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Free Inhabitant of the United States of America
Per Article IV of the Articles of Confederation of November 15, 1777

January 19, 2016

Governor Gregg Abbot
P.O. Box 12428
Austin, Texas 78711-2428

Dear Governor Abbot:

Having just finished reading your "Restoring the Rule of Law…", you make a few statements in the first few pages that lead me to believe that you have a misimpression of the Constitution of September 17, 1787. You say:

> "The Constitution is the *highest such law* and the font of all other laws."
>
> "[A] constitutional crisis gave birth to the Constitution we have today.
>
> "The *Articles of Confederation…proved insufficient* to protect and defend our fledgeling country.
>
> "As long as all Americans uphold the Constitution's authority, the document will continue to provide the ultimate defense of our liberties."
>
> "[W]e can no longer rely on our Nation's leaders to enforce *the Constitution that 'We the People' agreed to…*".
>
> "Acting through the States, *the people can amend <u>their</u> Constitution….*"

Perhaps we should take a closer look at those comments.

Highest Law

You say that the Constitution of September 17, 1787 is the "highest law"? Um, not quite.

In Volume 1 of the United States Code, before Title 1 begins, there is a list of the *four* Organic Laws of the United States of America. Those laws are:

- Declaration of Independence, July 4, 1776;
- Articles of Confederation, November 15, 1777;
- Northwest Ordinance, July 13, 1787; and
- Constitution, September 17, 1787.

Said Constitution is but the fourth of these Organic Laws, and it must be understood as an outgrowth of the first three.

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Furthermore, while it has been continuously said since the advent of said Constitution that the Articles of Confederation was repealed and superseded by said Constitution, can you find the language in said Constitution that repeals the Articles of Confederation? No? That is because there is no such language, and the Articles of Confederation is still valid law. Interestingly, the second to last paragraph of the Northwest Ordinance of July 13, 1787 repeals an earlier Northwest Ordinance. That language suggests to us that, if the Confederacy Congress knew how to repeal Organic Law, the drafters of said Constitution, delegates appointed by the "free and independent" states, likely also knew how to do so. And yet, there is no language in said Constitution repealing the Articles. Rather telling. Wouldn't you say? Of necessity, The Articles of Confederation is listed in the United States Code, because it is still valid law.

So, if said Constitution is not a stand-alone document, what is it, exactly? According to the Resolution of February 21, 1787, it is an amendment to the Articles of Confederation for the purposes of making more efficient the Confederacy's operations. And what were its operations? The administering of the then Northwest Territory. The improvement to said operations were to be "adequate to *the preservation* and support *of the Union*" of free and independent states, the United States of America.

By listing the four Organic Laws, Volume 1 of the United States Code is telling us that all statutory law rests within the context of those *four* Organic Laws. No one Organic Law says it all; all four must be taken into account, and each has a purpose.

Incidentally, **Article 4** of the Articles of Confederation tells us, in pertinent part:

> "...the *free inhabitants* of each of these states, (paupers, vagabonds, and fugitives from justice, excepted) *shall be entitled to all privileges and immunities of free citizens in the several states*;...."

One becomes a citizen of a "free and independent" state by virtue of birth in said state; all others, "free inhabitants", have the same freedoms as said citizens. In so saying, the *place of freedom* has been defined: the "free and independent" states, collectively the United States of America. The freedom that was won via the Revolutionary

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War is encapsulated in the above-cited **Article 4** of the Articles. Further, it should be noted that the Articles provides no authority for regulating or taxing the people in the "free and independent" states.

If there is no authority for taxing people in the "free and independent" states, pursuant to the Articles, how is it that we in the "free and independent" states are today being regulated and taxed to death? We can thank the drafters of the Northwest Ordinance of July 13, 1787 and the Constitution of September 17, 1787 plus the very honorable (?) George Washington for that.

