

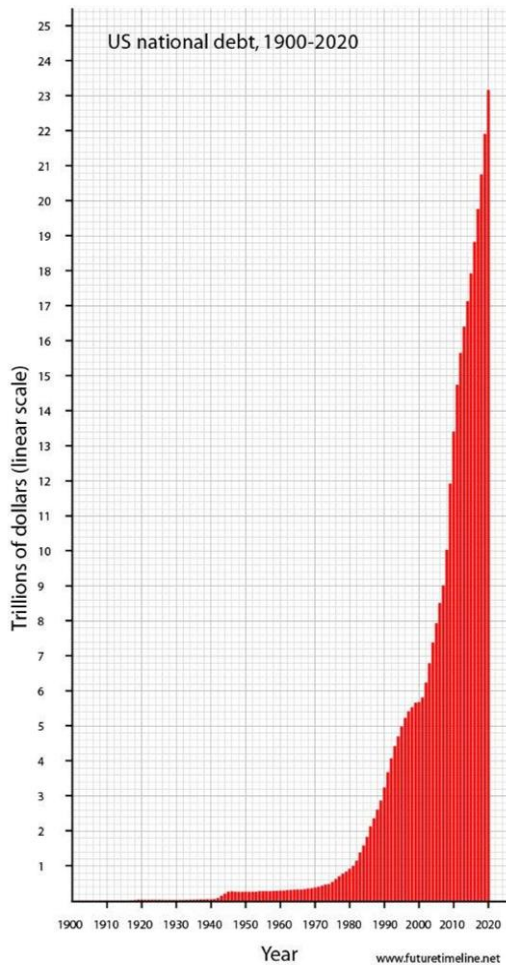
# STATES CAN FIX THE DEBT

*Reforming Washington with the Compact for a Balanced Budget*

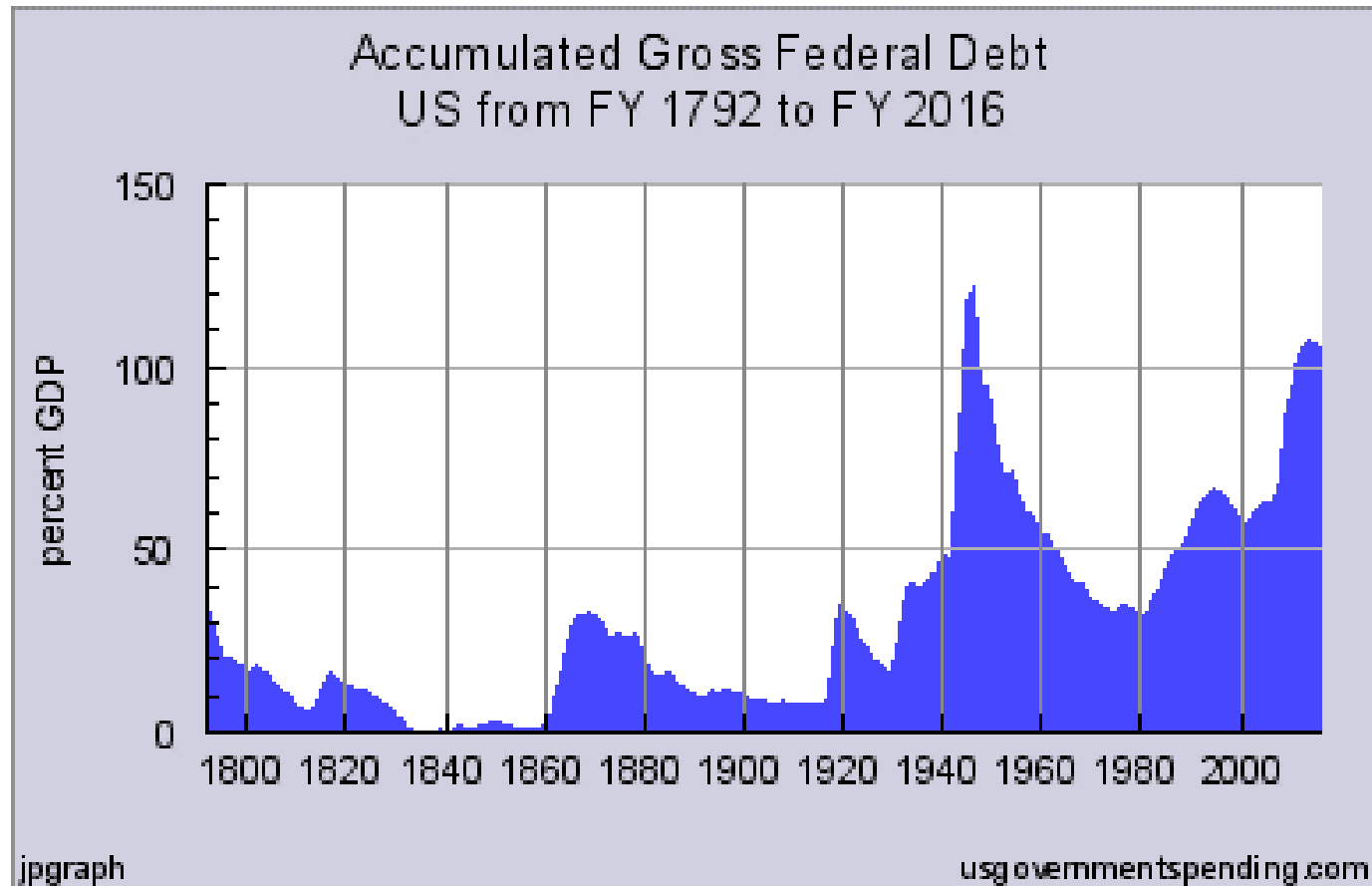
Nick Dranias  
Constitutional Policy Director

