

## Should the U.S. Constitution be amended, And if so, how?

A Talk with Questions  
on Madison's "Lost"  
Amendment (SPA)  
and an Article V  
Amend-Con



Monday,  
Month dd  
at 7:00pm

**Sale  
price  
\$0.00  
free!**

Speaker: **Lloyd Sloan**  
On Constitutional Amendments,  
Introduction, History, Factions  
Is the Constitution "broken?"  
What should we do?

Location  
Address 63011  
(directions or intersection)



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Organization

Contact: Name  
(Phone)

## Should the Constitution be amended? And if so, how?

Meeting Organization  
Date

Lloyd Sloan  
lloydsloan.com  
lloyd\_sloan@yahoo.com

## Greetings and Welcome

Thanks for inviting me . . .

. Name(s)

## Contents / Agenda (\*)

Basic Questions, History and Factions

Hard Questions "for all have sinned"

The Problem: Federalism is "broken"

The Solution: SPA using "two-step petition"  
approach

Conclusion and Questions

## Break



Basis Questions for a  
Constitutional  
Awakening.

Purpose  
History  
Factions  
Hard Questions

## Basic Questions

What is the purpose of a Constitution?

Who owns the Constitution?

Who decides what it means? Who enforces it?

If something is "constitutional", is it right?

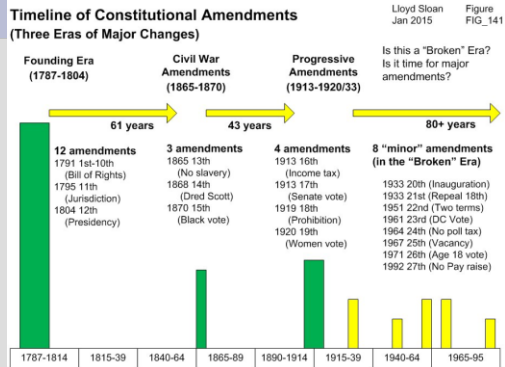
If something is "unconstitutional", is it wrong?

How many amendments are there?

How can the Constitution be amended?

What are the major factions?

# History: Are we overdue?

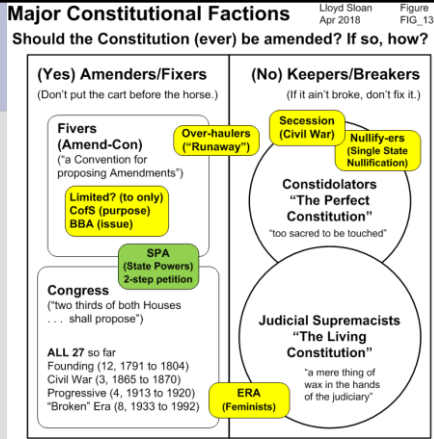


# Article V, Two Methods

"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;"

1. We have never had "a Convention for proposing Amendments" (The closest would be the 1787 Convention)
2. State legislatures have always ratified except the 21<sup>st</sup> Amendment
3. The Convention idea comes from George Mason on September 15. (Madison wanted to "skip" the Convention middle man and just let 2/3 of states propose.)
4. We have come close to a Convention several times: 1789 (Bill of Rights), 17<sup>th</sup> Amendment and 21<sup>st</sup> Amendment. Most recently BBA. (MO joined 1983)

# Major Factions



# Hard Questions (for "Nays") ("for all have sinned" Rom 3:23)

Are we following the Constitution?  
If not, is the Constitution "broken?"  
Is it perfect? Are the judges perfect?

Have you ever voted for a candidate you know has violated their oath of office?  
If not amendments (or a Convention), then what do YOU propose to fix the problems?

# Hard Questions (for "Fivers")

Was the 1787 Convention a "runaway?"  
Can a Convention be limited? By whom?  
If the Convention cannot be limited, is it then a bad idea? Did the founders make a mistake?  
How are delegates chosen? What are the rules?  
If they don't follow the current Constitution, why would they follow your amendments?  
What amendments will solve the problems?  
(see Levin #5, #9, #10)

# Critical Review (Levin)

Mark Levin proposed eleven "Liberty Amendments"

3 B's (#5, #9, #10)  
2 C's (#2, #4)  
4 D's and 2 F's (includes Term Limits and BBA)

Levin's	An Amendment to...	Summary	Grade
1	Establish Term Limits for Members of Congress	12 year lifetime limit in Congress, applies retroactive	D- (8)
2	Restore the Senate	Repeal 17th. State legislature may remove by 2/3 vote.	C (5)
3	Establish Term Limits for Supreme Court Justices and Super-Majority Legislative Override	12 year lifetime limit on Supreme Court. (Rotate 1/3 every 4 years.) Override Supreme Court opinion by 3/5 Congress or by 3/5 states, within two years.	D- (9)
4	Limit Federal Spending	Balanced Budget required, else 5% across-the-board cut. Spending cap 17.5% GDP. 3/5 required to increase debt. 3/5 may override the restrictions.	C (4)
5	Limit Federal Taxing	Personal (also corporate) taxation cap is 15% of income. No sales/VAT or death taxes. Elections held one day after tax deadlines.	B (2)
6	Limit the Federal Bureaucracy	Three year limit on all departments and agencies. Re-authorized in stand-alone bills. Executive Regulations worth over \$100 million reviewed by Congressional super-committee	D (6)
7	Promote Free Enterprise	Rewrite Commerce clause. Interstate commerce power is solely to prevent states from hindering commerce. Matters within a state are outside federal commerce powers.	D (7)
8	Protect Private Property	Rewrite takings clause. Compensate for regulatory takings.	F (10)
9	Grant the States Authority to Directly Amend the Constitution	2/3 of states may amend without Congress, six year time limit, no rescinding.	B (3)
10	Grant the States Authority to Check Congress	3/5 of states veto Congress (or regulation worth > \$100 million) within 2 years. 30 day public notice before vote in Congress. (unless 2/3 override)	B (1)
11	Protect the Vote	Photo-ID required in all elections. Voting no earlier than 90 days before election (AS close for military)	F (11)

## Break



What's the problem?

