

The Article V Convention: Discussing the Reality versus the Fantasy

By Bill Walker

On September 10, 2010 in Lansing, Michigan a symposium entitled “Renewing the Compact: How Article V Empowers the People of the States” featured numerous speakers discussing various issues surrounding an Article V Convention. The Thomas M. Cooley Law Review published these speeches in its latest edition (Volume 28, Number 1).

I was one of the speakers at the symposium. The speech entitled “The Article V Convention: Discussing the Reality versus the Fantasy” as published in the law review can be read [here](#). A video of the speech is viewable [here](#) along with videos of the other speakers at the symposium.

The law review combined my original speech along with an article I later published entitled “[Rebuttal to Amending the Constitution by Convention--a Complete View of the Founders Plan](#).” The reason for this is I discuss in detail the legal method whereby the states may limit a convention agenda in real time, that is, while the convention is in session or, if a state chooses, before the convention occurs. The present thinking of most is that a convention can be limited in the applications of the states for a convention call. However, this view is incorrect. The Supreme Court has ruled only that which Article V expressly states is constitutional and Article V contains no implied powers or authority. Thus, as Article V does not grant such power to the states they cannot use their application authority to limit a convention agenda. Article V does grant other powers to the states, which accomplish the same outcome however.

As the Constitution clearly states a convention call is based on nothing more than a simple numeric count of applying states, currently 34, with no other terms or conditions. As noted by Professor Larry Lessig in a recent published article in [The American Prospect](#), “It is easier to imagine 34 states calling for a convention than it is to imagine 67 senators voting to propose an amendment to end the corrupting influence of money in Congress. Much easier. That’s because the 34 states need not agree on the reason for a convention; they only have to agree on the need for a convention. Some states might want a convention to propose a balanced-budget amendment. Some states might want a convention to propose amendments to address money in politics. Reformers of different stripes can thus work together for the chance to convince a convention of their own version of reform. Agreement on substance comes later; the first step is agreement on the process.”

While the professor has not yet publicly acknowledged the long since published public record contained in the Congressional Record available at [FOAVC](#) I have no doubt that this will occur at some time in the future.

In other matters, I also spoke at the recent [Harvard Conference](#) held at Harvard University in September 2011. At that conference, I briefly discussed the criminal complaint filed with federal authorities vis-à-vis violation of oath of office for refusal to call an Article V Convention. While I am not at liberty to express more details at this time, I can state that the matter will reach conclusion shortly. Of course, I will publish all details in this regard at that time.