GOLDWATER  
INSTITUTE

# Welcome to the Desert of the Real

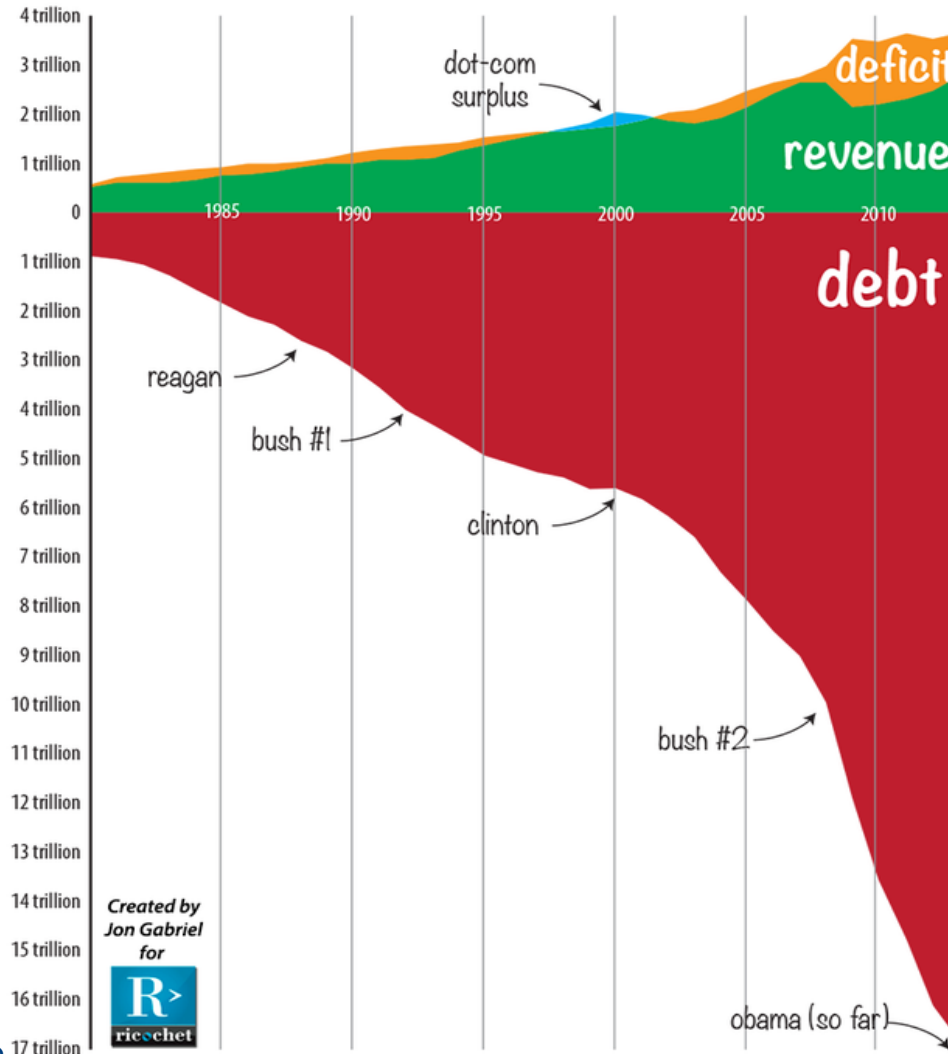


# Your Future is at Stake



# It Isn't Getting Better

## america's finances



Created by  
Jon Gabriel  
for



Nick Dranias,  
ndranias@go

**GOLDWATER**  
INSTITUTE

# Default is Not a Safe Option

Forbes

New Posts

+18 posts this hour

Most Popular

A Walk Down Silk Road

Lists

TV's Highest-Paid Actors

MARKETS | 10/05/2012 @ 6:50PM | 15,020 views

## The Real Story Of How A Hedge Fund Detained A Vessel In Ghana And Even Went For Argentina's 'Air Force One'



4 comments, 1 called-out

[+ Comment Now](#)

[+ Follow Comments](#)

In their drive to extract full compensation from the Argentine government, a hard-nosed bunch of distressed debt investors have gone to impressive lengths. They've pursued the country's assets around the globe, attempting to seize the presidential plane and menacing the Argentine booth at the Frankfurt Book Fair.

Now they have a big and bizarre fish on the hook: an Argentine naval vessel. NMI.



The Fragata Libertad in the distance -  
Photo credit: El coleccionista

Nick Dranias, Goldwater Institute Constitutional Policy Director,  
[ndranias@goldwaterinstitute.org](mailto:ndranias@goldwaterinstitute.org)

**GOLDWATER**  
INSTITUTE

# Washington Won't Tie its Own Hands



# Concentrated Power is the Problem.



# A BBA that Divides Power is the First Payload

## THE BALANCED BUDGET AMENDMENT

**Section 1. Balanced Budget Requirement.** Total outlays of the government of the United States for any fiscal year may not ~~and shall not~~ exceed total receipts of the government of the United States for that fiscal year, unless the excess of outlays over receipts in that fiscal year is financed by public debt issued in strict conformity with this article.

**Section 2. Debt Limit.** Outstanding public debt may not and shall not exceed authorized public debt, which initially shall be an amount equal to 105 percent of the outstanding public debt on the effective date of ratification of the proposed amendment establishing this article. Authorized public debt may be reduced and thereafter increased up to its aforesaid initial amount as provided by law; however, authorized public debt may not and shall not be increased above its aforesaid initial amount unless such increase is first approved by the legislatures of the several states as provided in Section 3.

**Section 3. State Approval Requirement.** From time to time, as Congress deems necessary, Congress may increase authorized public debt to an amount in excess of the initial amount set by Section 2 only if it first publicly refers to the legislatures of the several states an unconditional, single subject measure proposing the amount of such increase, in such form as provided by law, and the measure is thereafter publicly and unconditionally approved by a simple majority of the total of the legislatures of the several states, in such form as provided respectively by state law, provided that no inducement of pecuniary value shall be demanded, offered, accepted, paid or gifted as a quid pro quo for such approval. If such approval is not obtained within sixty (60) calendar days after referral then the measure shall be deemed disapproved and the authorized public debt shall thereby remain unchanged.

