

A constitutional convention is not dangerous

There are many different opinions of what an Article V convention might be, legally and practically. Since one has never happened, it's all speculation. This is my opinion as one who has studied, thought about and worked on an amendment for years.

Chuck Sheketoff has once again sounded an alarm about the Oregon legislature's potential call for an Article V convention. He imagines it will be co-opted by ALEC. This is very unlikely, for several reasons.

There are two constitutional paths for a new amendment. The first is an application to Congress to write and pass an amendment for the states to consider, which is what HJM 6, passed in the 2013 session, does. Congressional action is required. The second path is an application to Congress for a constitutional convention to be established and an amendment to be written by state representatives, which is what HJM 201 does. Congressional action is required for this to happen, as well. Both require applications from 2/3rds of the state legislatures and a 2/3rd vote in Congress. Three-quarters of the states must ratify the proposal in both cases, also. The two paths are similar in all respects, with the source of amendment language being a key difference and political organization required being another.

About 700 state calls for constitutional amendments have happened historically (an exact count is not possible – some have been misplaced!). I understand a significant number of them (~1/3) have called for a convention of the states, yet one has never happened, for a couple of interesting reasons. The most common one is for the states to approach the 2/3 threshold, which has in all cases, whether the call is for an amendment from Congress or one created by the states at a convention, led to Congress adopting a proposed amendment for state ratification.

So an Article V convention still requires Congress to act, and they are very unlikely to allow an "open" convention, which they have also feared, clearly. If it can't agree on an amendment, Congress will in all likelihood insist on a single-subject agenda. The Constitution doesn't say how a convention is to be organized or what an agenda must be. It's all unknown and untested, and there is no precedent, leading to "dangerous" fears. Fear of the unknown is often a significant one, as is certainly the case in this instance.

I suspect there are also some authority and turf protection issues operating here. In any event, it requires congressional acceptance, which is not likely to happen if an out-of-control convention seems possible.

I (and many others) believe Chuck is mistaken when he asserts that "states cannot limit the agenda of a constitutional convention." Both states and Congress can do that, so I have no idea what he's thinking. States can do it with the calls legislatures adopt and Congress can do it because they are still ultimately in charge. One of the few standards for amendment calls, based on observation of congressional behavior over the years, is believed to be all the calls must be for the same subject. State consensus and congressional aversion are unlikely to allow a runaway convention.

Kirk Leonard
Salem, OR

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Why is Oregon MTA back after the successful passage of HJM 6 in the 2013 session?

Basically, there are two paths to an amendment. HJM 6 asks Congress for an amendment to be considered by the states. That's one way. HJM 201 asks Congress for a convention where representatives of the states will write an amendment. That is the second way, and it is seen as a stronger statement. Additionally, prior to 2014, MTA national did not support a convention call, so we are one of the organizations that have realized the "runaway convention" fear is unrealistic, for several reasons more detailed in my second submission today.

Why did we compromise with Oregon Wolf PAC?

We had wanted to work in cooperation with Wolf PAC folks from the beginning, but getting the two groups together wasn't feasible in 2014 and early 2015. Eventually, when both measures were stalled, it became clear that a compromise was necessary if there was to be a bill adopted by the legislature, so we worked one out.

For MTA, a clear statement of the need to end both money as speech and corporations as people is essential, but it was less so for Wolf PAC, who perceived that it was included, by extension, in the statement "to return democracy to the people." That was also part of the reason the organizations took so long to coalesce, but we have, and you have the result.

I urge you to vote HJM 201 out of committee with a do pass recommendation.

Thank you.

Kirk Leonard
Salem, OR
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