A Mr. Bass, however, commented to the ratifying convention that "it was plain that the introduction of amendments depended altogether on [the will of] Congress."[195] Iredell replied to Bass as follows:

> [I]t was very evident that it did not depend on the will of Congress; for that the legislatures of two thirds of the states were authorized to make application for calling a convention to propose amendments, and, on such application, it is provided that Congress *shall* call such convention, so that they will have no option.[196]

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importance of Article V:

> Mr. Chairman, this is a very important clause. In every other constitution of government that I have ever heard or read of, no provision is made for necessary amendments. The misfortune attending most constitutions which have been deliberately formed, has been, that those who formed them thought their wisdom equal to all possible contingencies, and that there could be no error in what they did. The gentlemen who framed this Constitution thought with much more diffidence of their capacities; and, undoubtedly, without a provision for amendment it would have been more justly liable to objection, and the characters of its framers would have appeared much less meritorious. This, indeed, is one of the greatest beauties of the system, and should strongly recommend it to every candid mind.

Id. at 176. Iredell also perceived the ability of the amendment process to prevent bloodshed, as is shown by his language quoted at the beginning of this article. *See id.*; *see also supra* text accompanying note 1). According to Iredell, it was "highly probable that amendments agreed to in either of these methods would be conducive to the public welfare, when so large a majority of the states consented to them." 4 ELLIOT'S DEBATES 176 (1937).

195. *Id.* at 178.

196. *Id.* Although North Carolina's first ratifying convention refused either to adopt or reject the proposed Constitution, North Carolina's second ratifying convention finally ratified the Constitution on November 19, 1789, some seven months after the first Congress assembled and some six months after President Washington's inauguration. W. PETERS, A MORE PERFECT UNION: THE MAKING OF THE UNITED STATES CONSTITUTION 234 (1987).

Article V loomed large in the mind of the first president. In Washington's First Inaugural Address (1789), Washington stated:

> Beside the ordinary objects submitted to your care, it will remain with your judgment to decide how far an exercise of the occasional power delegated by the fifth article of the Constitution is rendered expedient . . . by the nature of objections which have been urged against the system, or by the degree of inquietude which has given birth to them.

43 THE HARVARD CLASSICS, AMERICAN HISTORICAL DOCUMENTS 1000-1904, at 225, 227 (C. Eliot ed. 1910)(reprinting Washington's First Inaugural Address (Apr. 30, 1789)). In his Farewell Address (1796), after eight years of service as president, Article V again occupied Washington's thoughts: "The basis of our political systems is the right of the People to make and to alter their Constitutions of Government. — But the constitution which at any time exists, 'till changed by an explicit and authentic act of the whole People, is sacredly obligatory upon all." *Id.* at 233, 239 (reprinting Washington's Farewell Address (Sept. 19, 1796)). Washington further added: "If, in the opinion of the People, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates.—But let there by no change by usurpation . . . ." *Id.* at 242. In these two famous orations, Washington referred more specifically to Article V than to any other provision of the Constitution.

As can be seen from the various comments made at the ratifying conventions, it is clear that Article V was perceived as a viable method of correcting errors that may be found in the new Constitution. The post-convention record also shows that the convention method contained in Article V was intended to provide a way to circumvent Congress, and that an Article V convention for proposing amendments would have the power to propose more than one amendment if it chose to do so.

II. Amending the Constitution by the Convention Method

Despite the attention the convention method of amendment received during and after the Constitutional Convention, an amendment has never been drafted and proposed by convention.[197] In fact the convention method "has been called a 'constitutional curiosity,' the forgotten part of the article, and '[o]ne of the best-known 'dead letter' clauses in the federal Constitution.' "[198] The ability of the people to alter the form of their government, however, was seen by the colonists as a right central to the new American system of democracy.[199]

Commentators are mistaken in their assertions that the Article V convention provision is "forgotten" or a "dead letter" because the mere threat posed by drives to call conventions for proposing amendments has a substantial *in terrorem* effect on the actions of Congress.[200] This phenomenon has played an important role in American history, having prodded Congress into proposing several constitutional amendments.[201] The threat was a direct cause of Congress proposing the amendments requiring the direct election of senators (17th Amendment);[202] repealing prohibition (18th Amendment);[203] limiting Presidential terms (22nd Amendment);[204] and instituting the presidential succession plan (25th Amendment).[205] It has also caused Congress to enact legislation,

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197. *See, e.g.*, Voegler, *supra* note 26, at 356.

198. *Id.*

199. S. Morison, H. Commager & W. Leuchtenburg, A Concise History of the American Republic 98 (2d ed. 1983); *see also* the Declaration of Independence para. 2 (U.S. 1776).

200. *See* Voegler, *supra* note 26, at 358.

201. *Id.*

202. Conley, *Amending the Constitution: Is This Any Way to Call For a Constitutional Convention?*, 22 Ariz. L. Rev. 1011, 1016 n.49 (1980).

203. *Id.*

204. *Id.*

205. *Id.*

including, recently, the Budget Control Act[206] and the Balanced Budget Act.[207] Further, the risk of a convention has caused Congress to seek relief by amendment from controversial Supreme Court decisions. For example, during the first four months of the 97th Congressional Session (1981-82) 145 proposals for constitutional amendments were offered dealing with school busing, racial integration, prayer in public schools, abortion, and the use of racial quotas.[208]

This Congressional preemptive response to the threat of a convention for proposing amendments is a natural and even desirable process. Congress, being the national legislative body, serves a testing and balancing function. It evaluates the strength and wisdom of demands for a particular constitutional amendment. Then it responds, sometimes by stalling or doing nothing, other times by drafting and proposing amendments, and still other times by using the less cumbersome solution of statutory enactment. However, as demands for constitutional amendments increased in number and intensity over recent decades, some members of Congress sought to impose statutory controls on an Article V convention for proposing amendments. This response is both dangerous to the concept of government "by the people" and beyond the authority of Congress.

III. Congress' Limited Role in Calling a Convention for Proposing Amendments

A. Congressional Proposals that Attempt to Limit Article V

Recent congressional efforts to control and limit the scope of a convention for proposing amendments began with the Ervin Bill, Senate Bill 2307, in 1967.[209] Since 1967, a number of bills aimed at regulating constitutional conventions have been introduced.[210] These bills, building on the previous versions, have been refined from year to year,

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206. Congressional Budget & Parliament Control Act of 1974, Pub. L. No. 93-344, 88 Stat. 297 (1974); Pub. L. No. 95-110, 91 Stat. 884 (1977); Pub. L. No. 99-177, 99 Stat. 1039, 1062 (1985); *see also* Buckwalter, *Constitutional Conventions & State Legislators*, 20 J. Pub. L. 543, 548 (1971).

207. Balanced Budget & Emergency Deficit Control Act of 1985, Pub. L. No. 99-177, Title 2, 99 Stat. 1038 (1985); Pub. L. No. 99-509, Title 7, 100 Stat. 1949 (1986). By August 4, 1984, 32 of 50 states (34 is two-thirds) had passed resolutions demanding that Congress call a constitutional convention to consider a budget amendment. *See infra* Appendix A.

208. Rackoff, *"The Monster Approaching the Capitol": The Effort to Write Economic Policy into the United States Constitution*, 15 Akron L. Rev. 733, 745 (1982).

209. S. 2307, 90th Cong., 1st Sess. (1967).

210. *See* Voegler, *supra* note 26, at 357 n.14.

but fortunately never have been enacted into law.[211] In the 101st Congress, this line of proposed legislation was embodied in Senate Bill 204, introduced by Senator Hatch.[212] Among its provisions, this proposed legislation:

1) required the state legislatures, when petitioning for a convention, to state the subject matter of the amendment or amendments to be proposed;[213]

2) provided that petitions shall remain in effect for only seven years after they are submitted to Congress;[214]

3) provided that only petitions concerning the same subject matter shall be counted together towards the thirty-four state requirement;[215]

4) provided that Congress will call a convention to address only a single subject matter;[216]

5) regulated the number of delegates that may be sent by each state, and the manner of their election;[217]

6) forbade the election as delegates of United States senators, representatives, and other federal officers;[218]

7) provided that a convention will be convened by the president pro tempore of the Senate and the speaker of the House;[219]

8) required the delegates to take an oath to comply with the Constitution of the United States during a convention;[220]

9) determined how votes are to be allocated;[221]

10) set a six-month time limit on the operation of a convention;[222]

11) prohibited a convention from proposing an amendment that is outside the subject matter which the convention was called to consider, and permitted Congress to refuse to transmit to the states for ratification such a proposed amendment.[223]

It is evident that this bill, if enacted, would have asserted sweeping congressional control over all phases of a convention for proposing

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211. *Id.*; *see also* S. 40, 99th Cong., 1st Sess. (1985); S. Rep. No. 135, 99th Cong., 1st Sess. (1985).
212. S. 204, 101st Cong., 1st Sess. (1989).
213. *Id.* § 2(a).
214. *Id.* § 5(a).
215. *Id.* § 6(a).
216. *Id.* §§ 6(a), 10, 11(b)(ii).
217. *Id.* § 7.
218. *Id.* § 7(a).
219. *Id.* § 8(a).
220. *Id.* § 8(a).
221. *Id.* § 9(a).
222. *Id.* § 9(c).
223. *Id.* §§ 10, 11(b)(ii).

amendments.

