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Article V of the Constitution provides two paths for amending the Constitution. Congress can propose amendments, or the states can meet in convention to propose amendments whenever 2/3s of the states (34) apply to Congress for a convention on a particular topic. Either way, amendment proposals have to be ratified by 3/4s of the states (38).

I support HJR 1, which applies for an Article V convention of the states to propose constitutional amendments that impose fiscal restraints on Washington, limit its power and jurisdiction, and set term limits for federal officials.

Erosion of The Rule of Law

I care deeply about the rule of law. As a young law student, I remember going through my constitutional law classes with the nagging feeling that I was missing something. How could it be that the federal government spelled out in the Constitution was the same federal government operating in Washington, D.C. today? There was a disconnect between what was written in the Constitution, and what actually IS happening.

The federal government was supposed to be limited to specific, enumerated powers. But then how is it that today its activities reach into almost every area of our lives?

What I came to understand over many years of study and experience, was that this disconnect has come about through decades of erosion of the original meaning of the Constitution's limits on federal power. Now, I know people like to say that the feds just don't obey the Constitution. But the technical truth is more nuanced than that. Congress isn't an unruly, defiant toddler, as much as it is a smart, sneaky teenager with a horde of well-trained lawyers making creative arguments that it actually is obeying the Constitution. So the problem is less about federal officials ignoring the Constitution, and more about them lawyering around its limitations.

Just look back on the individual mandate issue with the Affordable Care Act. The Supreme Court found a creative way to uphold an unconstitutional penalty by classifying it as a "tax." And the reason it was ok as a "tax," was because the General Welfare Clause in Article I is broad and vague enough that today it's interpreted as basically letting Congress tax the people for anything it thinks is a good idea.

The trouble is, all this twisting and stretching of constitutional language in the name of "interpretation" has brought us to the point we are at today, where a simple reading of your pocket Constitution doesn't actually tell you anymore what the national government does or doesn't do. You have to read thousands of pages of "interpretations" to know that. And what that tells us is that we're not really living under the rule of law anymore—we're living under the rule of judges.

Article V Gives the States a Remedy

So what can the nation do about decades and decades of this kind of stretching and twisting of language that has broadened federal power? The states can use their Article V authority to propose constitutional amendments that clarify what has been muddied. Amendments have been used for this purpose before and have been extremely effective.

Look at the Eleventh Amendment. It was proposed by Congress and ratified by the states specifically to reverse a wrong Supreme Court decision, *Chisholm v. Georgia*, that had given the federal courts more jurisdiction than they should have had. The problem was corrected.

And a constitutional amendment was the appropriate, constitutional way to correct it. What we have today is decades upon decades of federal overreach that has been sustained by the federal courts. And it won't be corrected through a constitutional amendment proposed by Congress, because Congress loves having the extra power. The only way to correct the damage done to the integrity of constitutional language is for the states to use their power to do it definitively by proposing constitutional amendments through Article V.

The Article V Convention Process is Known and Safe

I realize that the details of the convention process aren't all spelled out. But neither is the term "Grand Jury" in the Fifth Amendment. It didn't need to be spelled out in detail because it was a well-known process at that time.

But here's the big point: the Founders gave the states Article V so that the states could bypass Congress in proposing amendments. Every time someone suggests that the convention process is somehow controlled by Congress or will be run by Congress, they're suggesting that the Founders completely failed to do what they intended to do. And they suggest this without any evidence to support it.

Opponents claim that an Article V convention to propose amendments is dangerous and that the commissioners will go rogue, rip up our beloved Constitution, dance all over the pieces and replace it with some crazy "North American Union" allegedly proposed by George W. Bush and approved by Heidi Cruz. This is fantasy and conjecture.

Throughout a very rich history of dozens of interstate conventions for various purposes, there has NEVER been a "runaway convention." The states have always defined and limited the purpose for their meetings, the voting has always been done on a one-state, one-vote basis, and there is no record of a single interstate convention ever exceeding its authority.

This book by Robert Natelson, *The Law of Article V*, describes the rich history of past conventions and examines a rich collection of court precedents that discuss relevant procedural questions.

Those who suggest that a convention called pursuant to Article V could simply adopt an entirely new Constitution are way off the mark. Article V empowers the convention only to propose amendments to "this Constitution."

State Legislatures Direct the Convention

It's also important to understand how the basic principles of agency law come into play here. At interstate conventions, the commissioners who are chosen to represent their state act as legal agents of the state legislatures who select them and instruct them through written commissions. They don't just go do whatever they want.

Now everyone here is actually more familiar with basic agency law principles than they might realize. Think about a homeowner who contracts with a real estate agent to sell her vacation home. That agent cannot just go out and sell the owner's primary residence, her car, and her dog. That would be beyond the legal scope of the agency agreement.

The same principles apply here. Commissioners to the convention are selected by the state legislatures to consider amendment proposals on the topics set forth in the application, and are given commissions setting forth the limits of their powers even within that framework.

The Ratification Bar

As Article V plainly states, any proposed amendment must be ratified by 38 states. The convention cannot alter that requirement unless they do so by proposing an amendment to that effect that gets ratified by 38 states. This high bar for ratification ensures that only amendments that enjoy the support of the vast majority of the American people—and the state legislatures—can be adopted.