitution which creates a new government.*

George Mason hated the new Constitution. He said on [Aug. 31, 1787](http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=002/llfr002.db&recNum=484&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28fr0022%29%29%230020003) (<http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=002/llfr002.db&recNum=484&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28fr0022%29%29%230020003>) that he “would sooner chop off his right hand than put it to the Constitution as it now stands”; and if it wasn’t changed to suit his views, **he wanted another convention**. *Everybody knew that to get a new Constitution, you need a convention.*

Madison and the other Framers went along with adding the convention method because they knew the people had the right to meet in convention and draft a new Constitution whether or not the convention method was added to Art. V [e.g., [Madison’s letter of Nov. 2, 1788 to Turberville](http://lf-oll.s3.amazonaws.com/titles/1937/1356.05_Bk.pdf) (http://lf-oll.s3.amazonaws.com/titles/1937/1356.05_Bk.pdf), p. 299 at 2.]; and they couldn’t stop People in the future from doing what they had just done. So Madison, Hamilton & John Jay promptly started warning of the dangers of another convention: see the [Brilliant Men handout](http://caavc.net/wp-content/uploads/2018/04/Brilliant-men-r1-2.pdf) (<http://caavc.net/wp-content/uploads/2018/04/Brilliant-men-r1-2.pdf>).

⁴ Here’s an illustration of what States soon saw as a defect in our Constitution: Art. III, §2, cl. 1 delegated to federal courts the power to hear cases “between a State and Citizens of another State”. But when a citizen of South Carolina sued the State of Georgia, the States were outraged! See [Chisholm v. Georgia, 2 U.S. 419](https://www.law.cornell.edu/supremecourt/text/2/419) (<https://www.law.cornell.edu/supremecourt/text/2/419>), (1793). So the 11th Amendment was ratified to take away from federal courts the power to hear such cases.

⁵ The Constitution drafted at the federal convention of 1787 delegates only a tiny handful of powers to the fed. gov’t. [See this chart](https://publiushuldah.files.wordpress.com/2019/05/chart-showing-federal-structure-with-meme-april-2019.pdf), (<https://publiushuldah.files.wordpress.com/2019/05/chart-showing-federal-structure-with-meme-april-2019.pdf>)

⁶ Madison continues, “... according to a process applicable by the States.” Madison always said that when States want amendments, they should ask their congressional delegation to propose them. E.g., [Madison’s letter of Nov. 2, 1788 to Turberville](http://lf-oll.s3.amazonaws.com/titles/1937/1356.05_Bk.pdf) (http://lf-oll.s3.amazonaws.com/titles/1937/1356.05_Bk.pdf), (p. 299 at 2.).

⁷ See Madison’s Notes on Nullification (1835) [HERE](http://lf-oll.s3.amazonaws.com/titles/1940/1356.09_Bk.pdf) (http://lf-oll.s3.amazonaws.com/titles/1940/1356.09_Bk.pdf) (p. 573-607).

⁸ The Tariff Act of 1828 violated our Founding Principle (2nd para of the Declaration of Independence) that the purpose of government is to secure the rights God gave us. *God never gave us the right to be free of competition in business.*

⁹ **In the very next paragraph, Madison says that when there is a pattern of usurpations and abuses, we must step outside of the Constitution and resort to the original right of self-defense: resistance, i.e., nullification or revolution (p. 398).**

¹⁰ E.g., Art. I, §8, cl. 11 delegates to Congress the power to declare war. But if we want the President to have that power, we should amend the Constitution to delegate that power to the President. *We must not permit the President to exercise that power by usurpation!*

¹¹ If we wanted the fed. gov’t to exercise power over labor unions, wages & hours, safety standards, food & drugs, manufacturing standards, agriculture, energy, housing, transportation, education, medical care, the environment, etc., etc., etc., **we should have amended the Constitution to delegate those powers to the fed. gov’t**. *But we ignored Washington’s advice, and permitted the fed. gov’t to exercise those powers by usurpation.*

¹² The Introduction to the Farewell Address (p. 3) says that George Washington composed it with the assistance of Alexander Hamilton and James Madison.