The strategy of the sponsors of the legislation is to assert procedural and substantive control over the convention. Such Congressional control would significantly limit the scope of the convention to amendments concerning a single topic, as that topic may be defined by Congress.[224] Congress' effort to place the convention under its control is motivated by "[c]oncern [that] has frequently been expressed about the possibility of a "runaway" convention, unfaithful to the mandate with which it was charged by the States *and the Congress*."[225] We do not believe, however, that Congress has the power to control the convention process in any way.

B. Limited Power Granted to Congress by Article V

Some organizations, like the American Bar Association, and prominent individuals, such as senators, attorneys general, and legal scholars, have asserted that Congress has the power to establish procedures governing the calling of a national constitutional convention.[226] The decisive defect in this position and in the proposed legislation attempting to control and limit the convention is that it exceeds by far the authority of Congress to legislate in this area.

Congress only possesses the authority granted to it by the Constitution. The Constitution's only grant of authority to Congress to involve itself in a convention for proposing amendments is found in Article V: "The Congress . . . on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments . . . ."[227]

The language of Article V is plain and simple. Article V clearly and plainly limits Congress's role in a convention for proposing amendments to the "calling" of the convention to propose amendments.[228]

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224. Such a perspective is demonstrated in a Senate report: "The perspective of S. 40 is that the States may call a convention to be limited to a particular subject matter. . . . If the requisite number of States apply for convention on a specific subject matter, the convention may consider and propose only amendments pertaining to that subject matter." S. REP. No. 135, 99th Cong., 1st Sess., at 3 (1985).

225. *Id.* at 2 (emphasis added).

226. *E.g., id.* at 22-23; Ervin, *Proposed Legislation to Implement the Convention Method of Amending the Constitution*, 66 MICH. L. REV. 875, 879 (1968); Connely, *Amending the Constitution: Is This Any Way to Call for a Constitutional Convention?*, 22 ARIZ. L. REV. 1011, 1018 (1980); ABA Special Constitutional Convention Study Comm., *Amendment of the Constitution By the Convention Method Under Article V* 31-32 (1974), *referred to in* S. REP. No. 135, 99th Cong., 1st Sess., at 23 (1985); 79-75 Memo. Op. Att'y Gen 390 (1979).

227. U.S. CONST. art. V.

228. *Id.*

This interpretation is supported by the long-standing rule of constitutional construction that "[t]he words are to be taken in their natural and obvious sense . . . ."[229]

The very limited role in the convention process allotted to Congress by the framers of the Constitution arose out of the desire of a majority of the framers to provide a safeguard against an abusive or recalcitrant national legislature.[230] The framers were willing to allow the national legislature to propose amendments, perhaps in accordance with Hamilton's argument that the national legislature would be in a good position to perceive the need for alterations in the system of government.[231] They also provided, however, the alternative method of calling a convention at the direction of the states.[232] The records of the debate on this subject make it plain that the purpose of this alternative method was to allow the states to circumvent the national legislature, and to propose amendments despite congressional opposition.[233] It would be absurd to say that the framers intended to entrust Congress with authority over the very institution that was created specifically to by-pass and restrain Congress should it act against the will of the people. As such, Congress' powers relating to Article V must be construed as narrowly as possible, so that the purpose of the convention of providing a means to circumvent Congress can be most fully realized. Congress' role must, as much as possible, be merely mechanical or ministerial, rather than discretionary. As Alexander Hamilton succinctly stated, "[t]he words of this article are peremptory. The Congress '*shall*

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229. Martin v. Hunter's Lessee, 14 U.S. (1 Wheat.) 304, 326 (1816); *see also* Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1, 188-89 (1824); Ogden v. Saunders, 25 U.S. (12 Wheat.) 213, 316 (1827)(Trimble, J., concurring); Brown v. Maryland, 25 U.S. (12 Wheat.) 419, 437 (1827); Craig v. Missouri, 29 U.S. (4 Pet.) 410, 431-32 (1830); Holmes v. Jennison, 39 U.S. (14 Pet.) 540, 570-71, 571-72 (1840); Lake County v. Rollins, 130 U.S. 662, 669, 670 (1889); Edwards v. Cuba R.R., 268 U.S. 628, 631 (1925); The Pocket Veto Case, 279 U.S. 655, 679 (1929); United States v. Sprague, 282 U.S. 716, 731-32 (1931); Williams v. United States, 289 U.S. 553, 572-73 (1933); Wright v. United States, 302 U.S. 583, 588, 589 (1938); United States v. South-Eastern Underwriters Ass'n, 322 U.S. 533, 539 (1944).

230. 1 FARRAND, *supra* note 2, at 202-03 (Madison—June 11)(Mason's comments); 2 *id.* at 629 (Madison—Sept. 15)(Mason's comments); *see also* 3 *id.* at 127 (Randolph's comments to the Virginia House of Delegates), 367-68 (Mason's account as told to Thomas Jefferson), 575 n.6 (letter from George Read to John Dickinson of Jan. 17, 1787); 4 *id.* at 61 (Mason's notes).

231. U.S. CONST. art. V; 2 FARRAND, *supra* note 2, at 558 (Madison—Sept. 10)(recording Hamilton's comments); *see also supra* text accompanying note 105.

232. U.S. CONST. art. V.

233. 1 FARRAND, *supra* note 2, at 203 (Madison—June 11)(Mason's comments); 2 *id.* at 629 (Madison—Sept. 15)(Mason's comments); *see also* 3 *id.* at 127 (Randolph's comments to the Virginia House of Delegates), 367-68 (Mason's account as told to Thomas Jefferson), 575 n.6 (Letter from George Read to John Dickinson of Jan. 17, 1787); 4 *id.* at 61 (Mason's notes).

call a convention.' Nothing in this particular is left to the discretion of that body."[234]

The structure of the federal government created by the Constitution also supports the view that Congress' role in the amendment-by-convention process is severely limited. The convention process is created by Article V; it is not a component of any of the three branches of government created by the first three articles. The convention derives its power from a separate and independent grant of authority in the Constitution itself; it cannot be made subservient to any branch of the government. Further, the sole purpose of the convention is to propose changes in the pre-existing system of government. This renders the convention distinct from, if not superior to, the three branches of government it is meant to alter.

Members of Congress and writers have often bemoaned the lack of specificity of the Article V language.[235] At the original constitutional convention, James Madison interjected this same concern, asking: "How was a Convention to be formed? by what rule decide? what the force of its acts?"[236] Madison also "remarked on the vagueness of the terms, 'call a Convention for the purpose.' "[237] Nonetheless, the framers chose to leave the matter open, leaving it to the delegates of future conventions to work out problems as they arise. The framers' deliberate decision to leave future conventions relatively undefined cannot be construed as a grant of authority to Congress to control the operation of those conventions. However general the terms of Article V may be regarding the structure of the convention, they are quite specific in limiting Congress to the ministerial task of issuing the call. Congress cannot expand its authority beyond that role under the pretext of "filling in the details."

Of course, it could be argued that Congress must determine whether it has received applications from two-thirds of the state legislatures. Although it is unclear what body should make this determination, it is clear that this determination must be made. If, however, Congress is permitted to define what is and what is not an application, the potential exists for Congress to abuse that authority and refuse to call a convention, even when the requisite number of states have applied for

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234. THE FEDERALIST NO. 85 (A. Hamilton).

235. *E.g.*, Voegler, *supra* note 26, at 366-69; Tribe, *Issues Raised by Requesting Congress to Call a Constitutional Convention to Propose a Balanced Budget Amendment*, 10 PAC. L.J. 638-40 (1979); S. REP. NO. 135, 99th Cong., 1st Sess., at 1-2 (1985).

236. 2 FARRAND, *supra* note 2, at 558 (Madison—Sept. 10).

237. *Id.*

one. It is unfortunate that the framers chose to grant Congress even this ministerial role in the convention process. It appears from Hamilton's remark that they did not foresee the possibility that Congress could seize on this slight authority to prevent a convention from ever being called. If Congress is to have any role in this regard, it must be severely limited.

Whatever Congress' power may be relative to counting the applications of the state legislatures, Congress clearly has neither the power to limit the subject matter of a convention for proposing amendments nor the right to limit the convention to any one narrow issue. As discussed above, the framers of the Constitution specifically deleted reference to the convention considering a single amendment on a single topic, and instead gave the convention the power to propose *amendments* to the constitution.[238] This deliberate change in the wording of the Constitution must be given substance. Article V gives the convention the power to propose amendments. Congress has no authority to alter or limit that constitutional power.

Nor does it appear by the plain language of Article V that Congress has any authority either to limit the form of the applications of the states for a convention by topic or to place time limits on the applications. It would be antithetical to the purpose of the convention alternative to allow Congress to have the power to limit the constitutional power of the states to apply for a convention. The whole reason for the convention method was to give the states the ability to circumvent a recalcitrant or unresponsive Congress. Any construction of Article V that gives Congress the ability to limit or defeat the application process is plainly incorrect.

The only conclusion that can be drawn from the history of Article V is that Congress has no authority to involve itself in any way in the operation of a convention for proposing amendments once it has been called. Matters such as where the convention chooses to convene, who shall chair the convention, how voting by the delegates will be conducted, and what matters the convention will consider are all beyond the authority of Congress to regulate. Such matters will arise only after a convention has been called. Congress' limited Article V authority ends precisely at that juncture. The plain language of Article V, which allows Congress only the power to call the convention, requires that these questions can be answered only by the convention itself. As Alexander Hamilton has rightfully pointed out, once Congress has called a

238. *See supra* text accompanying notes 171-77.

convention it has no further role to play until the convention has finished its work and has proposed one or more amendments.