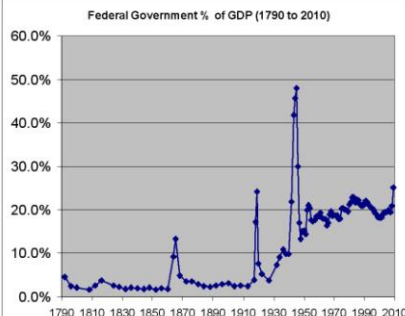
American Federalism is broken.  
We need "More States, Less Feds"

## Growth In Federal Government since 1790 (% of GDP)

Less than 5% except wars (until 1930s)

Then 20+% since World War 2

The (federal) government was smaller during the Civil War!



## Some Politics

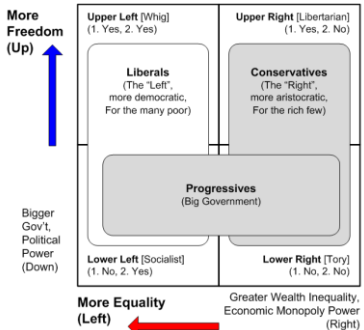
Is the (federal) government too big?

Is the wealth too unequal?

Are these constitutional problems?  
Obamacare,  
War in Iraq,  
Abortion,  
NSA spying,  
Federal Reserve,  
Gay Marriage, etc.

Equality-Freedom "Whig" Political Map  
(Two-Question Quiz and Labels)  
Lloyd Sloan (2017 Feb)

The two most important questions in politics:  
1. Is Government too big? (Freedom, Up-Down)  
2. Is Wealth too unequal? (Equality, Left-Right)



## My pet peeve: Not solving the problem

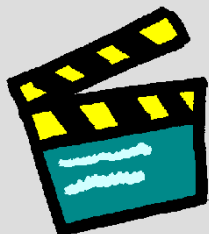
You don't need an expert to tell you something's broken.

You need an expert to FIX it!



It's easy to show the Constitution is "broken"; it's hard to fix it!

## Break



What's the solution?

SPA (State Powers Amendment)  
a.k.a. Madison's "Lost" Amendment Idea  
Using a two-step petition approach

## Constitutional Awakening!



Could Madison's "Lost" Amendment restore our Constitution?



## A fundamental question (from the start)

Who decides  
what the  
constitution  
means?



No one is a fair judge in their own case.  
The federal government should **not** be the  
judge of the limits to its own powers.

## What's missing? Another check!



A “bottom-up” check  
on the Congress  
by the States  
(on behalf of the People)

It must be:

- ✓ from **OUTSIDE** “the Feds”
- ✓ **NOT** “parchment barriers” but “auxiliary precautions” (Madison)

## What's needed? A checklist



It should be:

- ✓ **as effective as “judicial review”**  
(Elections are the ultimate check, but not on-demand, as-needed, in the same manner as the Courts)
- ✓ **negative only, not legislative**
- ✓ **at least a majority of states for unity**  
(“a satisfactory mode” for states to act “in their collective character”, Madison)

## We need the SPA: State Powers Amendment

We need an amendment (SPA) so that  
**a representative majority of states  
can repeal federal laws and regulations,  
in whole or part.**

a.k.a. Madison's “Lost” Amendment Idea

## SPA: proposed text

“Section 1. Any provision of law or regulation of the United States may be repealed by the several states, and such repeal shall be effective when the legislatures of a representative majority of the several states approve resolutions for this purpose that particularly describe the same provision or provisions of law or regulation to be repealed. [A representative majority of the several states is a majority of the states also having together a majority of the Representatives in the Congress.]”

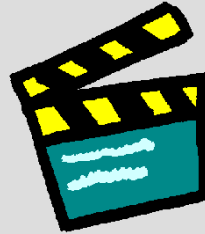
## The two-step petition approach

- Petition Congress **FIRST** (state by state)
- If two-thirds of states agree and Congress **FAILS** to act, then call for an Amendment Convention
- This naturally provides both **FOCUS** and **PRESSURE**. (Congress has responded to this kind of pressure several times in the past.)
- This is the safest approach. It avoids the risk of a “dud” convention or a “runaway” convention

## Talking points: The case for amending

- Inspire a Constitutional Awakening. Organize and Focus a political movement to restore and improve American federalism. Learn from ERA (Equal Rights Amendment)
- SPA is an even better check than the 17<sup>th</sup> amendment provided. Switzerland has had a similar bottom-up check since the 1840s.
- If we had SPA, Obamacare would be dead (Patient Protection Affordable Health Care)
- SPA is also “Hancock” for America

## Break



Concluding Thoughts

Questions

## In Conclusion and Summary

The Constitution is “Broken”  
BOTH the “Living” and “Perfect” Constitution  
factions are wrong

Amend (ONLY) where needed to fix  
American federalism (such as SPA)

## The good news

We are witnessing  
a “Constitutional  
Awakening”

