

Article V Convention of States: The Ultimate Check Against a Runaway Congress

www.themainewire.com /2014/03/article-convention-states-ultimate-check-runaway-congress/

Ken Quinn

One of the greatest protections that the Framers of the U.S. Constitution wove into our nation's governing document is the power of checks and balances. They divided our government into three branches – Legislative, Executive and Judiciary – and gave each branch the ability to check the other two in order to prevent any branch from becoming too powerful. Another unique tool they provided us was the ability to amend our Constitution as needs arose over time in order to allow it to govern our nation properly and to protect our rights in the future. There have been 27 amendments to our Constitution, the first ten (The Bill of Rights) were proposed at the same time and ratified in 1791. All 27 amendments have been proposed by Congress.



But there is another method of amending that the Framers provided us in order to allow We The People a check against out of control, runaway federal government through our state legislatures.

The text of Article V below describes both of these 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, also 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.

Originally when Article V was drafted it only gave Congress the authority to propose amendments. On September 15th 1787, as the Constitutional Convention was coming to a close, James Madison in his notes states that Colonel George Mason “thought the plan of amending the Constitution exceptional and dangerous. As the proposing of amendments is in both modes to depend, in the first, in the second, ultimately, on Congress, no amendments of the proper kind would ever be obtained by the people, if the Government should become oppressive, as he very believed would be the case.” In response, Gouverneur Morris and Elbridge Gerry made a motion to amend the article to reintroduce language requiring that a convention be called when two-thirds of the states applied for an amendment. Thankfully this correction gave the states equal authority with Congress to propose needed amendments. This ultimate check of the states against a runaway Congress was a very strong argument in favor of ratification to assuage the fears of New Yorkers used by by Alexander Hamilton’s closing remarks in Federalist #85:

It is this that the national rulers, whenever nine States concur, will have no option upon the subject. By the fifth article of the plan, the Congress will be obliged “on the application of the legislatures of two thirds of the States [which at present amount to nine], to call a convention for proposing amendments, which shall be valid, to all intents and purposes, as part of the Constitution, when ratified by the legislatures of three fourths of the States, or by conventions in three fourths thereof.” The words of this article are peremptory. The Congress “shall call a convention.” Nothing in this particular is left to the discretion of that body. And of consequence, all the declamation about the disinclination to a change vanishes in air. Nor however difficult it may be supposed to unite two thirds or three fourths of the State legislatures, in amendments which may affect local interests, can there be any room to apprehend any such difficulty in a union on points which are merely relative to the general liberty or security of the people.

We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority.

Unfortunately the fears of the Framers that the government they created would one day become tyrannical have become reality for us today. The abuses of Congress – from out of control spending and debt, overbearing regulations, attacks against state sovereignty and radical judicial activism – have become the norm today, and it is time for the states to defend our freedoms by exercising their Constitutional authority as found in Article V.

The Convention of States Project is working with volunteers throughout the country to help empower state legislators to apply for an Article V Convention to propose amendments that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and members of Congress. As Coalitions Director for the Convention of States Project I urge you to join us in this fight to save our nation and to encourage your state representative and senator to support our Article V application. The time to stand up against a runaway federal government has arrived but we need your help.

Ken Quinn is the State Director for the Convention of States Project in Maine. This column is part of a series that will explore the Convention of States. For more information or to volunteer, please visit www.conventionofstates.com.