Some commentators and members of Congress have expressed fear of a "runaway" convention.[239] This fear is entirely unfounded. It is a shibboleth raised in support of the assertion of sweeping congressional control over the convention. The delegates to such a convention would hardly constitute a dangerous mob. Most delegates will likely be community leaders or political figures elected by and from the same population that elected the members of Congress. Furthermore, and most significantly, a convention can do nothing more than *propose* amendments. Even if the most extreme fears of the advocates of congressional control came to pass, and a convention proposed several dozen radical and potentially destructive amendments, the simple rejection of those proposals by a mere thirteen states would render them entirely void and without effect. On the other hand, any amendment that can garner the approval of thirty-eight states deserves to be part of the Constitution.

The framers of the Constitution hoped that their work would endure.[240] But there is no support for the assertion that Congress should or can exercise control over the convention process for the purpose of continuing the Constitution as it now reads. Such a construction would, in reality, defeat the Constitution which the opponents to a convention so reverently espouse. Ironically, those who promote limits to the convention method in the guise of protecting the Constitution are actually emasculating it. In any event, these self-appointed "protectors" of the Constitution are not needed. The Constitution has already provided for its own protection. Every provision of the Constitution will "endure" precisely until three-fourths of the states concur that it should be changed. Congress should not, and cannot, under the guise of "protecting the Constitution," impose any barrier against the right of the states to alter the Constitution when two-thirds of them call for a convention and three-fourths of them ratify the amendments proposed by that convention.

Article V charges Congress with the duty to select the mode of ratification for amendments that have been proposed — ratification either by the state legislatures or state conventions. Congress plainly has a constitutional duty to make this designation, and cannot refuse to do so for the purpose of achieving a de facto veto over the proposals of the

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239. *See, e.g.*, Kern, *A Constitutional Convention Would Threaten the Rights We Have Cherished for 200 Years*, 4 DET. C.L. REV. 1087, 1089-90 (1986); S. REP. No. 135, 99th Cong., 1st Sess., at 2-3 (1985).

240. S. REP. No. 135, 99th Cong., 1st Sess., at 7-8, 9-10, 25 (1985).

convention. Congress cannot thwart amendments proposed by a convention by refusing to designate whether ratification will be by the state legislature or by state conventions. Such an attempt would be such a naked assertion of unconstitutional power that it scarcely deserves serious discussion. Nonetheless, the proposed legislation described above[241] amazingly provides for this thinly veiled veto power. The enactment and use of this proposal would completely defeat the purpose of Article V, and would constitute nothing less than the nullification of a constitutional provision by legislative fiat. If the convention proposes one or more amendments, Congress then is obliged under Article V to designate the mode of ratification. Article V cannot be read as granting Congress the authority to prevent, by any means, the forwarding of proposed amendments to the states for their review.

IV. The Inability of States to Limit an Article V Convention

Article V provides to the states the power to apply for a convention for proposing amendments, and the power to ratify amendments proposed either by Congress or by the convention process. As shown in this article, the plain language of Article V and the history of its drafting demonstrate that a convention for proposing amendments cannot be limited to a single issue. The states, like Congress, have no authority to limit the scope of the convention to a single topic. As such, a state does not have the power to limit a constitutional convention to particular topics by limiting the efficacy of its application for a convention called to consider only one topic.[242] A state does not have the ability to defeat its application by claiming viability of the application only if the convention accedes to that state's improper demand that only one topic be addressed at the convention. The states have no authority to place such an unconstitutional demand in the application. When a state applies under Article V for the calling of a convention for proposing amendments it knows from the language of Article V that it cannot inhibit the scope of the convention. It is a convention for proposing *amendments*. The clear language of the Article, combined with the historic fact that the selection of the plural form of the word "amendments" was a deliberate act, leads steadfastly to the inescapable conclusion that a state cannot limit the convention, or its application, to one

241. *See supra* text accompanying notes 212-23.
242. *See supra* text accompanying notes 172-78.

topic.[242]

On the other hand, prior to reaching the necessary applications from two-thirds of the states, a state presumably has the ability to rescind its application or to include a time limit on the effectiveness of its application. Moreover, a withdrawal of an application after reaching the necessary two-thirds mark cannot be effective because once that mark is reached the terms of Article V trigger the requirement of Congress to call a convention. Once the final legislative vote applying for a convention for proposing amendments has been taken, the Constitution obliges Congress to call a convention, and no subsequent act can vitiate that obligation. Thus, permitting a state to rescind its application after the two-thirds has been met would be contrary to Article V because it would have the disastrous consequence of giving each applying state a veto power over the convention after it was already required to be called.

V. Counting the Pending Applications

In determining the number of states that have pending applications for a convention for proposing amendments to the Constitution, several points must be recognized. First, the mere passage of time does not defeat the efficacy of an application. The time lapse between the first application and the thirty-fourth application is not material. Second, there is nothing in Article V that supports a construction of contemporaneousness. According to the text of Article V, Congress must call a convention upon the application of two-thirds of the state legislatures. There is nothing in the language of Article V that provides a time limit on the applications. An application, once made, continues unless it is rescinded or reaches its own termination date.

It is true that a contemporaneousness requirement has some intuitive appeal, based on the sense that the framers inserted the two-thirds requirement so that a convention would be called only when there was a substantial nationwide consensus that a convention was needed. If

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243. Although Congress may fix reasonable time limits relating to the ratification of its own proposed amendments, Dillon v. Gloss, 256 U.S. 368, 325-76 (1921); Coleman v. Miller, 307 U.S. 433, 452 (1939), there is nothing in the text of Article V or the intent of the framers that would support a limitation being placed upon the states relating to time limits for applying for an Article V convention for proposing amendments. This point can also be shown by the analogous Supreme Court decision in Leser v. Garnett, 258 U.S. 130 (1922), in which the Leser Court points out that the governing law relating to the amendment process is Article V of the Constitution, and that Article V necessarily "transcends any limitation sought to be imposed by the people of a state." *Id.* at 137.

applications are given ongoing effectiveness, then conceivably applications from two-thirds of the states could accumulate over many years, requiring a convention to be called at a time when there is no present consensus among two-thirds of the states that a convention is needed at that time. This intuitive sense is misleading. The threat of a convention being called when it is not wanted because of accumulated applications is not serious, and can be easily cured without resorting to an artificial time limit. The worst case scenario is that a convention would be called when most states do not really want one, in which event the delegates would either promptly vote to disband or propose some amendments that would be rejected.

The second point that must be made is that the purpose or topic of the application for a convention for proposing amendments is irrelevant. It is inappropriate to disregard those applications that refer to the reason that the application was made. As mentioned above, many applications contain a general statement as to the reason the state has applied for a convention for proposing amendments; other applications are more specific, providing the proposed text for an amendment to the Constitution. The fact that a state has provided its rationale for submitting its application does not mean that the application should be considered without effect. It is still an application for a convention for proposing amendments to the Constitution. Moreover, even if reference to the reason for the application was intended by the state legislature as an unstated attempt to limit the convention to one topic, a state, as shown in the discussion in the previous section, has no authority to limit a convention for proposing amendments to a particular topic.

The question then becomes whether such an application should be considered effective for the purpose of requesting a convention for proposing amendments. The answer to this question is yes. Simply put, an application is an application. An application cannot be called something else just because it includes reference to the reason it is made. The word "application" must be read in its "natural and obvious sense."[244] Since the term "application" is a general one, it must be construed to include applications of all types, including those that provide a statement regarding why the application is made. This principle is amply demonstrated in the famous decision of *Fletcher v. Peck*,[245] wherein Chief Justice John Marshall construed the term "contract" as used in the Constitution:

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244. Martin v. Hunter's Lessee, 14 U.S. (1 Wheat.) 304, 326 (1816).
245. 10 U.S. (6 Cranch) 87 (1810).

> [S]ince the constitution uses the general term contract, without distinguishing between those which are executory and those which are executed, it must be construed to comprehend the latter as well as the former. . . .
>
> . . . Is the clause to be considered as inhibiting the state from impairing the obligation of contracts between two individuals, but as excluding from that inhibition contracts made with itself? The words themselves contain no such distinction. They are general, and are applicable to contracts of every description.[246]

By the same logic, the Constitution uses the general term "application," without distinguishing between applications for a general convention and applications for a convention relating to a particular topic. The term must therefore "be construed to comprehend the latter as well as the former." And because the term "application" is general, it is applicable to applications of every description.

Any attempt to construe the term "application" narrowly prevents the full implementation of Article V. The most basic rule of constitutional construction is that the words contained in the Constitution are to be given meaning and effect. In the words of Justice Story, "we cannot rightly prefer, of the possible meanings of its words, that which will defeat rather than effectuate the Constitutional purpose."[247] The term "application" must be given substance and effect. To quote Justice Frankfurter, no constitutional guarantee "should suffer subordination or deletion."[248] Thus, although a state can give the reason for its submission, the application acts as a valid application for the purpose of establishing the two-thirds necessary for the calling of a convention for proposing amendments.

The third and final point that must be made relating to the counting of the applications is that a state has the power to limit the effectiveness of a pending application by either withdrawing the application (prior to reaching the constitutional two-thirds mark) or including a "sunset clause" as part of the terms of the application. The authors are willing to accept the view that a state has the power to withdraw its application prior to reaching the two-thirds mark, even though it could be argued that an application is continuous and cannot be withdrawn.

