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## Congress Defies Article V of the U.S. Constitution

by Joel S. Hirschhorn

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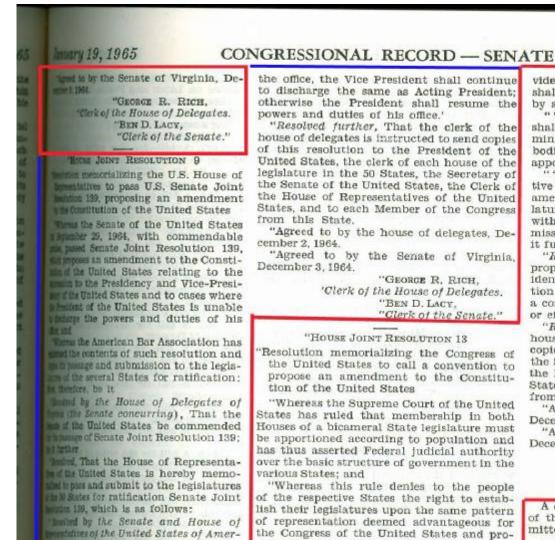
When it comes to amending the U.S. Constitution, Congress has shown respectful behavior to one type of action by states: state decisions on ratification of amendments proposed by Congress. But when it comes to states invoking Article V's option for a convention of state delegates to propose amendments, Congress has, for the entire history of the nation, blatantly and illegally ignored those state applications

As part of FOAVC's project to make available all such Article V convention applications for public scrutiny, it has made an important observation. Like ratification actions, Congress has categorized these as "memorials" from the states. Congress has referred these "memorials" to the House and Senate judiciary committees where they die.

But unlike the state ratification actions, that can also be found scattered through the Congressional Record pages along with convention applications, the latter have never been recorded and tabulated. In other words, Congress has never pursued any process setting the stage for a decision to honor the requests by states for an Article V convention. The applications are merely published, ignored and forgotten. The public has

had no effective and detailed information on the entire scope of state applications for a convention. No effort has ever been formally made to decide whether the simple numerical constitutional requirement for a convention has been satisfied. Hence, there has never been an Article V convention even though the constitutional requirement for one has more than been satisfied.

The monumental difference between congressional handling of memorials regarding ratification versus a convention shows that Congress only respects one of the two methods specified in Article V for proposing constitutional amendments: proposals coming from Congress but not from a convention of state delegates. In acting this way Congress has intentionally violated the Constitution and the intent of the Founders to provide an alternative to Congress making amendment proposals. They anticipated that Congress might not propose amendments that the public would embrace and that Americans could lose trust in the federal government and need a way to circumvent it.



the office, the Vice President shall continue to discharge the same as Acting President; otherwise the President shall resume the powers and duties of his office."

"Resolved further, That the clerk of the house of delegates is instructed to send copies of this resolution to the President of the United States, the clerk of each house of the legislature in the 50 States, the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, and to each Member of the Congress from this State.

"Agreed to by the house of delegates, December 2, 1964.

"Agreed to by the Senate of Virginia, December 3, 1964.

> "GEORGE R. RICH, 'Clerk of the House of Delegates. "BEN D. LACY. "Clerk of the Senate

"HOUSE JOINT RESOLUTION 13

Resolution memorializing the Congress of the United States to call a convention to propose an amendment to the Constitution of the United States

"Whereas the Supreme Court of the United States has ruled that membership in both Houses of a bicameral State legislature must be apportioned according to population and has thus asserted Federal judicial authority over the basic structure of government in the various States; and

"Whereas this rule denies to the people of the respective States the right to establish their legislatures upon the same pattern of representation deemed advantageous for the Congress of the United States and pro-

vided that the plan of sushall have been submitted by a vote of the electorate

"'SEC. 2. Nothing in shall restrict or limit a S mination of how members bodies of its subordinate apportioned, "'SEC. 3. This article !

tive unless it shall have b amendment to the Constitu latures of three-fourths of within seven years from th mission to the States by it further

"Resolved, That if Cor proposed an amendment to identical with that contain tion prior to June 1, 1965, tl a convention shall no long or effect.

"Resolved further, That house of delegates is in: copies of this resolution to the Senate of the United St the House of Representativ States, and to each Membe from this State.

"Agreed to by the hor December 3, 1964.

"Agreed to by the Ser December 3, 1964.

> "GEOR "Clerk of the Hor "BEN "Clerk

A concurrent resolution of the State of North Dak mittee on Public Works: