



Ron Hooper, Regional Director
US Term Limits, Org www.termlimits.com
rhooper@termlimits.com

**Support for North Dakota HCR 3033 (Kettelmen)
Government and Veterans Affairs
Chairman: Representative Jim Kasper**

Opening Statement

I am a regional director with US Term Limits, a non-profit organization focused on one initiative...Term Limits on Congress. U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779 (1995) ruled that even though 23 states, through the ballot box, elected to term limit their own congress representatives, the Supreme Court ruled it must be by amendment like the 22nd limiting the President.

Challenge: Ask the next 10 people in your district what they think of term limits. According to McLaughlin 2020 polling, Four-in-five voters (85%) would want their state representative and state senator to vote in favor of an amendment proposing a convention to implement term limits on members of Congress.

There seems to be a concerted effort to weaken the state's powers using fear mongering, here's another one.

The state's have the same authority and duty to propose amendments as Congress and BOTH have the same high bar. Takes $\frac{2}{3}$ of the states and $\frac{2}{3}$ of congress. They both have to be ratified by $\frac{3}{4}$ of the States...the ultimate "sanity check".

"The claim is called the "runaway scenario." It has almost no basis in history or law. But it has long frightened Americans away from using the Constitution's chief mechanism for bypassing Congress and curing our dysfunctional federal government." Rob Natelson
<https://thehill.com/blogs/pundits-blog/the-judiciary/332172-how-progressives-promoted-the-runaway-convention-myth-to>

States authority is a very important balance of power and it should not be abdicated to Congress. The threat is key!

Congress has introduced over 12,000 amendments to the Constitution under Article V while the States have introduced ZERO.

Visit the National Archives to download a spreadsheet to view all of these amendments.

The States have been proposing amendments in conventions since the very founding of our country.

"All told, the fifty states have held 233 constitutional conventions, adopted 146 constitutions, and ratified over 6,000 amendments to their current constitutions."

Sources:

https://drive.google.com/file/d/11Kyw1JE7sOWGJr_H4-Q8vjO71gM2le9u/view?usp=sharing

Sanity Check: Takes 3/4 or currently 38 states to ratify!

There are only 27 Amendments and a purposely high bar to attain and rightfully so. There have been another 6 including ERA that passed the $\frac{2}{3}$ but were never ratified. Even as popular as the Equal Rights Amendment (ERA), it was never able to garner the 38 States to ratify.

ERA EXAMPLE: The House passed it 1970, but it failed in the Senate; the House passed a reworded version the following year. The Senate approved it in March 1972. Variations of the amendment were presented to every session of Congress between 1923 and 1970, Only 35 states ratified the E.R.A. by the 1979 deadline, three short of the necessary 38. Congress extended the deadline by three years, but no new states ratified the amendment.

The biggest concern of our founders was that we would eventually need to rein in an out of control government in order that "We the People..." could insure our Life, liberty and the pursuit of happiness. That is why in all their wisdom, they provided two equal paths to establish an amendment to the constitution. **The Framers** gave equal authority to Congress and the State Legislatures to propose amendments under Article V (see below) and then to be ratified by currently 38 States or 2/3. It is critical that our states preserve and exercise this authority given to them under the constitution .

DISPELLING THE RUNAWAY MYTH

DIFFERENCES BETWEEN A CONSTITUTIONAL CONVENTION AND AN ARTICLE V CONVENTION		
ACTION	CONSTITUTIONAL CONVENTION	ARTICLE V CONVENTION
Propose	Propose New Constitution	Propose Amendments to Current Constitution
Power	Full Powers, Unlimited	Limited to Subject of State Applications
Authority	Outside of the Constitution	Under Article V of the Constitution
Requirement to Call	Unanimous Consent of States to be Bound	Application by Two-thirds of the States
Called By	The States	Congress
Scope of Passage at Convention	Entire Constitution as a Whole Document	Individual Amendments, Singly
Votes for Passage at Convention	Unanimous Consent Required	Simple Majority
Scope of Ratification by the States	Entire Constitution as a Whole Document	Individual Amendments, Singly
Votes for Ratification by the States	Only Binds States That Ratify It	Ratified by Three-fourths and Binds All States

Sources:

https://drive.google.com/file/d/11Kyw1JE7sOWGJr_H4-Q8vjO71gM2le9u/view?usp=sharing

The biggest obstacle to a successful Article V State Convention will be policymakers and concerned citizens who believe such a convention has the power to “run away” and open up the entire Constitution for revision. Under these wild scenarios, the Bill of Rights gets repealed and tyranny is foisted onto the American people. These fears have been seeded into many Americans’ minds by groups like the John Birch Society and Eagle Forum.

