

Article V Safety Net: Separation of Powers



Congress

Courts



States

Delegates

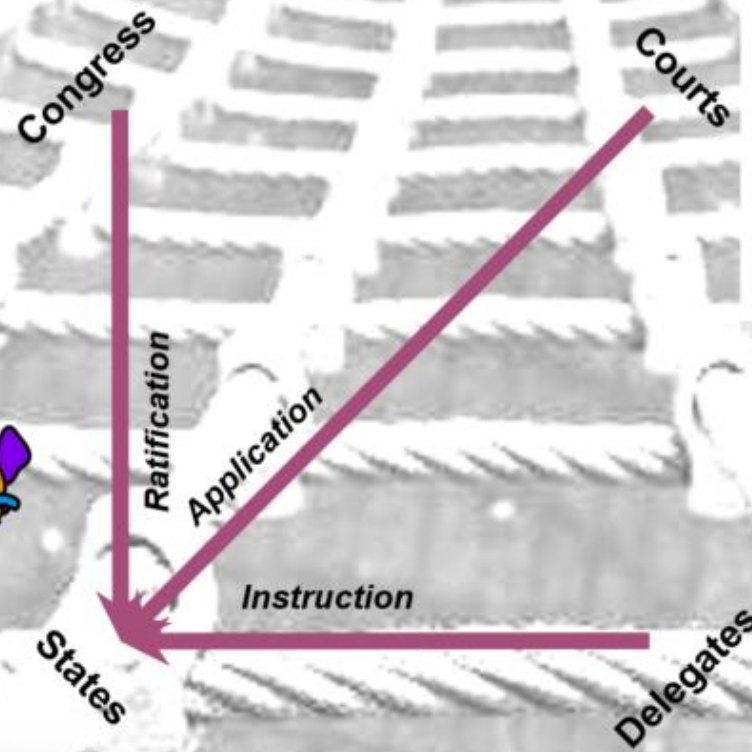


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Ratification: States have rejected 6 Amendments sent by Congress. They would refuse to ratify anything sent by a Convention unless they specifically called for it.

Application: States have co-equal power with Congress to overrule the Supreme Court. They can call what James Madison called an “explanatory amendment.”

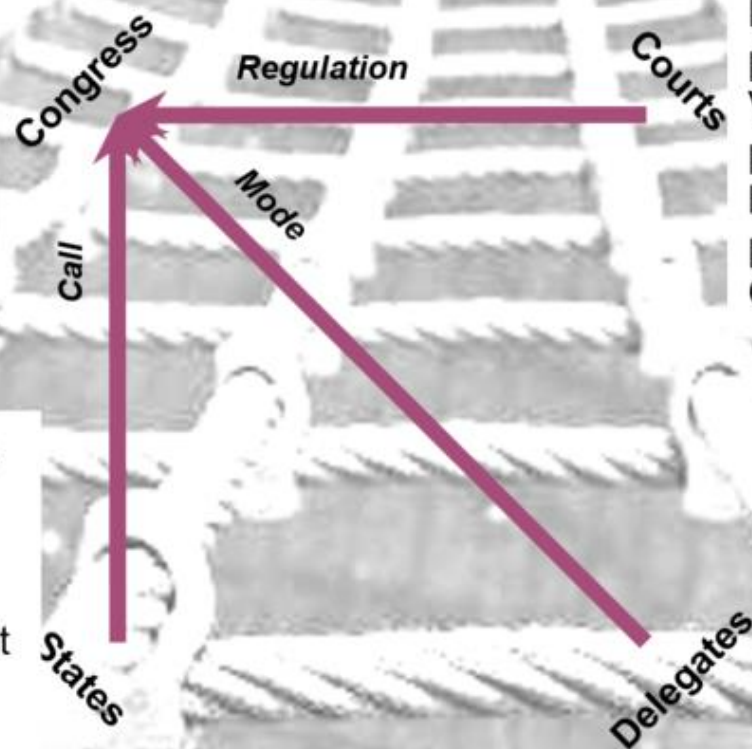
Instruction: States have direct control over the delegates. Delegates are not Representatives. See New Hampshire Ratifying Convention for example.



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Call: Congress alone has the power to call a Convention. They are charged with counting the applications to ensure consensus. They must use their power reasonably.



Regulation: Congress has proposed regulations on Article V many times and none of the procedures called for have been controversial. Among the proposals has been a fast track Court process.

