

ARTICLE V SYMPOSIUM

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Today, I want to give you a different perspective and give you an idea of what is actually happening around the country regarding an Article V convention.

My business is economics. For the last fifteen years, I have traveled this nation advising communities and states on how to improve their economies—to improve the standard of living for the people who live and work there. Over this period of time it was becoming harder and harder for communities to improve the standard of living for their people. Through my analysis and understanding of what was happening, I could see that many of the reasons for this were the result of the policies coming out of the federal government. I continued to examine this and became very distressed by the enormous debt that was being compiled by the federal government and also the intrusion of the federal government into the business community and our economic freedom.

The more I researched it, the more distressed I became. I began to wonder, as I looked at the debt and the amount of money they had borrowed, who was to blame for this happening. Whose fault was it that we sat back and watched this expansion of the federal government far beyond its constitutional authority? And the irresponsible fiscal activity, whose fault was it? Well, I discovered it was my fault: my fault because I did not recognize what was happening, and I did not take any action to speak out against it.

So back in 2008, I decided to take some action. I made a conscious decision that I was going to make the commitment to reverse what was happening. So I researched heavily the Article V avenue for amending the Constitution, wrote arguments for ten different amendments, wrote a book titled *The Ten Amendments for Freedom*, distributed the book nationally in January of this year, and launched an effort to cause an Article V convention to occur. That's why I'm here today.

Back in 1787, our Founding Fathers met to form a new government. The Articles of Confederation were dysfunctional—they weren't working. They wanted to set up some type of central government—to give some authority to this central government.

They also realized there was danger in what they were doing—danger, because in a thousand-year history, they saw that there have always been individuals who want to take power over others. They were afraid that if they created this national government that eventually these individuals would try to gain power over others. They knew that there were people who would try to use the treasury to purchase our freedom. They knew these

people were out there, and that they would try to expand this new government's power beyond what they were granted. They were right.

The Founding Fathers understood the nature of government. And the nature of government is to always wants to expand. It wants to grow. It's because people are involved in government, and unfortunately, some people always crave power and money, and they use the government to achieve that.

Let's take a look at some of the things that have happened, especially over the last forty years. Over the last forty years, members of Congress have borrowed money year after year after year to fund their programs, to assure their reelection. They have amassed a crushing debt. They've usurped the powers of state government, city government, county government, and schools through the use of their treasury. They have hidden from view massive pieces of legislation by burying it within popular legislation—concealing it from the people; concealing from their own members—legislation that never would have become law had it been visible and apparent to the people. They have regulated and taxed and have infiltrated the system we have called economic freedom, attacking the private sectors so much they've even taken title to private-sector businesses.

Let's take a look at some of these issues. I've prepared in the graph the budget deficit for the federal government from 1970 through 2008. We can see that in 1970—and the red, by the way, is deficit spending—there was borrowing and borrowing and borrowing over these years until we reach, roughly, 1999 and the year 2000. We can see that that debt, that borrowing, actually was reduced going into the late 1990s. Now, Congress did make some effort to reduce spending during this period of time. However, most of that budget surplus was absolutely credited to unanticipated income to the federal treasury being thrown off from capital-gains tax from the dot-com, stock-market boom. Remember that was happening?

Even though the lines are green, and that means the cash coming in was greater than the cash going out, we actually had an increase in our gross national debt after Congress had to account for the interest that they owed to the trust funds from which they had borrowed money.

Over this period of time, Congress borrowed \$9 trillion dollars to fund its programs. Well, what has happened since, and what do they plan to do? Well, Congress set a record in deficit spending in 2008 and 2009, and in 2010 they will likely set another record. Over the next ten years, they plan on borrowing \$1 trillion a year. An additional \$7–10 trillion will be borrowed by the year 2020.

On average, each year, the workers' wages during this period of time from 1972 to 2008 increased 5% per year. Revenue to Congress increased 7% per year. On average, Congress borrowed 23% more each year than what they took in.