Constitutional Crisis

You say that a "constitutional crisis" gave birth to the Constitution we have today". That crisis or exigency was the inability of the Confederacy Congress to enforce within the "free and independent" states taxation to pay the debts of the Confederacy resulting from the Revolutionary War. So, the Resolution of the Confederacy Congress of February 21, 1787 called for a convention of states to meet in May of the same year:

> "for the purpose of *revising the Articles of Confederation* and perpetual Union between the United States of America *and reporting* to the United States in Congress assembled and to the States respectively *such alterations and amendments* of the said Articles of Confederation as the representatives met in *such convention shall judge proper and necessary to render them adequate to the preservation and support of the Union*".

Did you get that? The stated intention of the Confederacy Congress was to *preserve* the Union and, thus, *not to repeal* the Articles of Confederation that the Union flows from. Said convention of States commenced in May 1787, right on schedule.

Incidentally, the Confederacy dates to the Articles of Confederation of 1787, not from the Civil War 74 years later.

Before the convention finished its work, the Confederacy Congress enacted the Northwest Ordinance of July 13, 1787. Said Northwest Ordinance provided for the temporary governance of the so-called Northwest Territory, land owned by the United States of America (the "free and independent" states) so that the people on that territory could be taxed in order pay the Revolutionary War

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debts of the Confederacy. Note, therefore, that the inhabitants of the "free and independent" states still were not to be taxed, because the Articles of Confederation did not provide for it.

Said Northwest Ordinance provided that:

- Said territory be dubbed a "district", which could be subdivided into two districts (**Para. 1**) ;
- The *territorial governance* instituted by the Northwest Ordinance was to be *temporary* (**Para 1**);
- The general assembly in the district, consisting of the governor, legislative council and a house of representatives, made all laws *for the district*, i.e., *territory* (**Para. 11**);
- Said general assembly elected a *delegate* to the Confederacy Congress with authority to debate *but not to vote* (**Para. 12**);
- The land in the territory could be sold (**Art IV**), since the general assembly could interfere with the primary disposal of land by the Confederacy Congress;
- The States created within the territorial district would be *forever* part of the Confederacy (as long as they remain *territorial* States) (**Art. IV**), but being part of the Confederacy did not mean they were "free and independent" states;
- The inhabitants and settlers in the territories were subject to taxation to pay a part of the debts of the Confederacy government (**Art. IV**);
- The territorial governance could be "*constitutionally* altered" (**Art. IV**), meaning, among other things, that said governance could be made permanent (by way of amendment to the Articles);
- The district could be subdivided into territorial States, not to be confused with "free and independent" states (**Art V**);
- The term "United States" refers to the collectivity of territorial States erected within the District, (per **Art. V** and per the formal title of said Northwest Ordinance—"An Ordinance for the government of the *Territory of the United States* northwest of the River Ohio"); and

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- A territorial State could apply to the Confederacy government, when the population thereof reached a requisite number of adult males, for status as a "free and independent" state, provided that the government therefor (on land that was not sold that is still territorial land) would be republican (i.e., republic-like—think Roman Republic) (**Art. V**).

Note the provision for this territorial governance to be *constitutionally altered*. This is the segue to the Constitution of September 17, 1787, and it tells us what said Constitution is primarily for: altering territorial governance. And because said Constitution is an amendment to the Articles, governance of federal territorial States and other possessions becomes permanent for the then existing territory and for any territory subsequently acquired. Is that what you think said Constitution is for, sir? Remember, Volume 1 of the United States Code lists *four* Organic Laws that must be understood *together*.

Thus, the idea that the Articles of Confederation proved insufficient to "protect" and "defend" our fledgeling country is a bit off point. The Articles *did not provide a way for the Confederacy Congress to pay the debts of the Revolutionary War*. Thus, the Northwest Ordinance of July 13, 1787 and the Constitution of September 17, 1787.

