

Opening Remarks

No doubt many here have studied the official public record of an Article V Convention including all pertinent historic documentation, congressional proceedings, judicial rulings and current events. Originally, I was to prepare a speech for this conference discussing these aspects. However scheduling circumstances reduced it to this brief summary. For those interested in more details regarding these remarks I am leaving copies of the speech at the table. You can also visit our website at www.foavc.org to read this information.

FOAVC is different from all other groups at this conference. We are non-partisan; we have no amendment agenda. Our sole purpose is to cause a convention call. We have the only record of successful accomplishments regarding a convention call. Because of federal lawsuits, the government acknowledged for the first time in history, the terms and conditions of a convention call. The Congressional Research Service has agreed to change its authoritative book on interpretation of the Constitution to reflect corrections submitted by FOAVC. Thus while others postulate unproved theories of same subject, fiduciary control of a convention and so forth, we achieved actual, real results based solely on the public record.

As to current events, I am sure all are aware Mr. John Guise of Georgia, who is not a member of FOAVC, filed a criminal complaint in July with the Department of Justice against all members of Congress for violation of oath of office for refusal to call a convention based exclusively on FOAVC information. After FBI review and the Georgia U.S. Attorney for frivolousness and substantiality, the complaint was forwarded to Washington DC for disposition. This event marks the end of this issue. It will be officially resolved within a few weeks. Either the government will prosecute congressional members for violation of oath office for failing to call a convention when mandated by the Constitution, meaning ultimately there will be a call, or it will determine members are not required to obey the Constitution thus officially nullifying Article V, the supremacy clause and the oath of office clause of the Constitution.

We know the basis of a convention call is a simple numeric count of applying states with no terms or conditions. This is of course is based on *Hawke v Smith* (1920) and *United States v Sprague* (1931) where the court ruled states operate under the federal constitution when engaged in the amendment process, cannot alter that process and that there are no rules of construction, interpolation or addition permitted in Article V. In other words, unless textually expressed in Article V, any theory such as rescission of applications, same subject, identical application language, fiduciary control and so forth are unconstitutional. We know as the president cannot participate in the amendatory process as specified in *Hollingsworth v Virginia* (1798) and Congress is forbidden by the necessary and proper clause there is no federal legislative control of the convention.

We know the public record proves 49 states have submitted over 700 applications for a convention call first reaching the required two-thirds mark in 1908. The applications

can be read on our website. We know the call is peremptory; Congress cannot legally refuse to call. Thus we know a convention call is mandated now, not in the future. As Congress has refused to call, we know further political efforts to acquire new applications imply Congress has veto power over this overwhelming number of applications meaning Congress can veto new applications as well. Therefore, we know it is a waste of political capital to seek new state applications. The issue is Congress' refusal to call, not the failure of the states to apply.

We know based on Supreme Court decisions regarding the well-settled principle of the 14th Amendment's equal protection clause that as Congress and a convention are identical as to constitutional authority, effect, limit and exclusiveness they and the citizens they represent form a legal class meaning equal treatment under the law. As we know, this resolves all operational questions including terms and conditions of delegate election such as number of delegates, term of office, representation area, qualification for office, election laws, voting ratio for proposed amendment passage, powers and limitation of office, loyalty issues, speech and debate immunities and the manner of vote at the convention itself as they are identical to Congress.

We know Article V mandates Congress decide the time and location of the convention. Given the exorbitant costs of a physical convention and the political and economic advantages of a virtual convention Congress is likely to effect this alternative as it cannot finance the convention. As the convention only has amendment proposal power and thus no means of income, we know delegates will be unpaid volunteers. We know this limitation also means election campaigns will be entirely issue oriented. We know the agenda of the convention as the states have already addressed nearly all of today's political issues with petitions to the convention for proposed amendments submitted within their applications for a convention call. We know the states can politically control the convention agenda in real time but not by means of fiduciary principles as some assert.

We know there will be no runaway convention as federal criminal law prohibits this. We know the convention will be entirely public. We know the most dangerous convention is a "single subject" convention with a pre-determined political outcome. This kind of convention means exclusion of all political opposition and offers no reason for citizen participation as all issues are pre-determined; thus excluding debate and vote. Such a convention violates the speech and debate clause as well as Article V and is therefore unconstitutional. In sum, we know a convention is "just like Congress" in all significant aspects. Thus, there is no real obstacle to holding a convention.

What of the question before this panel? The actual question of course is not political support of a convention, but whether to politically support giving the government official veto authority of the Constitution. As the DOJ will officially resolve this question shortly, there is nothing to decide. If the government prosecutes for this documented violation of oath of office public confrontations with members of Congress of their assumed right of veto are in order. Such confrontation will bring about a convention call. If not, it will not matter as it will be official government policy Congress and the government can veto the Constitution as they please. Thank you.