The trust funds—those of you who are here who are legal scholars and even if you are a common citizen—a trust fund is, in theory, a bank account. Congress over the years has set special taxes where those special-tax revenues are supposed to go to a special fund, and the only means for expenditure from the fund are limited to the qualifications of that fund. As an example, we have a gas tax. All the money from the gas tax goes into the transportation fund, and the only legal use of that fund is for roads, highways, and bridges around the United States.

There are more than 500 trust funds at the federal level. Guess what? There's supposed to be \$300 billion accumulated in the Medicare bank. It has all been spent. There's supposed to be \$295 billion in the Military Retirement Trust Fund to pay the retirement benefits of retired military personnel. It has all been spent. There's supposed to be \$750 billion in the Civil Service Retirement Trust Fund. It has all been spent. There is supposed to be \$2.5 trillion in the Social Security Trust Fund. It has all been spent. All of this money must be repaid when these individuals retire. That burden will fall upon little kids in kindergarten today. For the rest of their life, they will have to repay the money borrowed, along with their children, and their children.

Borrowing money is not the only problem. Congress has been able to manipulate its own legislative process. They have hidden from view, as I mentioned before, important legislation, regulations, fees, and taxes that never would have been passed by Congress, simply by burying it in popular legislation.

Let me give you a couple of examples. In 2006, Congress passed the Pension Protection Act. This Act set rules and regulations for private pension programs offered by private corporations. Guess what? It was 393 pages, which seems to be the average length now for a bill in Congress. On page 331, there are sixty-two pages of new law establishing new duties and tariffs for products being imported into the United States. Now, how are tariffs associated with the private pensions, I don't know, but one who wants to know about changes to duties and tariffs certainly wouldn't go to a bill titled for private pensions. We also discovered that within that Act, the city of Portland, Oregon, got to import three tramway cars from the Czech Republic duty free. They also got to have all the spare parts imported duty free in the future.

The Emergency Wartime and Supplemental Appropriations Act was passed in 2003. The Iraq and Afghan wars were not really controversial at that time, so this bill really was not a controversial bill. But on page thirty-one, we find an unusual thing. It took an act of Congress to determine that wild seafood may now be labeled as organic seafood. Also, on page thirty-two of the bill, we have \$3.3 million being appropriated to settle a "music licensing dispute" with the European communities. Now apparently this averted war with Europe.

The Energy Independence and Security Act of 2007 that passed had 310 pages. On page 302, we discover that there is a new government mandate—all government-owned swimming pools must install a new pool drain. Now, they have to do this within a year of passage. I suspect that most cities, and counties, and universities that have a swimming pool wouldn't have done it within a year of passage because this was buried so deeply in the energy bill that even a coal miner couldn't have found this regulation.

The Former Vice-President Protection Act was passed in 2008. Now this was not a big deal. They apparently hadn't had sufficient Secret Service protection in the past. This is only a six-page bill. Six pages. Only the first twenty-three lines dealt with protecting the Vice-President. The balance of it was a new law dealing with identity theft. Apparently, the part of the Act regarding identity theft couldn't have been passed unless tied to the coattails of Dick Cheney at the time.

Most of these examples I've given you have been kind of humorous, but it does give an example of the frequency of which they have been doing them. A lot of this stuff isn't that funny. We remember back in the fall of 2008, the Treasury Department told our Congress that if they did not pass within twenty-four to forty-eight hours a massive multibillion-dollar appropriation to fund our financial system, then the U.S. financial system will go to receivership and could bring down the entire international banking community and throw the United States and the rest of the world into depression. Congress had to pass this bill within forty-eight hours—you have to do it; you have to appropriate hundreds of billions of dollars. So Congress reacted.

They also remembered their new talent of including things in bills no related to the principal subject. In the 169 page bill, also known as TARP, only the first forty-two pages dealt with TARP (the Troubled Asset Relief Program). What else was in there? Well, there was more. On page forty-two starts the Energy Improvement and Extension Act of 2008—fifty-four pages of new law that regulated the energy community, including new carbon taxes and regulations—nothing to do with troubled assets. There's more. On page ninety-seven, we start the Tax Extenders and Alternative Minimum Tax Relief Act of 2008. Twenty pages of new tax law were included. There is more. Next comes the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Act. This mandated upon private insurance carriers that offered corporate-healthcare plans for many corporations the mandatory provision of mental-health coverage. This was included in TARP. Wait, there's more.