First, it’s important to note that those who subscribe to runaway convention thinking aren’t less patriotic or doing so with wicked aims. Most do support term limits and other ideas that have been floated inside the Article V sphere. Our disagreement is on how to get there.

After consulting with the top experts, we’ve concluded that the arguments for runaway convention are without merit and not supported by the evidence.

Exhibit A in this discussion is America’s very long and documented history of conventions. In the hundreds of state and interstate conventions that have taken place here in the founding era and beyond, none have ever run away. On rare occasions a delegate would suggest departing from the agenda, but that person would get nowhere because checks and balances were built-in, as they are here.

A common internet meme calling the Philadelphia Convention of 1787 a runaway is based on poor scholarship. The false narrative goes like this: Convention delegates only had the authority to amend the Articles of Confederation (America’s first Constitution), but ignored that and threw the Articles on the scrap heap. Hence, it’s said they jumped over their boundaries and ran outside the law.



In reality, 10 of the 12 state delegations at that convention had broad authority which included the ability to adopt a new Constitution. This was made explicit by the instructions their states gave them. Congress did recommend the Convention stay limited, but it was merely advice that bound no one legally.

Far from a runaway, the 1787 Convention was yet another example of an American convention doing exactly what it was told to do, whether broad or narrow.

Another defect in the runaway reasoning is identifying the stage at which unlawfully expanding the agenda is possible. If the state applications specify radical amendments, then that's not running away – it's attempting to create an entire convention based on bad ideas.

Once the Term Limits Convention applications get to Congress, there is no wiggle room for legislators to insert agenda items. Their role of convention caller is ministerial, and they are only allowed to choose between two options for ratification.

Delegates to the convention – who can be recalled and even imprisoned by their states — have some discretion, but it's limited to amendments within the subject area chosen by 34 states. The topic of term limits is so clear and unequivocal that it cannot be construed to include amendments on other subjects.

Any departure then, by either the delegates or Congress, would be unlawful and subject to judicial review. If groups come forward with lawsuits challenging an amendment to come out of convention, the courts can mediate that dispute.

The ultimate safeguard in Article V, however, is its very high bar for ratification. Remember: the convention itself has zero power to amend our Constitution. Its only power is to suggest amendments to the states, who hold the real power. Before any amendment becomes law, three-quarters of states (38) must ratify it. Even groups with popular – though not universal – ideas avoid using the Article V approach for this reason. Their issues don't have the backing term limits does and so they've concluded it would be a waste of time.

If popular groups on the left and the right don't think their amendments could be ratified, how then could anyone ratify a radical amendment that everybody hates?

It just couldn't happen. Notwithstanding the career-destroying scrutiny of hijacking a convention, there are just too many safeguards in place to allow fanaticism.

One final theory worth addressing is the notion that Congress will take over the convention to send its favorite radical amendments to the states. This is invalid for one obvious reason: Congress doesn't need a convention to do that. Under our Constitution, Congress can already send any amendment it wants to the states with a simple two-thirds vote.



This effectively deflates convention critics' favorite argument, by demonstrating that the powerful runaway convention they fear already exists and is called Congress. The Term Limits Convention, by contrast, is 1) less powerful than Congress, 2) more safeguarded and 3) carefully designed to rein in Congress rather than give it more power.

Sources:

Nick Tomboulides , Executive Director US Term Limits
ALEC Article V Handbook by Professor Robert Natelson,

<http://www.alec.org/publications/article-v-handbook/>

US Term Limits Flashcards

https://drive.google.com/file/d/11Kyw1JE7sOWGJr_H4-Q8vjO71gM2le9u/view?usp=sharing

Polling: www.termlimits.com/polls

The Founders History: Prior Experiences with Conventions

<https://www.uakron.edu/dotAsset/eb2e9bf5-993a-40ba-acca-856dd886a19b.pdf>

U.S. Constitution

<https://www.law.cornell.edu/constitution>

Article V of the U.S. Constitution

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.