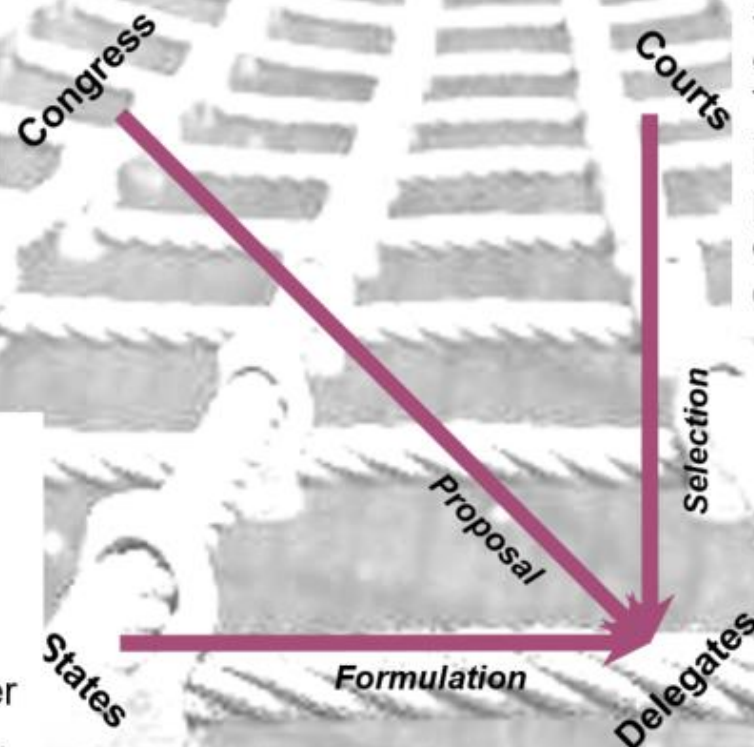
Mode: Congress would not send a proposal to the States for ratification if they didn't get a 2/3 vote. They wouldn't send an improper proposal from a Convention to the States either.

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Proposal: The Convention is the tool through which the States exercise their equal power with Congress to write Amendment language. When Congress is unresponsive, the people speak at a Convention.

Formulation: There is a sense in which formulation is always a check on determination. Writing an amendment inherently involves compromise, whether by Congress or a Convention.

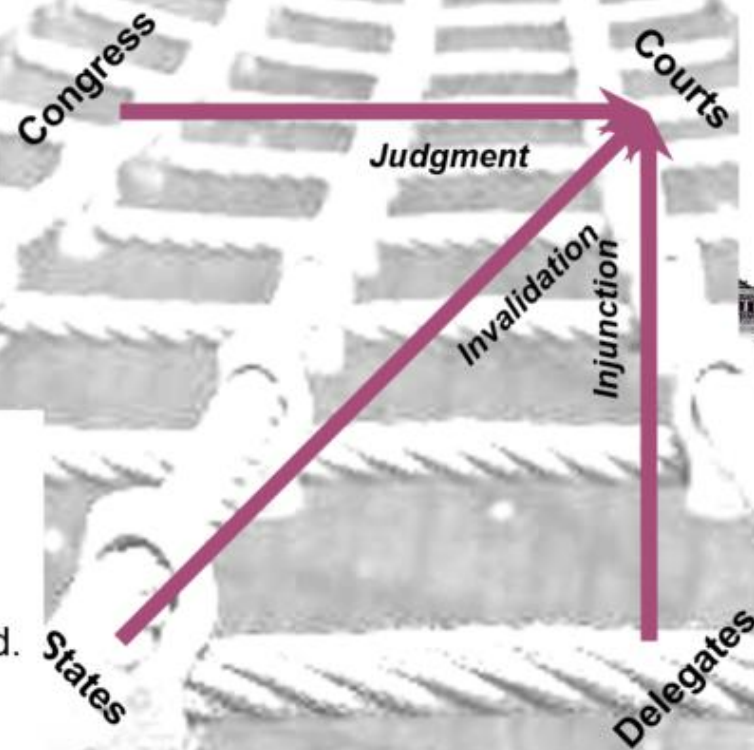
Selection: Delegates are chosen for a single purpose. There are no wedge issues or identity politics. They are the people's best chance to overturn the Supreme Court's decision in Citizens United.



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Judgement: It is well established that the Supreme Court CAN and WILL step in when Congress oversteps their authority. The Political Question Doctrine does overrule the Constitution.

Invalidation: Just like Congress, when the States use their powers over Amendments improperly, the Court will declare them invalid.



Injunction: If the Delegates do act beyond their limitations, even honestly, Courts have the power to stop them. They did it in Florida in 2008.

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