In summary, in making the count of the applications pending for a convention to propose amendments to the Constitution, it is appropriate to omit those applications which contained an appropriate sunset clause

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246. *Id.* at 137.

247. United States v. Classic, 313 U.S. 299, 316 (1941).

248. Ullmann v. United States, 350 U.S. 422, 428 (1956).

thus limiting the duration of the application to a designated date (as opposed to an attempt to limit the application to a particular issue), and those applications which have been withdrawn prior to reaching the constitutional requirement of application by two-thirds of the legislatures. On the other hand, it is not appropriate to omit any applications on the theory of contemporaneousness because the constitutionally granted powers cannot be withdrawn on any theory of laches or failure of Congress to act. Nor is it appropriate to omit any application on the theory that the applications can be counted only if they request a convention to propose an amendment relating to one particular topic.

VI. The Applications

The appendices to this article contain a listing of all applications made for a convention for proposing amendments to the Constitution. Appendix A contains a chronological listing of all applications referred to in the Congressional Record; Appendix B contains the same listing, organized by the state making the applications; and Appendix C contains the same listing orgainized by topic of the applications.

In order to better analyze the requests for a convention, we have divided the types of applications into five groupings: (1) applications that request a general convention for proposing amendments;[249] (2) applications that request a general convention but provide the reason for the request;[250] (3) applications that request a convention listing a particular topic;[251] (4) applications that request a convention listing a particular topic and request that the convention be held only for that reason;[252] and (5) applications that request a convention listing a particular topic, request that the convention be held only for that reason, and further state that the application is to be considered withdrawn if the convention is called for any other reason or goes beyond the issue listed in the application.[253]

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249. For an example of an application for a general convention (Group 1) see *infra* Introduction to Appendices, at 65.

250. For an example of an application for a general convention, with reference to the reason for requesting a general convention (Group 2), see *infra* Introduction to Appendices, at 66.

251. For an example of an application for a convention for proposing amendments for a particular reason (Group 3), see *infra* Introduction to Appendices, at 66-68.

252. For an example of an application for a convention only for the purpose of proposing a particular amendment or raising a particular topic (Group 4), see *infra* Introduction to Appendices, at 68-69.

253. For an example of an application for a convention only for the purpose of proposing a particular amendment or raising a particular topic, and claiming the invalidity of the application if a general convention is called or the convention goes beyond the scope of the particular topic (Group 5), see *infra* Introduction to Appendices, at 69-70.

This grouping has been employed in all situations where the text of the applications have been located. In addition, there are also references in the appendices to applications that have been subsequently withdrawn by their respective state. Organized in this manner, we are able to determine the following: seven states have asked for a general convention (Group 1); eleven states have asked for a general convention and, at the same time, listing the reason for their request (Group 2); forty-six states have asked for a convention for a particular purpose (Group 3); thirty-three states have asked for a convention for a particular purpose and only that purpose (Group 4); and eleven states have asked for a convention only for a particular purpose and have stated that the application is to be considered withdrawn if the convention is called for different purpose or extends into areas beyond the purpose of the application (Group 5).

The listing of the first two groupings can be shown in the following charts:

TABLE 1

States Applying for a General Convention (Group 1)

1. Kansas	1907
2. Missouri	1907
3. Rhode Island	1790
4. Texas	1899, 1901
5. Virginia	1789
6. Wisconsin	1911, 1929
7. Delaware	1978

TABLE 2

States Applying for a General Convention and Listing the Reason for the Application (Group 2)

1. Colorado	1901
2. Illinois	1903
3. Washington	1903
4. Nevada	1907
5. Louisiana	1907
6. Indiana	1907
7. Iowa	1907, 1909
8. North Carolina	1907
9. Kansas	1908
10. Oklahoma	1908
11. Montana	1911

As noted above,[254] an Article V convention for proposing amendments cannot be limited to one topic, and similarly, based on the clear language of the text of Article V and the obvious intent shown by the history of that Article, an application that mentions the reason the application was made nonetheless acts as a valid application for a general convention. According to our research (Chart 3), forty-six states have applied for a convention while at the same time stating their reason for applying for a convention. These applications are shown in the following chart:

TABLE 3

States Applying for a Convention for a Particular Purpose (Group 3)

1. Alabama	1943, 1957, 1959, 1963, 1965, 1966, 1967, 1981
2. Arizona	1965, 1972, 1977, 1980
3. Arkansas	1901, 1952, 1959, 1961, 1963, 1965, 1975, 1977
4. California	1935, 1952
5. Colorado	1963, 1967
6. Connecticut	1958
7. Delaware	1907, 1943, 1971, 1976, 1978, 1981
8. Florida	1943, 1951, 1957, 1963, 1965, 1969, 1971, (1976)
9. Georgia	1952, 1955, 1959, 1961, 1965, 1967
10. Idaho	1901, 1927, 1963, 1965, 1989
11. Illinois	1907, 1911, 1913, (1943), 1953, 1965, 1967
12. Indiana	1952, 1957, 1967, 1976
13. Iowa	1904, 1908, 1941, 1943, 1951, 1969
14. Kansas	1951, (1963), (1965)
15. Kentucky	1902, (1944), 1965, 1975
16. Louisiana	1920, (1950), 1953, 1960, 1965, 1970, 1975, 1976
17. Maine	1911, (1941), 1951
18. Maryland	1939, 1965, 1973
19. Massachusetts	(1931), (1941), 1961, 1964, 1976, 1977
20. Michigan	1901, 1908, 1913, 1941, 1943, 1949
21. Minnesota	1901
22. Mississippi	1965, 1970, 1973, 1975
23. Missouri	1905, 1913, 1963, 1965, 1975
24. Montana	1901, 1905, 1907, 1911, 1963, 1965
25. Nebraska	1901, 1903, 1911, (1949), 1965
26. Nevada	1901, 1903, 1908, 1925, 1960, 1963, 1967, 1973, 1975
27. New Hampshire	1943, 1951, 1965, 1969, 1973
28. New Jersey	1907, 1932, (1944), 1973
29. New Mexico	1952, 1966
30. New York	1906
31. North Dakota	1967, 1975, 1981
32. Ohio	1911, 1965

254. U.S. Const. art. V.

33. Oklahoma	1955, 1963, 1965, 1973, 1976
34. Oregon	1901, 1903, 1909, 1913, 1939, 1971
35. Pennsylvania	1901, 1943, 1978
36. Rhode Island	1940
37. South Carolina	1916, 1962, 1963, 1965, 1976, 1978
38. South Dakota	1907, 1909, 1953, 1963, 1965, 1971
39. Tennessee	1901, 1902, 1905, 1911, 1966, 1972, 1977, 1978
40. Texas	1963, 1965, 1967, 1973, 1979
41. Utah	1903, 1952, 1963, 1965, 1977
42. Vermont	1912
43. Virginia	1952, 1964, 1965, 1973, 1977, 1979
44. Washington	1909, 1910, 1963
45. Wisconsin	1903, 1908, 1913, 1931, 1943, 1963, 1965
46. Wyoming	1939, 1959, 1961, 1963, 1973

(Use of the parenthesis around a date refers to the state's subsequent rescinding of the application.) As can be seen by the listing of these states, Congress is obligated to call a convention for proposing amendments to the Constitution immediately. It should be noted that these applications do not contain any limiting language, such as statements that the convention should be called only for the purpose listed. Applications that include such limiting language are listed in the following two charts:

TABLE 4

States Applying for a Convention Only for a Particular Purpose

(Group 4)

1. Alabama	1975, 1976, 1979, 1980
2. Arizona	1979, 1984
3. Arkansas	1979
4. California	1949
5. Connecticut	1949
6. Florida	1949, 1972, 1979
7. Georgia	1976, 1979

8. Idaho	1957
9. Indiana	1979
10. Iowa	1971
11. Kansas	1978
12. Louisiana	1971
13. Maryland	1977, 1979
14. Massachusetts	1971, 1973
15. Michigan	1956, 1971
16. Minnesota	1965
17. Mississippi	1979
18. Nebraska	1979
19. New Jersey	1949, 1970, 1977
20. New Mexico	1979
21. New York	1931, 1972
22. North Carolina	1949, (1965)
23. North Dakota	1971, 1975
24. Ohio	1971
25. Oklahoma	1978, 1980
26. Oregon	1979
27. Pennsylvania	1979
28. Rhode Island	1977
29. South Dakota	1955, 1977, 1980, 1989
30. Tennessee	1977, 1980
31. Texas	1955, 1979
32. Virginia	1973, 1975, 1976
33. West Virginia	1971

TABLE 5

States Applying for a Convention Only for a Particular Purpose and Otherwise Withdrawn (Group 5)

1. Alaska	1982
2. Idaho	1979, 1980
3. Iowa	1979
4. Louisiana	1979
5. Mississippi	1973
6. Missouri	1983
7. Nebraska	1978
8. Nevada	1979, 1980
9. New Hampshire	1979
10. South Dakota	1979, 1986
11. Utah	1979, 1987

Because Group 1 and Group 2 both request a general convention, it is appropriate to combine those applications. Taking into account duplications created by applications from the same state in both groups, a total of seventeen states have applied for a general convention for proposing amendments. Those states are shown in the following chart:

TABLE 6

States Applying for a General Convention (Groups 1-2)

1. Virginia	1789
2. Rhode Island	1790
3. Texas	1899, 1901
4. Colorado	1901
5. Illinois	1903
6. Washington	1903
7. Indiana	1907
8. Iowa	1907, 1909
9. Kansas	1907, 1908
10. Louisiana	1907
11. Missouri	1907
12. Nevada	1907
13. North Carolina	1907
14. Oklahoma	1908
15. Montana	1911
16. Wisconsin	1911, 1929
17. Delaware	1978

Our article asserts that the applications for a general convention and for a convention for a particular purpose should be combined in that the states do not have the power to subvert the language and intent of Article V by attempting to limit an Article V convention to a particular issue. In addition, at the very least applications that do not

In our view, any attempt by a state to limit the convention, or the application, to only one issue cannot be given legal substance, and that portion of the application is invalid, leaving the application itself intact. Under this analysis, all of the following states have applied for an Article V convention:

TABLE 8

States Applying for a Convention (Groups 1-5)

1. Alabama	1943, 1957, 1959, 1963, 1965, 1966, 1967, 1975, 1976, 1979, 1980, 1981
2. Alaska	1982
3. Arizona	1965, 1972, 1977, 1979, 1980, 1984
4. Arkansas	1901, 1952, 1959, 1961, 1963, 1965, 1975, 1977, 1979
5. California	1935, 1949, 1952
6. Colorado	1901, 1963, 1967
7. Connecticut	1949, 1958
8. Delaware	1907, 1943, 1971, 1976, 1978, 1981
9. Florida	1943, 1949, 1951, 1957, 1963, 1965, 1969, 1971, 1972, (1976), 1979
10. Georgia	1952, 1955, 1959, 1961, 1965, 1967, 1976, 1979
11. Idaho	1901, 1927, 1957, 1963, 1965, 1979, 1980, 1989
12. Illinois	1903, 1907, 1911, 1913, (1943), 1953, 1963, 1965, 1967
13. Indiana	1907, 1952, 1967, 1976, 1979
14. Iowa	1904, 1907, 1908, 1909, 1941, 1943, 1951, 1969, 1971, 1979
15. Kansas	1907, 1908, 1951, (1963), (1965), 1978
16. Kentucky	1902, (1944), 1965, 1975
17. Louisiana	1907, 1920, (1950), 1953, 1960, 1965, 1970, 1971, 1975, 1976, 1979
18. Maine	1911, (1941), 1951
19. Maryland	1939, 1965, 1973, 1977, 1979
20. Massachusetts	(1931), (1941), 1961, 1964, 1971, 1973, 1976, 1977
21. Michigan	1901, 1908, 1913, 1941, 1943, 1949, 1956, 1971
22. Minnesota	1901, 1965
23. Mississippi	1965, 1970, 1973, 1975, 1979
24. Missouri	1905, 1907, 1913, 1963, 1965, 1975, 1983
25. Montana	1901, 1905, 1907, 1911, 1963, 1965
26. Nebraska	1901, 1903, 1911, (1949), 1965, 1978, 1979
27. Nevada	1901, 1903, 1907, 1908, 1925, 1960, 1963, 1967, 1973, 1975, 1979, 1980
28. New Hampshire	1943, 1951, 1965, 1969, 1973, 1979
29. New Jersey	1907, 1932, (1944), 1949, 1970, 1973, 1977
30. New Mexico	1952, 1966, 1979
31. New York	1906, 1931, 1972
32. North Carolina	1907, 1949, (1965)
33. North Dakota	1967, 1971, 1975, 1979, 1981
34. Ohio	1911, 1965, 1971
35. Oklahoma	1908, 1955, 1963, 1965, 1973, 1976, 1978, 1980
36. Oregon	1901, 1903, 1909, 1913, 1939, 1971, 1979
37. Pennsylvania	1901, 1943, 1978, 1979
38. Rhode Island	1790, 1940, 1977
39. South Carolina	1916, 1962, 1963, 1965, 1976, 1978
40. South Dakota	1907, 1909, 1953, 1955, 1963, 1965, 1971, 1977, 1979, 1980, 1986, 1989

41. Tennessee	1901, 1902, 1905, 1911, 1966, 1972, 1977, 1978, 1980
42. Texas	1899, 1901, 1955, 1963, 1965, 1967, 1973, 1979
43. Utah	1903, 1952, 1963, 1965, 1977, 1979, 1987
44. Vermont	1912
45. Virginia	1789, 1952, 1964, 1965, 1973, 1975, 1976, 1977, 1979
46. Washington	1903, 1909, 1910, 1963
47. West Virginia	1971
48. Wisconsin	1903, 1908, 1911, 1913, 1929, 1931, 1943, 1963, 1965
49. Wyoming	1939, 1959, 1961, 1963, 1973

Thus, forty-nine states have made valid applications for a convention for proposing amendments to the Constitution.

Generally speaking, the states have focused on thirty-seven topics for an Article V convention for proposing amendments to the Constiution. These topics, with reference to the year of the first and most recent application for that reason, are as follows:

TABLE 9

Topics Listed in Application for a Convention

I. APPLICATIONS REGARDING THE ELECTORAL PROCESS

DIRECT ELECTION OF SENATORS	1901-1911	20 states
PRESIDENTIAL ELECTORS	1957-1967	11 states
APPORTIONMENT	1963-1969	33 states
PRESIDING OFFICER OF SENATE	1972	1 state
LIMITED CONGRESSIONAL TERMS	1989	1 state

II. APPLICATIONS REGARDING SOCIAL ISSUES

ANTI-POLYGAMY	1906-1916	15 states
REPEAL OF PROHIBITION	1925-1932	5 states
WAGES AND HOUR REGULATIONS	1935	1 state
NATIONAL RECOVERY PLAN	1939	1 state
WORLD GOVERNMENT	1943-1949	5 states
PENSION FOR THE ELDERLY	1964	1 state
SEDITION LAWS	1965-1970	2 states
RIGHT TO LIFE	1975-1981	22 states
ANTI-MONOPOLY	1911	1 state

III. APPLICATIONS REGARDING THE POWER OF THE JUDICIARY

COURT OF UNION	1959-1963	5 states
VALIDITY OF 14th AMENDMENT	1959	1 state
JUDICIAL REVIEW OF STATUTES	1913	1 state
SELECTION OF FEDERAL JUDGES	1957	1 state
SUPREME COURT JURISDICTION	1957-1961	3 states
LIMITED JUDICIAL TERMS	1977-1981	2 states

IV. APPLICATIONS REGARDING AMENDMENT PROCESS

MODE OF AMENDMENT	1920-1965	15 states

V. APPLICATIONS REGARDING TAXATION

TAXATION OF DEBTS	1927-1987	3 states
TAXATION OF SECURITIES	1935	1 state
LIMITED TAXATION	1939-1989	30 states
UNCONDITIONAL PUBLIC FUNDS	1943-1980	4 states
TAXES ON VEHICLES AND FUEL	1952	1 state
BALANCED BUDGET	1957-1983	32 states
INTERSTATE TAXATION	1958	1 state
TAX REFUND	1965-1971	7 states
REVENUE SHARING	1969-1972	11 states

VI. APPLICATIONS REGARDING PRESIDENTIAL POWER

LIMITED PRESIDENTIAL TERM	1943	4 states
TREATY POWER	1952-1957	2 states
LINE ITEM VETO	1977-1986	4 states

VII. APPLICATIONS REGARDING SCHOOLS

INDEPENDENT STATE SCHOOLS	1955-1965	4 states
READING BIBLE IN SCHOOL	1964	1 state
SCHOOL ATTENDANCE	1970-1976	10 states
SECULAR SCHOOL FUNDING	1971-1973	2 states
SCHOOL PRAYER	1972-1973	5 states

As can be seen from Chart 9, many of the topics relate to attempts to reverse Supreme Court decisions or to reassert the concept of federalism.

It is also possible to group the applications by the date they were made, and by the states that have made such applications. These two groupings are shown by the following two charts:

TABLE 10

Applications Made by Date

1789	1	1953	3
1790	1	1955	4
1899	1	1956	1
1901	12	1957	8
1902	3	1958	1
1903	7	1959	4
1904	1	1960	3
1905	3	1961	4
1906	1	1962	1
1907	12	1963	36
1908	6	1964	3
1909	5	1965	36
1910	1	1966	3
1911	8	1967	9
1912	1	1969	3
1913	5	1970	6
1916	1	1971	11
1920	1	1972	5
1925	1	1973	12
1927	1	1975	9
1929	1	1976	10
1931	3	1977	13
1932	1	1978	7
1935	2	1979	25
1939	3	1980	7
1940	1	1981	3
1941	4	1982	1
1943	11	1983	1
1944	2	1984	1
1949	8	1986	1
1950	1	1987	1
1951	5	1989	3
1952	8	1990	1

TABLE 11

Number of Applications Made by Each State

ALABAMA	11	MONTANA	8
ALASKA	1	NEBRASKA	8
ARIZONA	6	NEVADA	12
ARKANSAS	12	NEW HAMPSHIRE	7
CALIFORNIA	4	NEW JERSEY	7
COLORADO	4	NEW MEXICO	3
CONNECTICUT	2	NEW YORK	3
DELAWARE	6	NORTH CAROLINA	4
FLORIDA	12	NORTH DAKOTA	4
GEORGIA	10	OHIO	3
HAWAII	0	OKLAHOMA	11
IDAHO	9	OREGON	7
ILLINIOS	12	PENNSYLVANIA	5
INDIANA	10	RHODE ISLAND	3
IOWA	10	SOUTH CAROLINA	9
KANSAS	8	SOUTH DAKOTA	14
KENTUCKY	4	TENNESSEE	11
LOUISIANA	15	TEXAS	11
MAINE	3	UTAH	7
MARYLAND	5	VERMONT	1
MASSACHUSETTS	10	VIRGINIA	11
MICHIGAN	8	WASHINGTON	4
MINNESOTA	2	WEST VIRGINIA	1
MISSISSIPPI	8	WISCONSIN	9
MISSOURI	8	WYOMING	7

As the above chart shows, the states have, on numerous occasions, attempted to implement Article V's convention method for proposing amendments to the Constitution. The question now becomes whether Congress will continue to disregard the dictates of this constitutional provision.