**Section 4. Required Impoundments.** When the outstanding public debt is above 98 percent of the authorized public debt as determined by the debt limit set by Section 2 at any time during any fiscal year, and should the President determine that expenditures appropriated by law will necessitate borrowing in excess of said limit, the President shall impound any expenditures as necessary and expedient to remain within said limit, impounding expenditures that do not serve core functions of the government of the United States first. The failure of the President to make impoundments as provided hereunder shall be considered an impeachable misdemeanor offense.

**Section 5. Required Roll Call Vote for Tax Rate Increases.** No bill that provides for a new fee or tax levy or an increase to any existing fee or tax levy, either on a per unit basis or a tax rate percentage basis, shall become law unless approved by a two-thirds roll call vote of the whole number of each House of Congress. For purposes of this section, a bill that provides for a reduction or elimination of a deduction used to calculate the base upon which a tax rate percentage is applied, a reduction or elimination of a credit applied to the calculated tax, or a new or increased fee charged to defray the cost of services rendered at the recipient's voluntary request shall not be subject to the foregoing roll call vote requirement.

**Section 6. Definitions.** For purposes of this article, "public debt" means obligations backed by the full faith and credit of the government of the United States; "outstanding public debt" means all public debt held in government accounts or by the public at any single point in time; "authorized public debt" means the total amount of public debt that may be lawfully issued and outstanding at any single point in time under this article; "total outlays of the government of the United States" means all expenditures of the government of the United States from any source; and "total receipts of the government of the United States" means all tax receipts and other income of the government of the United States, excluding proceeds from the issuance of public debt and proceeds from the incurrence of monetary liabilities by the government of the United States.

**Section 7. Self-enforcement.** This article is self-enforcing.

Non-gameable, cash flow based restriction of outlays to receipts

Limited revolving line of credit gives Congress another year to get the budget deficit under control.

Debt limit cannot be further lifted without State legislative approval.

The Buck Stops Before the Debt Limit.

- President must propose impoundments
- Congress may override.

Supermajority vote of Congress required for tax rate increases . . .

except for replacement of income tax with end-user (non-VAT) sales tax; elimination of deductions, credits and loopholes; tariffs; fees.





# Why the CBB is Uniquely Powerful

- Imposes scarcity on debt.
  - ▣ Limitless debt is the cause of limitless government.
- Restores a lost check and balance.
  - ▣ States regain a portion of their original power before 17<sup>th</sup> Amendment.
- Provides flexibility without loopholes.
  - ▣ State approval of debt limit increases can handle any crisis.
- Ensures accountability without playing chicken.
  - ▣ Impoundment is a balanced enforcement measure.
- Incentivizes spending reductions and better tax policy.
  - ▣ Will channel push for tax revenue through narrow gap.
  - ▣ Will bring us closer to fair or flat tax.

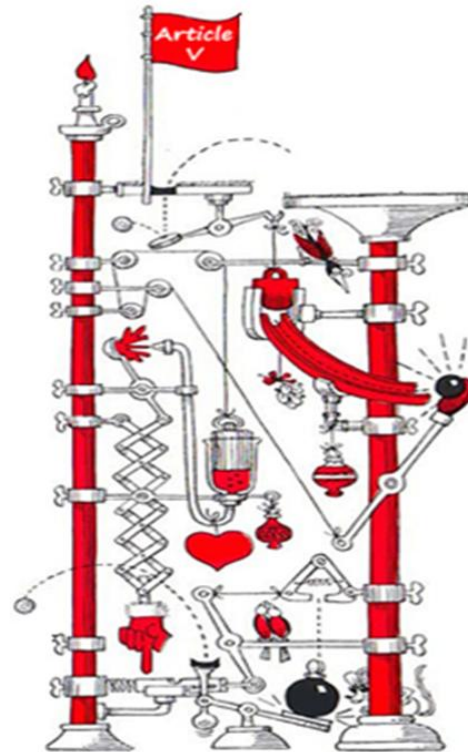
## Article V:

