



CONVENTION *of* STATES ACTION

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PROPONENT FOR SJR 3

OHIO SENATE GENERAL GOVERNMENT COMMITTEE

MARCH 11, 2025

Our Founding Fathers had something in common; they were state legislators like you. And they were all suspicious of centralized government. They believed that most of the government powers should stay at the state level. So they built an ingenious federal system with a variety of checks and balances, and particularly checking the federal government. They feared that the national government could eventually become a tyrannical body like the one they left in England.

The Founders included two particular provisions in the Constitution giving the states important “checks” on federal power. One was the power of the states to choose their United States Senators. But the 17th Amendment changed that.

Some opponents insist that we must not touch our beloved Constitution with amendments. But the 17th Amendment is a reminder that the Constitution has been changed. This particular amendment was one that shifted the power away from you to Washington DC. And Washington DC just keeps getting bigger. The Trump Administration may succeed in cutting it down to size, but they cannot keep the next administration from growing it back again.

The Constitution has also been changed illegitimately, through court decisions—primarily during the New Deal—that interpreted the language of certain provisions in the Constitution to allow for an ever-expanding role of government, and that continues. The way the General Welfare Clause and Interstate Commerce Clause of Article I are interpreted today are plausible if one considers only the text itself, but they are not consistent with the way the words were used at the time they were written.

If you order a Constitution from the General Printing Office in Washington DC today, the book you will receive consists of 2600 pages. That is the Constitution we are living by today. The Constitution we revere has been annotated by Supreme Court decisions and interpretations, many of which are inconsistent with the Founders’ intentions.

This is where the second “check” the Founders gave to the states comes into play. And it is all the more important now that the first check has been lost through the 17th Amendment. It is the power given to state legislatures under Article V to hold a convention for proposing amendments. We know from James Madison’s notes from the Constitutional Convention that the very reason the Founders included this provision was to give the states a way to counteract the federal government if it became abusive with its powers.

Some people say we don’t know how an Article V convention would work, because we haven’t had one yet. But we do know how the process works, because, in addition to the text of Article V, we have a wealth of records from scores of interstate conventions held both before and after the Founding. Interstate conventions were a well-known process to the Founders, and they always functioned the same way.

The way it works is that when 2/3s of the state legislatures (34) pass resolutions applying for a convention to propose amendments on the same topic (which serves as the meeting agenda), Congress has a constitutional duty to issue the formal “call,” which simply names the initial time and place for the meeting. Each state chooses and instructs its delegation of commissioners, who attend the meeting and work with the other state delegations to craft possible amendment proposals on the topic specified in the 34 state applications.

Because they act as agents of their state legislatures, the commissioners only have legal authority to act pursuant to that specified agenda, and only to act in pursuance of their legislature’s instructions. According to the universal historic precedent, as well as the very nature of an interstate convention, each state gets one vote at the convention. It is a meeting of equal sovereigns.

Any proposals that are supported by a majority of the states at the convention stage then get submitted back to the states for ratification. Only when 38 states ratify a proposal can it become part of our Constitution. That is an extremely high bar, and guarantees that only highly popular proposals will be added to the Constitution.

Most American citizens, and the vast majority of state legislators I speak with as I travel the country, agree that our nation is in desperate need of a re-balancing of power between the federal government and the states. Surely we can all agree that we cannot allow Congress to continue growing our nation’s 36 Trillion Dollar debt. The Article V convention for proposing amendments is the one constitutional process that can address these problems permanently.

In George Washington’s farewell address to the American people, his final admonishment to us was this: “If in the opinion of the People, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the

Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.”

I hope that you will support this resolution before you today and join the other 19 states in a convention to propose amendments that will impose permanent restraints on our runaway federal government.