VII. Congress' Failure to Call a Convention

Once two-thirds of the legislatures have requested a convention by application, Congress' duty to call a convention is immediate and continuing.[255] The existence of applications from two-thirds of the legislatures creates and demands congressional action. Once that point is reached, the dictates of Article V take precedence and the states have no power to withdraw their applications or to curtail the focus of the convention. Nor is it appropriate to consider Congress' failure to call a

255. *See supra* Tables 3, 7, and 8.

constitutional convention as placing some rule of contemporaneousness upon the requirements of Article V. The Constitution — especially Article V — cannot be vitiated by an unlawful inaction of Congress. Weak allegations of a contemporaneousness requirement cannot cause the dictates of the Constitution to be ignored; nor can the requirements of our Constitution be "overruled" by concepts of laches or assertions that Congress' inaction justifies continuing that inaction. *No part of our Constitution can be vetoed by Congress.*

At this time more than two-thirds of the states have petitioned for a convention for proposing amendments.[256] Although only seventeen states have applied for a general convention,[257] a total of forty-six states have applied for a convention for the purpose of proposing a particular amendment to the states for ratification.[258] Significantly, these applications from the forty-six states do not state that the convention can only be held for the reason listed; nor do these applications contain any provision that the application is withdrawn or invalid if the convention expands its scope beyond the topic listed. Thirty-three states have submitted applications that ostensibly limit the convention to only the topic listed in the application,[259] while a set of eleven states have submitted applications containing a provision that the application is withdrawn or invalid if the convention expands its scope beyond the topic listed.[260] As described above, such attempts by states to limit the convention method are invalid and without legal substance. Thus, each of the applications are rightfully considered valid applications for a convention to propose amendments. These applications derive from forty-

256. *See supra* Tables 7 and 8.

257. *See supra* Table 6.

258. *See supra* Table 7.

259. *See supra* Table 4.

260. *See supra* Table 5. Even if one were to reject our assertion that each application for a convention to propose amendments should be counted, it is clear that the applications demanding a general convention should be added to the applications demanding a convention for a particular topic, thus making forty-six states that have requested a convention. *See supra* Table 7. Certainly the applications for a general convention envision all possible topics, including the topic proposed by the other applications.

Thirty states have applied for a convention for the purpose of proposing an amendment requiring a balanced budget. *See infra* Appendix C. When the applications from these states are combined with the applications from the states demanding a general convention, we reach a total of thirty-eight states applying for a convention to propose amendments to the Constitution. *Id.* Although the authors believe that Article V should be construed broadly and that all applications for a convention must be combined and considered viable, even under this overly narrow interpretation of Article V Congress is required to call a convention for proposing amendments immediately.

nine states.[261] Congress is therefore presently remiss in its constitutionally mandated obligation to call a convention for proposing amendments.[262]

VIII. Preparing for the Convention

Some provisions of Senate Bill 204, which were outlined above, would attempt, among other things, to regulate the allocation of votes at the convention and restrict the subjects to be considered by the convention.[263] As shown in this article,[264] Congress has no authority to legislate in these areas.

The proposed legislation addresses a number of issues surrounding a convention to propose amendments. Other issues have been raised by similar bills in Congress and in the literature on Article V and constitutional conventions.[265] These issues include the following:

1. the location of the convention;
2. the beginning date of the convention;
3. the method of selection of the delegates to the convention;
4. travel expenses to the convention;
5. funding for the operation of the convention;
6. selection of the presiding officer of the convention;
7. organization of the committees;
8. procedural rules of the convention; and
9. decision as to voting structure.

Most of these issues are important, and will become pressing if a convention is called. They should, to the extent possible, be resolved by the states before the convention convenes.

The issues relating to the operation of the convention itself are clearly beyond the reach of congressional authority; the autonomy of the convention in deciding these questions is inherent in, and vital to, safeguarding against an abusive Congress. The states, therefore, should take the opportunity to deal with these matters while they can be considered calmly and carefully, before a convention begins. To date, the states have done little or nothing to prepare plans by which a convention could effectively be convened and operated. This is unfortunate. The states should assume this responsibility.

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261. *See supra* Table 8.
262. *See supra* text accompanying notes 212-23.
263. *See supra* text accompanying notes 226-41.
264. *See supra* text accompanying notes 153-54, 194-96, 226-41.
265. *See generally supra* notes 206, 208-12, 224, 226, 235, and 239.

Many potentially divisive issues will arise at the very start of, and prior to, a convention. Potential issues include whether voting at the convention will be by one vote per state or proportional to population; how delegates will be selected, and how many will attend; what procedures and officers will be relied on in organizing the convention; where the convention will be held; and how the convention will be funded. If possible the states should achieve some consensus on how these issues are to be resolved.

This preparation could be carried forward by one or more of the various national associations of state officials — or perhaps by a joint body selected by the national associations of governors, legislators, and attorneys general. Such a group, in addition to being a constitutionally sound alternative to the legislation pending in Congress, would also have a great practical advantage over Congress as a planning group for the eventuality of a convention for proposing amendments. In the early 1970's, a movement for the reform of state constitutions swept across the country.[266] Many states called amending conventions to update and improve their constitutions. As a result, there is a large body of individuals, many of whom are now state legislators or statewide elected officials, who have practical experience in the organization and operation of conventions for proposing amendments. They are familiar with the hazards of a convention, and with the solutions to those hazards. Thus, the expertise for organizing and conducting a convention is found among the state legislators, not among the members of Congress. The first order of business for such a body would be the formulation of a model statute that provides a method of selecting delegates to a convention. Once the delegates are selected, the convention will be entirely in their hands. Nonetheless, there would be no harm in the states paving the way for the difficult organizational work facing the convention for proposing amendments. This could be accomplished by drafting model rules and procedures for delegates to consider and follow in settling preliminary questions, such as the location, beginning date, and funding of the convention, and operational questions, such as selection of a chair, rules of order, and the allocation of votes.

IX. Conclusion

The adoption of Article V by the original constitutional convention demonstrates that although the delegates believed future conventions

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266. *See* Boughey, *An Introduction to North Dakota Constitutional Law: Content & Methods of Interpretation*, 63 N.D.L. Rev. 157, 250 & n.712 (1987).

might undo what they strove to create, the delegates considered an amendatory article necessary to provide a ready and occasional means to cure any defects in the constitution they proposed. Furthermore, the delegates considered the convention method of proposing amendments an important means of circumventing an abusive or unresponsive Congress by providing the people with the power to propose necessary changes through their state legislatures.

The existence of Article V was a critical factor leading to the adoption of the new constitution. During the debates on the ratification of the proposed constitution, proponents of the new order of government were able to overcome the objections to the proposed constitution, both perceived and imagined, because a process for altering or correcting the document by peaceful means had been provided. The history of Article V is a prime example of legislative development of an idea: Numerous proposals were advanced; firmly-held beliefs were espoused and expounded upon; discussion ensued, occasionally resulting in the exchange of heated comments; thorough debate was conducted; and a workable compromise was reached. As is often the case, that compromise acted as a fusion of ideas and allowed the formation of a consensus capable of the support of the majority. The result was not perfect. For example, Congress' limited role could have been explicitly declared. But in writing a constitution, the framers realized that the document, in many regards, had to be general in nature. Nonetheless, the plain language of Article V and the necessary construction of that language as shown by the history of the convention provide absolute clarity as to what the framers intended and what is now required.

The question of the desirability of a convention is entirely separate from the legal issue of Congress' rights or obligations under Article V. The intent of this article is not to provide a view either advocating or opposing the calling of a constitutional convention. Instead, the authors have merely set forth the plain meaning of Article V, as bolstered by the history of that Article, and have pointed out that under the proper interpretation of Article V sufficient applications for a constitutional convention have been made. Whether a convention for proposing amendments is desirable is no longer an issue. As of this date, at least thirty-four of the fifty states have made application for a convention for proposing amendments. Congress is therefore required under the terms of Article V to call a convention immediately. The only role Congress may have in this process is to issue a proclamation or resolution to that effect and to then step aside. In the event that the convention submits proposed amendments, Congress must then choose between the two

methods of ratification.

The states should act immediately to develop a consensus on the procedural details of the upcoming convention for proposing amendments. The history of the First Constitutional Convention demonstrates the framers' distrust of the national legislature which resulted in severely limiting the role that Congress has in the amendment process. When viewed in light of the history of Article V, this limited role should be strictly construed against Congressional intervention in the amendment process. According to the plain language of the Constitution and the intent of the constitutional framers, the convention process must be completely free from Congressional control. This right must be protected.