There were then forty pages of unrelated regulations, fees, taxes, and appropriations having nothing to do with the Troubled Asset Relief Program. In total, this Act appropriated more than \$700 billion, contained

four major pieces of legislation, and was passed by the Congress within fifty-four hours of introduction.

Hundreds of bills over the history of the last twenty to thirty years have contained hundreds of billions of dollars of appropriations, regulations, fees, taxes, and bailouts that never would have become law had they been exposed publicly and even to the members of Congress.

Now, these are two major problems we have with the way Congress has behaved. The third problem that I want to talk briefly about is how the Congress has purchased power over the people using its treasury.

In 1974, we had an energy crisis, and the federal government—Congress—passed a law mandating upon the states that they adopt a fifty-five-mile-an-hour speed limit. The states say, *Wait a minute; speed limits are states' rights; you can't tell us we have to have a fifty-five-mile-an-hour maximum speed limit in our state.* Congress said, *Okay, don't do it. Fine. We will withhold all highway transportation money to your state if you don't do it.* Well, the states grumbled a little bit and understood it was probably a temporary thing anyway, so every state then passed the fifty-five-mile-an-hour speed limit.

But a bigger problem occurred in 1984. In 1984, the Congress of the United States ordered the states to raise their drinking age to the age of twenty-one. At that time, drinking ages were all over the place: eighteen, nineteen, twenty, and twenty-one. It was a states' rights issue. You know why? Because it says right in the Constitution it is. The Amendment that repealed Prohibition left the sale of alcoholic beverages to the states. So here comes the federal government saying,

[Federal Government]: *You have to raise your drinking age to the age of twenty-one.*

[States]: *We don't want to do it.*

[Federal Government]: *Well, you are going to do it or else, guess what? You are going to lose 10% of your highway money each year if you don't raise your drinking age.*

South Dakota didn't like it and said, "You can't use your treasury to order us around." So they went to the Supreme Court, and to my surprise, the Supreme Court ruled, yes they can. In *South Dakota v. Dole*, the Supreme Court said, *It is an option for you to take the federal money. You don't have to take the money, but if you do, you must take their authority with it.*

That was confusing to me because I'm probably the only non-attorney here, but it was confusing to me because *how did this money change in its authority.* It started with the people, went to Washington, and after it got to Washington, it was coming back to the people. All of the sudden, it

becomes Washington's money and not the people's money. To me this set a very dangerous precedent because Washington—the Congress—has almost unlimited ability to tax. They can take all of our money, and this is almost what they do today. They bring it back and dangle it in front of your nose. They say, *If you want your money back, you have to take our authority.* Well, that decision not only sent us down the slippery slope, but now we're traveling down it faster than an Olympic skier. That ruling has affected virtually every city, county, and state government, and even individuals in this country.

Let's just briefly look what has happened in schools. The House Committee on Education has now admitted that Congress has passed almost 2,400 pages of law that regulates the public school system in America, even though the Constitution does not give the federal government any authority over the public school system. The No Child Left Behind law itself, passed in 2002, created six-hundred and seventy-some pages of law that affected the public school system regulating almost every phase of the public school system, and right there in the bill was the language, *noncompliance will cause the forfeiture of all federal funding to the school system.*

Not only had they used the power of the Treasury to expand it over governments—state, local, and city—it has also happened in the private sector. In the Emergency Medical Treatment and Labor Act of 1987, most of you don't remember this, Congress passed a law mandating upon every hospital that in their emergency rooms they have to treat anyone who comes in. If the individuals cannot pay, the hospital has to pay for them. So basically they said, *If someone doesn't want to pay at the emergency room they still have to be treated.* They are compelling a private-sector company to provide services without compensation. That applied to all the hospitals that offered Medicare. If you participate in the Medicare program, you must participate in this program. When they passed this thing; the members of Congress all patted themselves on the back. They said, *We are giving a great thing to the poor people of America, and it didn't cost Washington one penny.* It didn't cost them because the private sector had to absorb this loss.