### One Amendment Power, Initiated Two Ways

- The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress;

# Patrick Henry had a point...

- 100+ legislative acts required
  - ▣ 34 state applications
  - ▣ 1 congressional call
  - ▣ >26 delegate appointments
  - ▣ 1 congressional referral
  - ▣ 38 ratifications

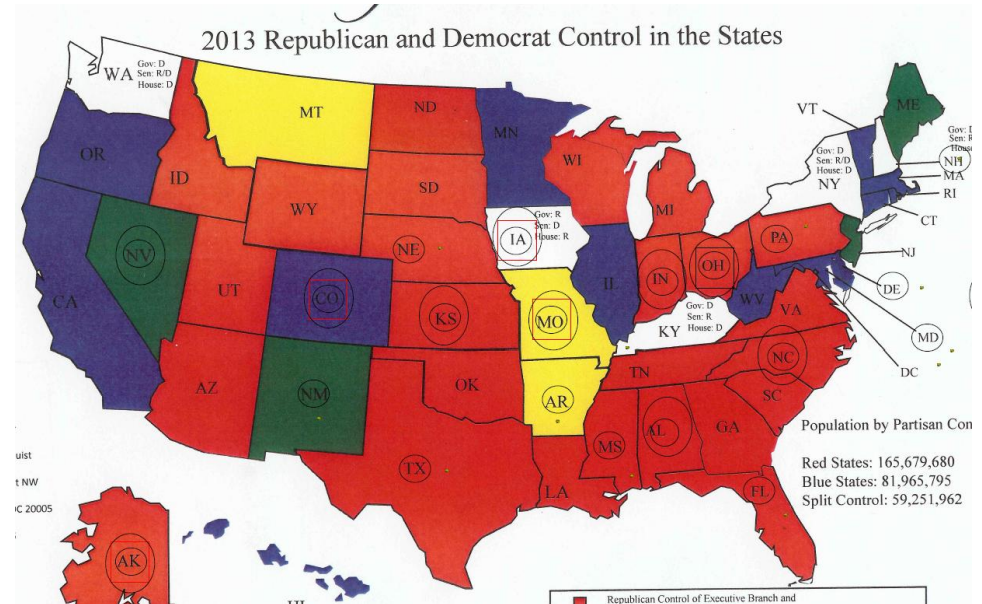


# Legitimate questions

- Front End: How long before hitting 34?
  - ▣ Friedman/Reagan BBA started in 1970s, still 14 short (at least)
- Middle: What is the amendment?
- Back End: Ratification time?
  - ▣ 27<sup>th</sup> Amendment (congressional pay hikes) took 202 years, 7 months, 12 days.
  - ▣ 26<sup>th</sup> Amendment (voting age) was ratified in 3 months 8 days.
  - ▣ Seven amendments took less than one year.
  - ▣ Fifteen amendments took between one and four years.
  - ▣ Average of non-outliers is just over 2 years.

# 20 BBA Applications?

- 5 seeking any kind of BBA.
- 5 seeking BBA with exceptions for national emergencies
- 6 seeking BBA contingent on congress failing to propose a BBA
- 4 seeking specific BBAs



# The Compact Approach to Article V

## State Compact

- A2 Proposed amendment
- A4 Compact Commission
- A5 Application to Congress
- A6 Delegate appointment
- A7 Convention rules
- A8 Scope limitations
- A9 Ratification

## Congressional Resolution

- s1 Call
- s2 Ratification referral



**GOLDWATER**  
INSTITUTE



## The Compact Approach to Article V is Realistic

- Reduces lobbying requirements by 60%.
  - Cuts number of enactments down to 39 from 100+
- Legislators *more familiar* with compacts than Article V itself.
  - 200+ compacts are currently in existence.
  - Average state a party to 20+ compacts.
- Governors provide leadership.
- Informed citizens favor 2 to 1.