INTRODUCTION TO APPENDICES

Group 1

An example of an application for a general convention (Group 1) is as follows:

> Concurrent resolution, S. CON. RES. 4
> DEPARTMENT OF STATE.
> Whereas the Constitution of the United States of America provided that Congress, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments to said Constitution:
> *Therefore, we, the senate of the State of Texas, the house of representatives of the State of Texas concurring, do hereby petition and request the Congress of the United States of America to call a convention for proposing amendments to said Constitution as soon as the legislatures of two-thirds of the several States of the United States of America shall concur in this resolution by applying to Congress to call said convention.*
> *Be it further resolved*, That the Secretary of State be, and is hereby, directed to send a copy of this resolution to the Congressmen from Texas, and to the governor of each State at once, and to the legislatures of the several States as they convene, with a request to them to concur with us in this resolution.
> D. H. HARDY, *Secretary of State.*
> Approved June 5, 1899.

33 CONG. REC. 219 (1899)(emphasis added).

Group 2

An example of an application for a general convention, with reference to the reason for requesting a general convention (Group 2), is as follows:

> H. R. J. RES. 9
> Joint resolution of the thirty-third general assembly of the State of Iowa, making application to the Congress of the United States to call a convention for proposing amendments to the Constitution of the United States.
> Whereas we believe that Senators of the United States should be elected directly by the voters; and
> Whereas to authorize such direct election an amendment to the Constitution of the United States is necessary; and
> Whereas the failure of Congress to submit such amendment to the States has made it clear that the only practicable method of securing submission of such amendment to the States is through a constitutional convention, to be called by Congress upon the application of the legislatures of two-thirds of all the States: Therefore be it
> *Resolved by the general assembly of the State of Iowa:*
> *SECTION 1. That the legislature of the State of Iowa hereby makes application to the Congress of the United States, under Article V of the Constitution of the United States, to call a constitutional convention for proposing amendments to the Constitution of the United States.*
> SECTION 2. That the resolution, duly authenticated, shall be delivered forthwith to the President of the Senate and Speaker of the House of Representatives of the United States, with the request that the same shall be laid before the said Senate and House.
> Approved April 12, A. D. 1909.

44 CONG. REC. 1620 (1909)(emphasis added).

Group 3

An example of an application for a convention for proposing amendments for a particular reason (Group 3) is as follows:

> H. R. CON. RES. 2001
> Whereas, the powers delegated to the federal government by the United States Constitution are limited, and those powers not delegated to the federal government are reserved to the states; and
> Whereas, it is becoming increasingly the practice of the federal government to require states to enact state laws to implement federal policies by threatening to withhold or withdraw federal funds for failure to do so; and

Whereas, the federal government has imposed upon the states many programs and obligations which require funding in excess of state means, thereby making the states subservient to and dependent upon the federal government for financial assistance; and

Whereas, through the coercive force of withdrawing or withholding federal funds, or the threat of withdrawing or withholding federal funds, the federal government is indirectly imposing its will upon the states and requiring implementation of federal policies which neither Congress nor the President nor any administrative agency is empowered to impose or implement directly; and

Whereas, this coercive power of the purse is being used to extend the power of the federal government over the states far beyond the powers delegated to the federal government by the United States Constitution; and

Whereas the power of the federal government should be exercised directly by the enactment of federal laws governing only those areas in which the federal government is empowered to act by the United States Constitution, and the federal government should be prohibited from usurping the authority of the states and imposing its will indirectly in those areas in which it has no power to act directly; and

Whereas, the federal government has imposed upon the states many programs and obligations which require state administration and such programs or other programs may lose federal financing if certain conditions attached to the program are not met.

Therefore, be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. Pursuant to Article V of the Constitution of the United States, the Legislature of the State of Arizona petitions the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States to prohibit the Congress, the President, and any agent or agency of the federal government, from withholding or withdrawing, or threatening to withhold or withdraw, any federal funds from any state as a means of requiring a state to implement federal policies which the Congress, the President or the agent or agency of the federal government has no power, express or implied, under the Constitution of the United States, to impose upon the States or implement its own action, and to limit permissible conditions of federal financing by the Congress, or the President, or any agent or agency of the federal government designed to obtain state administration of federal programs at the risk of losing federal funds for other programs if any or all conditions of the program are not met.

2. That the Secretary of State of the State of Arizona is directed to send a duly certified copy of this Resolution to the Presi-

dent of the United States Senate, the Speaker of the United States House of Representatives and to each Member of Congress from the State of Arizona.

126 CONG. REC. 11389 (1980)(emphasis added).

Group 4

An example of an application for a convention only for the purpose of proposing a particular amendment or raising a particular topic (Group 4) is as follows:

S. J. RES. 9

Whereas, millions of abortions have been performed in the United States since the decision on abortions by the United States Supreme Court on January 22, 1973, and

Whereas, the Congress of the United States has not proposed to date a "human life amendment" to the Constitution of the United States.

Now therefore:

Be it resolved by the Legislature of Alabama, both Houses thereof concurring, that the Legislature of Alabama, 1980 Regular Session, applies to the Congress of the United States to call a convention for the sole and exclusive purpose of proposing an amendment to the Constitution that would protect the lives of all human being [sic] including unborn children at every stage of their biological development and providing that neither the United States nor any state shall deprive any human being, from the moment of fertilization, of the right to life without due process of law, nor shall any state deny any human being, from the moment of fertilization the equal protection of the laws, except where pregnancy results from rape or from incest; or where abortion is necessary to save the life of the mother or where testing revealed abnormality or deformity of the fetus.

Be it further resolved, that this application shall constitute a continuing application for such a convention pursuant to Article V of the Constitution of the United States until such time as the Legislatures of two-thirds of the States shall have made like applications and such convention shall have been called by the Congress of the United States.

Be it further resolved, that copies of this concurrent resolution be presented to the President of the Senate of the United States, the Secretary of the Senate of the United States, the Speaker of the House of Representatives of the United States, and to each member of the Congress from Alabama attesting the adoption of this concurrent resolution by the 1980 Regular Session of the Legislature of the

State of Alabama.

126 CONG. REC. 10650 (1980)(emphasis added).

Group 5

An example of an application for a convention only for the purpose of proposing a particular amendment or raising a particular topic, and claiming the invalidity of the application if a general convention is called or the convention goes beyond the scope of the particular topic (Group 5), is as follows:

A JOINT RESOLUTION

Whereas, with each passing year this nation becomes more deeply in debt as its annual expenditures frequently exceed annual available revenues, so that the public debt also steadily increases to a size of inordinate proportions; and

Whereas, unified budgets do not necessarily reflect actual spending because of the exclusion of special spending outlays which are not included in the budget nor are subject to the statutory legal public debt limit; and

Whereas, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

Whereas, we believe that fiscal irresponsibility at the federal level, with the inflation which results primarily from this policy, is the greatest threat which faces our nation, and that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

Whereas, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by Congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing such amendments:

Be it resolved by the Senate of the State of South Dakota, the House of Representatives concurring therein:

That the Legislature does hereby make application to the Congress of the United States that procedures be instituted in the Congress to add a new article to the Constitution of the United States, and that the Legislature of the state of South Dakota hereby requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency, as defined by law, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that

fiscal year; and

Be it further resolved, that alternatively, this Legislature hereby makes application under said Article V of the Constitution of the United States and with the same force and effect as if this Resolution consisted of this portion alone and requests that the Congress of the United States call a convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States requiring in the absence of a national emergency, as defined by law, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and

Be it further resolved, that this application and request be deemed null and void, rescinded, and of no effect in the event that such convention not be limited to such specific and exclusive purpose; and

Be it further resolved, that this application by this Legislature constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made applications for similiar relief pursuant to Article V, but, if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this Joint Resolution then this petition for a Constitutional Convention shall no longer be of any force or effect; and

Be it further resolved, that this Legislature also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution, or requiring the Congress to call a constitutional convention for proposing such an amendment to the Federal Constitution; and

Be it further resolved, that copies of this Joint Resolution be sent by the Secretary of State to each member of the South Dakota Congressional Delegation; and

Be it further resolved, that the Secretary of State is directed to send copies of this Joint Resolution to the presiding officers of both Houses of the Legislature of each of the other states in the Union, the Clerk of the United States House of Representatives, Washington, D.C. and the Secretary of the United States Senate, Washington, D.C.