There are two major problems with this policy. First, the hospitals couldn't afford it. They had to increase their private-sector charges to those not covered by Medicare to compensate for the free services they were providing. Remember when health-insurance costs began to go up in the 1990s? This is a direct result of this Act because the costs had to be passed on to private-sector health-insurance premiums. The second problem is probably the biggest problem: emergency-room physicians, nurses, clerks, and technicians were not compensated for the services they provided. It is not unusual for one in four individuals to go into an emergency room today, and in some areas half of the individuals going to an emergency room, and

not pay for the services. The physicians, nurses, and everyone else in that room are not compensated for that service. Now they make it up somehow from wages from the hospital, but many of your emergency-room physicians are paid on a per-patient basis. So the federal government of the United States ordered physicians to work for no compensation. And I thought slavery was repealed.

Congress and the federal government now have the ability to compel activity among the private and public sector using their treasury far beyond the authority granted in the Constitution. Of course, the only alternative now is to change the Constitution through the Article V convention process because we know Congress will not pass amendments that restrict their power.

Let me tell you what's happening. We've created the America's Freedom Amendments movement in conjunction with the Ten Amendments for Freedom. Our website is tenamendments.org. You can go there and find out all the things we're doing. We are going to be proposing, at an Article V convention, four amendment topics. One is a balanced-budget-and-no-more-debt amendment topic. Two, single-subject legislation—that no bill can be introduced in Congress unless it is a single subject. Three, the federal government will not be able to use its treasury or ability to tax to coerce local government or the private sector into doing things which are beyond its constitutional authority. And the fourth topic—the fourth topic—will enable the state legislatures through basically a two-thirds vote to veto acts of Congress.

The amendments resolution has been designed and has been circulated. Let me tell you what's happening: at this point right now, by the end of this month, I'll have a sponsor for this amendments resolution in every state. I'm in approximately forty states at this time. In December, we are going to have an assembly of all the sponsors and all the legislative leaders that want to come. At that assembly, we will finish the final text of a common Article V resolution, the topics that will be included, and the rules for the convention. That amendments resolution will be introduced in every state legislature in January.

Given the mood of this nation, it appears to me there is a true opportunity for at least thirty-four states to pass this resolution during 2011. The response I have received from legislators and the people is that they overwhelmingly want this to happen. It's going to be exciting when we introduce this in January. Not only that, but the meeting we are going to have in December, is news.

Never in the history of this country have we ever had such a unified effort for an Article V convention for the purpose of restraining the national government; when they are introduced and these states begin to pass the Article V resolutions, then we will. We have states right now—I met with two leaders in two states just in the last three days—they want to

be the first ones to pass it. Ironically, they are two states that did not pass it in 1992 for the Balanced Budget Amendment. The enthusiasm among the legislative community is a direct reflection of the anger of the people. It's going to be so exciting because after we get ten then the momentum is going to build. And when we get to thirty—when we get to thirty and that thirtieth legislature begins to meet, the national media will descend upon it. And because we have more than a hundred television stations today and the internet working, the American people will fully understand the nature of Article V. They will understand these issues of the debt and the abuse of the federal government, and they will understand why we are having this.

When we get to number thirty-one and even more media will show up for that. And more and more of the American people will be educated in why we have to have this convention. And by the thirty-fourth state, when they go to vote, international media will be there. When we convene this convention, it will be the most exciting thing. It will be exciting, not because of what will happen—it's exciting because we are doing it. The rest of the world will see this. They will say, *Gee, the American people—they can control their government? They can change their national government? Maybe we ought to do that.* And this will spread around the world: this idea that the people can control their government.

This might be our last chance, however. Judge Brennan's generation that fought in the war and died for liberty is fading. My generation, the baby-boom generation, the best-educated generation, are beginning to fade. We are the last generation to have learned about freedom and to learn civics. When we are gone, this will never happen. This is our last chance. Thank you.