

## Constitutional Corner – Musings on the Article V Convention Simulation

Although I would have much preferred to have been able to observe the Article V Convention simulation last week<sup>1</sup> from on site, the livestream of the event had to suffice; alas, I have no official affiliation with Convention of States. But I will admit upfront to being a big fan. Our nation suffers from a myriad of problems; some of them can only be remedied through amending the Constitution.

I know the words “amend the Constitution” send shivers up the spines of some. “How could you even consider such a thing?” After all, the Constitution is the “the most wonderful work ever struck off at a given time by the brain and purpose of man,”<sup>2</sup> is it not? I answer: “Yes, it was, and no, it is no longer.”

The Constitution has suffered serious injury in the hands of the Supreme Court (and through the people’s neglect). It no longer represents the limitation, the constraint on government that was intended by the Framers. Instead, the federal government today can, in the eloquent words of former California Congressman Peter Stark: “do most anything in this country.”<sup>3</sup>

The most convincing evidence of this ability is our nearly \$20 Trillion in debt. “Do[ing] most anything in this country” means spending money with abandon, much of which we didn’t have and which we had to literally print. But thanks to the Supreme Court, whose decisions have rendered the Commerce Clause, the General Welfare Clause and other key provisions into grants of plenary power over, respectively, business and, well, everything else, the Congress and its executive agency minions can regulate any aspect of business in America, and spend money for any purpose it deems to fit its own definition of “general welfare.”

I don’t care how many conservatives you elect to Congress, nothing is going to change this paradigm. Short of a rewording of the two relevant clauses, forcing them back to their Founding Era meaning, Congress and the rest of the federal government will continue to do what they do best: drive this country towards economic ruin.

Now, we could sit back and wait for Congress to select “Option One” of Article V. Those hundreds of “Constitutional Conservatives” we intend to elect, someday, could indeed propose amendments which restore the original intent of both clauses, stripping themselves, the Congress, of near-plenary power over the American economy in the process -- but I’m not holding my breath. There’s a greater chance of Colin Kaepernick getting booted out of the NFL,

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<sup>1</sup> <http://www.conventionofstates.com/cossim>

<sup>2</sup> William Gladstone, four time British Prime Minister, (1809-1898)

<sup>3</sup> Stated at a Town Hall meeting, Hayward California, July 24, 2010.

restoring honor to a sport millions of Americans schedule their lives around. But, actually, that's not going to happen either.

No, the only way to return those two clauses to their original intent, their original strength, and restore these two original "chains" on government,<sup>4</sup> is to have the states, in convention, propose modifications to the Constitution's wording, utilizing "Option 2" of Article V.

"But a convention called under Article V is way too dangerous," claim the skeptics, whose paranoia over safety inexplicably still allows them to drive on public highways. "A whole new Constitution could result. We know such a document is laying in a dusty drawer somewhere awaiting its opportunity to save our nation from itself." Poppycock!

As vividly demonstrated last Thursday and Friday at the Williamsburg Lodge in historic Williamsburg (both James Madison and Patrick Henry made appearances), a convention of the states, conducted under the auspices of Article V, will likely be a controlled, measured, ruled, even sometimes boring affair. Certainly no "running away" or even running around was in evidence. Instead, the commissioners from 50 states crafted eight well-thought-out changes to our Constitution that would either impose long overdue fiscal restraints on the federal government, reduce the enormous power and horizon-to-horizon jurisdiction of the federal government, or impose limits on the terms of some of its "serving essentially for life" officials -- the three criteria which would have been found in the applications of 34 states who insisted Congress call such a convention and, presumably, in the instructions the commissioners carried.

The second day of this two-day event was livestreamed to the Williamsburg Public Library (and thousands of other locations and individual computers around the country). We witnessed commissioners grappling with the exact meaning of words and the looming specter of "the Law of Unintended Consequences." Only six of the eight proposed amendments passed with a majority floor vote of the convention, the remainder being declared "only half baked." And even those that passed often underwent drastic modification from their committee versions before a majority of state delegations were happy with them. Of course, this was merely a simulation, a demonstration for effect, a chance to show that rules for such an event could be promulgated, agreed to, and followed with respect and decorum.

And they were. I cringed as the poor parliamentarian and convention president had to sort out layers upon layers of motions to amend the amended amendments. But it was all done with style and grace and no one was told to "go to the corner," or "shutup and color."

Now yes, all these commissioners were there because they believed in the potential efficacy of such an event, even the commissioners from what we consider "hard-core" liberal states. In

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<sup>4</sup> Thomas Jefferson, fair copy of the draft of the Kentucky Resolution of 1798

the real event (when it occurs -- and it must) the discourse is certain to be more rancorous, the debates more strident, and the output perhaps even more sparse, knowing that real changes are being proposed to a real 200+ year old document.

But let's return to the central question: Do we continue down the path we are on, with a federal government exploiting limitless power, overburdening American businesses, spending money like there's no tomorrow, with hundreds of unelected judges and career politicians serving essentially "for life," protected either by the words of the Constitution itself or returned to their elected offices by the sheer power of corporate donations? Do we continue this way until the "whole house of cards" collapses of its' own ungovernable weight?

Or do we pull from the remnants of our tattered Constitution: "Option 2" of Article V? -- an option placed there with exquisite foresight, the Framers knowing full well that "a fondness for power is implanted, in most men, and it is natural to abuse it, when acquired."<sup>5</sup>

Ultimately the choice is ours. We can work hard to persuade the remaining holdouts that this is our best and perhaps our last chance to restore Constitutional sanity before the Debt Clock implodes, or we can turn back to watching Dancing with the Stars, and hope for the best.

Which will it be?<sup>6</sup>

"Constitutional Corner" is a project of the Constitution Leadership Initiative, Inc. To unsubscribe from future mailings by Constitution Leadership Initiative, [click here](#).

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<sup>5</sup> Alexander Hamilton, The Farmer Refuted, 1775

<sup>6</sup> For more information of the Convention of States Project, see [www.conventionofstates.com](http://www.conventionofstates.com).