I am an advanced student of the Organic Laws Institute (https://organiclaws.org). My instructor, Dr. Eduardo M. Rivera, teaches that:

> "All the parts for the permanent version of the temporary government for the Northwest Territory, with one exception, were placed between the **Preamble** and the end of **Art. I §8 Cl.18**. The one exception is the oath of office by which the President of the United States claims that office. The written version of the oral oath of the office of President of the United States is located in **Article II**, where it has been mistaken for the oath of office of the President of the United States of America ever since George Washington took that oath."

Did you know that territorial governance is specifically contained in said Constitution, sir?

Furthermore, there seems to have been some confusion about the legislative Powers granted in said Constitution.

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> **Art. I § 8:** "*The Congress* shall have the power" **[Cl. 1:]** "To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the *United States*;...."

Art. I § 8 may seem simple enough and straight forward enough on the surface, but there is something hidden in plain sight that virtually no one notices. The beginning words are "*The* Congress". Notice that it doesn't say "Congress" or "*a* Congress". Interestingly:

> **Art. I § 1:** "All legislative Powers herein granted shall be vested in *a Congress* of the United States, which shall consist of a Senate and House of Representatives."

Why is there a difference in language between **Art. I § 8** and **Art. I §1**: "*the* Congress" versus "*a* Congress"? "*A* Congress" is the Congress of the United States; "*the* Congress" is the Congress of the Confederacy (the United States in Congress Assembled) in its guise as the Senate of the United States. That's right, the United States Congress is composed of the House of Representatives and *the* Congress of the Confederacy (Senate).

Now, back to **Art. I §8.** Which Congress shall have the power "To lay and collect taxes..."? That's right, the Confederacy Congress in its guise as the Senate. Once again we see that the Articles of Confederation is, of necessity, still valid law. However, the Confederacy, pursuant to the Articles of Confederation, still has no authority to enforce a tax in the "free and independent" states. That's why the Northwest Ordinance of July 13, 1787 and the Constitution of September 17, 1787 were crafted. The Northwest Ordinance provided for a temporary governance of the territories for the express purpose of imposing taxation (strictly within the territories). The Confederacy Congress could impose taxation in the territories, because that was land owned by or subject to the exclusive legislative jurisdiction of the United States of America (the Confederacy). The Confederacy Congress exercised proprietary Power in the territories, "proprietary" Power being *the authority of the owner over its property*. The Confederacy Congress does not own the "free and independent" states; therefore, it cannot exercise proprietary Power there. Thus, the **Art. I §8** Powers that "the **[Confederacy]** Congress" is exercising are proprietary Powers exercised in the territories, the only place that the Confederacy

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Congress may exercise said proprietary Power. Remember, the Constitution of September 17, 1787 amended the Articles of Confederation to provide *permanent governance of the territories*.

As an aside: A study of the Powers listed in said Constitution will show that "a Congress of the United States" having "all legislative Power" is a misnomer, because the so-called vested powers are nowhere defined. Only "the [**Confederacy**] Congress" (the Senate) exercises those Powers that are defined, and those Powers are all proprietary powers properly exercised only in the territories. Today, of course, the boundary between the territorial states and the "free and independent" states has been (purposely) blurred.

Liberties & Authority

So, you believe that it is up to "all" Americans to uphold the Constitution's authority and that said Constitution is to provide the ultimate defense of our liberties?

Because the liberties of Americans in the "free and independent" states are the unalienable rights memorialized in the Declaration of Independence and protected by the Articles of Confederation, said Constitution is not about protecting our liberties. Those vaunted Constitutional "Rights" contained in the first ten Amendments are really privileges granted to those who set foot on government-owned land. In short, those so-called "rights" have nothing to do with most Americans or their liberties.

As to said Constitution's authority, exactly what authority would that be? That question may seem off the wall, but a discussion of the Presidents will clarify why I ask. That's right, there is more than one President listed in said Constitution.

The **Art. II §1 Cl. 1** President of the United States of America is vested with the executive Power of the Confederacy. Yes, "of the Confederacy", because the Constitution of September 17, 1787 is merely an amendment to the Articles of Confederation and because "of the United States of America" (the Confederacy) is part of the title. Since said President is vested with executive Power, he is of necessity an executive Officer. This President is elected by Electors when their votes are counted before the Senate and House of Representatives, per **Art. II §1 Cl. 3**.