# A Compact Can Find the Hole in the Line

- ❑ Not just a stack of paper. A Compact is an institution.
- ❑ Fills all voids before Congress can.
- ❑ Congressional resolution requires no more than simple majorities.
- ❑ Can be run at any time and needs to be run just once.





# A Compact Resolves All Uncertainty

## Questions

- What are the logistics?
- Who decides logistics?
- What keeps the convention on target?

## CBB Answers

- All are specified.
- States *and* Congress.
- SIXTEEN safeguards

# Sixteen Safeguards

- Safeguard #1: Overwhelming Political Will.
- Safeguard #2: Convention Processes and Logistics are Fully Codified and Regulated.
- Safeguard #3: The CFA is Constitutionally-Protected Binding State and Federal Law.
- Safeguard #4: Political Ambition of Aspiring Governors.
- Safeguard #5: Convention Cannot Proceed Unless Agenda Limited to BBA.
- Safeguard #6: Nullification of Unauthorized Delegate and Member State Actions.
- Safeguard #7: Automatic Recall of Rogue Delegates.
- Safeguard #8: Automatic Disqualification of Rogue States.
- Safeguard #9: State Legislatures Can Recall Rogue Delegates.
- Safeguard #10: Time Limited Convention.
- Safeguard #11: Prohibition on Advancing Unauthorized Proposals.
- Safeguard #12: Nullification of Unauthorized Convention Proposals.
- Safeguard #13: Prohibition on Ratification of Unauthorized Proposals.
- Safeguard #14: Mandatory Compact Enforcement by State Attorney Generals.
- Safeguard #15: Competent Venue Selected for Compact Litigation.
- Safeguard #16: Commission Intervention.

# It doesn't get much safer...



Nick Dranias, Goldwater Institute Constitutional Policy Director,  
[ndranias@goldwaterinstitute.org](mailto:ndranias@goldwaterinstitute.org)

