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Removing a failed president

By Joel S. Hirschhorn

We no longer can trust Congress to impeach and remove a terrible president. The Washington Post has published an op-ed piece by [Robert Dallek](#) that proposes a constitutional amendment to allow "ouster by the people" for removing a president other than by impeachment or because of incapacity. Considering the dismal performance of George W. Bush and his administration and the difficulty in obtaining impeachment, this is a fine idea.

Here are the main features of the amendment: The recall procedure would begin by obtaining a 60 percent vote in the Senate and House. Public pressure on Congress could help it shift decision making to the electorate. Congressional support would initiate a national referendum that would be open to all eligible voters in state elections. Clearly, it should be done fairly quickly. The ballot would simply offer the choice of voting "yes" or "no" to the option of removing the president and vice president from office immediately. If the majority votes in favor of removal, then the Speaker of the House would become president and choose a vice president who would have to be confirmed by majorities in the House and Senate.

These are solid ideas that would add a much needed dose of direct democracy that would hold presidents more accountable to Congress and the general public than any constitutional mechanism now available.

There must be limits in a functional and fair representative democracy to what a president can do. Bush has more than demonstrated that the presidency has become much too powerful, able to undermine our Constitution and the rule of law, sell out our national sovereignty, put us in incredible debt, waste American lives, and walk all over Congress.

There are 18 states that have a recall process for sitting governors. So this notion is not absurd. Interestingly, in only two cases have governors been removed through citizen action: In North Dakota in 1921, and more recently in California in 2003. Recall works, but has not been used frivolously.

As Dallek correctly concluded: "The nation should be able to remove by an orderly constitutional process any president with an unyielding commitment to failed policies and an inability to renew the country's hope." Amen.

The removal process has the distinct advantage of not immobilizing Congress when it pursues impeachment. More important, removing a president through a national referendum that involves many millions of citizens, rather than simply through members of Congress, makes incredible sense. If we the people really are sovereign, then we should have the constitutional right to remove a president.

Sadly, Dallek did not also support using a mechanism already in our Constitution to propose amendments that are unlikely to come from Congress. The framers placed in Article V the option of having a national convention for the purpose of proposing amendments. Only one specific requirement is given and that has been met, but Congress has refused to call an Article V convention, though more than two-thirds of state legislatures have asked for one and even though Article V says that it "shall" do so.

If Congress has refused to honor Article V and give we the people what we have a constitutional right to -- an amendment convention operating outside the control of Congress, the presidency and the Supreme Court, then it seems unlikely to propose a new amendment that would give the nation a national referendum to remove a president and vice president. Each of the two major parties will fear that someone of their party could be removed from office and that a speaker from the other party might become president.

Pressure could be mounted now on Congress to obtain the new amendment for removing a president or it could be mounted on Congress to obey the current Constitution and give us an Article V convention. Choosing the second option has the huge advantage that by obtaining the nation's first Article V convention we would also have the opportunity to consider other sensible amendments. Fears of an Article V convention have been

nurtured over the decades by groups now wielding power over Congress through lobbying and campaign contributions. Such fears are nonsense. Whatever an Article V convention proposes must be ratified in exactly the same way that all proposals from Congress are ratified.

The second point, therefore, in favor of working in favor of an Article V convention is that Congress has also largely failed we the people. Making it obey Article V and give the nation an alternative means of national discussion of possible constitutional amendments that a corrupt Congress will never propose makes all the sense in the world. For example, there is serious attention being given to the idea of electing Supreme Court Justices, rather than continue allowing political considerations to choose them. But neither major party would want to lose its power to shape the court, so that amendment will not be proposed by Congress.

Learn more about the Article V convention at www.foavc.org. Friends of the Article V Convention has the sole mission of obtaining the nation's first convention and will not support any specific amendment. But every group that now advocates some type of political or government reform that could be obtained through a constitutional amendment should join and support this umbrella group.

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