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The **Art. I §7 Cl. 2** President of the United States is indeed a different Officer than the President of the United States of America, both because his sole duty, pursuant to the same Clause, is to sign Bills that he approves and return to the House of origination those he does not approve and because "of America" is not part of the title. Since his duty is legislative in nature, of necessity he is a legislative Officer.

The President of the United States is required in Art: **II §1 Cl. 8** to take an oath:

> "Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—'I do solemnly swear (or affirm) that I will faithfully execute the Office of *President of the United States*, and will to the best of my Ability, *preserve, protect and defend the Constitution of the United States*.'"

Look up "constitution" in a thesaurus; it means "composition" or "makeup". Remember that "United States" means federal territory or land owned by or subject to the exclusive legislative jurisdiction of the United States of America (the Confederacy). Thus, this oath is "to preserve, protect and defend the composition of federal territory". Is that what you think it means, sir? This oath makes the President of the United States an administrative Officer. So, said President is both a legislative and an administrative Officer.

The President of the United States, along with the Vice President of the United States, is chosen, pursuant to **Art. I §3 Cl. 5**:

> "The Senate shall chuse *their other Officers*,...."

In other words, there is a secret meeting of the Senate (Confederacy Congress) following an election at which the President of the United States is chosen. To date, the President of the United States of America, an executive Officer, has always been chosen to be the legislative President of the United States, such that one man acts in both capacities. Furthermore, the only oath this person holding two Offices takes is the oath to preserve the territory.

Lastly, we have the **Art. II §1 Cl. 5** *Office of President*. While it is easy to assume that the Office of President is an allusion to the President of the United States of America, we must note that President of the United States of America and President of the

United States, titles that vary slightly, are two different Offices—because one has executive duties and the other has a legislative duty and because the titles are worded differently.

The Office of President, interestingly, is also an executive Officer since, pursuant to **Art. II §1 Cl. 5**, his sole duty is to "adopt" the Constitution of September 17, 1787.

> "No Person except a natural born Citizen, or a Citizen of the United States, *at the time of the Adoption of this Constitution*, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States."

From my on-line dictionary:

> "**Adopt.** Take up or start to use or follow (an idea, method or course of action); take on/up."

In other words, "adoption" of said Constitution is accepting its authority and agreeing to be bound by it.

Art. VI §3 provides said Officer with the means of doing this:

> "The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and *all executive and judicial Officers*, both of the United States and of the several States, shall be bound by Oath or Affirmation, *to support this Constitution*; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."

We must put on our thinking caps at this point. The "Office of President" is the executive President of the territorial United States, because the "United States of America", the Confederacy, is not mentioned. Why are all of the executive, legislative and judicial Officers *of the United States* and of the States required to adopt said Constitution? All of them are associated in one way or another with federal territory, and all of them must acknowledge the authority of the written Constitution and agree to abide by it. Furthermore, when considering the "authority" of said Constitution, territorial applicability comes into consideration. Where does said Constitution's authority apply? Federal territory (the United States). Thus, one who subscribes the **Art. VI §3** oath "to support *this* [**written**] Constitution" is signifying, among other things, that he is aware of the territorial applicability of said instrument.

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In case you are wondering, **Article IX paragraph 5** of the Articles of Confederation makes reference to an "office of president" to "preside" over the Confederacy Congress:

> "*The United States, in Congress assembled, shall have authority* to appoint a committee to sit in the recess of Congress, to be denominated "A committee of the states," and to consist of one delegate from each state, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction—*to appoint one of their number to preside*, provided that no person be allowed to serve in the *office of president* more than one year in any term of three years;...."