 ([http://del.icio.us/post?v=4&partner=\[partner\]&noui&url=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&title=Publius-Huldah's blog](http://del.icio.us/post?v=4&partner=[partner]&noui&url=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&title=Publius-Huldah's%20blog))  ([http://digg.com/submit?phase=2&partner=\[partner\]&url=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&title=Publius-Huldah's blog](http://digg.com/submit?phase=2&partner=[partner]&url=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&title=Publius-Huldah's%20blog))  ([http://www.facebook.com/sharer.php?u=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&t=Publius-Huldah's blog](http://www.facebook.com/sharer.php?u=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&t=Publius-Huldah's%20blog))  ([http://www.google.com/bookmarks/mark?op=add&bkmk=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&title=Publius-Huldah's blog](http://www.google.com/bookmarks/mark?op=add&bkmk=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&title=Publius-Huldah's%20blog))  ([http://www.myspace.com/Modules/PostTo/Pages/?u=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&t=Publius-Huldah's blog](http://www.myspace.com/Modules/PostTo/Pages/?u=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&t=Publius-Huldah's%20blog))  ([http://www.newsvine.com/_tools/seed&save?u=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&h=Publius-Huldah's blog](http://www.newsvine.com/_tools/seed&save?u=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/&h=Publius-Huldah's%20blog))  ([http://reddit.com/submit?](http://reddit.com/submit?u=https://publiushuldah.wordpress.com/2018/11/11/what-the-framers-really-said-about-the-purpose-of-amendments-to-our-constitution/))

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15 Comments »

1. [...] additional power – we must not permit it to exercise the power by usurpation. See this paper under the subheading, “Washington’s Farewell [...]

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4. We do not have a constitutional problem nor is the constitution of defeat, we have a mass morality problem, they can write all the law they want it just shows us a Rome style litigious society falling like lightning.

Comment by [Union News page too much FB Censure](#) | November 12, 2018 | [Reply](#).

- o Yes, our fundamental problem is the collapse of personal morality. All our other problems arise from that. But we live in an “**I’m OK, you’re OK**” culture and it seems impossible to get people to see how immoral they are. They don’t give a hoot about Truth – they just want to “feel good”.

Comment by [Publius Huldah](#) | November 12, 2018 | [Reply](#).

5. “[T]heir claim makes as much sense as saying that since people violate the Ten Commandments, God should amend the Ten Commandments.”

Priceless, Publius, absolutely priceless. I’ve heard the illustration used this way before in regard to a Con-Con, but this was the simplest, most common sense way of stating a vital truth!

Comment by [Liberty Stevens](#) | November 12, 2018 | [Reply](#).

- o Thank you! I think all the time about how I can say things better and shorter.

Comment by [Publius Huldah](#) | November 12, 2018 | [Reply](#).

6. Dear Publius-Huldah,

Is there any way possible for you to teach this to a much larger market? I post to FB whenever I receive your emails, but I fear not nearly enough people know about this! It is critical to the future of our nation not to go down this convention path. People I respect such as Mark Levin and Sarah Palin have fallen prey to this erroneous and wrongfully publicized ploy☹️ Could you, or would you go on Fox News, say on Tucker Carlson’s show to preach the truth? I believe Hannity is on board with the convention folks, correct.

Thank you for listening to my rant. I wish you would come to the People’s Republik of Kalifornia!

Dan Moore Placerville, CA

Sent from my iPad

>

Comment by [Daniel Moore](#) | November 11, 2018 | [Reply](#).

- Why do you respect those people? Do you think that Mark Levin, who supposedly is a lawyer, doesn't know any better? Sarah Palin is probably totally clueless; but that doesn't let her off the hook because she should know that she doesn't have enough knowledge about this to spout off about it. Same goes for Hannity. Yes, he is as dumb as a rock; but has been spouting off for several years about how we need an Article V convention. It is immoral to speak of matters of which one is ignorant.

I can't just call people at FAUX News and tell them to put me on one of their shows!
Those on the fake right are the ones who are trying to shut me up!

So it's up to individual Patriots like you share my work and get it out to the Public.

They sure do need some lessons in California on forest management.

Comment by Publius Huldah | November 11, 2018 | [Reply](#).

7. Ok I will post it to the rest of the dumbasses

SFH

>

Comment by SFH | November 11, 2018 | [Reply](#).

- Thanks! The Truth is on our side – but we need to do a better job of getting the Truth out – AND people need to be willing to learn and then share.

Comment by Publius Huldah | November 11, 2018 | [Reply](#).

8. The COS people are trying – with some success – to gain support on social media. They were promoting heavily on Facebook, not sure about now, as I don't use Faceborg.

They still spread the COS on Twitter though.

Comment by [gamegetterII](#) | November 11, 2018 | [Reply](#).

- People on our side needs to learn the arguments and respond to COSP's tweets and posts on social media. COSP bots chant talking points COSP gives them – but the people on our side need to do a better job of *learning the arguments* and *getting more active*.

Comment by Publius Huldah | November 11, 2018 | [Reply](#).

9. Reblogged this on [Starvin Larry](#).

Comment by [gamegetterII](#) | November 11, 2018 | [Reply](#).

10. GOLDEN WORDS! Thank you PH

Comment by Dan Dumas | November 11, 2018 | [Reply](#).

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