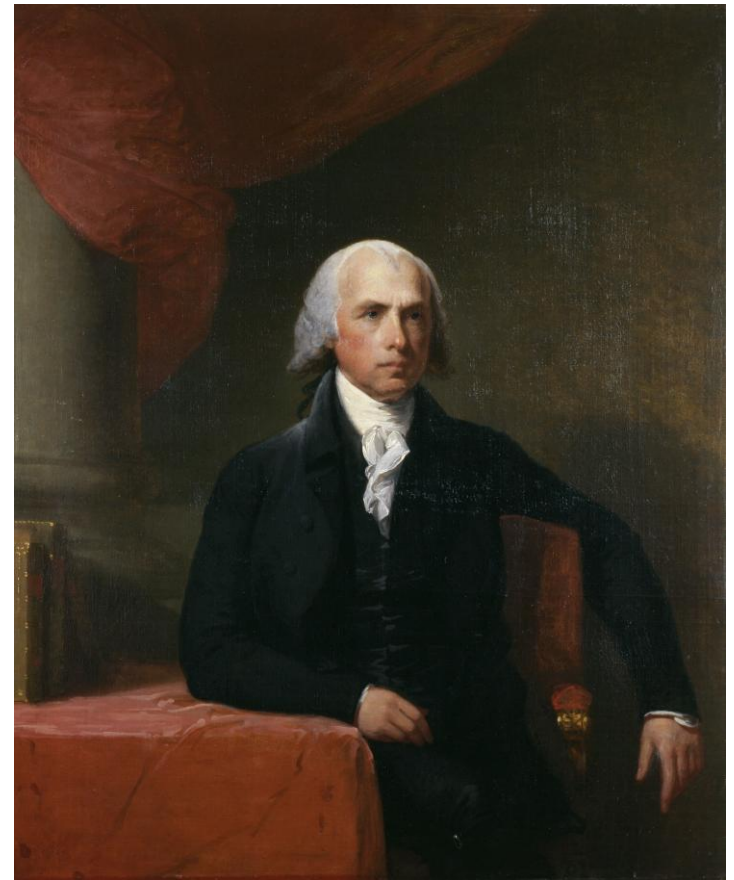
**GOLDWATER**  
I N S T I T U T E

# Philadelphia Convention Facts

- The congressional resolution and state commissions contemplated the convention establishing “in these states a firm national government ... [to] render the federal Constitution adequate to the exigencies of Government and the preservation of the Union” and “revising” the Articles with “alterations and provisions.”
- Articles of Confederation were already breached and non-binding on the States.
- The Constitution was ultimately approved by Congress and ratified by all 13 states.

# The Promise on Ratification

- In Federalist No. 43, James Madison emphasized that Article V: "equally enables the general and the State governments to originate the amendment of errors, as they may be pointed out by the experience on one side, or on the other."



Nick Dranias, Goldwater Institute Constitutional Policy Director,  
[ndranias@goldwaterinstitute.org](mailto:ndranias@goldwaterinstitute.org)

**GOLDWATER**  
I N S T I T U T E

# The Promise on Ratification

- On June 6, 1788, Patrick Henry raged against ratification at the Virginia convention. In response, leading Federalist, George Nicholas, observed that state legislatures may apply for an Article V convention confined to a “few points;” and that “it is natural to conclude that those States who will apply for calling the Convention, will concur in the ratification of the proposed amendments.”
- In Federalist No. 85, Alexander Hamilton promised, “We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority” by using their amendment power under Article V.