Thus, under the Constitution of September 17, 1787, the equivalent of this "office of president" under the Articles of Confederation is the Vice President of the United States acting as President of the Senate (which is really the Confederacy Congress). The executive Office of President under this Constitution is not the same office as the legislative "office of President" under the Articles of Confederation.

There are a few things that one should take away from this discussion of the Presidents.

- The President of the United States of America, the President of the United States and the Office of President are three entirely separate Offices—the first under the Articles of Confederation of November 15, 1777, and the other two under the Constitution of September 17, 1787.
- No qualifications for Office are prescribed for either President of the United States of America or President of the United States.
- There are qualifications for the Office of President, which is not the President of the United States of America.
- President Obama was elected to the Presidency of the United States of America, for which *there are no qualifications*.
- All of the hoopla about President Obama being ineligible to the Presidency of the United States of America, despite the obviously forged birth certificate, is entirely unfounded, *no matter what one's personal opinion of the man is and no matter what he has done in Office*. What he has done in Office has

nothing to do with non-existent qualifications for that Office, and the birth certificate fiasco is nothing but a red herring that has everyone spending huge amounts of energy chasing their tails.

- There is no stated means of acquiring the executive **Art. II §1 Cl. 5** Office of President. **Art. I §3 Cl. 5**, where the Senate chooses its "other" Officers, is only for *legislative* Officers; and there is no provision for electing the **Art. II §1 Cl. 5** Office of President.
- Though there are no qualifications for President of the United States of America, said President is supposed to qualify for and assume the secondary Office of President and adopt said Constitution (by subscribing the prescribed **Art. VI §3** oath). Thus, the President of the United States of America becomes aware of the territorial limitations of said Constitution and agrees to adhere to them.
- Why such a seemingly very odd arrangement? Very simply, the framers fully intended that said Constitution *never be adopted*.
- Beginning with George Washington, no elected President of the United States of America has ever qualified for and assumed the **Art. II §1 Cl. 5** Office of President and adopted said Constitution by subscribing the **Art. VI §3** oath "to support this [**written**] Constitution".
- The only oath that the President of the United States of America ever takes is the **Art. II §1 Cl. 8** oath "to preserve, protect and defend" federal territory. He is elected head of state, and he takes the oath to become head of government, which is the path to dictatorship of other rulers such as Hitler (who followed Washington's lead).
- All this time, the Constitution of September 17, 1787 has been a smoke screen. Since it has never been adopted, it has never been in force and effect.

As you can see, there is quite a bit to be learned from a study of the Presidents, and it isn't particularly obvious—until someone draws your attention to it.

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Since said Constitution's authority is legislative Powers exercised by the Confederacy Congress per **Art. I §8** in the territories (or territorial States), why would Americans be upholding said Constitution's authority. What do the American people, living in the "free and independent" states have to do with that authority? Absolutely nothing! Thus, you are suggesting, sir, that the American people get involved with something that does not concern them.

Enforcing the Constitution that "We the People" Agreed to

You suggested in your treatise that:

> "[W]e can no longer rely on our Nation's leaders to enforce *the Constitution that 'We the People' agreed to...*".

There are a couple of problems with that statement.

Beginning with George Washington, no President of the United States of America has ever qualified for and assumed the Office of President and then subscribed the **Art. VI §3** oath "to support this [**written**] Constitution". To date, said Constitution has never been adopted. This means that:

- Said Constitution has never at any time been in force and effect, all rhetoric, legislation and amendments (following the Tenth) indicating the contrary not withstanding; and
- No Officers have ever agreed to abide by the mandates and *restrictions* of said Constitution;
- Thus, technically, there are no real Officers of government today.

So, why would you expect non-Officers to "enforce" said Constitution?

The Constitution that "We the People" agreed to? The legislatures of the "free and independent" states that created said Constitution ratified it in behalf of the Citizens of the "free and independent" states. Those Citizens were never directly involved with and, thus, did not "agree to" said Constitution.