125 CONG. REC. 3656 (1979)(emphasis added).

APPENDIX A

APPLICATION OF STATES FOR A CONVENTION FOR PROPOSING AMENDMENTS LISTING BY DATE

1789		
Virginia	general[1]	1 ANNALS OF CONG. 248 (J. Gales ed. 1789)
1790		
Rhode Island	general[1]	1 ANNALS OF CONG. 1103 (J. Gales ed. 1790)
1899		
Texas	general[1]	33 CONG. REC. 219 (1899)
Texas	general[1]	33 CONG. REC. 280 (1899)
1901		
Minnesota	direct election of senators[2]	34 CONG. REC. 2560 (1901)
Minnesota	direct election of senators[2]	34 CONG. REC. 2615 (1901)
Minnesota	direct election of senators[2]	34 CONG. REC. 2680 (1901)
Nebraska	direct election of senators[2]	35 CONG. REC. 1779 (1901)
Nevada	direct election of senators[2]	35 CONG. REC. 112 (1901)
Michigan	direct election of senators[2]	35 CONG. REC. 117 (1901)
Oregon	direct election of senators[2]	35 CONG. REC. 117 (1901)
Montana	direct election of senators[2]	35 CONG. REC. 208 (1901)
Tennessee	direct election of senators[2]	35 CONG. REC. 2344 (1901)
Tennessee	direct election of senators[2]	35 CONG. REC. 2707 (1901)
Arkansas	direct election of senators[2]	45 CONG. REC. 7113 (1910)[1901]
Colorado	general (direct election of senators)[2]	45 CONG. REC. 7113 (1910)[1901]
Idaho	direct election of senators[2]	45 CONG. REC. 7114 (1910)[1901]
Minnesota	direct election of senators[2]	45 CONG. REC. 7116 (1910)[1901]
Pennsylvania	direct election of senators[2]	45 CONG. REC. 7118 (1910)[1901]
Texas	general[1]	45 CONG. REC. 7119 (1910)[1901]
1902		
Tennessee	direct election of senators[2]	35 CONG. REC. 2344 (1902)
Tennessee	direct election of senators[2]	35 CONG. REC. 2707 (1902)]
Kentucky	direct election of senators[2]	45 CONG. REC. 7115 (1910)[1902]
1903		
Nevada	direct election of senators[2]	37 CONG. REC. 24 (1903)
Wisconsin	direct election of senators[2]	37 CONG. REC. 276 (1903)
Illinois	direct election of senators[2]	45 CONG. REC. 7114 (1910)[1903]
Nebraska	direct election of senators[2]	45 CONG. REC. 7116 (1910)[1903]
Nevada	direct election of senators[2]	45 CONG. REC. 7117 (1910)[1903]
Oregon	direct election of senators[2]	45 CONG. REC. 7118 (1910)[1903]
Utah	direct election of senators[2]	45 CONG. REC. 7119 (1910)[1903]
Washington	general (direct election of senators)[2]	45 CONG. REC. 7119 (1910)[1903]
Washington	general (direct election of senators)[2]	46 CONG. REC. 3035 (1911)[1903]
1904		
Iowa	direct election of senators[2]	38 CONG. REC. 4959 (1904)
1905		
Montana	direct election of senators[2]	39 CONG. REC. 2447 (1905)
Missouri	direct election of senators[2]	40 CONG. REC. 138 (1905)
Tennessee	direct election of senators[2]	45 CONG. REC. 7118 (1910)[1905]

1906		
New York	anti-polygamy[8]	40 CONG. REC. 4551 (1906)
1907		
South Dakota	direct election of senators[9]	41 CONG. REC. 2497 (1907)
Delaware	anti-polygamy[8]	41 CONG. REC. 3011 (1907)
Kansas	general[2]	41 CONG. REC. 3072 (1907)
Nevada	general (direct election of senators)[2]	42 CONG. REC. 163 (1907)
Illinois	direct election of senators[9]	42 CONG. REC. 164 (1907)
Illinois	direct election of senators[9]	42 CONG. REC. 359 (1907)
New Jersey	direct election of senators[9]	42 CONG. REC. 164 (1907)
Louisiana	general (direct election of senators)[2]	42 CONG. REC. 5906 (1908)[1907]
Indiana	direct election of senators[9]	45 CONG. REC. 7114 (1910)[1907]
Iowa	direct election of senators[9]	45 CONG. REC. 7114 (1910)[1907]
Louisiana	direct election of senators[9]	45 CONG. REC. 7115 (1910)[1907]
Missouri	general[1]	45 CONG. REC. 7116 (1910)[1907]
Montana	direct election of senators[9]	45 CONG. REC. 7116 (1910)[1907]
New Jersey	direct election of senators[9]	45 CONG. REC. 7117 (1910)[1907]
North Carolina	general (direct election of senators)[2]	45 CONG. REC. 7117 (1910)[1907]
South Dakota	direct election of senators[9]	45 CONG. REC. 7118 (1910)[1907]
1908		
Oklahoma	general (direct election of senators)[2]	42 CONG. REC. 894 (1908)
Wisconsin	direct election of senators[9]	42 CONG. REC. 895 (1908)
Nevada	direct election of senators[9]	42 CONG. REC. 895 (1908)
Iowa	direct election of senators[9]	42 CONG. REC. 895 (1908)
Kansas	general (direct election of senators)[2]	45 CONG. REC. 7115 (1910)[1908]
Michigan	direct election of senators[9]	45 CONG. REC. 7116 (1910)[1908]
Oklahoma	general (direct election of senators)[2]	45 CONG. REC. 7117 (1910)[1908]
Wisconsin	direct election of senators[9]	45 CONG. REC. 7119 (1910)[1908]
1909		
Oregon	direct election of senators[9]	43 CONG. REC. 2025 (1909)
Oregon	direct election of senators[9]	43 CONG. REC. 2065 (1909)
Oregon	direct election of senators[9]	43 CONG. REC. 2071 (1909)
Oregon	direct election of senators[9]	43 CONG. REC. 2115 (1909)
South Dakota	direct election of senators[9]	43 CONG. REC. 2667 (1909)
South Dakota	anti-polygamy[8]	43 CONG. REC. 2670 (1909)
Washington	anti-polygamy[8]	44 CONG. REC. 50 (1909)
Washington	anti-polygamy[8]	44 CONG. REC. 127 (1909)
Iowa	general (direct election of senators)[2]	44 CONG. REC. 1620 (1909)
1910		
Washington	anti-polygamy[8]	46 CONG. REC. 651 (1911)[1910]
1911		
Montana	general (direct election of senators)[2]	46 CONG. REC. 2411 (1911)
Maine	direct election of senators[9]	46 CONG. REC. 4280 (1911)
Maine	direct election of senators[9]	46 CONG. REC. 4339 (1911)
Ohio	anti-polygamy[8]	47 CONG. REC. 85 (1911)
Montana	anti-polygamy[8]	47 CONG. REC. 98 (1911)
Nebraska	anti-polygamy[8]	47 CONG. REC. 99 (1911)
Tennessee	anti-polygamy[8]	47 CONG. REC. 187 (1911)
Ohio	anti-polygamy[8]	47 CONG. REC. 661 (1911)
Illinois	anti-monopoly[3]	47 CONG. REC. 1298 (1911)
Wisconsin	general[2]	47 CONG. REC. 1842 (1911)
Wisconsin	general[2]	47 CONG. REC. 1873 (1911)
Wisconsin	general[2]	47 CONG. REC. 2000 (1911)

Wisconsin	general[1]	47 CONG. REC. 2188 (1911)
Wisconsin	general[1]	47 CONG. REC. 3087 (1911)
1912		
Vermont	anti-polygamy[2]	49 CONG. REC. 1433 (1913)[1912]
Vermont	anti-polygamy[2]	49 CONG. REC. 2464 (1913)[1912]
1913		
Oregon	anti-polygamy[2]	49 CONG. REC. 2463 (1913)
Wisconsin	anti-polygamy[2]	50 CONG. REC. 42 (1913)
Wisconsin	anti-polygamy[2]	50 CONG. REC. 116 (1913)
Illinois	anti-polygamy[2]	50 CONG. REC. 120 (1913)
Missouri	judicial review of statutes[3]	50 CONG. REC. 1796 (1913)
Michigan	anti-polygamy[2]	50 CONG. REC. 2290 (1913)
Missouri	judicial review of statutes[3]	50 CONG. REC. 2428 (1913)
1916		
South Carolina	anti-polygamy[2]	53 CONG. REC. 2442 (1916)
1920		
Louisiana	mode of amendment[4]	60 CONG. REC. 11 (1920)
Louisiana	mode of amendment[4]	60 CONG. REC. 31 (1920)
1925		
Nevada	repeal of prohibition[5]	67 CONG. REC. 456 (1925)
1927		
Idaho	taxation of debts[6]	69 CONG. REC. 455 (1927)
1929		
Wisconsin	general[1]	71 CONG. REC. 2590 (1929)
Wisconsin	general[1]	71 CONG. REC. 3369 (1929)
Wisconsin	general[1]	71 CONG. REC. 3856 (1929)
1931		
Massachusetts	repeal of prohibition[5]	75 CONG. REC. 45 (1931)
New York	repeal of prohibition[5]	75 CONG. REC. 48 (1931)
Wisconsin	repeal of prohibition[5]	75 CONG. REC. 57 (1931)
1932		
New Jersey	repeal of prohibition[5]	75 CONG. REC. 3299 (1932)
1935		
California	taxation of securities[6]	79 CONG. REC. 10814 (1935)
California	wages/hours regulation[6]	79 CONG. REC. 10814 (1935)
1939		
Oregon	national recovery plan[6]	84 CONG. REC. 985 (1939)
Wyoming	limited taxation[6]	84 CONG. REC. 2509 (1939)
Maryland	limited taxation[6]	84 CONG. REC. 3320 (1939)
1940		
Rhode Island	limited taxation[6]	86 CONG. REC. 3407 (1940)
Rhode Island	limited taxation[6]	86 CONG. REC. 3439 (1940)
1941		
Iowa	limited taxation[6]	87 CONG. REC. 1729 (1941)
Iowa	limited taxation[6]	87 CONG. REC. 3172 (1941)
Maine	(R) limited taxation[6]	87 CONG. REC. 3370 (1941), *rescinded* 99 CONG. REC. 4311, 4434 (1953)