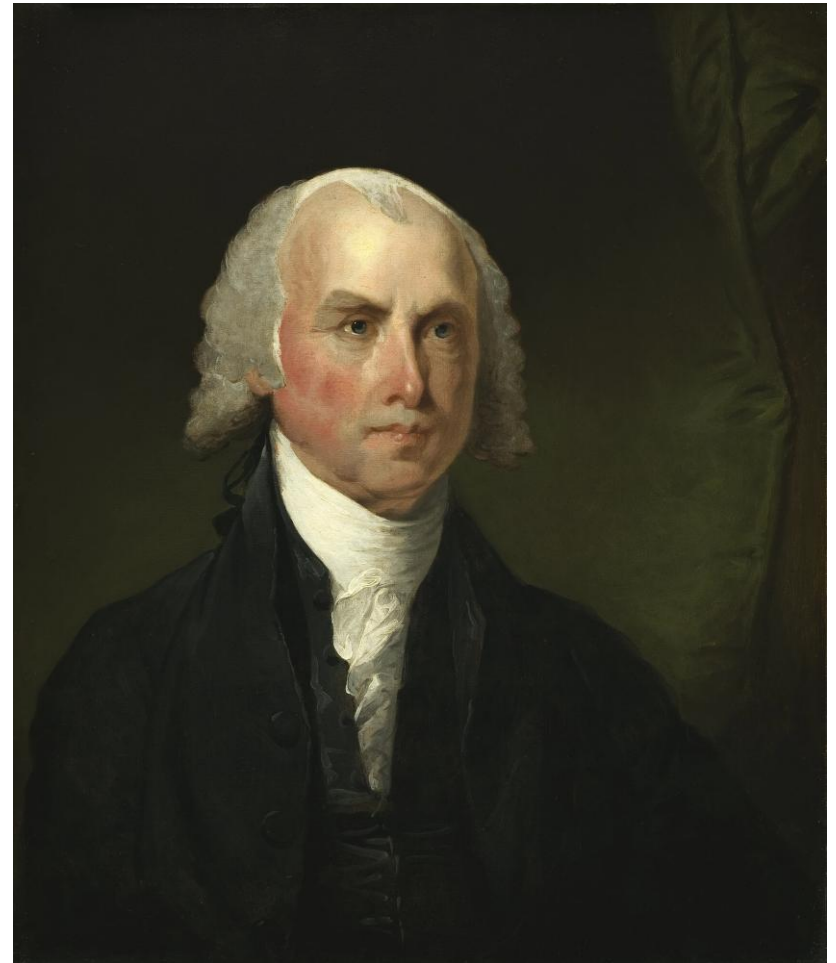
# James Madison 1788

- You wish to know my sentiments on the project of another general Convention, as suggested by New York . . . If a general Convention were to take place for the avowed and sole purpose of revising the Constitution, it would naturally consider itself as having a greater latitude than the Congress appointed to administer and support as well as to amend the system



# James Madison 1799

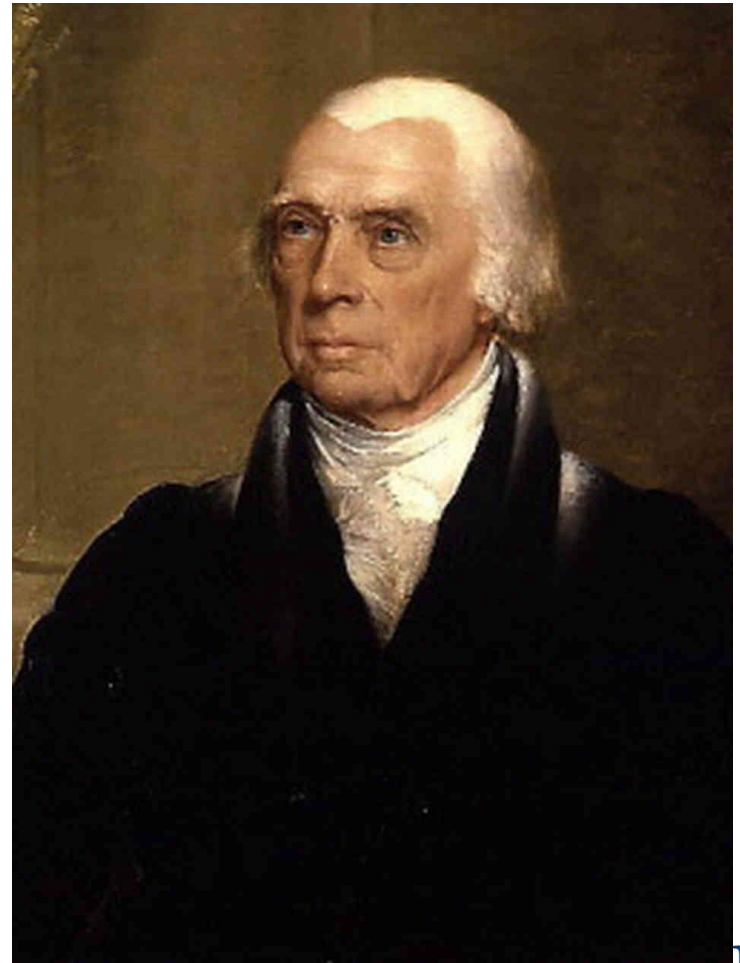
- On February 7, 1799, James Madison wrote both that the states could ask their senators to propose an “explanatory amendment” clarifying that the Alien and Sedition Acts were unconstitutional, and also that two-thirds of the Legislatures of the states “might, by an application to Congress, have obtained a Convention for the same object.”





# James Madison 1830

- “Should the provisions of the Constitution as here reviewed, be found not to secure the government and rights of the states, against usurpations and abuses on the part of the United States, the final resort within the purview of the Constitution, lies in an amendment of the Constitution, according to a process applicable by the states.”



# George Washington 1788

- “It should be remembered that a constitutional door is open for such amendments as shall be thought necessary by nine States.”
- George Washington did not tell a lie.