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Furthermore, said Constitution technically does not act upon those Citizens of the "free and independent" states or the "free inhabitants" of the same. The idea that said Constitution is our Constitution is a myth. It isn't ours, and it has nothing to do with us.

Thus, your statement is highly misleading, not to mention wrong.

Amending the Written Constitution

So now we finally get down to it. The object of your treatise, Governor Abbot, is to encourage a proceeding in which the written Constitution can be amended.

> "Acting through the States, *the people can amend <u>their</u> Constitution....*"

Hopefully, I have put to rest the idea that said Constitution is the People's Constitution. It isn't and never was. However, beyond the idea of the People's Constitution, you suggest that, acting through the States, the people can amend said Constitution. Pray tell, what type of States do you have in mind, sir? Perhaps we need to talk about the types of state in existence today.

Originally, by way of the Declaration of Independence, there were "free and independent" states. Then, via the Northwest Ordinance of July 13, 1787, we see that States were erected within the territorial "district"; and those territorial States, per **Art. IV**, were to be forever part of the Confederacy. Do you know, sir, that there are territorial States in existence today? Have you noticed on a street map of a state—Arizona, for example, since I'm in Arizona—that you see Arizona and various counties, such as Coconino County and Yavapai County? Yet the State Constitution is for the State of Arizona, a property tax bill comes from the County of Coconino or County of Yavapai, and statutory law flows from the Constitution of the State of Arizona.

After reviewing Dr. Rivera's lessons regarding the State of California in his ***Basic Course in Law and Government***, I researched State of Arizona law and found that, just like in California, the "State of Arizona" indicates federally owned land within the outer boundaries of Arizona, and State of Arizona statutes support this thesis. The State government is for the State of

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Arizona, *not* for Arizona. Arizona, the free and independent" state, does not have a government. Do you suppose that is why the Constitution of September 17, 1787 has been amended to require the popular election of Senators, instead of the original appointment by the respective state legislatures? There haven't been governments in the "free and independent" states since shortly after the advent of the Constitution of September 17, 1787; thus, it is somewhat problematic for those states, though they still exist, to appoint Senators.

You mention **Art. V** of the Constitution of September 17, 1787 providing for the amending of said Constitution:

> "*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; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

Notice that either "the [**Confederacy**] Congress" (Senate) must propose Amendments or Legislatures of the two thirds of the "several States" must call for a convention. Of necessity, the "several States" must be the "free and independent" states, since they were the ones that created said Constitution. Only the creators of said amendment to the Articles (the Constitution of September 17, 1787) may amend it. Since today there aren't any governments in the "free and independent" states, there can be no legitimate Confederacy Congress (Senate) seated today. Moreover, since the Office of President has be continually vacant since the time of George Washington, said Constitution has never been adopted and, thus, has legitimately never been in force and effect. How, sir, does one amend a Constitution that has never been in force and effect? That's a rather large Oops. Wouldn't you say?

The first ten Amendments technically are not amendments; they are simply modifications of the draft of said Constitution made

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before the "free and independent" states were willing to ratify said Constitution. All amendments following the first 10 modifications are null and void, since said Constitution was not, and has never been, in force and effect. It's somewhat problematic to amend an instrument that is technically nonfunctional.

Conclusion

The ideas upon which you constructed your treatise, listed at the beginning of this letter, are all either false or highly misleading. The America people have been abused and have been lied to about law since the time of George Washington *in order to tax and regulate them* using the Confederacy Congress's proprietary power—as though they were geographically located in federal territory or in federal States. It seems you are continuing said abuse and lies, assuming of course that you understand the law. Or are you simply ignorant of the law? I don't presume to know which, though I suspect the former.

Suffice it to say, some Americans are educated in the law and know about the hoax that is the Constitution of September 17, 1787. This American is crying "Foul" on your attempt to Amend a non-functional instrument. I'll leave your proposed amendments for another time. For now, it is enough to know that someone recognizes the flaws in your treatise and the error of a Convention of delegates from non-existing state governments.

Sincerely,

_____

Alan Lewis Painter